

CHAPTER 33

R.S.B.C.
1960, c. 208.

An Act to Amend the Land Registry Act

[Assented to 27th March, 1961.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

Short title.

1. This Act may be cited as the *Land Registry Act Amendment Act, 1961*.

Amends s. 2.

2. Section 2 of the *Land Registry Act*, being chapter 208 of the *Revised Statutes of British Columbia, 1960*, is amended by striking out the definition of "right-of-way" and substituting:—

"'right-of-way' includes land or any interest in land acquired for the purpose of

"(a) constructing, maintaining, or operating any railway, street-railway, tramway, or aerial tramway; or

"(b) erecting and maintaining any pole-line, wood or timber chute; or

"(c) laying, placing, and maintaining drains, ditches, pipes, transmission-lines, or wires for the conveyance, transmission, or transportation of water, electric power, forest products, oil, or gas, or both oil and gas, or for the disposal of sewage,

or any right-of-way of a like nature or for any purpose necessary for the operation and maintenance of the undertaking;".

Re-enacts s. 5.

3. Section 5 is repealed and the following substituted:—

"5. The Lieutenant-Governor in Council may from time to time by Proclamation

"(a) increase or decrease the number of land registration districts in the Province;

"(b) constitute the whole or any portion of the Province, whether or not it is included in whole or in part in any existing district, a land registration district;

"(c) declare by what local name the new district shall be known; and

"(d) change or redefine the boundaries of a land registration district."

Amends s. 21.

4. Section 21 is amended by renumbering the present section as subsection (1) and adding the following as subsection (2):—

"(2) For the purposes of this section, land that is the subject of a valid and binding agreement for sale whereby the vendor agrees, subject to the terms and conditions therein contained, to convey or cause to be

conveyed the land to the purchaser shall be deemed to be granted, conveyed, or devised by way of charge."

Re-enacts s. 50. 5. Section 50 is repealed and the following substituted:—

"50. The Registrar, after registration of a title in fee-simple or a charge or cancellation of a charge, shall make on every instrument deposited in support of the application for registration or cancellation a memorandum in Form G in the First Schedule, which shall be received in all Courts as conclusive evidence of the registration of the instrument."

Re-enacts s. 61. 6. Section 61 is repealed and the following substituted:—

"61. Every acknowledgment, affidavit, oath, or declaration necessary for the purposes of this Act may be taken and made, within or without the Province, by and before the Registrar or a person before whom an affidavit may be sworn under the *Evidence Act*."

Repeals s. 62. 7. Section 62 is repealed.

Amends s. 80. 8. Section 80 is amended as follows:—

(a) By striking out clause (10) and substituting:—

"(10) Each plan shall be prepared on tracing-linen and shall not exceed thirty inches in width. Except where colours are necessary, all lettering, drawing, or figures on the plan shall be made in black India ink or printed in black printer's ink. Where the use of colours is necessary, the colours used shall be of a permanent character: "

(b) By striking out clause (11) and substituting:—

"(11) The plan shall be accompanied by a duplicate linen tracing and a blue or white print on print cloth or, in lieu of the duplicate tracing, by one ozalid transparency or other machine-made copy of a type approved by the Surveyor-General, together with such number of other blue or white prints as may be necessary for the purpose of taxing authorities and the Surveyor-General: "

(c) By striking out clause (14) and renumbering clauses (15) and (16) as clauses (14) and (15).

Enacts s. 80A. 9. The Act is further amended by inserting the following as section 80A:—

"80A. (1) Where an angle of a parcel is redefined on the ground by a post or monument, or where an angle of a parcel described by one of the methods set out in clause (a), (b), or (c) of section 84 is defined on the ground by a post or monument, the redefinition or definition

"(a) shall be made by a British Columbia land surveyor; and

"(b) shall be shown on a plan prepared on tracing-linen or a linen transparency to be known as a 'posting plan.'

"(2) Every posting plan shall be certified as correct by the surveyor who made the survey as shown on the plan and shall be filed by him in

the Land Registry Office of the district where the lands are situate within sixty days after the completion of the redefinition or definition mentioned in subsection (1).

"(3) Every posting plan shall comply with all regulations pertaining to redefinitions or definitions and posting plans which may from time to time be issued by the Surveyor-General for the purposes of this section."

