

## Index

### ABANDONMENT OF EXPROPRIATION

- Alberta, § 3:56, § 3:62 [Alta., ss. 20, 24]
- British Columbia
  - comment, § 8:162
  - compensation
    - generally, § 8:166 to § 8:168
    - costs, reasonable legal, appraisal and other, § 8:168
    - damages suffered as result of initiation of expropriation, § 8:166
    - Nova Scotia cases, § 8:167
    - reasonable legal, appraisal and other costs, § 8:168
  - history, § 8:161
  - notice, § 8:164
  - procedure, § 8:163, § 8:165
- Canada
  - compensation payable, § 7:195
  - effect of, § 7:96
  - notice of abandonment of intention, § 7:64, § 7:65, § 7:95, § 7:96 [Can. ss. 12, 20]
- Manitoba, § 4:344 [Man., s. 50]
  - rights to former owner, § 4:346
- New Brunswick
  - generally, § 5:100, § 5:101 [N.B., s. 24]
  - compensation of owner, § 4:129 [Man., s. 19(14)]
  - notice not registered, § 4:129 [Man., s. 19(11)]
  - extension of time, § 4:129 [Man., s. 19(11.1), (12)]
- Nova Scotia
  - cases
    - generally, § 8:167

### ABANDONMENT OF EXPROPRIATION—Cont'd

- Nova Scotia—Cont'd
  - cases—Cont'd
    - reasonable legal, appraisal and other costs, § 8:168
- ABANDONMENT OF LAND
  - Alberta, § 3:284 [Alta., s. 70]
  - Nova Scotia
    - expropriated land, § 6:95 [N.S., s. 20]
      - calculation, § 6:98
      - measure of damages, § 6:97
  - Ontario
    - disposal of, § 2:545
    - expropriated land
      - generally, § 2:536
      - abortive attempt to abandon, § 2:539
      - comment, § 2:537
      - consequential damages
        - compensation for, § 2:540
        - interest on, § 2:541
        - onus, § 2:542
      - history of s. 41, § 2:536
      - jurisdiction, § 2:538
- ACCOMMODATION
  - See Equivalent accommodation
- ADVANCE PAYMENT
  - British Columbia
    - all appraisal and other reports on which payment is based, § 8:173
    - application for directions, § 8:175
    - appraisal report as basis
      - generally, § 8:173

NEW LAW OF EXPROPRIATION

**ADVANCE PAYMENT—Cont'd**

British Columbia—Cont'd  
appraisal report as basis—Cont'd  
qualifications of appraisers,  
§ 8:174  
what qualifies as, § 8:172  
comment, § 8:171  
costs, of  
generally, § 8:546 [B.C., s. 48]; § 8:548 to § 8:552  
amendments to 1987 Act,  
§ 8:553 to § 8:557  
review under s. 48  
generally, § 8:558 to  
§ 8:571  
costs must be reasonable,  
§ 8:560  
costs of review, § 8:569,  
§ 8:570  
date from which costs may  
be recovered, § 8:566  
evidence on, § 8:559  
failure to pay, authority's,  
§ 8:568  
interpretation of s. 48,  
§ 8:564  
objections to account,  
§ 8:562, § 8:563  
onus, § 8:561  
owner's out-of-pocket  
expenses, § 8:565  
res judicata, whether s. 48  
review is, § 8:571  
review not final, § 8:572,  
§ 8:573  
summary procedure, § 8:558  
when owner may apply,  
§ 8:567  
deemed acceptance of  
generally, § 8:200 [B.C., s. 25]  
acquisitions under s. 3, § 8:204  
after payment made under s.  
20, § 8:205  
“application,” meaning of,  
§ 8:203  
history of s. 25, § 8:201

**ADVANCE PAYMENT—Cont'd**

British Columbia—Cont'd  
deemed acceptance of—Cont'd  
limitation period  
effect of, § 8:207  
failure by authority to comply,  
§ 8:177  
form of notice, § 8:178  
history of s. 20, § 8:170  
increase of, § 8:176  
overpayment, § 8:179  
required payment, § 8:172  
subsequent advance payment,  
§ 8:206  
New Brunswick  
applicability of Rule 47.03(3) to  
award advance payment  
when liability not at issue,  
§ 5:124  
where parties unable to agree on  
compensation, § 5:123

**AGREEMENTS**

See also Voluntary agreement to  
transfer  
Alberta  
generally, § 3:23  
New Brunswick  
generally, § 5:120 [N.B., s. 36]  
where no agreement, § 5:121  
Nova Scotia  
owner, with, § 6:70 [N.S., s. 12]  
Ontario  
partial agreements, statutory  
authority bound by, § 2:331  
statutory authority may make and  
perform, § 2:330

**APPEAL**

Alberta  
costs on, § 3:138, § 3:139  
Court of Appeal, to  
generally, § 3:103 [Alta., s.  
37]  
any determination or order of  
the Board, § 3:104

**APPEAL—Cont'd**

## Alberta—Cont'd

- Court of Appeal, to—Cont'd
  - decision of inquiry officer, § 3:106
  - interlocutory, § 3:107
  - limitations on right, § 3:105

## British Columbia

- costs on, § 8:235
- see also Costs
- former powers of Court of Appeal, § 8:233
- standard of review under former s. 28, § 8:234

## Canada

- costs on, § 7:266
- Federal Court of Appeal, to, § 7:221, § 7:223

## Manitoba

- Court of Appeal, to, § 4:327 [Man., s. 44]
- powers of, § 4:329

## New Brunswick

- costs on, § 5:205

## Nova Scotia

- determination of title, of, § 6:85 to § 6:88 [N.S., s. 17(5)]

## Ontario

- amendment to notice, § 2:406
- application for possession, from, § 2:527
- application of s. 31, § 2:407
- assessment officer, decision of, § 2:461
- costs
  - generally, § 2:413
  - post R.S.O. 1980, § 2:415
  - prior to R.S.O. 1980, § 2:414
- Court of Appeal to, from Divisional Court, § 2:416
- Divisional Court, to, § 2:401 [Ont., s. 31]
- history of s. 31, § 2:402
- interlocutory, § 2:408

**APPEAL—Cont'd**

## Ontario—Cont'd

- offer of compensation
  - extension of time, § 2:350
- powers of court
  - generally, § 2:409 to § 2:415
  - reference back to Board, § 2:411
  - standard of review, § 2:410
- proceedings commenced in tribunal other than Land Compensation Board, § 2:404
- timing of, § 2:405
- transitional provisions, § 2:403

**APPLICATION**

## Manitoba

- compensation, to determine, § 4:102 [Man., s. 15]
- procedure, § 4:109
- quash, to, § 4:83 [Man., s. 10]
- time, extension of, § 4:137, § 4:143 [Man., ss. 23, 24]

## Ontario

- set aside or quash
  - quashing for bad faith, § 2:549
  - time for, § 2:548

**APPRAISAL**

## Alberta

- entry on land for, § 3:254 [Alta., s. 63]

## Ontario

- entry on land for, § 2:86, § 2:86.50

**APPRAISAL REPORTS**

## Alberta

- proposed payment and, § 3:91

## British Columbia

- statutory requirements, § 8:173

## Canada

- offer of compensation and, § 7:81

**APPRAISAL REPORTS—Cont'd**

- Canadian Uniform Standards of Professional Appraisal Practice appraisal report requirements, § 6:8
- registered owner's right to receive, § 6:8
- Evidence, as, see Evidence
- Nova Scotia
  - defined, § 6:8
  - offer of compensation and, § 6:72 to § 6:74 [N.S., s. 13]
- Ontario, repealed section 28(1)
  - admissibility of, § 2:376
  - Board's practice, § 2:372
  - amendments to, § 2:373
  - defined, § 2:370
  - failure to serve
    - generally, § 2:375
    - appraisal costs still claimable, § 2:374
    - offer of compensation, § 2:345, § 2:353
  - offer of compensation, § 2:341 to § 2:345
  - production, order for earlier, § 2:377
  - service of
    - generally, § 2:369 to § 2:377
    - exceptions to, § 2:371
    - history of repealed s. 28, § 2:369

**APPRAISER**

- See also Evidence
- British Columbia
  - qualifications of, § 8:174
- List of experienced appraisers, § 1:10
- Ontario
  - fee, § 2:454, § 2:455
- Professional qualifications, § 1:9
- Reports, see Appraisal reports, Evidence
- Retain, when to
  - generally, § 1:6, § 1:7

**APPRAISER—Cont'd**

- Retain, when to—Cont'd
  - expropriated owner, for, § 1:7
  - expropriating authority, for, § 1:6
- Retainer agreement
  - generally, § 1:11 to § 1:13
  - advantages of, § 1:11
  - contents of, § 1:13
  - meeting expenses as incurred, § 1:12

**APPROVING AUTHORITY**

- See also Certificate of approval
- Alberta
  - approval where no objection, § 3:36 [Alta., s. 11]
  - certificate of approval, § 3:49, § 3:50 [Alta., s. 18]
  - defined, § 3:28, § 3:29 [Alta., s. 7]
  - inquiry, dispensing with, § 3:33, § 3:34 [Alta., s. 9]
  - notice of objection to, § 3:35 to § 3:37 [Alta., s. 10]
- British Columbia
  - approval of expropriation, § 8:75 [B.C., s. 4]
  - history, § 8:76
- decision of
  - generally, § 8:151 [B.C., s. 18]
- Canadian Charter of Rights and Freedoms, § 8:156
- cancellation of expropriation notice, § 8:159
- expropriating authority may seek approval to expropriate, when, § 8:154
- function, nature of, § 8:153
- history, § 8:152
- Ontario legislation, vs., § 8:155
- service of decision, § 8:158
- defined
  - generally, § 8:6 to § 8:43 [B.C., s. 1]
  - “approving authority,” § 8:77

**APPROVING AUTHORITY****—Cont'd**

- British Columbia—Cont'd
  - defined—Cont'd
    - comment, § 8:6 to § 8:43 [B.C., s. 1]
      - “approving authority,” § 8:7
    - history, § 8:6 to § 8:43 [B.C., s. 1]
      - “approving authority,” § 8:8
- Canada
  - confirmation or abandonment of intention
    - generally, § 7:61 to § 7:63 [Can., s. 11]
      - copy of report and reasons, § 7:66, § 7:67 [Can., s. 13]
        - notice of confirmation of intention, § 7:68, § 7:69 [Can., s. 14]
          - registration of, § 7:68, § 7:70
  - New Brunswick
    - powers of
      - generally, § 5:75 to § 5:78 [N.B., s. 18]
        - review of decision, § 5:77
  - Nova Scotia
    - approval by, requirement for, § 6:53 [N.S., s. 7]
      - defined, § 6:54 [N.S., s. 8]
        - expropriation by Crown and generally, § 6:55 to § 6:58 [N.S., s. 9]
          - validity of, § 6:56
  - Ontario
    - approval of intention to expropriate, § 2:37 [Ont., s. 4]
      - history, § 2:38, § 2:39
    - defined
      - generally, § 2:2 to § 2:21, § 2:42 [Ont., ss. 1(1), 5]
        - history, § 2:43

**APPROVING AUTHORITY****—Cont'd**

- Ontario—Cont'd
  - powers and duties of
    - generally, § 2:63 [Ont., s. 8(1)]
      - certificate of approval, § 2:63 [Ont., s. 8(3)]
        - whether approval conditional, § 2:69
      - history, § 2:64
      - nature of the function, § 2:65
      - reasons for decision
        - generally, § 2:63 [Ont., s. 8(2)]
          - failure to serve, § 2:68
        - widest discretionary power, § 2:66
      - report of inquiry officer to, § 2:51 [Ont., s. 7(6)]

**ARBITRATION**

- New Brunswick
  - notice of arbitration, § 5:111 to § 5:113 [N.B., s. 31]
- Ontario
  - negotiation, vs., § 2:364
    - where no settlement reached, § 2:360
      - notice of arbitration, § 2:359 [Ont., s. 26(2)]

**ASSESSMENT OFFICER**

- Ontario
  - appeal from a decision of, § 2:461
  - reference to
    - conflicting jurisdiction with Board
      - Board's directions not accepted by officer, § 2:438
      - Board's jurisdiction to disallow claimant's costs, § 2:440

**ASSESSMENT OFFICER—Cont'd**

- Ontario—Cont'd
  - reference to—Cont'd
    - conflicting jurisdiction with Board—Cont'd
      - claimant's costs are discretionary, whether, § 2:439
      - legal effect of reference, § 2:437
    - directions, § 2:434
    - jurisdiction, § 2:433

**AUTHORITY**

- Manitoba
  - defined, § 4:2 to § 4:47 [Man., s. 1(1)]
  - expropriation of land of another, § 4:74 [Man., s. 8]
  - interest payable by, § 4:298 [Man., s. 35]
  - jurisdiction, § 4:85
  - undertakings to mitigate damages, § 4:294 [Man., s. 34]

**BLACKSTOCK FORMULA**

- Alberta
  - compensation for injurious affection, § 3:226
- Manitoba
  - measure of loss for injurious affection, § 4:264

**BOARD**

- Alberta
  - defined, § 3:2 [Alta., s. 1(b)]
- British Columbia
  - history, § 8:11
- Nova Scotia
  - defined, § 6:10
- Ontario
  - defined, § 2:2 to § 2:21 [Ont., s. 1(1)]

**BONUS**

- New Brunswick
  - defined, § 5:159 [N.B., s. 42(1)]

**BONUS—Cont'd**

- New Brunswick—Cont'd
  - prepayment of mortgage, § 5:160 to § 5:162 [N.B., s. 43]
  - secured transactions and, § 5:159 [N.B., s. 42]
- Nova Scotia
  - defined, § 6:127 [N.S., s. 27(1)]
  - payable, § 6:127 [N.S., s. 27(12)]
- Ontario
  - deemed paid to security holder, § 2:225 [Ont., s. 17(4)]
  - defined, § 2:225 [Ont., s. 17(1)]
  - prepayment
    - payment of, to mortgagee, § 2:279
  - priority of security holders over payment of, § 2:233

**BRITISH COLUMBIA SUPREME COURT**

- Compensation, determination of
  - generally, § 8:211 [B.C., s. 26]
  - defined, § 8:15
- jurisdiction and decision
  - generally, § 8:213 to § 8:223
  - amend, vary or rescind a decision, § 8:221
  - apprehension of bias, § 8:219
  - cases, § 8:216
  - challenged, § 8:222
  - costs where no expropriation, § 8:220
  - disallow notice of discontinuance, § 8:223
  - history, § 8:212
  - questions of law, § 8:217
  - scope of hearing, § 8:218
- practice and procedure
  - generally, § 8:224 [B.C., s. 27]
  - history, § 8:225
  - rules, § 8:226

**BUSINESS LOSSES**

- See also Goodwill

**BUSINESS LOSSES—Cont'd**

## Alberta

- compensation for
  - generally, § 3:211 [Alta., s. 53]
  - heads of damages, § 3:212
  - no deduction for tax, § 3:213

## British Columbia

- relocation, with
  - generally, § 8:326 to § 8:329
  - additional amount not exceeding value of goodwill, § 8:332
  - business at date of expropriation, § 8:327
  - directly attributable to expropriation, § 8:314 to § 8:320
  - goodwill, § 8:333
  - reasonable costs of, § 8:321
  - reasonableness of business losses, § 8:329
  - reasonableness of relocation, § 8:321
  - relocates to and operates from other land, § 8:328
- relocation not feasible
  - generally, § 8:330 to § 8:334
  - evidence required, § 8:331
  - other damages, § 8:334

## Manitoba

- deferral of determination, § 4:253
- disturbance damages and, § 4:216
- length of time to re-establish business, § 4:254

## New Brunswick

- compensation for, § 5:169 to § 5:171 [N.B., s. 45]
- cessation of business, § 5:170

## Nova Scotia

- compensation for, § 6:147 [N.S., s. 29]
- calculation, § 6:149
- relocation, § 6:150

**BUSINESS LOSSES—Cont'd**

## Ontario

- claim, nature of, § 2:261
- claims under s. 19(1) and (2) mutually exclusive, § 2:264
- compensation for business
  - located on expropriated land generally, § 2:265 to § 2:271 [Ont., s. 19(1)]
  - business loss, § 2:266
  - evidence of, § 2:267
  - business requirement, § 2:265
  - history of s. 19, § 2:258
  - mitigate, duty to, § 2:268
  - partial takings, § 2:271
  - relocation requirement, § 2:269
  - time period, § 2:270
- effect of development on valuation, § 2:262
- income tax payable, § 2:263
- interest on award, § 2:488
- procedure, § 2:259
- three-year period before determination, § 2:260, § 2:270

**CANADIAN CHARTER OF RIGHTS AND FREEDOMS**

## British Columbia

- approving authority, decision of, and, § 8:156

## Ontario

- property rights and, § 2:6

**CANADIAN UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE**

## Appraisal report

- generally, § 6:8
- appraisal report requirements, § 6:8

**CERTIFICATE OF APPROVAL**

See also Approving authority

**CERTIFICATE OF APPROVAL  
—Cont'd**

- Alberta  
amendment to, § 3:57 [Alta., s. 21]  
extension of time for inquiry, § 3:61 [Alta., s. 23]  
issue of  
generally, § 3:49, § 3:50 [Alta., s. 18]  
cases, § 3:50  
Lieutenant Governor in Council, directed by, § 3:40 [Alta., s. 14]  
registration of  
generally, § 3:51 to § 3:55 [Alta., s. 19]  
failure to, § 3:56 [Alta., s. 20]  
history of s. 19, § 3:52  
proof of compliance with Act, § 3:59  
unregistered documents, § 3:55  
valuation date, § 3:53  
Ontario  
approving authority, § 2:69

**CERTIFICATION**

- Manitoba  
amount of compensation by commission, of, § 4:102 [Man., s. 15]  
variation, § 4:112

**COMMISSION**

- Manitoba  
see also Land Value Appraisal Commission (Manitoba)  
compensation, application and certification of  
generally, § 4:102 [Man., s. 15]  
decisions binding, § 4:104  
procedure, § 4:107, § 4:109  
defined, § 4:2 to § 4:47 [Man., s. 1(1)]

**COMMISSION—Cont'd**

- Manitoba—Cont'd  
jurisdiction, § 4:106

**COMPARABLE SALES**

- Evidence of  
generally, § 1:105 to § 1:110  
adjustments to, § 1:107 to § 1:110  
generally, § 1:107  
percentage adjustment, § 1:108  
time, for, § 1:109  
market value, establishing, § 1:105  
sale property differs from expropriated property, where, § 1:106

