



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

**Prince Edward Island
Île-du-Prince-Édouard
CANADA**

Island Regulatory & Appeals Commission

**Presentation to the Standing
Committee on Natural Resources
and Environmental Sustainability
regarding the general procedure for
Lands Protection Act investigations**

Presented by:

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Lands Protection Act

15. Minister may conduct investigations

(1) The Minister, the Commission or any person authorized by the Minister may request information and conduct an investigation for the purpose of determining whether a person or corporation has contravened this Act or the regulations.

General principles

- The Minister is responsible for the administration of the Act
- The Minister may conduct an investigation
- The Commission has various roles under the Act, including as an advisor to Executive Council, and may conduct an investigation
- The Executive Council is the decision-maker under the Act and may adopt policies regarding the ownership or use of land



Island Regulatory and Appeals Commission Act

Rules of procedure, Administration

3(7) The Executive Committee may prescribe forms to be used by the Commission and make rules and regulations governing administration and general procedure, including

- (a) authorizing the Commission to establish panels to exercise the powers of the Commission; and*
- (b) the imposition of time constraints on parties appearing before the Commission where time constraints are in the interest of speedy resolution of matters before the Commission.*

General principles

- The Commission is authorized to make rules of procedure
- The Commission has a legal obligation to all parties to ensure procedural fairness



Lands Protection Act

Investigation Process

The procedure for an investigation was created under the *Lands Protection Act* (the “Act”).

The procedure is published online. The steps in an investigation are as follows:

Investigating officer

- The Commission may appoint an investigating officer or officers to assist the Commission to conduct an investigation under the Act.

Terms of appointment

- The investigating officer or officers shall assist the Commission to conduct the investigation in accordance with terms of appointment issued by the Commission.



Lands Protection Act

Investigation Process

Completion of investigation

- Upon completion, the investigating panel of the Commission shall prepare a report summarizing the investigation.

Service of report

- Within 30 days of completing the report, the investigating panel shall serve a copy of the report on the respondent.

Response to report

- The respondent shall, within 30 days, file a response with the investigating panel.

Determination by Commission and separate review panel

- Following receipt of the response, the investigating panel may:



Lands Protection Act

Investigation Process

- a) file a report with the Minister summarizing the investigation and response; or
- b) file a report with the Commission which shall appoint a separate review panel to consider the report and response and the review panel would determine whether there was a contravention of the Act or regulations.

Review panel may conduct formal hearing

- The review panel may, before determining whether a contravention has occurred, conduct a formal hearing.

Imposition of penalty

- Where the review panel determines that a contravention has occurred, it may impose a penalty authorized by the Act.

Lands Protection Act – Areas of Ministerial responsibility

12(1) Orders by the Minister

- The Minister may issue orders requiring a person or corporation to reduce his aggregate land holding to the maximum permitted by the Act or to apply for a permit required by the Act.

12(2) Enforcement by the Minister after order issued

- If a person or corporation fails to comply with an order made by the Minister within three months, the Minister may apply to a judge of the Supreme Court who can then enforce compliance with the Act and may any number of orders, including divestiture of land held in contravention of the Act.

General principles

- Orders issued by the Minister must satisfy the standard of proof (reasonable and probable grounds)
- Minister has a duty of procedural fairness to all parties
- Intervention by the Supreme Court is a last resort under the Act
- Prosecutions under the Act are handled separately and independently of the Minister and require proof at an even higher standard of proof (beyond a reasonable doubt)



Lands Protection Act

- Enacted by the Legislature in 1982
- At that time, the ownership limits were 1,000 acres for individuals and 3,000 acres for corporations
- In 1988, threshold for approval was moved to 5 acres for corporations and non-resident individuals
- In 1991, decision-making powers were delegated to the Commission by Executive Council
- In 1992, this delegation was changed and Executive Council resumed its decision-making role under the Act
- In 1995, the Act was amended so that leased land was counted for both the lessor and the lessee
- In 1998, the Act was amended to include its stated purposes
- In 2014, the concepts of arable and non-arable land were introduced to exclude non-arable land from calculations
- On balance, few significant adjustments have been made