Re-enacts s. 89. **10.** Section 89 is repealed and the following substituted:—

"89. Where a subdivision plan deals with lands in a municipality, it shall be tendered to the Clerk of the municipality, and where it deals with lands in unorganized territory to the Chief Engineer or the District Engineer of the Department of Highways, for examination and approval by the approving officer, and shall be accompanied by an examination fee of two dollars and a certificate that all taxes which have been assessed on the land subdivided have been paid, and in a case where local improvement taxes, rates, or assessments are payable in annual instalments that all instalments owing at the date of the certificate have been paid."

Amends s. 91. **11.** Section 91 is amended as follows:—

(a) By striking out subsection (1) and substituting:—

"(1) Every subdivision plan shall be approved or rejected by the approving officer within a time fixed by regulation of the Lieutenant-Governor in Council."

(b) By striking out clause (b) of subsection (2) and substituting:—

"(b) unorganized territory, the Deputy Minister of Highways, the Chief Engineer or Assistant Chief Engineer of the Department of Highways, or a person authorized by the Lieutenant-Governor in Council."

(c) By striking out subsection (3) and substituting:—

"(3) Where any subdivision plan relates to land in any improvement district under the *Water Act* or in a local district municipality, the approving officer shall, within seven days after the subdivision plan is tendered for approval, notify the Trustees of the improvement district, or the local district municipality, that the subdivision plan has been tendered for approval."

Amends s. 93. **12.** Section 93 is amended by renumbering the present section as subsection (1) and adding the following as subsection (2):—

"(2) The Lieutenant-Governor in Council may from time to time by Proclamation prescribe additional reasons for refusal by the approving office to approve the plan."

Re-enacts s. 97. **13.** Section 97 is repealed and the following substituted:—

"97. When the plan is approved, the approving officer shall write thereon 'Approved under the *Land Registry Act*,' with the date of approval, and shall sign the same and append his official designation, for example, 'City Engineer, City of _____,' or 'Chief Engineer, Department of Highways.'"

Amends s. 113. **14.** Section 113 is amended by renumbering the present section as subsection (1) and adding the following as subsection (2):—

“(2) This section applies only to highways in unorganized territory that, by notice published in the Gazette, have been discontinued and closed.”

Re-enacts
s. 125.

15. Section 125 is repealed and the following substituted:—

“125. The Registrar shall write or stamp on each application the day, hour, and minute when the application duly signed and completed is received by him, and the time so written or stamped shall for the purposes of priority between purchasers, mortgagees, transferees, and others, and for all purposes of this Act, be deemed the time at which the application was made, and the writing or stamp shall be received in all Courts as conclusive evidence of the time when the application was received.”

Re-enacts
s. 138.

16. Section 138 is repealed and the following substituted:—

“138. Subject to the provisions of the *Public Documents Disposal Act*, all instruments deposited with the Registrar on an application shall remain on deposit in his office, except where the application is refused or withdrawn, in which case all unregistered instruments so deposited shall be returned to the applicant.”

Amends s. 142. **17.** Section 142 is amended by striking out subsection (2) and substituting:—

“(2) Where the Registrar sees fit, he may before registration direct that any person named by him be served with notice of his intention to register the title of the applicant at the expiration of a period fixed in the notice unless within that period the person served files a caveat or registers a *lis pendens* contesting the applicant's right to registration.”

Amends s. 143. **18.** Section 143 is amended by striking out subsection (1) and substituting:—

“(1) Upon registration of title in fee-simple, the Registrar shall issue a certificate of indefeasible title in duplicate in Form F in the First Schedule, one of which he shall enter and bind in the register under section 141, and the other of which (in this Act included in any reference to a duplicate certificate of title) he shall,

“(a) where application is made therefor and a fee of one dollar is paid by the applicant, deliver or cause to be delivered to the applicant or to a person specified in the application; or,

“(b) where no application is made or fee paid under clause (a), keep on deposit.”

Re-enacts
s. 144.

19. Section 144 is repealed and the following substituted:—

“144. Delivery of the duplicate certificate of title may be made by mailing it to the person who made the application or the person named in the application for that purpose at his address set out in the application, or by personal delivery to that person, and the person to whom it is personally delivered shall sign a receipt therefor.”

Re-enacts
s. 160.

20. Section 160 is repealed and the following substituted:—

"160. (1) Upon application by a person to whom a certificate of title has been issued, and upon production of the duplicate certificate of title, accompanied by proof satisfactory to the Registrar that the name of that person has been lawfully changed, and of his identity, the Registrar shall cancel the existing certificate of title and the duplicate and issue a new certificate of title in duplicate in the changed name of the person.