**COMPENSATION**

- See also Offer of compensation, Payment  
Alberta  
business loss, § 3:211 [Alta., s. 53]  
see also Business losses  
claim on, § 3:251  
compulsory acquisition, no allowance for, § 3:169 [Alta., s. 44]  
unusual circumstances, § 3:170  
disturbance damages, § 3:161, § 3:194 [Alta., ss. 42(2)(b), 50]  
see also Disturbance damages  
double recovery, rule against  
generally, § 3:165 [Alta., s. 43]  
cases, § 3:166  
disturbance damages under s. 43(b)(ii), § 3:167  
easements, expropriation of, § 3:245  
incidental damages, § 3:225 [Alta., s. 56]  
see also Incidental damages



**COMPENSATION—Cont'd**

## Alberta—Cont'd

injurious affection, § 3:161,  
§ 3:225 [Alta., ss. 42(2)(d),  
56]

see also Injurious affection  
market value of land, § 3:148  
[Alta., s. 41]

see also Market value

partial expropriation and value of  
remaining increases, § 3:221  
[Alta., s. 55]

payment into court  
generally, § 3:144 [Alta., s.  
40]

cases, § 3:146

history of s. 40, § 3:145

principles of, § 3:162

special economic advantage,  
§ 3:163

voluntary agreement to transfer  
generally, § 3:80  
interest on, § 3:270  
scope of agreement, § 3:80  
strict construction, § 3:81

## British Columbia

basis for, § 8:236

date of expropriation  
generally, § 8:238  
authorities, § 8:239  
defined, § 8:238

disturbance damages, § 8:254 to  
§ 8:256

see also Disturbance damages

double recovery, rule against,  
§ 8:257 to § 8:259

cases, § 8:258

formula, basic, § 8:251 to  
§ 8:253

market value, § 8:252

history of, s. 31, § 8:250

overview, § 8:236 to § 8:578  
[B.C., Part 6]

right to  
generally, § 8:243, § 8:244

**COMPENSATION—Cont'd**

## British Columbia—Cont'd

overview, § 8:236 to § 8:578  
[B.C., Part 6]—Cont'd

right to—Cont'd  
entitlement, owner of land,  
§ 8:244

Forest Act limitation,  
§ 8:247, § 8:248

history, § 8:247

limitation, § 8:248

history of s. 30, § 8:242

lessee, § 8:244

overpayment, recovery of,  
§ 8:245, § 8:246

owner, § 8:244

statutory formula for assess-  
ing, § 8:243

separate interests

generally, § 8:265 to  
§ 8:268

case law, § 8:266

security interests, § 8:267

special economic advantage,  
§ 8:261

special value

generally, § 8:260

improvements not included  
in market value,  
§ 8:263, § 8:264

Law Reform Commission  
Reports, § 8:261

## Canada

additional factors to be taken into  
account, § 7:194

claim on, § 7:224 [Can., s. 33]

Court proceedings to determine,  
see Federal Court

repayment of excess to authority,  
§ 7:230

right to, § 7:111

right, estate or interest, § 7:110

special economic advantage,  
§ 7:147

**COMPENSATION—Cont'd**

Manitoba

- claim on, § **4:331** [Man., s. 45]
- commission, determination by generally, § **4:102** [Man., s. 15]
- jurisdiction and procedure, § **4:106 to 4:111**
  - see also Land Value Appraisal Commission
- court, determination by, § **4:309**
- determination of, § **4:155** [Man., s. 26]
- disturbance damages, § **4:156 to 4:158** [Man., s. 26(1)(b)]
  - see also Disturbance damages
- experts' accounts, interest on unpaid, § **4:115**
- injurious affection, § **4:145** [Man., s. 25]
  - see also Injurious affection
- limitation re declarations, § **4:311**
- payment into court, § **4:339** [Man., s. 48]
- special economic advantage, § **4:158**
- surplus lands, § **4:71** [Man., s. 6]
- under \$1,000, § **4:342** [Man., s. 49]
- voluntary payment by authority, § **4:307** [Man., s. 36]

New Brunswick

- claim on, § **5:212 to 5:214** [N.B., s. 54]
- computation of, § **5:127** [N.B., s. 38]
  - basis of, § **5:128**
- disturbance damages, § **5:127** [N.B., s. 38(1)(b)]
  - see also Disturbance damages
- duty to, § **5:102, 5:103** [N.B., s. 25]
- improvements made by owner, § **5:131**

**COMPENSATION—Cont'd**

New Brunswick—Cont'd

- injurious affection, § **5:127** [N.B., s. 38(1)(c)]
  - see also Injurious affection
- payment into court, § **5:215, 5:216** [N.B., s. 55]
- repayment of excess to authority, § **5:198 to 5:200** [N.B., s. 51]
- special economic advantage, § **5:129**

Nova Scotia

- basis for, § **6:108** [N.S., s. 26]
- disturbance damages, § **6:108** [N.S., s. 26(b)]
  - see also Disturbance damages
- disturbance, defined, § **6:132**
- duty to pay, § **6:105** [N.S., s. 24]
- factors in amount of, § **6:170 to 6:173** [N.S., s. 34]
- items to be compensated, § **6:125**
- repayment of excess to authority, § **6:82**
- special economic advantage, § **6:124**
- under \$1,000, § **6:206** [N.S., s. 63]

Ontario

- arbitration, determined by Board, § **2:381** [Ont., s. 29]
  - voluntary agreement to transfer generally, § **2:395** [Ont., s. 30]
    - application of s. 30, § **2:398**
    - history of s. 30, § **2:397**
    - procedure under, § **2:399**
    - valuation date, § **2:398**
- business loss, § **2:257** [Ont., s. 19]
  - see also Business losses
- character of, § **2:503**
- claim on
  - mortgage, § **2:504**

**COMPENSATION—Cont'd**

## Ontario—Cont'd

## claim on—Cont'd

vendor under agreement for sale, § 2:505

disturbance damages, § 2:106 to § 2:118

see also Disturbance damages

environmental contamination, § 2:169

## formula for

generally, § 2:102

cases, § 2:151

commentary, § 2:152

history, § 2:150

history of s. 13, § 2:100

injurious affection, § 2:119 to § 2:140

see also Injurious affection

loss or damages, pleading the, § 2:103

market value of land, § 2:105

see also Market value

## payment into court

generally, § 2:517

costs, § 2:518

history of s. 38, § 2:516

relocation, § 2:141 to § 2:148

see also Relocation

statutory right, as, § 2:104

under § 1,000, § 2:509

**CONFIRMING AUTHORITY**

See also Declaration of expropriation

## Manitoba

action after report, § 4:363 [Man., Sched. 1, s. 9]

confirmation of declaration, § 4:363 [Man., Sched. 1, s. 4]

defined, § 4:9 to § 4:22

exercise of expropriation power, § 4:60 [Man., s. 3]

**CONFIRMING AUTHORITY**

## —Cont'd

See also Declaration of expropriation—Cont'd

## Manitoba—Cont'd

orders re declaration, § 4:76 [Man., s. 9]

delegation, § 4:78

**CONFLICT OF INTEREST**

Appraiser's evidence, § 1:113

**CONSOLIDATED HEARINGS ACT (ONTARIO)**

Joint boards as inquiry officers, § 2:61

decisions of, § 2:67

**CONTAMINATION, INVESTIGATION OF**

Manitoba, § 4:58 [Man., s. 2.1]

**COSTS**

## Alberta

## appeal, on

generally, § 3:138, § 3:139

Board cannot tax appeal costs, § 3:139

where successful or partly successful owner entitled to solicitor and own client costs, § 3:138

## entitlement to

generally, § 3:113 [Alta., s. 39]

comment, § 3:117

for the purpose of determining the compensation payable, § 3:114

hearing of necessity, § 3:115

incurred prior to expropriation, § 3:119

owner's time and expenses, § 3:116

private agreement to restrict, § 3:121

respondent not entitled, § 3:120

interest, § 3:140 to § 3:142

**COSTS—Cont'd**

Alberta—Cont'd

- proposed payment, re, § 3:94  
[Alta., s. 34]
- reasonable legal, appraisal and other costs
  - generally, § 3:124 to § 3:132
  - appraisal or experts' accounts accepted, § 3:131
  - appraisal or experts' accounts reduced or disallowed, § 3:130
  - experts' costs, § 3:129
  - hours and hourly rates, § 3:126
  - legal accounts reduced, § 3:127
  - legal costs, § 3:125
    - found to be reasonable, § 3:128
  - owner's time, § 3:132
  - standard of reasonableness, § 3:124
- special circumstances, § 3:122, § 3:123
- taxation of
  - generally, § 3:45
  - claims for injurious affection, § 3:136
  - costs of taxation hearing, § 3:135
  - not binding on owner, § 3:137
  - taxing officer, § 3:133
  - two-stage procedure, § 3:134
  - voluntary agreement to transfer and, § 3:83

British Columbia

- abandonment of expropriation, of, § 8:168
- advance payment of, see Advance payment
- appeal under former s. 28, § 8:235
- appraisal costs
  - generally, § 8:439 to § 8:456
  - other costs, § 8:168

**COSTS—Cont'd**

British Columbia—Cont'd

- appraisal costs—Cont'd
  - s. 45(10), effect of, § 8:454
  - unproclaimed s. 45(7.1), § 8:440
- business loss, owner claims
  - compensation for, where, § 8:326 to § 8:334
- compensation proceeding
  - appeal, costs on, § 8:456
  - asserting claim, purpose of, § 8:441
  - compensation greater than 115 per cent of amount paid, § 8:442, § 8:450
  - compensation 115 per cent or less of amount paid, § 8:445, § 8:450
  - costs necessarily incurred, § 8:442, § 8:561
  - date from which costs may be recovered, § 8:566
  - discretionary power, § 8:221
  - expropriation ruled invalid, where, § 8:220
  - pure injurious affect under s. 45(6), for, § 8:451
- divesting after expropriation, of, § 8:183
- enforcing order for, § 8:213
- hearing of necessity, of
  - generally, § 8:450 to § 8:456
  - appeal of, § 8:455
    - payment of costs where there is appeal, § 8:456
  - authority, not awarded to, § 8:454
  - comment, § 8:453
  - costs found by inquiry officer, § 8:450
  - criteria, § 8:451
  - error, § 8:456
  - two-stage procedure, § 8:452
- injurious affection if no land taken, § 8:412

**COSTS—Cont'd**

## British Columbia—Cont'd

legal and appraisal, § 8:439  
[B.C., s. 45]

relationship with s. 48, § 8:449

## legal costs

costs of s. 45 hearing, § 8:442

disbursements, etc., § 8:449,  
§ 8:561

party and party tariff not  
applicable, § 8:442,  
§ 8:456

## payable

actual reasonable legal,  
appraisal and other costs,  
§ 8:168, § 8:442, § 8:451

appeal, costs on, § 8:456

considerations taken into  
account when determin-  
ing, § 8:454

disturbance damages may not  
be claimed as costs,  
§ 8:398

## tariff of costs

generally, § 8:441 to § 8:448

award of units under, § 8:447

comment, § 8:444

pre-tariff costs, § 8:448

procedure under, § 8:443

restriction on costs payable to  
expropriated owner,  
§ 8:442

scale of costs, § 8:446

when costs incurred, § 8:445

## Canada

asserting objections, of, § 7:55

## awarding of

generally, § 7:256

appeals, § 7:266

by any party to the proceed-  
ings, § 7:258

general procedures, § 7:257

interest on, § 7:265

limitations on, § 7:263

**COSTS—Cont'd**

## Canada—Cont'd

## awarding of—Cont'd

offers of compensation and,  
§ 7:259

reduction of counsel fee,  
§ 7:264

solicitor and client basis,  
§ 7:261

## legal, appraisal and other costs

generally, § 7:197 [Can., s. 29]

interest, § 7:202

prior to institution of action,  
§ 7:198

procedure, § 7:201

standard applied, § 7:202

offer of compensation and, § 7:78

## Manitoba

appeal, of, § 4:327 [Man., s.  
44(3)]

commission may determine costs,  
§ 4:113 to § 4:117 [Man., s.  
15(7)]

compensation, determination by  
commission, of, § 4:113

interim, § 4:117

## New Brunswick

appeal, on, § 5:205

awarding of, § 5:203

owner appearing at inquiry, of,  
§ 5:72

taxation, § 5:206

## Nova Scotia

compensation for owner's time,  
§ 6:195

entitlement to, § 6:192 to § 6:197  
[N.S., s. 52]

repealed provision s. 35, § 6:171,  
§ 6:172

## Ontario

amount offered, § 2:429

appeal on, § 2:413, § 2:415,  
§ 2:427

prior to R.S.O. 1980, § 2:414

**COSTS—Cont'd**

Ontario—Cont'd

assessment of

generally, § 2:441 to § 2:461

actually incurred, § 2:457

appeal from

generally, § 2:465

costs of appeal to Ontario

Court of Justice,

§ 2:467

decision of Assessment

Officer, § 2:461

Ontario Court of Justice, to,

§ 2:466

appraiser's account, § 2:454,

§ 2:455

awards under s. 32(2)

generally, § 2:462 to

§ 2:464

costs to expropriating

authority, § 2:464

history of s. 32(2), § 2:462

compensation payable, § 2:458

cost of assessment, § 2:459

costs incurred before

expropriation, § 2:443

disbursements, § 2:453

effect of assessment under s.

32(1), § 2:460

onus, § 2:444

other costs, § 2:456

reasonable legal costs

generally, § 2:445 to

§ 2:452

aging process, § 2:450

amount in issue, § 2:445

disallowing costs actually

incurred, § 2:449

fee contracts, § 2:451

fees, not reasonable, § 2:447

fees, reasonable, § 2:446

settlement fee, § 2:452

success factor, § 2:448

rules governing, § 2:441

**COSTS—Cont'd**

Ontario—Cont'd

assessment of—Cont'd

taxations under s. 32(1),

§ 2:442 to § 2:444

assessment officer, reference to

conflicting jurisdiction with

Board

Board's directions not

accepted by officer,

§ 2:438

Board's jurisdiction to disal-

low claimant's costs,

§ 2:440

claimant's costs are

discretionary, whether,

§ 2:439

legal effect of reference,

§ 2:437

directions, § 2:434

jurisdiction, § 2:433

Board's practice, § 2:435

claimant does not deliver state-

ment of claim, where,

§ 2:420

determining compensation,

incurred for purposes of,

§ 2:432

expropriation before 1964,

§ 2:424

expropriation invalid, where,

§ 2:422

expropriation under The

Expropriation Procedures

Act, 1962-63, § 2:423

history of s. 32, § 2:418

inquiry, of, § 2:51 [Ont., s.

7(10)]

interest on award of, § 2:469

interlocutory motions, on,

§ 2:421

jurisdiction of Board to award,

§ 2:419

lump sum, fixing in, § 2:431

nil offer, § 2:430

**COSTS—Cont'd**

## Ontario—Cont'd

- Ontario Municipal Board following Expropriations Amendment Act, 1983, § **2:425**
- owner's costs: order directing payment mandatory, § **2:428**
- owner's solicitor where solicitor contracts to look to expropriating authority for payment of fees, § **2:426**
- payment into court, § **2:518**
- relocation, § **2:249**
- respondent costs, no jurisdiction to award under s. 32(1), § **2:436**
- stated case, **APP 2G**
- under former legislation, **APP 2G**

**COURT**

## Alberta

- defined, § **3:2 [Alta., s. 1(c)]**

## British Columbia

- defined, § **8:14**
- history, § **8:15**

## Canada

- defined, § **7:4 to § 7:25 [Can., s. 2]**
- see also Federal Court

## Manitoba

- defined, § **4:2 to § 4:47 [Man., s. 1(1)]**

## New Brunswick

- defined, § **5:2 to § 5:27 [N.B., s. 1]**

division of jurisdiction between Expropriations Advisory Officer and, § **5:9**

- jurisdiction of, § **5:109**
- decisions respecting terminated board, § **5:110**

## Nova Scotia

- defined, § **6:12**

## Ontario

- court name changes, **APP 2F**

**CROWN**

## Canada

- purchaser for value, as, § **7:227 [Can., s. 34]**

## Nova Scotia

- expropriation of land
  - approving authority, § **6:55 to § 6:58 [N.S., s. 9]**
  - powers to, § **6:59, § 6:60 [N.S., s. 10]**
- purchase and disposal of land by, N.S. Part VII
  - alienation of land
    - generally, § **6:231 [N.S., s. 81]**
    - application of Part VII, § **6:217 [N.S., s. 69]**
    - authorization of blasting, § **6:222 [N.S., s. 73]**
    - compensation for damages, § **6:223 [N.S., s. 74]**
    - compensation from consolidated fund, § **6:229 [N.S., s. 79]**
    - guardians, power of, § **6:227, § 6:228 [N.S., s. 78]**
    - interpretation, § **6:219**
    - land surveyor, § **6:225 [N.S., s. 76]**
    - plan, deposit of, § **6:226 [N.S., s. 77]**
    - power of Minister to acquire land, § **6:224 [N.S., s. 75]**
    - powers respecting public works, § **6:220 [N.S., s. 71]**
    - public purpose, acquired for, § **6:230 [N.S., s. 80]**
    - wall removed or ditch built, § **6:221 [N.S., s. 72]**

**CROWN AGENCY**

## Manitoba

- defined, § **4:2 to § 4:47 [Man., s. 1(1)]**

**CROWN LAND**

- Alberta
  - defined, § 3:4 [Alta., s. 1(d)]
- British Columbia
  - disposition of subject to rights under Land Act s. 50, § 8:21
  - expropriation on, § 8:106
- Manitoba
  - no expropriation of, § 4:73 [Man., s. 7]

**DAMAGES**

- See Compensation, Disturbance damages, Injurious affection
- Alberta
  - generally, § 3:195
- British Columbia
  - compensation vs., § 8:248

**DECLARATION OF EXPROPRIATION**

- See also Confirming authority
- Manitoba
  - amendment of, § 4:76 [Man., s. 9(3)]
  - confirming authority and, § 4:76 [Man., s. 9]
  - correction of, § 4:91 [Man., s. 12]
  - defined, § 4:2 to § 4:47 [Man., s. 1(1)]
  - limitation re, § 4:313
  - orders regarding, § 4:77 [Man., s. 9(1)]
  - quash, declaration to, § 4:85
  - registration of, § 4:87 [Man., s. 11]
  - requirements
    - generally, § 4:62 [Man., s. 4]
    - description, sufficiency of, § 4:64
    - failure to comply, effect of, § 4:65
    - form, § 4:63, § 4:364

