

2004

## CHAPTER 59

An Act to amend *The Land Titles Act, 2000* and to  
make related amendments to other Acts

(Assented to November 30, 2004)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

**Short title**

1 This Act may be cited as *The Land Titles Amendment Act, 2004*.

**S.S. 2000, c.L-5.1 amended**

2 *The Land Titles Act, 2000* is amended in the manner set forth in this Act.

**New section 9**

3 **Section 9 is repealed and the following substituted:**

**“Prohibition of officers acting in conflict with responsibilities**

9(1) Neither the Registrar, any Deputy Registrar, nor any officer or employee of the corporation shall, in conflict with his or her duties to the corporation:

- (a) directly or indirectly act as the agent of any person applying to the land titles registry for registration of an application;
- (b) directly or indirectly act as the agent of any person applying to the Controller of Surveys for approval of a plan pursuant to *The Land Surveys Act, 2000*;
- (c) provide advice respecting the operation of the land titles registry for fee, reward or otherwise;
- (d) practise as a barrister, solicitor or conveyancer; or
- (e) carry on any other business or occupation on the premises of the corporation.

(2) An officer or employee of the corporation who also practises as a barrister or solicitor on premises apart from the corporation is not, for that reason alone, acting in conflict with his or her duties to the corporation”.

**Section 27 amended**

4(1) **Subsection 27(1) is amended:**

- (a) by striking out “or” after clause (b);
- (b) by adding “or” after clause (c); and
- (c) by adding the following clause after clause (c):  
“(d) the order in which they appear on title”.

**(2) Subsection 27(3) is repealed and the following substituted:**

“(3) The registration of an interest based on a mortgage that provides for readvances of credit up to a specific principal sum has priority in accordance with subsection (1) for all advances, readvances and obligations secured pursuant to the terms of the mortgage notwithstanding that:

- (a) the advances, readvances and obligations are made or incurred after the registration of any other interest; and
- (b) at any time during the term of the mortgage there may not be any outstanding advances, readvances or obligations to be secured”.

**Section 28 amended**

**5 The following subsection is added after subsection 28(2):**

“(3) On receipt of a request made in the prescribed manner, the Registrar may permit an applicant to withdraw an application submitted pursuant to subsection (1) before it is registered”.

**Section 32 amended**

**6 Section 32 is amended by striking out “land titles registry” and substituting “Registrar”.**

**Section 33 amended**

**7 Clause 33(b) is repealed and the following substituted:**

- “(b) the Crown in right of Canada, Saskatchewan or any other province or territory of Canada;
- “(b.1) any other nation or state”.

**Section 40 amended**

**8 Subsection 40(1) is repealed and the following substituted:**

- “(1) In this section:
  - (a) **‘adult’** means an adult with respect to whom:
    - (i) a certificate of incompetence has been issued pursuant to *The Mentally Disordered Persons Act* and an acknowledgement to act has been signed by the public guardian and trustee pursuant to *The Public Guardian and Trustee Act*;
    - (ii) an order has been made or continued pursuant to *The Adult Guardianship and Co-decision-making Act* appointing a property decision-maker; or
    - (iii) an order has been made pursuant to *The Public Guardian and Trustee Act* appointing the public guardian and trustee as property decision-maker;
  - (b) **‘property decision-maker’** means:
    - (i) a person appointed as property decision-maker for an adult pursuant to an order mentioned in subclause (a)(ii); or
    - (ii) the public guardian and trustee acting as property decision-maker for an adult pursuant to *The Public Guardian and Trustee Act*”.

## New section 46.1

**9 The following section is added after section 46:****“Deemed attestation of value**

**46.1** On an application pursuant to section 44 or 46, the value of the new title is deemed to have been attested to in the prescribed circumstances”.