"(2) Upon application by a person who is the registered owner of a charge, and upon production of proof satisfactory to the Registrar that the name of that person has been lawfully changed, and of his identity, the Registrar shall endorse a memorandum of the change of name

"(a) on the register; and

"(b) on the duplicate certificate of title if it has been produced."

Amends s. 161.

21. Section 161 is amended by renumbering subsection (2) as subsection (7) and inserting the following as subsection (2):—

"(2) Upon application by a registered owner, and upon the surrender and cancellation of the duplicate certificate of title, the Registrar may cancel the title in the register and issue in duplicate a new certificate of title covering the lands included in the surrendered certificate."

Re-enacts
s. 169.

22. Section 169 is repealed and the following substituted:—

"169. Where the instrument purporting to create a charge is executed by a corporation, and is required to be registered in the office of the Registrar of Companies under an Act of the Legislature, then, subject to that Act, the charge shall not be registered under this Act unless the Registrar of Companies has endorsed on the instrument the fact and date of registration in his office."

Enacts s. 198A

23. The Act is further amended by inserting the following as section 198A:—

"198A. Where a transmission occurs consequent upon a death that occurs after the twentieth day of March, 1959, no application for the registration of a fee-simple, or a charge, or a release of a charge affecting any land or charge that is the subject of the transmission, shall be accepted unless there has been filed in the Land Registry Office in which the title to the property affected is registered a consent to the transfer of the property or a certificate of discharge duly issued under the *Estate Tax Act* of Canada."

Re-enacts
s. 209.

24. Section 209 is repealed and the following substituted:—

"209. Any person claiming to be interested under any unregistered instrument, or as next of kin, or otherwise, in any land the title to which has been registered may by leave of the Registrar, to be granted upon such terms (if any) as the Registrar may see fit to impose, lodge a caveat with the Registrar prohibiting any dealing with the land either absolutely or in the manner or to the extent expressed in the caveat, or

until notice has been served on the person lodging the caveat (in this Act called the 'caveator')."

Re-enacts
s. 215.

25. Section 215 is repealed and the following substituted:—

"215. So long as any caveat which has been lodged with the Registrar prohibiting the dealing with any land or charge remains in force, the Registrar shall not register any instrument purporting to transfer, mortgage, or encumber the land or charge in respect of which the caveat is lodged, unless the instrument is by its terms expressed to be subject to the claim of the caveator; but the instrument shall not be registered if the claim of the caveator would, if successful, destroy the root of title of the person against whose title the caveat has been lodged."

Re-enacts
s. 220.

26. Section 220 is repealed and the following substituted:—

"220. If, within two months of the date the caveat was lodged with the Registrar, notice has been served in accordance with the caveat, then, on the expiration of the period of twenty-one days from the date of the service of the notice, or if no notice has been served, then, on the expiration of the period of two months from the date of the receipt of the caveat by the Registrar, the caveat shall be deemed to have lapsed, unless there has been filed with the Registrar within the respective period mentioned evidence that proceedings have been taken before a Court or Judge to establish the title or interest of the caveator to the land or charge affected by the caveat."

Re-enacts
s. 249.

27. Section 249 is repealed and the following substituted:—

"249. (1) The Registrar shall keep separate indices of the registered owners of indefeasible titles, absolute fees, and charges other than judgments, with a reference opposite each name to the volume and page of the register where or to the serial number under which the estate or interest of the owner is registered.

"(2) Notwithstanding the provisions of subsection (1), the Registrar shall not enter in the indices referred to therein the names of any persons or classes of persons designated by the Lieutenant-Governor in Council."

Amends
First Sch

28. The First Schedule is amended as follows:—

(a) By repealing Form G and substituting:—

FORM G
(Section 50)

MEMORANDUM OF REGISTRATION

Registered the _____ day of _____, 19____, on application received at the time written or stamped on the application.

(b) By striking out the first paragraph of Form J and substituting:—

Take notice that I, *A. B.*, of [*insert residence and description*], caveator, forbid the registration of any memorandum of transfer or other instrument dealing with [*here describe land and refer to certificate of title*] until this caveat be withdrawn by me or be discharged by the order of

a Court of competent jurisdiction or a Judge thereof, or until after the lapse of twenty-one days from the date of the service of notice on me or my agent filing the caveat (as the case may be) to withdraw the same or take proceedings before a Court or a Judge to establish my title, at the following address, which shall be my proper address for service: [insert it].