**DEFINITIONS**

- Appraisal report, § 6:8

**DEFINITIONS—Cont'd**

- Approving authority, § 2:2 to § 2:21 [B.C., s. 1]; § 8:6 to § 8:43 [Ont., s. 1(1)]
  - history, § 8:8, § 2:3
- Authority, § 4:2 to § 4:47 [Man., s. 1(1)]
- Authorizing Act, § 3:2 [Alta., s. 1(a)]; § 4:2 to § 4:47 [Man., s. 1(1)]
- Board
  - generally, § 2:2 to § 2:21 [Ont., s. 1(1)]; § 3:2 [Alta., s. 1(b)]; § 6:11, § 6:12 [N.S., s. 3(1)(b)]; § 8:6 to § 8:43 [B.C., s. 1 “board” (repealed)]
  - history, § 2:3
- Chair, § 8:6 to § 8:43 [B.C., s. 1 “chair” (repealed)]
- Commission, § 4:2 to § 4:47 [Man., s. 1(1)]
  - history, § 4:6
- Common-law partner, § 5:2 to § 5:27 [N.B., s. 1]
  - history, § 5:4
- Confirming authority, § 4:2 to § 4:47 [Man., s. 1(1)]
  - history, § 4:9
- Council of a municipality, § 5:2 to § 5:27 [N.B., s. 1]
- Court
  - generally, § 3:2 [Alta., s. 1(c)]; § 4:2 to § 4:47 [Man., s. 1(1)]; § 5:2 to § 5:27 [N.B., s. 1]; § 7:4 to § 7:25 [Can., s. 2]; § 8:6 to § 8:43 [B.C., s. 1]
  - history, § 8:15
- Crown, § 7:4 to § 7:25 [Can., s. 2]
- Crown agency, § 4:2 to § 4:47 [Man., s. 1(1)]
- Crown land, § 3:4 [Alta., s. 1(d)]
- Date of expropriation, § 8:237 [B.C., s. 29]



**DEFINITIONS—Cont'd**

Declaration, § 4:2 to § 4:47 [Man., s. 1(1)]

Deputy Minister, § 3:4 [Alta., s. 1(e)]

Enactment, § 8:20

Expropriate  
generally, § 2:2 to § 2:21 [Ont., s. 1(1)]; § 5:2 to § 5:27 [N.B., s. 1]; § 6:16, § 6:17 [N.S., s. 3(1)(d)]; § 8:17 [B.C., s. 1]  
cases, § 2:5  
history, § 2:3

Expropriated, § 7:4 to § 7:22 [Can., s. 2(1)]

Expropriated interest or right, § 7:8

Expropriating authority, § 2:2 to § 2:21 [Ont., s. 1(1)]; § 3:6 [Alta., s. 1(f)]; § 5:2 to § 5:27 [N.B., s. 1]; § 6:18 [N.S., s. 3(1)(e)]; § 8:6 to § 8:43 [B.C., s. 1]  
history, § 2:3

Expropriation, § 3:6 [Alta., s. 1(g)]; § 4:2 to § 4:47 [Man., s. 1(1)]

Expropriation documents, § 6:18 [N.S., s. 3(1)(e)]

Family home, § 6:19 to § 6:21 [N.S., s. 3(1)(f)]

Former Expropriation Act, § 6:22 [N.S., s. 3(1)(g)]

Highway, § 8:26, § 4:2 to § 4:47

Injurious affection, § 2:2 to § 2:21 [Ont., s. 1(1)]; § 5:2 to § 5:27 [N.B., s. 1]; § 6:23 to § 6:26 [N.S., s. 3(1)(h)]  
history, § 2:8

Inquiry officer, § 8:28

“Interest in land” defined (repealed), § 7:10

Judge, § 2:2 to § 2:21 [Ont., s. 1(1)]  
history, § 2:11

Land  
generally, § 3:6, § 4:2 to § 4:47, § 5:2 to § 5:27, § 6:27,

**DEFINITIONS—Cont'd**

Land—Cont'd  
§ 2:2 to § 2:21  
cases, § 2:13  
defined under Interpretation Act, § 8:19  
history, § 2:11

Land titles office, § 4:2 to § 4:47 [Man., s. 1(1)]

Minister, § 3:6 [Alta., s. 1(i)]; § 7:4 to § 7:25 [Can., s. 2]

Municipality, § 3:8 [Alta., s. 1(j)]; § 5:2 to § 5:27 [N.B., s. 1]  
history, § 3:9

Notice of confirmation, § 7:4 to § 7:25 [Can., s. 2]

Notice of intention, § 7:4 to § 7:25 [Can., s. 2]

Officer, § 5:2 to § 5:27 [N.B., s. 1]

Owner  
generally, § 2:2 to § 2:21 [Ont., s. 1(1)]; § 3:10 [Alta., 1(k)]; § 4:2 to § 4:47 [Man., s. 1(1)]; § 5:2 to § 5:27 [N.B., s. 1]; § 6:28 to § 6:31 [N.S., s. 3(1)(j)]; § 7:4 to § 7:25 [Can., s. 2 “owner”]; § 8:6 to § 8:43 [B.C., s. 1]  
cases, § 2:13, § 2:14  
history, § 8:30, § 2:11

Plan, § 8:35

Prescribed, § 2:2 to § 2:21 [Ont., s. 1(1)]; § 4:2 to § 4:47 [Man., s. 1(1)]; § 6:32 [N.S., s. 3(1)(k)]  
history, § 2:16

Proposed payment, § 3:13 [Alta., s. 1(1)]

Purchase-money mortgage, § 2:2 to § 2:21 [Ont., s. 1(1)], § 6:33  
history, § 2:16

“Register” defined, § 7:20

Registered judgment creditor, § 6:34, § 6:35 [N.S., s. 3(1)(m)]

**DEFINITIONS—Cont'd**

- Registered owner
  - generally, § 2:2 to § 2:21 [Ont., s. 1(1)]; § 4:2 to § 4:47 [Man., s. 1(1)]; § 5:2 to § 5:27 [N.B., s. 1]; § 6:36 to § 6:39 [N.S., s. 3(1)(m)]
  - cases, § 2:17
  - history, § 2:16
- Registrar, § 7:22 [Can., s. 2(1)]; § 8:6 to § 8:43 [B.C., s. 1]
- Right of way, § 3:13 [Alta., s. 1(m)]
- Security holder, § 2:2 to § 2:21 [Ont., s. 1(1)]; § 6:40 [N.S., s. 3(1)(o)]
  - history, § 2:16
- Security interest, § 4:2 to § 4:47 [Man., s. 1(1)]; § 8:6 to § 8:43 [B.C., s. 1]
  - history, § 8:40
- Served, § 5:2 to § 5:27 [N.B., s. 1]
- Statutory authority, § 2:2 to § 2:21 [Ont., s. 1(1)]; § 5:2 to § 5:27 [N.B., s. 1]; § 6:41, § 6:42 [N.S., s. 3(1)(p)]
  - history, § 2:16
- Tenant
  - generally, § 2:2 to § 2:21 [Ont., s. 1(1)]; § 5:2 to § 5:27 [N.B., s. 1]; § 6:43, § 6:44 [N.S., s. 3(1)(q)]
  - cases, § 2:17
  - history, § 2:16
- Vice chair, § 8:6 to § 8:43 [B.C., s. 1 “vice chair” (repealed)]
- Work or works, § 3:13 [Alta., s. 1(n)]; § 4:2 to § 4:47 [Man., s. 1(1)]

**DISPOSAL OF EXPROPRIATED LANDS**

- Alberta, § 3:284 [Alta., s. 70]
- British Columbia
  - divesting after expropriation generally, § 8:181 [B.C., s. 21]

**DISPOSAL OF EXPROPRIATED LANDS—Cont'd**

- British Columbia—Cont'd
    - divesting after expropriation—Cont'd
      - costs, § 8:187
      - history of s. 21, § 8:182, § 8:183
      - market value, court shall determine, § 8:186
      - obligation to offer to owners, § 8:185
      - retroactive, whether s. 21 is, § 8:185
  - Manitoba
    - restriction on, § 4:348 [Man., s. 51]
    - surplus lands, § 4:71 [Man., s. 6]
  - Nova Scotia
    - alienation of, § 6:214, § 6:215 [N.S., s. 67]
    - excess lands, § 6:215
  - Ontario, § 2:545
- DISTURBANCE DAMAGES**
- See also Business losses, Relocation
- Alberta
    - generally, § 3:161, § 3:195
    - awards of, § 3:199
    - awards refused, § 3:199
    - hypothetical warehouse, § 3:202
    - five percent allowance, § 3:197
    - goodwill and, § 3:219
    - improvements not reflected in market value, § 3:198
    - interest on, § 3:268
    - natural and reasonable consequence of expropriation, § 3:196
    - owner's time, § 3:200
    - security holder, to, § 3:208 [Alta., s. 52]
    - tenant, payable to generally, § 3:203 [Alta., s. 51]

**DISTURBANCE DAMAGES****—Cont'd**

- Alberta—Cont'd
  - tenant, payable to—Cont'd
    - causation, § 3:206
    - lease, term and renewal of, § 3:205
    - measure of cost, § 3:204
  - umbrella theorys, § 3:161 [Alta., 42(2)(b)]
- British Columbia
  - basic formula, § 8:251
  - market value, § 8:252
  - business relocation not feasible, § 8:334
  - causation, onus and mitigation, § 8:315
  - costs, may not be claimed as, § 8:398
  - damages payable under s. 34(1)
    - generally, § 8:311
    - reasonable costs, expenses and financial losses, § 8:313 to § 8:320
    - relocation costs, § 8:321
  - determination deferred
    - generally, § 8:322 to § 8:325
    - election made re particular item, § 8:323
    - not more than 6 months, § 8:324
    - with consent of court, § 8:325
  - developers' profit, § 8:319
  - double recovery, rule against, § 8:321
    - case law, § 8:257
  - equivalent reinstatement and, § 8:339
  - general award of, § 8:254 to § 8:256
  - history, § 8:310
  - lessees
    - generally, § 8:366, § 8:370
    - cases, § 8:366 to § 8:373

**DISTURBANCE DAMAGES****—Cont'd**

- British Columbia—Cont'd
  - lessees—Cont'd
    - commercial and industrial leases with one- year term or less, § 8:374
    - history, § 8:372
    - onus, § 8:372
    - reasonable prospect of renewal, § 8:372
    - term of less than one year, § 8:369
  - nature of, § 8:254
  - occupiers, payable to, § 8:366
  - onus, § 8:315
  - other provisions for compensation characterized as, § 8:313
  - owner's time, § 8:320
  - partial takings under s. 40, § 8:312
  - pre-expropriation losses, § 8:316
  - reasonableness, § 8:317
  - recovery of tax, § 8:318
  - security interests, § 8:267
  - separate interests, § 8:265 to § 8:268
- Canada
  - additional factors
    - assistance, § 7:159
    - occupation, § 7:158
  - awards of, § 7:146
  - by whom incurred, damages, § 7:145
  - compensation for, § 7:141
  - early possession, § 7:148
  - failure to adduce evidence, § 7:144
  - leasehold interest, § 7:174
  - onus, § 7:143
  - requirement of possession, § 7:142
- Manitoba
  - building costs, increased, § 4:220

**DISTURBANCE DAMAGES**

**—Cont'd**

- Manitoba—Cont'd  
capital gains tax, § 4:218  
crop disturbance, § 4:212  
farming costs  
    continuing fixed, § 4:219  
    extra, § 4:215  
fencing, § 4:214  
five per cent relocation allow-  
    ance, § 4:201  
future costs, § 4:224  
interest costs, § 4:223  
lessees  
    generally, § 4:232 to § 4:244  
    [Man., s. 28(3)]  
    approach, consistency of,  
    § 4:242  
    business loss, § 4:236  
    date, § 4:241  
    moving costs, § 4:237  
    other costs, § 4:238  
    proviso, § 4:239  
    quantum of compensation,  
    § 4:232  
    term of lease, § 4:240  
levelling land, § 4:213  
none in certain cases, § 4:230  
owner's time, § 4:222  
payments, ongoing, periodic and  
    contingent, § 4:225  
travel costs, increased, § 4:221  
umbrella theory, § 4:157  
New Brunswick  
    generally, § 5:163 to § 5:168  
    [N.B., s. 44]  
    awards of, § 5:167  
    five per cent allowance, § 5:165  
    improvements not reflected in  
    market value, § 5:166  
    natural and reasonable conse-  
    quences of expropriation,  
    § 5:164  
Nova Scotia  
    generally, § 6:132

**DISTURBANCE DAMAGES**

**—Cont'd**

- Nova Scotia—Cont'd  
awards of, § 6:133  
disturbance, defined, § 6:132  
leasehold interests and, § 6:140  
Ontario  
    awards under s. 13(2)(b), § 2:111,  
    § 2:241  
    builders' and developers' profits,  
    § 2:113  
    development, losses from  
    delay in, § 2:114  
causal connection with loss,  
    § 2:116  
double recovery, rule against,  
    § 2:117, § 2:149 to § 2:153,  
    § 2:243  
existing use, § 2:149 to § 2:153  
highest and best use, § 2:149 to  
    § 2:153, § 2:243  
interaction between ss. 13, 18 and  
    19, § 2:107, § 2:241  
interest on award, § 2:487  
natural and reasonable conse-  
    quence of expropriation,  
    § 2:242  
onus of proof, § 2:110, § 2:240  
owner other than tenant, payable  
    to  
    generally, § 2:239 to § 2:251  
    allowance for improvements  
    not reflected in market  
    value, § 2:247  
    allowance for inconvenience,  
    § 2:244  
    not offered for sale on date  
    of expropriation,  
    § 2:246  
    residential portion only,  
    § 2:376  
    history of s. 18(1), § 2:239  
relocation costs, § 2:249  
replacement premises, § 2:248  
personal and business damages,  
    vs., § 2:115

**DISTURBANCE DAMAGES****—Cont'd**

- Ontario—Cont'd
  - shadow period, § 2:242
  - standard of compensation, § 2:109
  - tenant, payable to
    - generally, § 2:252 to § 2:256
    - history of s. 18(2), § 2:252
    - quantum of compensation, § 2:255
    - renewal of lease, § 2:254
    - term, length of, § 2:253
    - “umbrella theory,” § 2:108

**DOCUMENTS**

- Alberta
  - service of, § 3:278 [Alta., s. 67]
- British Columbia
  - service of, § 8:579 [B.C., s. 49]
- Canada
  - certified by Registrar, § 7:107 [Can., s. 24]
  - deemed signed, § 7:103 to § 7:106 [Can., s. 23]
- New Brunswick
  - “served” defined, § 5:29 [N.B., s. 2]
- Nova Scotia
  - service of, § 6:45, § 6:46 [N.S., s. 3(2)]
- Ontario
  - expropriation inquiry, related to inspection of, § 2:56
  - failure to serve
    - offer of compensation, § 2:352 to § 2:356
  - service of, § 2:23
  - appraisal reports, § 2:368 [Ont., s. 28]

**DRAINAGE ACT (ONTARIO)**

- Expropriations Act and, § 2:30

**EASEMENTS**

- See also Permanent easements, Temporary easements, Working easements

**EASEMENTS—Cont'd**

- Alberta
  - expropriation of, § 3:241 [Alta., s. 57]
  - Board’s discretion, § 3:242
  - compensation for damages, § 3:245
- British Columbia
  - valuation of, § 8:278
- New Brunswick
  - market value
    - extinguishment of, § 5:144
- Ontario
  - percentage of market value, as, § 2:164 to § 2:167

**ELECTION DATE**

- Ontario
  - compensation, election of date for, § 2:84

**ENACTMENT**

- British Columbia
  - defined in Interpretation Act, § 8:20

**ENTRY**

- Alberta
  - right of
    - generally, § 3:254 [Alta., s. 63]
    - enforcement of, § 3:260 [Alta., s. 65]
    - expropriating authority, § 3:256
    - interest and, § 3:273
    - limitation period re damages, § 3:255
- British Columbia
  - right of
    - generally, § 8:108
    - damages, compensation for, § 8:110
    - cases, § 8:111
    - comment, § 8:110
    - limitation period re damages, § 8:112

**ENTRY—Cont'd**

- Canada
  - inspection appraisal, for, § 7:246 [Can., s. 37]
  - warrant for possession, § 7:251
- Manitoba
  - right of, § 4:351 [Man., s. 52]
  - pre-expropriation entry, effect of, § 4:353
- New Brunswick
  - right of
    - appraisal for value and, § 5:93
    - establishing suitability and, § 5:41 to § 5:43 [N.B., s. 5]
- Ontario
  - appraisal, for, § 2:86
  - resistance to, warrant to put down, § 2:529 [Ont., s. 40(1)]

**ENVIRONMENTAL  
CONTAMINATION**

- Market value and evidence, § 1:21
- Ontario cases
- remediation costs, § 2:169

**EQUIVALENT  
ACCOMMODATION**

- Alberta
  - relocation of residence, § 3:181 [Alta., s. 47]
  - generally, § 3:182
  - at least equivalent, § 3:183
  - principal residence, § 3:184
- British Columbia
  - occupiers and lessees, § 8:364 [B.C., s. 38]
  - see also Disturbance damages
- Canada
  - application, § 7:167
  - necessity of relocation, § 7:168
  - land used for residence, § 7:163
  - disturbance damages, inclusion of, § 7:164

**EQUIVALENT**

**ACCOMMODATION—Cont'd**

- Canada—Cont'd
  - land used for residence, § 7:163
  - Cont'd
    - special economic advantage, inclusion of, § 7:165
  - onus, § 7:166
  - premises, § 7:171
  - reasonable equivalent, § 7:170
  - time of calculation, § 7:169
- Manitoba
  - special value of residence, § 4:155 [Man., s. 26]
  - home for a home, § 4:161
- New Brunswick
  - relocation of residence, § 5:154 to § 5:156 [N.B., s. 40]
  - home for a home, § 5:155
- Nova Scotia
  - home for a home, § 6:137
  - purpose of Act and, § 6:5
- Ontario
  - interest on award, § 2:488
  - relocation assistance
    - generally, § 2:208 [Ont., s. 15]
    - accommodation that is equivalent, § 2:213
    - date for assessing value, § 2:214
    - history of s. 15, § 2:209
    - interest on award, § 2:216
    - lands used for residential purposes, meaning of, § 2:210
    - onus, § 2:215
    - “owner” defined, § 2:211
    - such additional amount of compensation as is necessary, meaning, § 2:212