## Section 47 amended

**10(1) Subsection 47(1) is amended by striking out “Every” and substituting “Subject to subsections (4) and (5), every”.**

**(2) The following subsections are added after subsection 47(3):**

“(4) For the purposes of *The Crown Minerals Act*, no transfer that is registered for the sole purpose of transferring a share of a mineral title held by the Crown to a different tenant in common changes the ownership of or transfers title of the share that continues to be held by the Crown.

“(5) In the prescribed circumstances, no transfer that is registered for the sole purpose of transferring a share of a title to a different tenant in common changes the ownership of or transfers title to the person in whose name a share of the title remains”.

## Section 50 amended

**11(1) Subsection 50(3) is amended by striking out “An” and substituting “Subject to subsection (3.1), an”.**

**(2) The following subsection is added after subsection 50(3):**

“(3.1) If an interest that supports another interest has not been registered, the interest in the supporting interest may be registered against the title”.

## Section 68 amended

**12(1) Subsection 68(1) is amended in the portion preceding clause (a) by adding “, in accordance with the regulations,” after “alleges”.**

**(2) The following subsection is added after subsection 68(1):**

“(1.1) An application to the Registrar pursuant to clause (1)(a) must be made in the prescribed manner”.

## Section 85 amended

**13 Section 85 is amended:**

**(a) by striking out “or” after clause (l);**

**(b) by adding “or” after clause (m); and**

**(c) by adding the following clause after clause (m):**

“(n) occasioned by:

(i) the withdrawal of an application pursuant to subsection 28(3);  
or

(ii) the failure of the Registrar to withdraw an application pursuant to subsection 28(3)”.

**Section 107 amended****14 Section 107 is amended:**

(a) by striking out “or” after clause (b); and

(b) by adding the following after clause (c):

“(d) any application respecting land or an interest in land; or

“(e) any application respecting a transaction or contract relating to land or to an interest in land”.

**Section 109 amended****15 The following subsections are added after subsection 109(2):**

“(3) On an application to the court pursuant to this Part, if the judge hearing the application considers it appropriate to do so, the judge may make an order:

(a) directing that a title be vested in any person; and

(b) either:

(i) directing the Registrar to transfer title or to make changes to a title; or

(ii) authorizing any person to apply to the Registrar to transfer title or to have changes made to a title.

“(4) An application for an order pursuant to subsection (3) may be made:

(a) on any notice that the court considers appropriate; or

(b) without notice if, in the court’s opinion, the circumstances warrant it”.

**New section 131.1****16 The following section is added after section 131:****“Discharge of annuity mortgage**

**131.1(1)** The Registrar shall discharge an annuity mortgage on receipt of an application for discharge accompanied by:

(a) proof of death of the annuitant, or of the occurrence of the event on which the annuity or money thereby secured ceases to be payable, and proof that all arrears of the annuity and interest or other money have been satisfied; or

(b) a court order declaring or directing the discharge of the mortgage.

(2) On discharge of the annuity mortgage in the land registry, the land against which the interest was registered ceases to be subject to or liable for the annuity or sum of money”.

**New section 160.5****17 The following section is added after section 160.4:****“Death before registration of instrument**

**160.5** If a person dies after executing an instrument affecting land but before a transfer or interest respecting the instrument is registered, the transfer or interest, as the case may be, may be registered in accordance with this Act and the person’s death does not invalidate the registration”.

**Section 187 amended****18 Subsection 187(1) is amended:**

**(a) in clause (g) by striking out “or interest holders”;**

**(b) by adding the following clause after clause (k):**

“(k.1) for the purposes of section 46.1, prescribing the circumstances in which the value of a new title is deemed to have been attested to”; **and**

**(c) by adding the following clauses after clause (n):**

“(n.1) for the purposes of subsection 28(3), prescribing the manner for requesting the withdrawal of an application before registration;

“(n.2) for the purposes of subsections 68(1) and (1.1), prescribing the manner of applying for and the requirements for obtaining a discharge of the registration of an interest that the applicant alleges was improperly registered or invalid”.