Re-enacts
Second Sch.

29. The Second Schedule is repealed and the following substituted:—

SECOND SCHEDULE

LAND REGISTRY ACT

SCALE OF FEES

(Section 259)

1. Application for registration or for certificate of indefeasible title \$1.00
 2. Every deposit of map or title deeds 2.00
 3. Registration of any fee-simple (including Registrar's search) .. 2.00
 4. Every certificate of indefeasible title or new or interim certificate of title 2.00
 5. And, except on registration under section 127, or of a tax-sale deed, or of a transfer of land from the representatives of a deceased person to a person beneficially entitled, or as in this scale specially provided, one-fifth of one per centum on the market value of the land (including improvements) at the time of making the application for registration, where such value amounts to or is under \$10,000, and one-tenth of one per centum on the additional value where such value exceeds \$10,000.
 6. In addition to the above, towards the Assurance Fund, to be charged on all registrations of the fee-simple, where the value of the land—

Does not exceed \$1,000, a fee of ..	.50
Exceeds \$1,000 but does not exceed \$2,500, a fee of ..	.75
Exceeds \$2,500 but does not exceed \$5,000, a fee of ..	1.00
Exceeds \$5,000 but does not exceed \$10,000, a fee of ..	1.50
Exceeds \$10,000 but does not exceed \$20,000, a fee of ..	2.00
And for each \$10,000, or part thereof, over \$20,000, an additional fee of ..	.50
- NOTE.—No fees shall be payable under items 5 and 6 in the following cases:—
- (a) On an application to register the transfer of title from two or more registered owners of adjacent parcels to a trustee for the purpose of facilitating subdivision of the parcels; and
 - (b) On an application to register the transfer of title from the trustee aforesaid to the former owners of the parcels, of the lots to which they are entitled under the scheme of subdivision.
7. Fees under items 5 and 6, where a trustee in bankruptcy is registered under section 43 of the *Bankruptcy Act*, shall be payable on the market value of the land after deducting the value of prior registered encumbrances.

Where the transaction involves a change of ownership for the purpose of adjusting errors in description or survey under which the title is registered, no fees under items 5 and 6 shall be payable upon application to register the transfer of title which is necessary to complete such adjustment.

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| 8. Registration of any tax-sale deed..... | \$5.00 |
| 9. On application under section 160 including filing and examination of evidence and including the endorsement of the change on one folio of the register or including the issuance of one new certificate of title in duplicate | 5.00 |
| And, in addition, where the change is endorsed on more than one folio of the register, for each additional endorsement | .50 |
| Or, in addition, where more than one new certificate of title in duplicate is issued, for each additional new certificate of title in duplicate | 2.00 |
| 10. Registration of any charge other than a judgment | 2.00 |
| And, in addition, where the charge is endorsed on more than one folio of the register, for each additional endorsement | .50 |
| 11. And, except on registration of a judgment, one-tenth of one per centum on the true value of the charge. | |
| <p>Where the charge covers land in more than one registration district, the percentage fee upon the whole value of the charge may be paid in any one of said districts, and the Registrar to whom same is paid shall issue a receipt or receipts therefor, which shall be accepted in all other districts as proof of compliance with this item.</p> <p>Where the personal representatives of a deceased person are registered as the owners of a charge on his death, the percentage fee shall not be chargeable on any transfer of the charge by them to a person beneficially entitled.</p> | |
| 12. In case of transmission upon death of property sold in the lifetime of the deceased, the percentage fee upon registration of the person entitled under the transmission shall be payable upon the unpaid portion only of the purchase-money belonging to the estate. | |
| 13. In case the fees payable under items 5, 6, and 11 on any registration upon new trustees being appointed under the <i>Trustee Act</i> , or when an executor of an executor takes title under section 75 of the <i>Administration Act</i> , where the beneficial interests are not changed, exceed the sum of \$50, then the said sum of \$50 shall be paid in lieu of all fees which would otherwise be payable under said items. | |
| 14. Amending each folio of the register, or any instrument, including filing and examination of evidence | 4.00 |
| 15. Certificate of charge | 2.00 |
| And, in addition, where the charge is endorsed on more than one folio of the register, for each additional endorsement | .50 |
| 16. Cancellation or merger of any charge, caveat, lis pendens, etc., including deposit of documents on same | 2.50 |
| 17. For withdrawing, rejecting, or cancelling any application | 1.00 |
| 18. A general search in respect of title to land, or a charge registered under one certificate of title | .50 |
| 19. Inspection or search of a single instrument | .25 |