**EQUIVALENT REINSTATEMENT**

- Alberta, § 3:179 [Alta., s. 46]
- British Columbia
  - generally, § 8:339
  - case law, § 8:345

**EQUIVALENT REINSTATEMENT****—Cont'd**

- British Columbia—Cont'd
  - “depreciation,” § 8:344
  - history, § 8:340
  - “owner undertakes,” § 8:343
  - purpose of section, § 8:339
  - “unless owner elects . . .,” § 8:341
  - “use for which . . . no general demand,” § 8:342
- Canada
  - generally, § 7:152
  - date of calculation, § 7:154
  - disturbance damages and, § 7:153
  - improvement, § 7:155
- Manitoba, § 4:162
- New Brunswick, § 5:146
- Nova Scotia, § 6:134
- Ontario
  - generally, § 2:172 to § 2:176
  - awards under, § 2:173
  - comment, § 2:175
  - no general demand or market, § 2:172
  - onus and bona fide intention to relocate, § 2:174

**ERRORS, CORRECTION OF**

- British Columbia
  - registration of plan, § 8:199
- Canada
  - notice of intention or plan, § 7:37
- Manitoba
  - declaration, § 4:91 [Man., s. 12]
- New Brunswick
  - notice of expropriation or plan, § 5:82
- Nova Scotia
  - expropriation document, § 6:65
- Ontario
  - registration of plan, § 2:77
  - omissions from plan, § 2:77

**EVIDENCE**

- Appraisal report
  - critical review, § 1:16
  - reliance on, § 1:14 to § 1:16
  - differing conclusions, § 1:15
- Appraiser, see Appraiser
- Comparable sales, see Comparable sales
- Conflict of interest, § 1:113
- Expert witness, see Expert witness, retaining
- Hearsay in expropriation cases
  - generally, § 1:100 to § 1:104
  - cases, § 1:101
  - current practice, § 1:100
  - excluded, § 1:104
- Statutory Powers Procedure Act (Ontario), § 1:102
  - weight, impact on, § 1:103
- Market transactions, see Market transactions
- Market value
  - generally, § 1:18 to § 1:36
  - contamination and, § 1:21
  - definition of, § 1:18 to § 1:21
  - practice note, § 1:20
  - proving, § 1:22
- Opinion evidence
  - generally, § 1:23 to § 1:26
  - expertise, no opinions outside, § 1:28 to § 1:31
    - appraisers not qualified re architectural qualities, § 1:30
    - appraisers not qualified re replacement cost, § 1:29
  - field of knowledge, expert's, § 1:27
  - qualifications to give
    - appraisal witnesses, of, § 1:25
    - qualifications generally, § 1:24
    - real estate agent experience not necessary, § 1:26
- Parties, of, § 1:32 to § 1:36

**EVIDENCE—Cont'd**

- Statutory basis for compensation claims, § 1:1
- Transactions with expropriating authorities, see Expropriating authority, transactions with
- Witnesses consulted/retained by other party, § 1:111, § 1:112

**EXPERT WITNESS**

- British Columbia
  - admissibility of expert testimony at trial, § 8:173
- Canada
  - market value, on
    - generally, § 7:117
    - court's use of, § 7:122
    - evidence of appraisers not directed to market value, § 7:119
    - necessity of adducing supporting evidence, § 7:120
    - qualifications, § 7:118
    - written reports, § 7:121
- Nova Scotia
  - assistance for Board, as, § 6:189
  - hearing, at, § 6:187
  - number of, § 6:188
- Ontario
  - limit on number adducing compensation evidence, repealed section 28(2)
    - generally, § 2:378 to § 2:380
    - judicial uncertainty, § 2:379
    - practice comment, § 2:380

**EXPERT WITNESS, RETAINING**

- Evidentiary problems
  - generally, § 1:2 to § 1:5
  - legal counsel
    - duty to assemble evidence, § 1:4
    - issues to decide, § 1:5
  - market value, § 1:3
  - overview, § 1:2

**EXPROPRIATE**

- British Columbia
  - defined
    - generally, § 8:17
    - constructive, effective or de facto expropriations, § 8:17 to § 8:19
    - limitations on expropriation powers, § 8:21
- New Brunswick
  - defined, § 5:2 to § 5:27 [N.B., s. 1]
    - to take land, § 5:11
- Nova Scotia
  - defined, § 6:15
- Ontario
  - defined, § 2:2 to § 2:21 [Ont., s. 1(1)]

**EXPROPRIATED**

- Canada
  - defined, § 7:4 to § 7:25 [Can., s. 2]

**EXPROPRIATED INTEREST**

- Canada
  - defined, § 7:4 to § 7:25 [Can., s. 2]

**EXPROPRIATING AUTHORITY**

- Alberta
  - defined, § 3:6 [Alta., s. 1(f)]
  - jurisdiction
    - right to object, § 3:25
- British Columbia
  - approval of expropriation, § 8:75 [B.C., s. 4]
    - history of s. 4, § 8:76
  - defined, § 8:6 to § 8:43 [B.C., s. 1]
    - right to expropriate may not be disputed, § 8:79
- New Brunswick
  - defined, § 5:13
- Nova Scotia
  - defined, § 6:17



**EXPROPRIATING AUTHORITY  
—Cont'd**

Ontario  
defined, § 2:2 to § 2:21 [Ont., s. 1(1)]

**EXPROPRIATING AUTHORITY,  
TRANSACTIONS WITH**

Evidence of market value  
generally, § 1:88 to § 1:99  
offers made by one of the parties,  
§ 1:97, § 1:98  
overview, § 1:88  
sales to public body having powers of expropriation  
generally, § 1:89 to § 1:92  
involuntary sales, § 1:92  
onus, § 1:90  
public authority only  
purchaser, where, § 1:91  
settlements  
generally, § 1:93 to § 1:96  
admissible, where, § 1:95  
comment, § 1:96  
inadmissible, where, § 1:94  
sales to expropriating authority, vs., § 1:93

**EXPROPRIATION**

Alberta  
defined, § 3:6 [Alta., s. 1(g)]  
extent of, § 3:19  
British Columbia  
date of, § 8:238  
case law, § 8:239  
defined, § 8:238  
modification of, § 8:146 [B.C., s. 16]  
adjournment not exceeding 30 days, § 8:147  
Canada  
authority to, § 7:29, § 7:30 [Can., s. 4]  
exceptions, § 7:29, § 7:30 [Can., s. 4(2) to (7)]

**EXPROPRIATION—Cont'd**

Canada—Cont'd  
railway, request by, § 7:31, § 7:32 [Can., s. 4.1]  
Manitoba  
defined, § 4:2 to § 4:47 [Man., s. 1(1)]  
notice of intended, § 4:363 [Man., Sched. A, s. 1]  
surplus lands, § 4:71 [Man., s. 6]  
New Brunswick  
notice of, § 5:79 to § 5:79 [N.B., s. 19]  
measure of compliance, § 5:79  
objection to, § 5:52, § 5:53 [N.B., s. 9]  
person other than authority, by, § 5:47 to § 5:49 [N.B., s. 7]  
power of, § 5:36 to § 5:40 [N.B., s. 4]  
constitutional validity, § 5:39  
grounds for, § 5:38  
Nova Scotia  
by Crown, § 6:55 to § 6:58 [N.S., s. 9]  
by statutory authority, § 6:52  
validity of, § 6:56  
Ontario  
notice of, § 2:80  
registration of plan, § 2:71 [Ont., s. 9]  
under earlier legislation, APP 2G  
where plan registered pursuant to The Expropriations Procedures Act, APP 2G  
where statutory power was exercised before 1964, APP 2G

**EXPROPRIATION ACT  
(ALBERTA)**

Application of, § 3:17  
Crown bound, § 3:15 to § 3:17 [Alta., s. 2(2)]  
Exceptions, § 3:295

**EXPROPRIATION ACT  
(ALBERTA)—Cont'd**

Forms

Alta. Reg. 188/2001, **APP 3A2**  
**§ 3A2:1 to § 3A2:12** [Alta.,  
**App. A]**

Alta. Reg. 187/2001, s. 12, **APP**  
**3A1 § 3A1:1 to § 3A1:25**  
[Alta., **App. A]**

Regulations, see also Regulations  
power to make, **§ 3:249** [Alta., s.  
**60]**

prescribing forms, **§ 3:289**

Rules of Procedure and Practice,  
Alta. Reg. 187/2001, **APP 3A1**  
**§ 3A1:1 to § 3A1:25** [Alta.,  
**App. A]**

**EXPROPRIATION ACT (BRITISH  
COLUMBIA)**

Application of

generally, **§ 8:44** [B.C., s. 2]

Act does not apply

generally, **§ 8:46 to § 8:62**

British Columbia Railway Act,  
**§ 8:55**

Emergency Program Act,  
**§ 8:20, § 8:56**

exercising power of enforce-  
ment, **§ 8:51**

Health Act, **§ 8:57**

Hydro and Power Authority  
Act, **§ 8:53**

Musqueam Reconciliation,  
Settlement and Benefits  
Agreement Implementa-  
tion Act, **§ 8:62**

Nisga'a Final Agreement Act,  
**§ 8:49**

Oil and Gas Activities Act,  
**§ 8:50**

Park Act, mineral interest  
expropriations under the,  
**§ 8:18, § 8:61**

Railway Act, **§ 8:58**

**EXPROPRIATION ACT (BRITISH  
COLUMBIA)—Cont'd**

Application of—Cont'd

Act does not apply—Cont'd

rights exercisable without  
compensation, **§ 8:52**

Transportation Act, **§ 8:54**

Water Act (repealed), **§ 8:20,**  
**§ 8:59**

cases under, **§ 8:60**

Water Sustainability Act,  
**§ 8:20, § 8:59, § 8:60,**  
**§ 8:162**

comment, **§ 8:46**

Forms

B.C. Reg. 451/87, **APP 8A**  
**§ 8A:1 to § 8A:19** [B.C.,  
**App. A]**

History of Act, **§ 8:2**

History of s. 2, **§ 8:45**

Regulations, see also Regulations

Expropriation Compensation

Board Practice and Proce-  
dure Regulation, B.C. Reg.  
452/87 (repealed), **APP 8B**  
**§ 8B:8** [B.C., **App. B]**

power to make, **§ 8:599**

Rules

Compensation Action Procedure  
Rule, B.C. Reg. 100/2005,  
**APP 8B § 8B:1 to § 8B:7**  
[B.C., **App. B]**

**EXPROPRIATION ACT  
(CANADA)**

Date in force, **§ 7:270**

Exemptions from Act, **§ 7:270**

History of, **§ 7:3**

References in other Acts, **§ 7:271,**  
**§ 7:272** [Can., s. 43]

Regulations, see also Regulations

Relevance of new Act in cases  
where it does not directly  
apply, **§ 7:270**

Repealed provisions, **§ 7:270**

**EXPROPRIATION ACT  
(MANITOBA)**

- Application of, § 4:50
- Conflict with other Acts, § 4:53
- Crown bound, § 4:55 to § 4:57
- Forms
  - Man. Reg. 553/88, **APP 4B [Man., App. B]**
- Legislative history, § 4:1
- Regulations, see also Regulations power to make, § 4:359 [Man., s. 55]
- Rules
  - Land Value Appraisal Commission Rules of Procedure, **APP 4A [Man., App. A]**
  - Queen's Bench Act, under, **APP 4B [Man., App. B]**

**EXPROPRIATION ACT (NEW BRUNSWICK)**

- Application of, § 5:29, § 5:219, § 5:220, § 5:224, § 5:225 [N.B., ss. 2(2), 57, 60]
- governing law, § 5:220
- Conflict with other Acts, § 5:31
- Crown bound, § 5:29 [N.B., s. 2(1)]
- Forms
  - N.B. Reg. 84-11, **APP 5A [N.B., App. A]**
  - N.B. Reg. 84-16, **APP 5B [N.B., App. B]**
- Reference to Act, § 5:223 [N.B., s. 59]
- Regulations, see also Regulations power to make, § 5:217, § 5:218 [N.B., s. 56]

**EXPROPRIATION ACT (NOVA SCOTIA)**

- Application of, § 6:47, § 6:48 [N.S., s. 4]
- Crown bound, § 6:49, § 6:50 [N.S., s. 5]
- Forms
  - N.S. Reg. 103/74, Sched. A, **APP 6A1 [N.S., App. A]**

**EXPROPRIATION ACT (NOVA SCOTIA)—Cont'd**

- Purpose, § 6:4, § 6:5 [N.S., s. 2]
- Regulations, see also Regulations power to make, § 6:212, § 6:213, § 6:216 [N.S., s. 68]

**EXPROPRIATION ACT  
(ONTARIO)**

- See Expropriations Act (Ontario)

**EXPROPRIATION  
COMPENSATION BOARD  
(BRITISH COLUMBIA)**

- See also British Columbia Supreme Court
- Practice Directives, **APP 8E [B.C., App. D]**
- board, repeal of definition, § 8:11
- elimination of, § 8:11

**EXPROPRIATION DOCUMENTS**

- Nova Scotia
  - generally, § 6:63
  - certified document as evidence, § 6:104 [N.S., s. 23]
  - contents, § 6:61 [N.S., s. 11(1)]
  - defined, § 6:18 [N.S., s. 3(1)(e)]
  - deposit, § 6:61 [N.S., s. 11(1)]
  - effect of, § 6:61 [N.S., s. 11(2)]
  - error in, § 6:61 [N.S., s. 11(3)]
  - filing procedure deemed followed, § 6:103
  - notice of intention, § 6:67
  - Registrar of Deeds, duty of, § 6:101 [N.S., s. 21]

**EXPROPRIATION PROCEDURES  
ACT, 1962-63, THE**

- Expropriate commenced under, § 2:20

**EXPROPRIATIONS ACT  
(ONTARIO)**

- Alternative process re proposed expropriations, § 2:70.30

**EXPROPRIATIONS ACT  
(ONTARIO)—Cont'd**

- Application of, § 2:26 [Ont., s. 2(1)]
  - cases, § 2:29
  - comprehensive code, § 2:28
- Conflict with other Act, § 2:26 [Ont., s. 2(4)]
- Crown bound, § 2:33 [Ont., s. 3]
  - legislating against Crown immunity, § 2:35
- Forms, R.R.O. 1990, Reg. 363, APP 2A, § 2A:5
- References to other Acts, § 2:26 [Ont., s. 2(2)]
  - history, § 2:27
- Regulations, see also Regulations power to make, § 2:550 [Ont., s. 44]
- Related Acts, APP 2E [Ont., App. E]
- Rules
  - Land Planning Appeal Tribunal Rules of Practice and Procedure, (repealed), APP 2C
  - Ontario Land Tribunal Rules of Practice and Procedure, APP 2B
  - Ontario Municipal Board Rules of Practice and Procedure, (repealed), APP 2D
  - Rules to be applied for the purposes of s. 32(1) of the Act, R.R.O. 1990, Reg. 364, APP 2A
- Transitional and repealed sections, APP 2G

**EXPROPRIATIONS ADVISORY  
OFFICER**

- New Brunswick
  - appointment of
    - generally, § 5:32, § 5:33 [N.B., s. 3]
    - duties, § 5:13
    - history, § 5:35

**EXPROPRIATIONS ADVISORY  
OFFICER—Cont'd**

- New Brunswick—Cont'd
  - appointment of—Cont'd
    - jurisdiction, § 5:9
  - notice of intention to expropriate
    - amendment of, § 5:65, § 5:66 [N.B., s. 14]
    - filing with, § 5:44 to § 5:46 [N.B., s. 6]
    - other than expropriating authority, § 5:47 to § 5:49 [N.B., s. 7]
  - notice of objection
    - filing with, § 5:52, § 5:53 [N.B., s. 9]
  - registration of notice
    - extension of time for, § 5:79 [N.B., s. 19(12)]
  - report of, § 5:70 to § 5:74 [N.B., s. 17]

**EXPROPRIATIONS  
COMPENSATION BOARD  
(NOVA SCOTIA)**

- Superseded by Nova Scotia Utility and Review Board, § 6:178

**“FAIR, SOUND AND  
REASONABLY  
NECESSARY” TEST**

- Alberta, § 3:26, § 3:44
- New Brunswick, § 5:71
- Ontario
  - generally, § 2:57
  - background, § 2:57
  - court decisions, § 2:59
  - inquiry decisions, § 2:60
  - previous legislation, under, § 2:58

**FAMILY HOME**

- See also Equivalent accommodation
- Nova Scotia
  - defined, § 6:20
  - purpose of Act and, § 6:4, § 6:5 [N.S., s. 2]

**FEDERAL COURT**

- Canada
  - proceedings to determine compensation generally, § 7:210
  - appeals, § 7:221
    - test on, § 7:223
  - commencement by Attorney General, § 7:215
  - consent judgments, § 7:220
  - limitation period, § 7:211
  - rules of procedure, § 7:216
  - use of previous decisions, § 7:213

**FEES**

- Manitoba
  - payable by authority certification of compensation, on, § 4:111

**FOREST ACT (BRITISH COLUMBIA)**

- Limitation on compensation, § 8:247, § 8:248
- Voluntary agreement to transfer and, § 8:73

**FORMS**

- Alberta
  - Alta. Reg. 188/2001, APP 3A2 § 3A2:1 to § 3A2:12 [Alta., App. A]
  - Alta. Reg. 187/2001, s. 12, APP 3A1 § 3A1:1 to § 3A1:25 [Alta., App. A]
- British Columbia
  - B.C. Reg. 451/87, APP 8A § 8A:1 to § 8A:19 [B.C., App. A]
- Manitoba
  - Expropriations Act, under, § 4:364 [Man., Sched. B]
  - Queen's Bench Rule 77, Man. Reg. 553/88, APP 4B [Man., App. B]

**FORMS—Cont'd**

- New Brunswick
  - N.B. Reg. 84-11, APP 5A [N.B., App. A]
  - N.B. Reg. 84-16, APP 5B [N.B., App. B]
- Nova Scotia
  - N.S. Reg. 103/74, APP 6A1 [N.S., App. A]
- Ontario
  - Expropriations Act, under, APP 2A § 2A:5