**Section 195 amended****19 The following subsections are added after subsection 195(3):**

“(4) A certificate of title for surface that is silent as to whether or not mines and minerals or any mineral commodities are included in the title, and that was in existence on the day before the coming into force of an order made pursuant to section 191, is converted to and deemed to be:

(a) with respect to the surface, a surface title issued pursuant to section 12; and

(b) with respect to the mines and minerals, an uncertified mineral title for the mineral commodity or commodities in the mineral parcel, in the name of the owner of the surface title, notwithstanding that no mineral title is issued for the mineral commodity or commodities in the mineral parcel pursuant to section 12.

“(5) Subject to subsections (6), (7) and (8), any transfer of or other dealing with a surface title mentioned in clause (4)(a) is deemed to include a transfer of or dealing with any uncertified mineral title mentioned in clause (4)(b).

“(6) Subsection (5) does not apply after a mineral title has been issued for the mineral commodity or commodities in the mineral parcel pursuant to section 12.

“(7) If the Registrar conducts a search and examination of the records of the land titles registry pursuant to clause 17(3)(a) with respect to an uncertified mineral title deemed to have been issued pursuant to clause (4)(b) and determines that the owner of any or all mineral commodities in the mineral parcel is different than the owner of the surface parcel, subsection (5) does not apply with respect to those mineral commodities.

“(8) If the Registrar conducts a search and examination of the records of the land titles registry pursuant to clause 17(3)(a) with respect to an uncertified mineral title deemed to have been issued pursuant to clause (4)(b) and determines that any or all mineral commodities in the mineral parcel have not been the subject of a Crown grant within the meaning of subclause 2(1)(l)(ii), subsection (5) does not apply with respect to those mineral commodities.

“(9) Notwithstanding clause (1)(c), if the Registrar is satisfied that the purported ownership of any mineral commodity is correct, an uncertified mineral title that is issued pursuant to clause (4)(b) is converted to and deemed to be a mineral title issued pursuant to section 12”.

**Section 197 amended**

**20(1) Clause 197(1)(b) is repealed and the following substituted:**

“(b) subject to subsection (1.1), if the instrument was registered against title and endorsed on a certificate of title on the day before the coming into force of the order, is deemed to be registered against the converted title that was derived from the certificate of title”.

**(2) The following subsection is added after subsection 197(1):**

“(1.1) An instrument is deemed to be registered against a converted title or converted interest only if:

- (a) after the title or supporting interest has been converted pursuant to this Act, an interest representing the instrument appears as a registered interest against the title or supporting registered interest; or
- (b) in accordance with section 97, the Registrar, has made a correction to reinstate the instrument as a registered interest against a title or supporting registered interest”.

**S.S. 1988-89, c.S-17.1, section 21 amended**

**21(1)** Section 21 of *The Saskatchewan Farm Security Act* is amended in the manner set forth in this section.

**(2) Subsection (4) is amended by striking out “section 185 of *The Land Titles Act*” wherever it appears and in each case substituting “section 160.1 of *The Land Titles Act, 2000*”.**

**(3) Subsection (6) is amended by striking out “subsections 185(2) and (3) of *The Land Titles Act*” and substituting “subsections 160.1(2) and (7) of *The Land Titles Act, 2000*”.**

**S.S. 2002, c.S-35.02 amended**

**22(1)** *The Saskatchewan Watershed Authority Act* is amended in the manner set forth in this section.

**(2) Subsection 56(2) is amended by adding** “or against the abstract record for the affected lands” **after** “lands”.

**(3) Subsection 58(3) is amended by adding** “or against the abstract record for the affected lands” **after** “lands”.

**Coming into force**

**23(1)** Subject to subsections (2) and (3), this Act comes into force on assent.

(2) Section 6 of this Act comes into force on assent but is retroactive and is deemed to have been in force on and from January 1, 2004.

(3) Sections 11, 14, 15, 19 and 20 of this Act come into force on assent but are retroactive and are deemed to have been in force on and from June 25, 2001.