20. For each entry searched where no entries or not more than one entry found in index	\$0.50
For each entry found after the first25
21. Every certificate of encumbrances (including search) in respect of land covered by any one certificate of title	2.00
22. Every abstract of title, including search and certificate, if search does not exceed one hour	3.00
For every hour or part thereof after the first*	3.00
23. For every certificate under section 252 (b)	1.50
For each search of the register after the first50
24. Every certificate under section 252 (c), in respect of each person named in the application for such certificate	1.50
25. Every other certificate	1.00
26. For making copies of any instrument or extracts from the books, per folio of 100 words15
27. For examining and comparing copies or extracts, whether prepared by the party applying therefor or under preceding item, per folio of 100 words10
28. For certifying and sealing such copies or extracts	1.00
29. Registration, renewal, or reregistration of a judgment or assignment of judgment	5.00
30. Filing any document	1.00
31. Filing any by-law and noting same when necessary	2.50
32. Filing any receiving order or authorized assignment under the <i>Bankruptcy Act</i>	2.50
33. Filing declaration under section 122 of the <i>Administration Act</i>	2.50
34. Filing any caveat	4.00
35. Registration of any lis pendens, including application	5.00
And, in addition, where endorsement of the lis pendens is required on more than one folio of the register, for each additional endorsement50
36. Notice of refusal under section 234	2.00
37. Every other notice	1.00
38. Every extension of time under section 234	1.00
39. Filing any notice of tax sale and making necessary references	1.00
40. Filing any notice of redemption from tax sale and effecting necessary cancellations	1.00
41. Filing notice of lands subject to forfeiture under any Act	1.00
42. Filing certificate of forfeiture under any Act	2.00
43. Reference, inquiry, examination, or other special matter referred under any Act to the Registrar by the Court or a Judge, or by any County Court or any Judge of a County Court, or examination of title under section 154, for the first meeting not exceeding one hour	5.00
44. Every additional hour or less	3.00
45. Hearing under section 185, if hearing does not exceed one hour	5.00
For every hour or part thereof after the first	3.00
46. Report of Registrar, per folio	0.30
47. For taking the acknowledgment or proof of execution of any instrument, including the certificate thereof and oath25
48. For administering an oath25
49. Fee for deposit of subdivision or reference plan of not more than two lots	5.00

50. For a plan on which the number of lots exceeds two, a fee of \$1 for each additional lot up to eight.

51. For a plan on which the number of the lots—

Exceeds	10 but does not exceed	25, a fee of.....	\$20.00
"	25	"	50, " 30.00
"	50	"	75, " 40.00
"	75	"	100, " 50.00
"	100	"	150, " 60.00
"	150	"	200, " 70.00
"	200	"	300, " 85.00
"	300	"	450, " 100.00
"	450	"	750, " 120.00
"	750	"	1,000, " 140.00
"	1,000	"	1,500, " 160.00
"	1,500	"	2,000, " 175.00

For each additional 500 lots or portions thereof after the first 2,000, an additional fee of \$5.

52. Every blue-print copy of plan, or part of plan, 25 cents a square foot. Minimum fee 1.00
53. For amending plan under section 114 3.00
54. Registrar's certificate on same (if required) 1.00
55. For all other services of surveyor, per hour 3.00
56. Receiving plan of right-of-way for filing, for each mile of right-of-way shown on plan 5.00
57. Every deposit of documents or plans, etc., under any other Act, Provincial or Dominion 5.00
- And, in addition, for every entry on the register where necessary 50
58. Copy of map or plan, whatever sum may be payable, and fee for certificate for each hour or part thereof comparing 1.00
59. Where a certificate of title has been lost or destroyed, for perusing evidence of loss, settling notice for publication, and issuing new certificate 5.00
- Provided where the evidence establishes loss of more than one certificate, for each additional certificate 2.00
60. And, in addition, all sums paid for postage, service of notices, or other necessary disbursements.

Commence-
ment.

30. (1) Section 9 comes into force and effect on the first day of April, 1961.

(2) Clause (a) of section 11 comes into force and effect on the fifteenth day of April, 1961.

(3) Section 24 shall be deemed to have come into force on the twentieth day of March, 1959, and is retroactive to the extent necessary to give effect to its provisions on and after that date.