**FREEHOLD INTEREST**

- Alberta
  - valuation of, § 3:187

**GOODWILL**

- See also Business losses
- Alberta
  - compensation for, § 3:215 [Alta., s. 54]
    - feasible, meaning, § 3:216
    - goodwill, meaning, § 3:217
    - measure of, § 3:218
  - disturbance damages and, § 3:219
- British Columbia
  - generally, § 8:333
  - amount not exceeding value of, § 8:332
- Manitoba
  - awards for, § 4:248
  - compensation for, § 4:246 to § 4:252 [Man., s. 29(1)]
  - elements of claim, § 4:247
  - onus, § 4:249, § 4:250
  - undertaking to reopen hearing, § 4:251
- Nova Scotia
  - compensation for, § 6:151
- Ontario
  - amount not exceeding value of, § 2:272
  - compensation for, § 2:272 to § 2:275

**GOODWILL—Cont'd**

Ontario—Cont'd

- relocation
  - intention of, § 2:275
  - not feasible, § 2:274
- value of, § 2:273

**HARMFUL ACTIVITY**

See Injunction

**HEARING**

See also Inquiry

Canada

- avoidance of, § 7:57 [Can., s. 10(5)]
- costs, § 7:49 [Can., s. 10(9)]
- dispensing with, § 7:49 [Can., s. 10(11)]
- lack of express standard, § 7:52
- public hearing, § 7:51
- reform recommendations, § 7:54

Nova Scotia

- expert witnesses and, § 6:187
- notice of, § 6:190, § 6:191 [N.S., s. 51]

**HEARING OFFICER**

Canada

- appointment and duties, § 7:49 [Can., s. 10]
- judicial interpretation, § 7:53
- report of, § 7:49 [Can., s. 10]

**HIGHEST AND BEST USE**

Disturbance damages and

- Nova Scotia, § 6:131
- Ontario, § 2:149 to § 2:153

Evidence

- “after the event” planning, of, § 1:46 to § 1:52
- admissibility of, § 1:46
- change in use of buildings on remaining lands, § 1:49
- comment, § 1:48

**HIGHEST AND BEST USE**

—Cont'd

Evidence—Cont'd

- “after the event” planning, of, § 1:46 to § 1:52—Cont'd
- environmental evidence, § 1:51
- knowledge of vendor and, § 1:52
- exclusion of, § 1:47
- issue to be decided, on, § 1:50
- fundamental question of fact, § 1:40 to § 1:44
- market value related to use, § 1:37, § 1:38
- obtaining, § 1:45
- zoning and, § 1:39
  - residential density, § 1:39

Market value and

- Alberta, § 3:150
- Canada, § 7:123
- Manitoba, § 4:168
- New Brunswick, § 5:136
- Ontario, § 2:159
- Valuation at other than, § 5:130

**HIGHWAY OR DRAIN**

British Columbia

- defined, § 8:35

Manitoba

- Crown lands and, § 4:71 [Man., s. 6(5)]
- defined, § 4:2 to § 4:47 [Man., s. 1(1)]
- injurious affection and, § 4:146
- plans, filing of, § 4:94 [Man., s. 13(4)]
- plans required for, § 4:62 [Man., s. 4]
- unit value, § 4:193

**INCIDENTAL DAMAGES**

Alberta

- compensation for, § 3:238

**INJUNCTION**

British Columbia  
 harmful activity, for, § 8:190  
 history of s. 22, § 8:189

**INJURIOUS AFFECTION**

Alberta  
 before and after valuation,  
 § 3:236  
 compensation for  
 generally, § 3:225 [Alta., s.  
 56]  
 appraised separately, § 3:229  
 Blackstock formula, § 3:226  
 change in shape, § 3:231  
 exposure, § 3:234  
 loss of access, § 3:230  
 loss of amenities, § 3:235  
 noise, dust and glare, § 3:232  
 offensive use, § 3:233  
 resulting from taking,  
 construction or use of  
 works, § 3:227  
 interest on, § 3:269  
 no land expropriated, § 3:16,  
 § 3:239  
 claims under other Acts, § 3:16  
 onus, § 3:228  
 subdivision approach, § 3:237  
 British Columbia  
 limitation period, § 8:417  
 no land expropriated  
 generally, § 8:400 [B.C., s. 41]  
 analogous claims, § 8:413  
 cases, § 8:409  
 conditions required, § 8:406  
 costs, § 8:412, § 8:451  
 history, § 8:401, § 8:402  
 interest, § 8:410  
 nuisance, § 8:407, § 8:408  
 presumption in favour of  
 compensation, absence,  
 § 8:403  
 procedure, § 8:411  
 source material, § 8:405

**INJURIOUS AFFECTION—Cont'd**

British Columbia—Cont'd  
 no land expropriated—Cont'd  
 statutory exemption, § 8:404  
 partial takings  
 generally, § 8:376 [B.C., s. 40]  
 background, history, § 8:377,  
 § 8:378  
 defined, § 8:379  
 market value of owner's estate  
 or interest, § 8:380  
 reasonable personal and busi-  
 ness losses, § 8:381,  
 § 8:382, § 8:392 to  
 § 8:398  
 remaining land, § 8:383 to  
 § 8:388  
 valuation, "before and after"  
 method, § 8:378, § 8:389  
 to § 8:391  
 Canada  
 compensation for, § 7:189  
 no land expropriated, § 7:191  
 Manitoba  
 compensation for, § 4:145 [Man.,  
 s. 25]  
 exercise of lawful powers,  
 § 4:147  
 highways and, § 4:152  
 mitigation of, § 4:294 [Man., s.  
 34]  
 undertakings considered,  
 § 4:296  
 no land expropriated, § 4:275  
 [Man., s. 31]  
 application of, § 4:276  
 partial takings  
 generally, § 4:257 [Man., s.  
 30]  
 due compensation, part of,  
 § 4:274  
 duty to mitigate, § 4:259  
 "injurious affection" defined,  
 § 4:262  
 measure of loss  
 generally, § 4:263

**INJURIOUS AFFECTION—Cont'd**

- Manitoba—Cont'd
  - partial takings—Cont'd
    - measure of loss—Cont'd
      - Blackstock formula, § 4:264
      - easements, § 4:264
      - estimate, § 4:270
      - parking spaces, loss of, § 4:264
      - proximity to danger, § 4:267
      - reduced farm yield, § 4:264
      - snow removal, § 4:269
      - trees, § 4:271
    - onus, § 4:261
- New Brunswick
  - compensation for, § 5:172 [N.B., s. 46]
    - appraised separately, § 5:173
  - defined, § 5:15
  - grounds for
    - change in shape, § 5:175
    - loss of developmental capability, § 5:179
    - lost access, § 5:174
    - offensive use, § 5:177
    - regulatory restrictions, § 5:178
    - traffic noise, § 5:176
  - limitation period, § 5:185
  - personal and business damages, § 5:180
    - owner's time and expenses, § 5:181
  - where no land is taken, § 5:182
- Nova Scotia
  - "before and after" approach, § 6:25
  - causation, § 6:163.50
  - compensation for
    - generally, § 6:153 [N.S., s. 30]
    - determination of loss, § 6:158
    - entitlement to, § 6:157
    - 'jurisdiction of Board, § 6:155
    - personal and business damages, § 6:160
      - awards for, § 6:160

**INJURIOUS AFFECTION—Cont'd**

- Nova Scotia—Cont'd
  - compensation for—Cont'd
    - reduction in market value, § 6:159
      - awards for, § 6:159
    - defined, § 6:24
    - procedure for claim, § 6:162
- Ontario
  - claim for
    - generally, § 2:308 [Ont., s. 22]
      - amendment to, § 2:318
      - case comment, § 2:311
      - doubt resolved in favour of claimant, § 2:316
      - history of s. 22, § 2:309
      - jurisdiction of Board, § 2:383 to § 2:391
      - land expropriated, § 2:310
      - Limitations Act, 2002, § 2:312
      - no land expropriated, § 2:313
      - onus, § 2:315
      - transitional, § 2:314
      - writing, in, § 2:317
  - common law rules
    - generally, § 2:294 to § 2:304
    - damage actionable under common law but for statutory immunity, § 2:296
    - defeating the statutory powers defence, § 2:294
      - simultaneous proceedings, § 2:295
    - injury to land, § 2:297
      - resulting from construction and not use of works, § 2:298
      - construction vs. use, § 2:299
      - onus, § 2:300
  - compensation for
    - generally, § 2:284 [Ont., s. 21]
    - common law remedies, § 2:293
    - double compensation disallowed, § 2:301



**INJURIOUS AFFECTION—Cont'd**

Ontario—Cont'd  
 compensation for—Cont'd  
   expropriation not necessary,  
     § 2:292  
   framework for, § 2:294 to  
     § 2:304  
     impact on claimant, § 2:296  
   history of s. 21, § 2:285  
   jurisdiction of Board, § 2:303  
   “land” defined, § 2:289  
   “owner” defined, § 2:290  
   personal and business damages  
     defined, § 2:291  
   pleadings, § 2:304  
   statutory authority, § 2:286  
     defined, § 2:288  
   valuation date, § 2:302  
 damages for  
   generally, § 2:119 to § 2:140  
   “acquires” defined, § 2:127  
   assessment of, § 2:137  
   awards under  
     personal and business dam-  
       ages, § 2:135  
     reduction in market value,  
       § 2:132  
   “by the acquisition,” meaning  
     of, § 2:128  
   cases, § 2:139  
   “construction .. or .. use of the  
     works,” meaning of,  
     § 2:129  
   former legislation, under,  
     § 2:120  
   history, § 2:122  
   “land” defined, § 2:126  
   onus, § 2:131  
   “owner” defined, § 2:125  
   partial taking, § 2:123  
   personal and business damages  
     generally, § 2:99 [Ont., s.  
       13]  
     claims allowed, § 2:135  
     claims disallowed, § 2:136

**INJURIOUS AFFECTION—Cont'd**

Ontario—Cont'd  
 damages for—Cont'd  
   personal and business damages  
     —Cont'd  
     demonstrating entitlement,  
       § 2:133  
     meaning, § 2:134  
   present legislation, under,  
     § 2:121  
   statutory authority defined,  
     § 2:124  
   “thereon,” meaning of,  
     § 2:130  
   defined, § 2:2 to § 2:21, § 2:287  
   concluding clause, § 2:138,  
     § 2:305, § 2:306  
   interest on, payment of, § 2:484  
   market value and “before and  
     after” method of valuation,  
     § 2:177 to § 2:187  
   reparation for, § 2:88 [Ont., s.  
     11]

**INQUIRY**

See also Inquiry officer  
 Alberta  
   dispensing with, § 3:38, § 3:39  
     [Alta., s. 13]  
   dispensing with where previous  
     hearing, § 3:33, § 3:34  
     [Alta., s. 9]  
   case, § 3:34  
 British Columbia  
   dispensing with approval and  
     inquiry, § 8:81  
   excluded sections, § 8:83  
     clauses 6(4)(b)-(g)  
       preserved, § 8:84  
     ss. 4, 6, 10-18 do not apply,  
       § 8:83  
   history of s. 10, § 8:114  
   linear developments excluded,  
     § 8:118, § 8:119  
   jurisdiction to determine  
     whether development

**INQUIRY—Cont'd**

- British Columbia—Cont'd
  - linear developments excluded, § 8:118, § 8:119—Cont'd
    - linear or not, § 8:122
  - public hearing
    - generally, § 8:136 [B.C., s. 14]
    - history, § 8:137, § 8:138
    - inquiry decisions, § 8:140
    - scope of, § 8:139
  - request for, § 8:115 to § 8:117
    - procedure, § 8:116
  - service within 30 days, § 8:85, § 8:120, § 8:121
  - speedy procedure
    - generally, § 8:132 [B.C., s. 13]
    - comment, § 8:134
    - history of s. 13, § 8:133
    - procedure, § 8:135
- Canada
  - public hearing, § 7:49 [Can., s. 10]
- Manitoba
  - dispensing with, § 4:79
  - duties of authority, § 4:108 [Man., s. 15(1)]
  - parties to, § 4:263 [Man., Sched. 1, s. 6]
  - public hearing, § 4:263 [Man., Sched. 1, s. 5]
  - rights of respondents, § 4:102 [Man., s. 15(2)]
- New Brunswick
  - dispensing with, § 5:55
  - public hearing, § 5:54 to § 5:57 [N.B., s. 10]
- Ontario
  - combined, § 2:51 [Ont., s. 7(7)]
  - documents, inspection of, § 2:56
  - hearing, by means of, § 2:57
    - history of, § 2:52
  - parties to, § 2:51 [Ont., s. 7(8)]

**INQUIRY OFFICER**

- Alberta
  - Board as, § 3:43

**INQUIRY OFFICER—Cont'd**

- Alberta—Cont'd
  - hearing by, § 3:41 to § 3:46 [Alta., s. 15]
  - proceedings before, jurisdiction of, § 3:47 [Alta., s. 16]
  - report by, § 3:47 [Alta., s. 16]
    - history of s. 15, § 3:42
- British Columbia
  - compensation, § 8:595
  - defined, § 8:28
  - powers and duties
    - generally, § 8:143
    - add persons to inquiry, § 8:144
    - order production and discovery of documents, whether may, § 8:145
  - power to deny requests for inquiry
    - generally, § 8:123 [B.C., s. 11]
    - frivolous, vexatious or not made in good faith, § 8:125
    - history of s. 11, § 8:124
    - substantially same opportunity to object, § 8:126
  - report by
    - generally, § 8:148 [B.C., s. 17]
    - 30 days to submit, § 8:150
    - history, § 8:149
  - setting down the inquiry
    - generally, § 8:128 [B.C., s. 12]
    - history of s. 12, § 8:129
    - time constraints, § 8:130
- Manitoba
  - appointment of, § 4:263 [Man., Sched. 1, s. 4]
    - revocation of, § 4:263 [Man., Sched. 1, s. 7]
  - duties, § 4:263 [Man., Sched. 1, s. 6(2)]
  - report by, § 4:263 [Man., Sched. 1, s. 8]
- Ontario
  - appointment of, § 2:51 [Ont., s. 7(1)]

**INQUIRY OFFICER—Cont'd**

## Ontario—Cont'd

- documents, inspection of, § 2:56
- duties and powers of, § 2:55
- judicial review of
  - generally, § 2:53
  - bias, § 2:53
  - scope of inquiry, § 2:54
- report by, § 2:51 [Ont., s. 7(6)]
- history, § 2:52

**INSURANCE PROCEEDS**

## Manitoba

- between owner and expropriating authority, distribution of, § 4:97

**INTEREST**

## Alberta

- costs, on award of, § 3:140 to § 3:142, § 3:266
- date from which it runs
  - characterizing the loss, § 3:271
- disturbance damages, on, § 3:268
- market value, on, § 3:267
- severance damages and injurious affection, on, § 3:269
- voluntary agreement, on, § 3:270
- denial of, § 3:273
- payment of
  - generally, § 3:263 [Alta., s. 66]
  - just rate, § 3:264
  - leading cases, § 3:264
- penalties
  - generally, § 3:274
  - not the fault of expropriating authority, § 3:276
  - voluntary agreement, § 3:275
  - where time extended, § 3:274
- right of entry short of possession, § 3:272
- simple or compound, § 3:265

**INTEREST—Cont'd**

## British Columbia

- generally, § 8:525
- amount awarded, on, § 8:519
- any amount paid by expropriating authority under s. 20, § 8:520
- application of s. 47 interest, § 8:539
- calculated annually, to be, § 8:522
- date court considers reasonable, from, § 8:523
- date owner gave up possession, from, § 8:522
- delay in proceedings, § 8:540
- history of s. 46, § 8:517
- interest rate calculation, § 8:521
- interim accounts, on
  - generally, § 8:574 to § 8:578
  - criteria for awarding, § 8:574
  - date from which interest runs, § 8:576
  - grace period, § 8:575
  - rate, § 8:577
  - tariff of costs regulation, § 8:578
  - 90% rule, § 8:526 to § 8:532
- multiple advance payments under s. 20, § 8:524
- penalties for delay
  - generally, § 8:538
  - cases, § 8:541
  - delay unreasonable, whether, § 8:541
  - history, § 8:537
  - penalty, § 8:542
  - proceedings under the Act, § 8:542
  - reserved, § 8:545
- retrospective, s. 46 not, § 8:533 to § 8:536
- unpaid accounts, on, see Costs

**INTEREST—Cont'd**

Canada

- basic rate, § 7:237
- costs, on, § 7:265
- date judgment given, § 7:238
- delay, discretion of court where, § 7:242
- income tax treatment, § 7:244
- legal, appraisal and other costs, on, § 7:202
- post-judgment interest, § 7:243
- where offer accepted
  - generally, § 7:239
  - expropriated interest, § 7:241
  - penalty interest, § 7:240

Manitoba

- disturbance damages and, § 4:223
- payable by authority, § 4:298 [Man., s. 35]
- penalty, § 4:305
- security interests and, § 4:291
- time from which it runs, § 4:301, § 4:304
- unpaid compensation, payable only on, § 4:298 [Man., s. 35(3)]

New Brunswick

- commencement of, § 5:194
- delay by authority, § 5:195
- discretionary increase by court, § 5:196
- payable by authority, § 5:193 to § 5:197 [N.B., s. 50]

Nova Scotia

- delay by authority, § 6:200
- delay by owner, § 6:200
- outstanding compensation, on, § 6:199

Ontario

- abandonment of land, § 2:541
- business loss, award of, § 2:488
- consequential damages under s. 41, § 2:489
- costs, on award of, § 2:469

**INTEREST—Cont'd**

Ontario—Cont'd

- disturbance damages, payment date, § 2:487
- equivalent accommodation, award of, § 2:216, § 2:488
- history of s. 33, § 2:471
- Judicature Amendment Act, 1977 (No. 2) not applicable, § 2:473
- owner accepts offer of market value, § 2:474
- prior to December 20, 1968, § 2:472
- relocation, special difficulties in, awards for, § 2:488
- under s. 33(1)
  - generally, § 2:475 to § 2:486
  - calculation of, § 2:475
  - election under s. 10(2), § 2:483
  - heads of damages, § 2:478
  - injurious affection, § 2:484
  - payment date, § 2:485
  - interest prior to date of expropriation, § 2:480
  - market value: date from interest is paid, § 2:479
  - owner of lands expropriated, § 2:477
  - productive use, what constitutes, § 2:481
  - partial taking, on, § 2:482
  - subject to s. 25(4), § 2:476
- variation of
  - generally, § 2:490 to § 2:495
  - conflict between s. 33 and s. 25(4), § 2:492
  - delay attributable to expropriating authority, § 2:493
  - delay attributable to owner, § 2:491
  - duration of increased payment under s. 33(4), § 2:495
  - history of s. 33(2)-(4), § 2:490

**INTEREST—Cont'd**

Ontario—Cont'd  
 variation of—Cont'd  
 s. 33(1) and (4) to be read  
 together, § 2:494

**INTEREST IN LAND**

Ontario  
 defined, § 7:4 to § 7:25 [Can., s.  
 2]  
 Quebec, in, § 7:10

**INVESTIGATION REGARDING  
CONTAMINATION**

Manitoba, § 4:58 [Man., s. 2.1]

**JOINT BOARDS**

Ontario  
 expropriation applications, hear-  
 ing, § 2:61, § 2:67

**JUDGE**

Ontario  
 defined, § 2:2 to § 2:21 [Ont., s.  
 1(1)]

**LAND**

Alberta  
 defined, § 3:6 [Alta., s. 1(h)]  
 determining interest in, § 3:281  
 [Alta., s. 69]  
 unregistered, expropriation of,  
 § 3:253 [Alta., s. 62]  
 value of, determining, § 3:172  
 [Alta., s. 45]  
 agreement after commence-  
 ment of expropriation  
 proceedings, § 3:175  
 causal connection between  
 land use designation and  
 expropriation, § 3:177  
 increase or decrease to value  
 by expropriation develop-  
 ment to have no impact,  
 § 3:176  
 land, meaning of, § 3:173  
 use after expropriation,  
 § 3:174

**LAND—Cont'd**

British Columbia  
 defined under Interpretation Act,  
 § 8:19  
 history of s. 8, § 8:105  
 unregistered under Land Title  
 Act, expropriation of,  
 § 8:106

**Canada**

defined, § 7:4 to § 7:25 [Can., s.  
 2]  
 use of  
 compensation, § 7:271,  
 § 7:272 [Can., s. 43]  
 powers of Minister, § 7:268  
 [Can., s. 40]  
 removal and replacement of  
 wall, fence, etc., § 7:269  
 [Can., s. 41]  
 use of explosives, § 7:270  
 [Can., s. 42]

**Manitoba**

defined, § 4:2 to § 4:47 [Man., s.  
 1(1)]  
 interest in, § 4:30  
 vesting of, § 4:94 [Man., s. 13]

**New Brunswick**

defined, § 5:16  
 vesting of, § 5:84

**Nova Scotia**

defined, § 6:27 [N.S., s. 3(1)(i)]

**Ontario**

defined, § 2:2 to § 2:21 [Ont., s.  
 1(1)]

**LAND COMPENSATION BOARD****Alberta**

adjournment, § 3:72  
 compensation, fixing  
 owner/expropriating authority  
 not agreed, § 3:75 [Alta.,  
 s. 29]  
 access to courts, § 3:77  
 jurisdiction, § 3:76  
 voluntary agreement, § 3:82  
 compensation, of Board, § 3:65

**LAND COMPENSATION BOARD**  
**—Cont'd**

- Alberta—Cont'd
  - discovery, § 3:73
  - division of jurisdiction with Surface Rights Board, § 3:3
  - establishment of, § 3:64 [Alta., s. 25]
    - history of s. 25, § 3:65
  - inquiry officer, as, § 3:43
  - jurisdiction of
    - generally, § 3:67 [Alta., s. 27]
    - ancillary matters, over, § 3:69
    - history of s. 27, § 3:68
    - not exclusive, § 3:70
  - proposed payment, applications re, § 3:88, § 3:89
  - determination of, § 3:94 [Alta., s. 34]
  - rules, § 3:74
  - staff, § 3:66 [Alta., s. 26]
- Ontario, see also Ontario Municipal Board
  - arbitration, APP 2G
  - Ontario Municipal Board, and, APP 2G
  - transitional, APP 2G
  - repealed, APP 2G

**LAND PLANNING APPEAL TRIBUNAL (ONTARIO)**

- Ontario Land Tribunal, continued as, APP 2B
- Ontario Land Tribunal Rules of Practice and Procedure, replaced by, APP 2B
- Rules of Practice and Procedure (revoked), APP 2C

**LAND TITLE OFFICE**

- British Columbia
  - filing and registration, § 8:103
  - history, § 8:102
- Manitoba
  - defined, § 4:2 to § 4:47 [Man., s. 1(1)]

**LAND VALUE APPRAISAL COMMISSION**

- Manitoba
  - certificate of, § 4:102 [Man., s. 15(2)]
  - compensation, determination of, § 4:102 [Man., s. 15]
    - variation of, § 4:112
  - costs, § 4:113
  - decisions binding, § 4:104
  - defined, § 4:7
  - fees payable, § 4:111
  - jurisdiction of, § 4:106
  - procedure
    - applications, on, § 4:109
    - submissions, on, § 4:107
  - Rules of Procedure, APP 4A [Man., App. A]

**LEASE**

- Alberta
  - frustration of, § 3:286 [Alta., s. 71(2)]
- British Columbia
  - frustration of, § 8:348, § 8:350
  - abatment, § 8:351
  - comment, § 8:352
  - history, § 8:349
  - purpose, § 8:348
- New Brunswick
  - frustration of, § 5:191, § 5:192 [N.B., s. 49]
- Nova Scotia
  - frustration of, § 6:202, § 6:203 [N.S., s. 54(2)]
- Ontario
  - frustration of, § 2:500

**LEASEHOLD INTEREST**

- Alberta
  - valuation of, § 3:187
- British Columbia
  - valuation of, § 8:277

**LESSEE**

- British Columbia
  - compensation
    - disturbance damages, § 8:372
    - payable to person leasing commercial or industrial premises, § 8:374
    - payable to person leasing residential premises, § 8:244
- Manitoba
  - disturbance damages, for, see Disturbance damages

**LOCAL GOVERNMENT ACT (BRITISH COLUMBIA)**

- Generally, § 8:20, § 8:405

**MARKET TRANSACTIONS**

- Evidence of market value, as
  - generally, § 1:55 to § 1:87
  - after expropriation, transactions, § 1:57 to § 1:60
  - expropriated property, involving
    - generally, § 1:62 to § 1:65
    - date of transaction, relevance re, § 1:63
    - purchase price, § 1:64
    - transactions admissible, § 1:62
- listings
  - generally, § 1:66 to § 1:68
  - admissible subject to weight, § 1:72
  - comment, § 1:73
  - defined, § 1:66
  - excluding evidence of, reasons for, § 1:67
  - receiving evidence of, reasons for, § 1:68
- offers
  - generally, § 1:69 to § 1:73
  - bona fides, proving, § 1:73
  - defined, § 1:69
  - evidence in support, § 1:80
  - intended, § 1:81
  - owners, to, § 1:70

**MARKET TRANSACTIONS****—Cont'd**

- Evidence of market value, as
  - Cont'd
  - offers—Cont'd
    - probative value, assessing the, § 1:72
    - procedural requirements, § 1:79
    - third parties, by, § 1:71
  - options
    - generally, § 1:74 to § 1:81
    - admissible subject to weight, § 1:75
    - defined, § 1:74
  - parties not at arm's length
    - generally, § 1:61
    - evidentiary problem, § 1:64
    - non-arm's length sales not sales, § 1:62
  - practice note re subpoena, § 1:65
  - relationship question of fact, § 1:63
  - sales
    - generally, § 1:56
    - closed, need not have, § 1:60
    - date of, § 1:58

**MARKET VALUE**

See also Evidence

- Alberta
  - approaches to value, generally, § 3:149
  - cost approach, § 3:158
  - highest and best use
    - generally, § 3:150
    - general principles, § 3:150
    - partial taking, § 3:153
    - possibility vs. probability, § 3:152
    - zoning not taken into account, where, § 3:150
  - hypothetical warehouse
    - approach, § 3:159
  - income approach, § 3:157

**MARKET VALUE—Cont'd**

- Alberta—Cont'd
  - interest on, § 3:267
  - leasehold interest, of, § 3:188
  - market approach
    - generally, § 3:154
    - adjustments to sales, § 3:156
    - comparable sales, § 3:155
    - meaning of, § 3:148 [Alta., s. 41]
- British Columbia
  - approaches to value
    - generally, § 8:272 to § 8:280
    - cost approach, § 8:274
    - direct comparison, § 8:272
    - easements, market value of, § 8:278
    - income approach, § 8:273
    - land development (subdivision), § 8:275
    - land residual, § 8:276
    - leasehold interest, market value of, § 8:277
  - defined
    - generally, § 8:269 [B.C., s. 32]
    - evidence of, § 8:271
    - legislative history, § 8:270
  - easements
    - generally, § 8:278
    - temporary, § 8:279
    - valuation, rental value approach, § 8:279
  - evidence of, § 8:271
  - exclusions from determination
    - generally, § 8:281 [B.C., s. 33]
    - case law, § 8:287
    - changes in value resulting from any expropriation, § 8:297 to § 8:299
    - changes in value resulting from development, § 8:294 to § 8:296
    - changes in value resulting from development of other land included in

**MARKET VALUE—Cont'd**

- British Columbia—Cont'd
  - exclusions from determination
    - Cont'd
      - development, § 8:300, § 8:301
      - common law, role of, § 8:308
      - development effects and disturbance damages, § 8:307
      - evidence, § 8:305
      - history of s. 33, § 8:282, § 8:284
      - illegal or improper use, § 8:289 to § 8:291
      - increase or decrease in value due to zoning changes, § 8:302 to § 8:304
      - injurious affection, § 8:306
      - onus, § 8:305
      - policy considerations, § 8:285
      - purpose for which land is taken, § 8:286 to § 8:288
      - purpose of, s. 33, § 8:283
      - unnecessary improvement after expropriation notice, § 8:292, § 8:293
    - leasehold interest, of, § 8:277
      - disturbance damages vs., § 8:277
    - limited market: churches, hospitals, schools, etc., § 8:339
- Canada
  - approaches to value, § 7:124
    - adjustments to comparable sales, § 7:131
    - “before and after” approach, § 7:135
    - comparative approach
      - generally, § 7:125
      - homogeneity of expropriated lands, § 7:127
      - incomplete transactions, § 7:128
      - purchase price paid for subject, § 7:129



**MARKET VALUE—Cont'd**

- Canada—Cont'd
  - approaches to value, § 7:124
    - Cont'd
    - comparative approach
      - Cont'd
      - sales involving expropriating authorities, § 7:128
      - sales subsequent to date of taking, § 7:130
    - income approach, § 7:133
    - Income Tax Act and, § 7:137
    - replacement cost, § 7:134
    - value of resources, § 7:136
  - defined, § 7:115
  - exclusions from determination
    - generally, § 7:181 to § 7:186 [Can., s. 26(11)]
    - increase or decrease in value from actual or expected use, § 7:183
    - knowledge or expectation of imminent expropriation, § 7:185
    - transaction entered after registration of notice, § 7:184
  - expert evidence
    - generally, § 7:117
    - court's use of, § 7:122
    - evidence of appraisers not directed to market value, § 7:119
    - necessity of adducing supporting evidence, § 7:120
    - qualifications, § 7:118
    - written reports, § 7:121
  - highest and best use, § 7:123
- Manitoba
  - approaches to value
    - generally, § 4:170 to § 4:184
    - “before and after” method, § 4:189, § 4:190
    - cost approach, § 4:181
    - evidence of, § 4:171

**MARKET VALUE—Cont'd**

- Manitoba—Cont'd
  - approaches to value—Cont'd
    - income approach, § 4:179
    - land residual approach, § 4:178
    - onus, § 4:182
  - defined
    - generally, § 4:165 [Man., s. 27]
    - common law, comparison to, § 4:166
    - highest and best use, § 4:168
    - ten per cent rule, § 4:169
    - willing buyer, § 4:167
  - evidence of, § 4:171
  - exclusions from determination, § 4:186
  - onus, § 4:182
  - optionor vs. optionee, § 4:184
  - smaller holdings, § 4:183
- New Brunswick
  - generally, § 5:134
  - approaches to value
    - generally, § 5:135
    - “before and after” method, § 5:148
    - cost approach, § 5:142
    - income approach, § 5:141
    - market approach
      - generally, § 5:137
      - adjustment to sales, § 5:139
      - averaging of sale prices to comparable properties, § 5:140
      - comparable sales, § 5:138
    - subdivision or development cost approach, § 5:143
    - extinguishment of easements, § 5:144
  - exclusions from determination
    - generally, § 5:150 to § 5:153 [N.B., s. 39(4)]
    - anticipated value in expropriation of resource properties, § 5:151

**MARKET VALUE—Cont'd**

New Brunswick—Cont'd

- exclusions from determination—Cont'd
  - ignoring the scheme, § 5:150
  - illegal use, § 5:153
- highest and best use, § 5:136

Nova Scotia

- approaches to value
  - generally, § 6:109
  - averaging of adjusted comparable sales values in determining, § 6:111
  - cost approach, § 6:112
  - development or subdivision approach, § 6:114
  - income approach, § 6:113
  - market data, § 6:110
  - other approaches, § 6:115
- basis of compensation, as, § 6:129
- “before and after” approach, § 6:136
- evidence of
  - generally, § 6:116
  - offers to purchase, listings, options, § 6:121
  - other decisions, § 6:122
  - sales to authority, § 6:119
  - settlements, § 6:120
  - subject as best comparable, § 6:117
  - subsequent sales, § 6:118
- exclusions from determination, § 6:168
- highest and best use, § 6:116
- rules to apply, § 6:107
- substitution of Board’s judgment, § 6:123

Ontario

- “before and after” method of valuation
  - generally, § 2:177 to § 2:187
  - claim for additional injurious affection not measured by, § 2:182

**MARKET VALUE—Cont'd**

Ontario—Cont'd

- “before and after” method of valuation—Cont'd
  - history of s. 14(3), § 2:177
  - injurious affection caused by taking, § 2:180
  - “land of an owner,” meaning of, § 2:178
  - no claim for injurious affection, § 2:187
  - onus, § 2:186
  - personal and business loss claim and, § 2:183
  - prohibition against authority securing the taking without compensation, § 2:185
  - set-off against damages, § 2:181
  - size, shape and nature of land, § 2:184
  - whole of the owner’s land, meaning, § 2:179
- defined, § 2:156
- easements and
  - permanent, § 2:164, § 2:165
  - temporary or working, § 2:166
    - duration of temporary easement, § 2:167
- evidence of, § 2:162
  - onus, § 2:170
- exclusions from determination
  - generally, § 2:188 to § 2:207
  - co-operative developments, § 2:207
- increase or decrease to value by expropriation development
  - generally, § 2:190
  - applies to market value only, § 2:191
  - competitive position, change in, § 2:200
  - date applicable, § 2:194

**MARKET VALUE—Cont'd**

- Ontario—Cont'd
  - exclusions from determination—Cont'd
    - increase or decrease to value by expropriation development—Cont'd
      - development in question, § 2:192
      - down-zoning, § 2:196
      - expropriation date varies from valuation date, § 2:198
      - imminent defined, § 2:195
        - commencement of scheme, § 2:195
      - joint assessment of value and injurious affection under s. 14(3), effect on, § 2:199
      - notice of development prior to expropriation, § 2:193
      - plead, failure to, § 2:201
      - sales of remaining lands of owner, § 2:197
      - non-conforming uses
        - generally, § 2:203 to § 2:206 [Ont., s. 14(4)(c)]
        - history of s. 14(4)(c), § 2:203
        - onus, § 2:205
        - requirements, § 2:204
        - special use of land, § 2:188
      - highest and best use, § 2:159
      - history of s. 14, § 2:155
      - land
        - compensation, § 2:105
        - defined, § 2:157
        - intrinsic features of, § 2:158
        - riparian rights, loss of, § 2:168
        - tenancy, rule for valuing, § 2:163
        - willing buyer, § 2:161
        - willing seller, § 2:160

**MINES AND MINERALS**

- Alberta
  - ownership unaffected by expropriation, presumption of, § 3:21
- Manitoba
  - disturbance of, § 4:69 [Man., s. 5]

**MINISTER**

- Alberta
  - defined, § 3:6 [Alta., s. 1(i)]
- Ontario, see also Approving authority
  - defined, § 7:4 to § 7:25 [Can., s. 2]
  - scheme, § 7:4 to § 7:25 [Can., s. 2]

**MORTGAGE**

- Alberta
  - disturbance damages and, § 3:208 [Alta., s. 52]
- New Brunswick
  - effect of prepayment, § 5:160 to § 5:162 [N.B., s. 43]
  - compensation to security holder, § 5:161
  - secured transactions, § 5:159 [N.B., s. 42]
- Nova Scotia
  - prepayment of, § 6:145
  - security interests, § 6:127 [N.S., s. 27(10) to (13)]
- Ontario
  - meaning of, § 2:282
  - prepayment of
    - generally, § 2:278
    - history of s. 20, § 2:278
    - interest rates, compensation for difference, § 2:280
    - payment of bonus to mortgagee, § 2:279
    - statutory authority, § 2:281

NEW LAW OF EXPROPRIATION

**MORTGAGEE**

Alberta  
owner, as, § 3:12

**MUNICIPALITY**

Alberta  
defined, § 3:8 [Alta., s. 1(j)]  
Manitoba  
defined, § 4:10  
expropriation and, § 4:74 [Man.,  
s. 8]  
New Brunswick  
defined, § 5:2 to § 5:27 [N.B., s.  
1]

**NEGOTIATION**

Canada  
notice to negotiate settlement,  
§ 2:395 [Ont., s. 30]  
60-day period, § 2:397  
Nova Scotia  
generally, § 6:175  
Ontario  
arbitration, vs., § 2:364  
Board of, § 2:362 [Ont., s. 27]  
history of s. 27, § 2:363,  
§ 2:365  
notice of, § 2:360

**NOTICE**

Alberta  
intention to expropriate  
generally, § 3:30 to § 3:32  
[Alta., s. 8]  
history of s. 8, § 3:31  
service of, § 3:30 to § 3:32  
[Alta., s. 8(2)]  
objection, of, § 3:35 to § 3:37  
[Alta., s. 10]  
British Columbia  
advance payment notice, form of,  
§ 8:178  
expropriation, of  
generally, § 8:86 [B.C., s. 6]  
cancellation of, § 8:159

**NOTICE—Cont'd**

British Columbia—Cont'd  
expropriation, of—Cont'd  
certain owners not to be  
served, § 8:90  
contents, § 8:98 to § 8:100  
purpose for which  
expropriation required,  
§ 8:99  
statutory requirement,  
§ 8:98  
form of notice, § 8:92  
history of s. 6, § 8:87  
service of notice, § 8:94 to  
§ 8:97  
request for inquiry, § 8:113  
[B.C., s. 10]  
see also Inquiry  
Canada  
abandonment of intention, of,  
§ 7:64, § 7:65 [Can., s. 12]  
conclusive except against Crown  
generally, § 7:103 to § 7:106  
[Can., s. 23]  
applicability, § 7:104  
good faith, § 7:105  
confirmation, of  
generally, § 7:68, § 7:69  
[Can., s. 12]  
defined, § 7:4 to § 7:22 [Can.,  
s. 2(1)]  
registration, § 7:72  
evidence of, § 7:107 [Can., s. 24]  
intention, of  
generally, § 7:34  
defined, § 7:4 to § 7:22 [Can.,  
s. 2(1)]  
nature of interests, § 7:39,  
§ 7:40 [Can., s. 7]  
nature of interests in Quebec,  
§ 7:42  
objections to, § 7:45 to § 7:48  
[Can., s. 9]  
registration of, § 7:33 to  
§ 7:35 [Can., s. 5(2)]

**NOTICE—Cont'd**

## Canada—Cont'd

negotiate settlement, to, § 7:203  
[Can., s. 30]

## Manitoba

expropriation, of  
generally, § 4:100  
form, § 4:364 [Man., Sched.  
B, Form 2]  
service of, § 4:98 [Man., s. 14]  
intention to expropriate, § 4:62  
[Man., s. 4]  
contents of, § 4:363 [Man.,  
Sched. A, s. 2]  
intention to vacate, § 4:133  
[Man., s. 21]  
objection, § 4:263 [Man., Sched.  
1, s. 3]  
possession, § 4:130 [Man., s. 20]

## New Brunswick

arbitration, of, § 5:111 to § 5:113  
[N.B., s. 31]  
expropriation, of  
generally, § 5:79 to § 5:79  
[N.B., s. 19]  
amended plan, § 5:82  
challenging, § 5:86  
land vests, § 5:84  
measure of compliance, § 5:80  
order in council to be  
registered, § 5:81  
grounds for expropriation, § 5:60  
to § 5:62 [N.B., s. 12]  
intention to expropriate  
generally, § 5:44 to § 5:46  
[N.B., s. 6]  
amendment of, § 5:65, § 5:66,  
§ 5:73  
expropriation by other than  
authority, § 5:50, § 5:51  
[N.B., s. 8]  
objection, § 5:52, § 5:53 [N.B., s.  
9]

## Nova Scotia

hearing of, § 6:190, § 6:191  
[N.S., s. 51]

**NOTICE—Cont'd**

## Nova Scotia—Cont'd

intention to expropriate, § 6:67

## Ontario

arbitration, of, § 2:359 [Ont., s.  
26(b)]  
expropriation, of, § 2:80  
intention to expropriate  
generally, § 2:46 [Ont., s. 6]  
hearing, of, § 2:49, § 2:51  
[Ont., ss. 6(2), 7(3)]  
forfeit of rights, § 2:49  
grounds for, § 2:51 [Ont., s.  
7(4)]  
history, § 2:47  
market value and notice prior  
to expropriation, § 2:193  
municipalities and, § 2:48  
negotiation, of, § 2:359 [Ont., s.  
26(a)]

**NOVA SCOTIA UTILITY AND  
REVIEW BOARD**

Generally, § 6:178

independent tribunals, § 6:179

Act, APP 6B [N.S., App. B]

Duty of Board, § 6:183

Expert witnesses and, § 6:185  
[N.S., s. 50]

Jurisdiction

injurious affection, § 6:156

Regulations, see Regulations

**OCCUPATION**

Nova Scotia

defined, § 6:30

history, § 6:31

**OFFER OF COMPENSATION**

Alberta, see Payments

British Columbia, see Advance pay-  
ment

Canada

acceptance of, § 7:83 [Can., s.  
17]

effect of, § 7:84

**OFFER OF COMPENSATION**

**—Cont'd**

Canada—Cont'd

offer

generally, § 7:75 [Can., s. 16]

appraisal report, based on,  
§ 7:81

cost implications, § 7:78

formal requirements, § 7:77

irrevocability, § 7:80

special standard allowance,  
§ 7:79

Manitoba

agreement interrupts proceedings,  
§ 4:128 [Man., s. 17]

expropriation authority not  
bound, § 4:122

form of, § 4:120

late offer, effect of, § 4:121

New Brunswick

offer

generally, § 5:122 to § 5:126  
[N.B., s. 37]

additional five percent, § 5:126

failure of timely tender to  
mortgagee, § 5:124

payable in response to notice of  
arbitration, § 5:208, § 5:209  
[N.B., s. 52.1]

Nova Scotia

generally, § 6:72 to § 6:74 [N.S.,  
s. 13]

appraisal report, § 6:72 to  
§ 6:74 [N.S., s. 13(3)]

cases, § 6:73

offer to settle, § 6:75, § 6:76  
[N.S., s. 13A], § 6:202.50

other owners, to, § 6:79

payment if accepted, § 6:81,  
§ 6:82

unknown registered owner,  
§ 6:77 [N.S., s. 14]

Ontario

acceptance of, § 2:340

**OFFER OF COMPENSATION**

**—Cont'd**

Ontario—Cont'd

appraisal report

generally, § 2:341 to § 2:345

basis of offer, as, § 2:342

discovery, producible on,  
§ 2:344

failure to serve, § 2:345,  
§ 2:353

meaning of, § 2:341

prepared by, § 2:343

extension of time

generally, § 2:346 to § 2:351

appeal, § 2:350

conditions, § 2:347

costs of motion for, § 2:349

evidence required for applica-  
tion, § 2:346

timing of application, § 2:348

history of s. 25, § 2:334

injurious affection only, claims  
for, § 2:335

jurisdiction of Board, § 2:357

parties to, § 2:336

payment after acceptance,  
§ 2:339

service of

generally, § 2:337

failure to

generally, § 2:338, § 2:353

interest to be paid, § 2:354,  
§ 2:355

onus, § 2:356

penalty section, § 2:352

**OFFICER**

See also Expropriations Advisory  
Officer

New Brunswick

defined, § 5:2 to § 5:27 [N.B., s.  
1]

**ONTARIO ENERGY BOARD ACT,  
1998**

Expropriations Act and, § 2:31

**ONTARIO ENERGY BOARD ACT,  
1998—Cont'd**

Gas storage areas, § 2:37, § 2:96  
 Preliminary plan, registration of,  
 § 2:71 [Ont., s. 9(5)]

**ONTARIO LAND TRIBUNAL**

Generally, APP 2B  
 Appraisal, order authorizing entry  
 on land for, § 2:86.50  
 Rules of Practice and Procedure,  
 APP 2B

**ONTARIO MUNICIPAL BOARD**

Appraisal, order authorizing entry  
 on land for, § 2:86  
 Appraisal report, practice re service,  
 § 2:372  
 Determining the value of interest of  
 security holder, § 2:228  
 Duties of, § 2:383 to § 2:391  
 Increased, compensation award by,  
 for relocation costs, § 2:209  
 Jurisdiction of  
   generally, § 2:383 to § 2:391  
   collateral matters, § 2:386  
   consent, no, § 2:389  
   costs, to award, § 2:419  
     Expropriations Amendment  
     Act, 1983, following,  
     § 2:425  
   declined by Board, § 2:385  
   exercised by Board, § 2:383,  
   § 2:384  
   injurious affection, jurisdiction,  
   § 2:303  
   not arrested by acceptance of  
   market value offer, § 2:390  
 Ontario Municipal Board Act  
 effect of s. 43, § 2:391  
 Planning Act (Ontario), under,  
 § 2:387  
 separate interest in land, § 2:227  
 taking of land for highway under  
 Municipal Act, § 2:388

**ONTARIO MUNICIPAL BOARD  
—Cont'd**

Land Compensation Board, former,  
 and, APP 2G  
 transitional, APP 2G  
 Opinion evidence, § 2:368 [Ont., s.  
 28]  
 Procedure  
   arbitration where no expropria-  
   tion, § 2:397  
 Quorum, APP 2G  
 Reasons for decision, § 2:393  
 Record, form of, § 2:392  
 Rules of practice and procedure  
 former rules, APP 2D  
   Land Planning Appeal Tribunal  
   Rules of Practice and Proce-  
   dure, (repealed), APP 2C  
   Ontario Land Tribunal Rules of  
   Practice and Procedure,  
   APP 2B

**OWNER**

Alberta  
   defined, § 3:10 [Alta., 1(k)]  
   mortgagee, § 3:12  
   tenants, § 3:11  
 British Columbia  
   defined, § 8:6 to § 8:43 [B.C., s.  
   1 “owner”]  
   cases, § 8:31  
   history, § 8:30  
 Canada  
   defined (repealed), § 7:18  
 Manitoba  
   defined, § 4:34  
   liability for waste and taxes,  
   § 4:135, § 4:136  
 New Brunswick  
   defined, § 5:23  
 Nova Scotia  
   defined, § 6:30  
 Ontario  
   case comment, § 2:14  
   defined, § 2:11 to § 2:13

**PARTIAL EXPROPRIATION**

See also Injurious affection, Set-off  
against damages

Alberta

homogeneous rule and, § 3:222  
working easements, § 3:223

British Columbia

actionable rule abolished, § 8:399  
common law rules modified,  
§ 8:399

history, § 8:377

Manitoba

determining market value,  
§ 4:189 to § 4:191 [Man., s.  
27(3)]

security interests on, § 4:290

New Brunswick

determining market value,  
§ 5:148

Ontario

determining market value,  
§ 2:177 to § 2:187

**PAYMENTS**

Alberta

proposed to owner  
generally, § 3:85 [Alta., s. 31]  
applications to Board, § 3:88,  
§ 3:89

costs of independent appraisal  
or legal advice, § 3:95  
[Alta., s. 35]

comment, § 3:97

reasonable, must be, § 3:96

crediting of, § 3:247

deemed acceptance of,  
§ 3:100, § 3:101

determination of, § 3:90  
[Alta., s. 32]

by Board, § 3:94 [Alta., s.  
34]

service, § 3:86

Nova Scotia

accepted by owner, § 6:81,  
§ 6:82

**PERMANENT EASEMENTS**

Ontario

market value and, § 2:164,  
§ 2:165

**PLAN**

British Columbia

defined, § 8:35

comment, § 8:36

Manitoba

authority, land owned by, and,  
§ 4:73 [Man., s. 7(3), (4)]

Crown land and, § 4:73 [Man., s.  
7(2)]

expropriated land, of, § 4:67

highway, filing of, § 4:94 [Man.,  
s. 13]

Ontario

registration of, § 2:72

**POSSESSION**

Alberta

date for, § 3:258 [Alta., s. 64]

history of s. 63, § 3:255

enforcement of right to, § 3:260  
[Alta., s. 65]

history of s. 65, § 3:261

British Columbia

application to Supreme Court for  
generally, § 8:196

comment, § 8:194

timing, § 8:196

under what section authority  
entitled to, § 8:194

who may apply, § 8:196

history of s. 23, § 8:192

vesting, § 8:193

time for filing notice of,  
§ 8:194

Canada

right to, § 7:93

warrant for, § 7:251

persona designate, § 7:252



**POSSESSION—Cont'd**

## Manitoba

- authority's right to, § 4:130  
[Man., s. 20]
- effect of non-compliance with  
service of notice of  
expropriation, § 4:131

## New Brunswick

- by expropriating authority, § 5:95
- enforcement of right to, § 5:97 to  
§ 5:99 [N.B., s. 23]
- warrant for possession, § 5:98

## Nova Scotia

- by expropriating authority, § 6:89  
to § 6:91 [N.S., s. 18]
- cases, § 6:90
- order for, § 6:95 [N.S., s. 20]

## Ontario

- date for, § 2:523
- history of s. 39, § 2:521
- non-compliance with s. 25,  
§ 2:522
- postponement of, application for  
generally, § 2:523
- appeal from judge's order,  
§ 2:527
- "judge" defined, § 2:524
- no application where validity  
of expropriation  
contested, § 2:526
- timing of, § 2:525

**PRESCRIBED**

## Manitoba

- defined, § 4:37

## Nova Scotia

- defined, § 6:32 [N.S., s. 3(1)(k)]

## Ontario

- defined, § 2:2 to § 2:21 [Ont., s.  
1(1)]

**PROPERTY COMPENSATION  
BOARD**

## New Brunswick

- decisions respecting, § 5:110

**PROPERTY COMPENSATION  
BOARD—Cont'd**

## New Brunswick—Cont'd

- Land Compensation Board, duty  
to stand in place of, § 5:221,  
§ 5:222 [N.B., s. 58]

**PUBLIC SERVICE LAND**

## Manitoba

- expropriation of, § 4:73 [Man., s.  
7]

**PUBLIC WORK**

## Nova Scotia

- defined, § 6:59, § 6:60 [N.S., s.  
10(2)]
- expropriation for, § 6:60

**PURCHASE-MONEY  
MORTGAGE**

## Nova Scotia

- defined, § 6:33 [N.S., s. 3(1)(l)]

## Ontario

- defined, § 2:2 to § 2:21 [Ont., s.  
1(1)]

**RAILWAY**

## Canada

- request for expropriation, § 7:31,  
§ 7:32 [Can., s. 4.1]

**REGISTER**

## Canada

- defined, § 7:20

**REGISTERED JUDGMENT  
CREDITOR**

## Nova Scotia

- defined, § 6:35

**REGISTERED OWNER**

## Manitoba

- defined, § 2:18

## New Brunswick

- defined, § 5:2 to § 5:27 [N.B., s.  
1]

## Nova Scotia

- defined, § 6:37
- owner, vs., § 6:38

**REGISTERED OWNER—Cont'd**

Ontario  
defined, § 2:2 to § 2:21 [Ont., s. 1(1)]

**REGISTRAR**

British Columbia  
defined, § 8:6 to § 8:43 [B.C., s. 1 “registrar”]  
history, § 8:38

Canada  
defined, § 7:22  
duties of, § 7:101, § 7:102 [Can., s. 22]

**REGISTRATION**

Alberta  
effect of, § 3:51 to § 3:55 [Alta., s. 19]

British Columbia  
notice of expropriation, § 8:86 [B.C., s. 6]

Canada  
evidence of, § 7:107 [Can., s. 24]  
vesting of title upon, § 7:70 [Can., s. 15]

Manitoba  
declaration of expropriation, § 4:87 [Man., s. 11]  
vesting of title upon, § 4:94 [Man., s. 13]

Ontario  
plan of expropriated land, § 2:71 [Ont., s. 9]  
failure to register within three months, § 2:73  
history, § 2:72

**REGULATIONS**

See also Rules

Alberta  
Expropriation Act, under  
Forms, Alta. Reg. 188/2001, APP 3A2 § 3A2:1 to § 3A2:12 [Alta., App. A]  
Rules of Procedure and Practice, Alta. Reg. 187/

**REGULATIONS—Cont'd**

Alberta—Cont'd  
Expropriation Act, under  
—Cont'd  
2001, APP 3A1 § 3A1:1 to § 3A1:25 [Alta., App. A]

British Columbia  
Expropriation Act, under  
Compensation Action Procedure Rule, B.C. Reg. 100/2005, APP 8B § 8B:1 to § 8B:7 [B.C., App. B]  
Expropriation Compensation Board Practice and Procedure Regulation, B.C. Reg. 452/87 (repealed), APP 8B § 8B:8 [B.C., App. B]

Expropriation Compensation Board Transitional Regulation, B.C. Reg. 97/2005, APP 8D [B.C., App. C.1]

Expropriation Proceeding Costs Regulation, B.C. Reg. 98/2005, APP 8C § 8C:1 to § 8C:9 [B.C., App. C]

General Regulation, B.C. Reg. 451/87, APP 8A § 8A:1, 8A:19 [B.C., App. A]

Tariff of Costs Regulation, B.C. Reg. 189/99, APP 8C § 8C:10 [B.C., App. C]

Canada  
Expropriation Act, under  
Expropriation Act Basic Rate Order, C.R.C. 1978, c. 640, APP 7A § 7A:1 [Can., App. A]

Expropriation Fees Regulations, SOR/2000-142, APP 7A § 7A:3 [Can., App. A]

Tariff of Costs, SOR/99-308,

**REGULATIONS—Cont'd**

- Canada—Cont'd
  - Expropriation Act, under
    - Cont'd
      - APP 7A § 7A:2 [Can., App. A]**
- Manitoba
  - Expropriation Act, under
    - Land Value Appraisal Commission Fees Regulation, C.C.S.M., E190, **APP 4C [Man., App. C]**
    - Rate of Interest, C.C.S.M. c. E190, **APP 4D [Man., App. D]**
- New Brunswick
  - Expropriation Act, under
    - Form of Statement Regulation, N.B. Reg. 84-16, **APP 5B [N.B., App. B]**
    - General Regulation, N.B. Reg. 84-11, **APP 5A [N.B., App. A]**
- Nova Scotia
  - Expropriations Act, under
    - Expropriation Procedures Regulation, N.S. Reg. 103/74, **APP 6A1 [N.S., App. A]**
  - Utility and Review Board Act, under
    - Rules of Practice and Procedure, N.S. Reg. 291/92, **APP 6C2 [N.S., App. C]**
    - Utility and Review Board Regulations, N.S. Reg. 270/92, **APP 6C1 [N.S., App. C]**
- Ontario
  - Expropriations Act, under
    - Forms, **APP 2A § 2A:5**
    - Rules to be applied for the purposes of s. 32(1) of the Act, R.R.O. 1990, Reg. 364, **§ 2:441, APP 2A § 2A:18**

**REGULATIONS—Cont'd**

- Ontario—Cont'd
  - Ontario Municipal Board Act, former, under
    - Consolidating matters or hearing them together, O. Reg. 30/02, **APP 2D**

**RELOCATION**

- Alberta
  - residence, of, **§ 3:181 [Alta., s. 47]**
  - see also Equivalent accommodation
- Manitoba
  - disturbance damages and, **§ 4:197 [Man., s. 28(1)]**
  - five per cent relocation allowance, **§ 4:201**
  - expenses, **§ 4:203 to § 4:209**
  - advertising costs, **§ 4:209**
  - department of urban affairs policy, **§ 4:206**
  - land survey costs, **§ 4:205**
  - legal fees, **§ 4:204**
  - new for old, **§ 4:208**
  - other expenses reasonable incurred in acquiring other lands, **§ 4:207**
- Nova Scotia
  - business loss from, **§ 6:150**
- Ontario
  - disturbance damages and, **§ 2:249**
  - betterment costs not recoverable, **§ 2:250**
  - special difficulties, compensation for
    - generally, **§ 2:141 to § 2:148**
    - awards under, **§ 2:143**
    - claims rejected, **§ 2:145**
    - case comment, **§ 2:147**
    - history, **§ 2:141**
    - interest on, **§ 2:488**
    - owner must prove claim, **§ 2:146**

**RELOCATION—Cont'd**

- Ontario—Cont'd
  - special difficulties, compensation for—Cont'd
    - relationship with s. 15, § 2:142
    - special value to owner, § 2:144

**RENT**

- Alberta
  - abatement of, § 3:286 [Alta., s. 71(1)]
- Manitoba
  - abatement of, § 4:335 [Man., s. 46]
- Nova Scotia
  - abatement of, § 6:202 [N.S., s. 54]
- Ontario
  - abatement of, § 2:497, § 2:499 [Ont., s. 34(1)]
  - history of s. 34, § 2:499
  - retrospective effect, § 2:499

**REPARATION**

- See also Substituted land
- Manitoba
  - mitigation, § 4:294 [Man., s. 34]
- Nova Scotia
  - undertakings by statutory authority, § 6:210
- Ontario
  - cases, § 2:90
  - injurious affection, § 2:90
  - history, § 2:89
  - owner cannot be compelled to accept undertaking, § 2:92
  - valuation of surplus lands for purpose of awarding interest, § 2:91

**REPRESENTATIVE**

- Appointment of
  - Alberta, § 3:280 [Alta., s. 68]
  - Canada, § 7:274
  - Manitoba, § 4:355 [Man., s. 53]
  - Nova Scotia, § 6:207, § 6:208 [N.S., s. 64]

**REPRESENTATIVE—Cont'd**

- Appointment of—Cont'd
  - Ontario, § 2:512

**REVESTING OF INTEREST**

- Alberta, § 3:284 [Alta., s. 70]

**REVISED STATUTES**

- Ontario
  - effect of omission from, APP 2G
  - application of Act and common law rules, APP 2G
  - Interpretation Act, APP 2G

**RIGHT OF WAY**

- Alberta
  - defined, § 3:13 [Alta., s. 1(m)]

**RIPARIAN RIGHTS**

- Ontario
  - loss of and market value, § 2:168

**RULES**

- See also Regulations
- Alberta
  - power to make, § 3:71 [Alta., s. 28(1)]
  - Rules of Procedure and Practice, Alta. Reg. 187/2001, APP 3A1 § 3A1:1 to § 3A1:25
- British Columbia
  - Compensation Action Procedure Rule, B.C. Reg. 100/2005, APP 8B § 8B:1 to § 8B:7 [B.C., App. B]
  - Expropriation Compensation Board Practice and Procedure Regulation, B.C. Reg. 452/87 (repealed), APP 8B § 8B:8 [B.C., App. B]
- Manitoba
  - Land Value Appraisal Commission Rules of Procedure, APP 4A [Man., App. A]
  - Queen's Bench Act, under, § 4:320, APP 4B [Man., s. 38 (repealed), Man., App. B]

**RULES—Cont'd**

- New Brunswick
  - Rules of Court under Judicature Act apply, § 5:115
- Nova Scotia
  - Nova Scotia Utility and Review Board Rules of Practice and Procedure, APP 6C [N.S., App. C]
- Ontario
  - Land Planning Appeal Tribunal Rules of Practice and Procedure (repealed), APP 2C
  - Ontario Land Tribunal Rules of Practice and Procedure, APP 2B
  - Ontario Municipal Board Rules of Practice and Procedure (repealed), APP 2D

**SECURITY HOLDER**

- Alberta
  - disturbance damages and, § 3:208 [Alta., s. 52]
- British Columbia
  - disturbance damages and, § 8:267
- Nova Scotia
  - defined, § 6:40 [N.S., s. 3(1)(o)]
  - payment to, § 6:127 [N.S., s. 27(10)]
  - calculation of, § 6:143
- Ontario
  - defined, § 2:2 to § 2:21, § 2:227
  - market value and, § 2:225 [Ont., s. 17]
  - priority over payment of bonus, § 2:233

**SECURITY INTEREST**

- Alberta
  - payment to owner where exists, § 3:192
  - valuation of, § 3:191
- British Columbia
  - comment, § 8:41

**SECURITY INTEREST—Cont'd**

- British Columbia—Cont'd
  - defined, § 8:6 to § 8:43 [B.C., s. 1]
  - history, § 8:40
  - market value of
    - generally, § 8:354 [B.C., s. 37]
    - cases, § 8:363
    - compensation, § 8:356, § 8:360, § 8:361
    - disturbance damages for holders, § 8:362
    - partial takings and compensation, § 8:361
    - regulation re, § 8:355, § 8:356
    - valuation of, § 8:358
    - where amount owing is greater than, § 8:359
  - separate interests and, § 8:267
- Canada
  - effect of payment on, § 7:224 [Can., s. 33]
  - land subject to, § 7:179
- Manitoba
  - defined, § 4:43
  - payment for
    - generally, § 4:286 [Man., s. 33]
    - scheme of compensation
      - generally, § 4:289
      - accounting where foreclosure, § 4:292
      - interest payments by owner after expropriation, § 4:291
- New Brunswick
  - partial takings, § 4:290
  - secured transactions, § 5:159 [N.B., s. 42]
- Nova Scotia, § 6:142
- Ontario
  - compensation subject to, § 2:229
  - land subject to, § 2:227
  - jurisdiction of Board, § 2:228

**SECURITY INTEREST—Cont'd**

Ontario—Cont'd

- mortgage discharged for less than face amount, § 2:232
- payment out of market value, § 2:231
  - improved and unimproved land, § 2:234
  - payments by mortgagee after expropriation, § 2:236
  - waste, § 2:235
  - valuation, method of, § 2:230

**SEPARATE INTERESTS**

Alberta

- valuation of
  - generally, § 3:186 [Alta., s. 48]
  - leasehold and freehold interests, § 3:187
  - market value of leasehold interest, § 3:188

British Columbia

- case law, § 8:266
- comment, § 8:265 to § 8:268
- history, § 8:265
- security interests and, § 8:267

Manitoba

- commission may join claims, § 4:323 [Man., s. 39]

New Brunswick

- consolidation of proceedings, § 5:63, § 5:64 [N.B., s. 13]
- valuation of, § 5:158

Ontario

- assessment of, § 2:221
- history of s. 16, § 2:219
- jurisdiction of Board, § 2:222
- mandamus and, § 2:223
- meaning of, § 2:220

**SERVICE**

Alberta

- documents, § 3:278 [Alta., s. 67]

**SERVICE—Cont'd**

Alberta—Cont'd

- notice of intention to expropriate, § 3:30 to § 3:32 [Alta., s. 8(2), (3)]

British Columbia

- generally, § 8:579 [B.C., s. 49]
- history of, § 8:580
- decision of approving authority, § 8:158
- history, § 8:152
- expropriation notice
  - generally, § 8:94 to § 8:97
  - cases, § 8:95
  - corporation, on, § 8:96
  - exclusion from service, § 8:89, § 8:90
  - form of, § 8:92
  - individual, on, § 8:94
  - joint tenants, § 8:582
  - order dispensing with approval and inquiry, § 8:85
  - other jurisdictions, § 8:581
  - request for inquiry, § 8:120, § 8:121
  - date from which 30 days calculated, § 8:121

Canada

- effecting, § 7:26 [Can., s. 3]
- notice of intention, § 7:43, § 7:44 [Can., s. 8]

Manitoba

- confirming authority, orders of, § 4:76 [Man., s. 9(4)]
- corrected declaration, § 4:91 [Man., s. 12(2)]
- date of, § 4:357 [Man., s. 54(2)]
- declaration without inquiry, of, § 4:82 [Man., s. 9(9)]
- expropriation notice, § 4:100
- mode of, § 4:357 [Man., s. 54(1)]

New Brunswick

- grounds for expropriation, of, § 5:60 to § 5:62 [N.B., s. 12]

**SERVICE—Cont'd**

New Brunswick—Cont'd

notice of expropriation, of, § 5:79  
[N.B., s. 19(5)]“service” defined, § 5:2 to  
§ 5:27 [N.B., s. 1]

Nova Scotia

effecting, § 6:45, § 6:46 [N.S., s.  
3(2)]negotiation, notice of, § 6:174  
[N.S., s. 36]offer of compensation, of, § 6:73  
unknown registered owner,  
§ 6:77 [N.S., s. 14]

Ontario

appraisal reports, § 2:369 to  
§ 2:377approving authority, reasons of,  
§ 2:64

failure to serve, § 2:68

documents

generally, § 2:22 [Ont., s.  
1(2)]

cases, § 2:24

history, § 2:23

negotiation or arbitration, § 2:359  
[Ont., s. 26]

offers of compensation

generally, § 2:337

appraisal report, failure to  
serve, § 2:345failure to serve, § 2:338,  
§ 2:352 to § 2:356**SET-OFF AGAINST DAMAGES**

See also Partial expropriation

British Columbia

work not constructed or used  
generally, § 8:433 to § 8:438  
comment, § 8:433construction of works follow-  
ing adjustment, § 8:438

interest, § 8:437

owner may apply to court,  
§ 8:435

reasonable period, § 8:434

**SET-OFF AGAINST DAMAGES**

—Cont'd

British Columbia—Cont'd

work not constructed or used

—Cont'd

timing of application, § 8:436

work or use benefiting claimant  
generally, § 8:425 [B.C., s. 44]against compensation, § 8:429  
B.C. Law Reform Report,  
§ 8:427

date benefit assessed, § 8:431

history, § 8:426

onus, § 8:432

statutory amendment of,  
§ 8:430

Manitoba

betterment considered, § 4:284

New Brunswick

offsetting advantages, § 5:189

Nova Scotia

damages for injurious affection  
and, § 6:165occupation and assistance, for,  
§ 6:139

Ontario

against damages

generally, § 2:320 [Ont., s. 23]

date benefit assessed, § 2:322

history of s. 23, § 2:321

interaction with s. 14(3) and  
14(4)(b), § 2:325market value, none against,  
§ 2:326nature of benefit assessed,  
§ 2:324

onus, § 2:323

**SPECIAL ECONOMIC  
ADVANTAGE**

Compensation for

Alberta, § 3:163

British Columbia, § 8:261

Canada, § 7:147

Manitoba, § 4:158

**SPECIAL ECONOMIC**

**ADVANTAGE—Cont'd**

Compensation for—Cont'd  
New Brunswick, § 5:129  
Nova Scotia, § 6:124

**STATED CASE**

Alberta, § 3:111 [Alta., s. 38]  
Ontario  
costs, APP 2G  
repealed pursuant to Expropriations Amendment Act, 1983, APP 2G  
comment, APP 2G  
discretionary, APP 2G  
effect of repeal, APP 2G  
history, APP 2G  
transitional provisions, APP 2G  
under former Ontario Municipal Board Act, APP 2G

**STATUTORY AUTHORITY**

New Brunswick  
defined, § 5:2 to § 5:27 [N.B., s. 1]  
Nova Scotia  
defined, § 6:41, § 6:42 [N.S., s. 3(1)(p)]  
Ontario  
defined, § 2:2 to § 2:21 [Ont., s. 1(1)]

**STAY OF PROCEEDINGS**

Ontario  
under repealed s. 32, APP 2G  
appeal to Divisional Court, APP 2G  
comment, APP 2G

**SUBSTITUTED LAND**

British Columbia, § 8:420 [B.C., s. 43]  
agreement, § 8:422  
comparison with other jurisdictions, § 8:421  
valuation, § 8:423  
interest, re, § 8:424

**SUCCESSORS**

Manitoba  
bound, in title, § 4:337 [Man., s. 47]

**SURFACE RIGHTS BOARD**

Alberta  
division of jurisdiction with Land Compensation Board, § 3:3

**SURPLUS LANDS**

Manitoba  
expropriation of, § 4:71 [Man., s. 6]

**TAKING**

British Columbia  
elements of, § 8:17

**TAXES**

British Columbia  
liability for, § 8:593

**TEMPORARY EASEMENTS**

British Columbia  
market value and, § 8:279  
Ontario  
market value and, § 2:166, § 2:167  
registration of plan, § 2:74  
case comment, § 2:76  
no termination date shown on plan, § 2:74  
validity without fixed termination date, § 2:75

**TENANT**

Alberta  
disturbance damages and, § 3:204 to § 3:206  
owner, as, § 3:11  
New Brunswick  
defined, § 5:2 to § 5:27 [N.B., s. 1]  
Nova Scotia  
defined, § 6:44  
disturbance damages and, § 6:140



**TENANT—Cont'd**

Ontario  
 defined, § 2:2 to § 2:21 [Ont., s. 1(1)]  
 disturbance damages and, § 2:252 to § 2:256

**TIME LIMIT**

Alberta, § 3:99 [Alta., s. 36]  
 deemed acceptance of proposed payment, § 3:100, § 3:101  
 British Columbia  
 abridgment of, § 8:585  
 deemed acceptance of advance payment  
 generally, § 8:200 [B.C., s. 25]  
 acquisitions pursuant to s. 3, § 8:204  
 after payment made under s. 20, § 8:202, § 8:205  
 “application,” meaning, § 8:203  
 effect of limitation, § 8:207  
 further advance payments, § 8:206  
 history of s. 25, § 8:201  
 interpretation, § 8:202  
 limitation period, § 8:202 to § 8:207  
 extension of, § 8:585  
 injurious affection, § 8:416  
 limitation, § 8:587  
 setting down the inquiry, § 8:130  
 Canada  
 notice to negotiate settlement, § 7:204  
 offer of compensation, § 7:75 [Can., s. 16]  
 proceedings to determine compensation, § 7:211  
 Manitoba  
 compensation, § 4:308 [Man., s. 37]  
 confirming authority, orders of, § 4:76 [Man., s. 9(5)]

**TIME LIMIT—Cont'd**

Manitoba—Cont'd  
 extension of  
 generally, § 4:137 [Man., s. 23]  
 order of penalty interest, § 4:140  
 special cases, § 4:143 [Man., s. 24]  
 offer of compensation, § 4:119 [Man., s. 16]  
 New Brunswick  
 injurious affection, claims for, § 5:185  
 Nova Scotia  
 injurious affection, claims for, § 6:162  
 Ontario  
 injurious affection, § 2:308 [Ont., s. 22]

**TITLE**

British Columbia  
 state of, § 8:169 [B.C., s. 20]  
 Canada  
 determination of, § 7:85 [Can., s. 18]  
 applicability, § 7:86  
 cases, § 7:87  
 consideration of provincial law, § 7:88  
 no known owner, § 7:88  
 Manitoba  
 successors bound, § 4:337 [Man., s. 47]  
 vesting of, § 4:94 [Man., s. 13]  
 New Brunswick  
 determination of, § 5:90  
 vesting of, § 5:84  
 Nova Scotia  
 determination of, § 6:87  
**TRANSITIONAL PROVISIONS**  
 British Columbia  
 repealed, § 8:604

**TRANSITIONAL PROVISIONS**

**—Cont'd**

- Manitoba
  - limitation re declarations, § 4:313
- New Brunswick, § 5:226 to § 5:231
- Nova Scotia
  - deleted provisions, § 6:234
  - documents filed after 1970, § 6:233
- Ontario
  - history of
    - generally, APP 2G
    - The Expropriation Amendment Act, 1971, APP 2G
    - The Expropriations Act, 1968-69, APP 2G
    - The Expropriations Act, R.S.O. 1970, APP 2G
    - The Expropriations Act, R.S.O. 1980, APP 2G

**UTILITY AND REVIEW BOARD ACT (NOVA SCOTIA)**

See Nova Scotia Utility and Review Board

**VACATE**

- Manitoba
  - notice of intention, § 4:133 [Man., s. 21]

**VALUATION DATE**

- Alberta
  - registration of certificate of approval, § 3:53
- British Columbia
  - date of expropriation, § 8:238
- Canada
  - time of, § 7:112
- Manitoba
  - effective date for determining compensation, § 4:145 [Man., s. 25]
  - cases, 4 4:153
- Nova Scotia
  - time of, § 6:106, § 6:107 [N.S., s. 25(2)]

**VALUATION DATE—Cont'd**

- Ontario
  - arbitration where no expropriation, § 2:397
  - election of date for compensation, § 2:80, § 2:81
  - restriction on electing date of service of notice of hearing before inquiry officer, § 2:84
  - equivalent accommodation, § 2:214

**VESTING**

See Possession

**VOLUNTARY AGREEMENT TO TRANSFER**

- Alberta
  - generally, § 3:80
  - interest on, § 3:270
  - scope of agreement, § 3:80
  - strict construction, § 3:81
- British Columbia
  - generally, § 8:63 [B.C., s. 3]
  - acquisition by purchase and sale rather than pursuant to agreement
    - generally, § 8:66
    - agreement, § 8:67 to § 8:71
    - case law, § 8:71
    - estoppel, whether agreement creates, § 8:69
    - form of, § 8:67
    - s. 3 agreement not expropriation, § 8:68
  - application of other Acts
    - generally, § 8:72 to § 8:74
    - Forest Act, § 8:73
    - Land Title Act, § 8:72
    - Transportation Act, § 8:74
  - cases, § 8:71
  - compensation, § 8:202 to § 8:207
  - history of s. 3, § 8:64
  - purpose, § 8:65

**VOLUNTARY AGREEMENT TO  
TRANSFER—Cont'd**

- Manitoba
  - notice of expropriation and offer of compensation and, § **4:128** [Man., s. 17]
  - Schedule A does not apply, § **4:76** [Man., s. 9(10)]
- New Brunswick, § **5:210**, § **5:211** [N.B., s. 53]
- Ontario
  - generally, § **2:395** [Ont., s. 30]
  - application of s. 30, § **2:398**
  - history of s. 30, § **2:397**
  - procedure under, § **2:399**
  - valuation date, § **2:398**

**WARRANT**

- Ontario
  - putting down resistance to entry generally, § **2:530**
  - appeal from order, § **2:532**
  - history of s. 40, § **2:530**
  - “judge” defined, § **2:531**
  - resistance or opposition, § **2:533**

**WORKING EASEMENTS**

- Alberta
  - partial expropriation and value of remaining increases, § **3:223**
- Ontario
  - percentage of market value, § **2:166**

**WORKS**

- Alberta
  - defined, § **3:13** [Alta., s. 1(n)]
- Manitoba
  - defined, § **4:45**
  - expropriation deemed a, § **4:48** [Man., s. 1(2)]

**ZONING**

- British Columbia
  - highest and best use and, § **1:39**
  - residential density and, § **1:39**
  - market value and, § **8:302 to 8:304**