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# Welcome to the LRA Qualification Assessment

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## PURPOSE

The purpose of this program is to evaluate your competency to work in the Land Registration online system. The successful completion of this assessment is mandatory for all lawyers who wish to practice property law in the Land Registry system.

## PREREQUISITE

Lawyers participating in this assessment **MUST** have a working knowledge of property law and should have experience or familiarity with Property Online. The review materials provided are not meant to teach the principles of property law but to assist you in reviewing for the assessment.

## CONTENT

To review for the qualification assessment, we are providing you with a set of qualification assessment review materials. These materials consist of four modules – Abstracting and Title Searching, the Parcel Description Certification Application, the Application for Registration, and Working with Land Registered Parcels. Each module contains review materials as well as a number of resources which are meant to assist you in preparation for the qualification assessment.

The materials will be available to you for **two week**. At the end of that time access to the qualification review materials will be closed. You will be able to download and/or print the materials prior to this time should you wish.

Once the access to the review materials is closed you will have **one week** to complete the qualification assessment.

Also during the time the qualification review materials are open you will have access to a LRA Qualifications Assessment moderator via telephone and/or email to address questions you may have during your review.

## QUALIFICATION ASSESSMENT

The Qualification Assessment consists of 100 multiple choice questions covering the content in all four modules. Please see the list of competencies. You will need to obtain a score of **70%** on the assessment to pass and be found competent to work with the Land Registry system.

The Qualification Assessment must be completed in a **single, supervised session**. It is **closed book** however you may have a copy of the Land Registration Act and Regulations and the forms. The time limit is **2 hours and 30 minutes**.

The assessment **MUST** be invigilated. You will need to follow the Protocol and complete the Administration Form. Forward to Pam Connor at [pconnor@nsbs.org](mailto:pconnor@nsbs.org) for approval of your invigilator prior to commencing the competency evaluation. You will further need to resubmit the form after completion of the evaluation with the Invigilator's Report section completed and signed.

## SUCCESSFUL COMPLETION

Upon successfully passing the Qualification Assessment, provided you are a practicing insured member of the Nova Scotia Barristers' Society (the "Society"), your name will automatically be forwarded by the Society to Service Nova Scotia and Municipal Relations ("SNSMR") as a person who has been rendered qualified to practice in the Land Registry system. **YOU ARE NOT YET SET UP TO DO SO HOWEVER**, until you have downloaded, executed, and returned the relevant user agreements to SNSMR. Their turnaround time varies but is usually around a week to ten business days. You will then be issued two passwords (see below). If your firm is not set up already to do electronic submissions and to pay subscription and submission fees, you will have to execute the relevant pre-authorized debit agreements.

All of these are available through SNSMR's [Property Online](#) ("POL") website.

(click on authorized user agreement and, if applicable, the pre-authorized debit agreement and E-submission pre-authorized debit agreements).

While completing this program and entering into the agreements "authorizes" you to use the system, you are not yet completely conversant with it. There is, in effect, an (ungraded) "fifth module" you should take and complete before working within the system.

Electronic submission is now mandatory where the system functionality can accommodate the document. This is the majority of items – most deeds, most mortgages, judgments, and releases, as well as "old world" (Registry of Deeds) documents. E-submission is not difficult but, like most things, involves a learning curve and a software download (you will also become proficient at scanning documents). Do yourself a favour and arrange to gain familiarity with Property Online, if you do not already have it.

## A WORD ON PASSWORDS

When you are an authorized lawyer, you will receive two passwords: a general one and a private one. The general password is available to you and your staff for query access and to submit parcel description certification applications and draft applications for registration. The private password is used to submit final applications for registration and to do e-submission of documents.

We cannot overemphasize this: the private password is just that. It cannot be divulged to anyone – not your practice associates, your staff, or others. Keep any written record of it secure. Do not enter it when your keyboarding is visible to others. The private password is the system's way of knowing what specific lawyer is changing an aspect of a property and the Society has disciplined lawyers for violating this canon. (It is also a violation of the Code of Professional Conduct.) Your access and submission privileges could also be reviewed, suspended, or revoked, quite aside from any civil consequences that could come from any actionable negligence.

The general password, while available to your staff, must also be kept secure. Specifically, you must instruct your office that POL access is not for "snooping around," but limited to property-related transactions. You should also change it if your staff changes, as an ex-staffer would still be able to access your account (at your expense), make enquiries, see your worksheet (and potentially client information), and deal with certain aspects of legal descriptions. Therefore, if your staff (or staff duties) change, make this update a priority.

## A BIT OF BACKGROUND

Land Registration is not a new concept to Nova Scotia. The first *Land Titles Act* was passed in 1905. It didn't go anywhere. The *Land Registration Act* ("LRA") was passed after a great deal of work among various stakeholders in 2001, and was proclaimed on March 24, 2003. Certain elements took effect immediately, others on a county-by-county basis. It is now in effect throughout Nova Scotia (except for some minor provisions which are not expected to be proclaimed in the foreseeable future).

Such a seismic change in the operation of property, naturally, had growing pains. It has gone through five sets of amendments, most recently Bill 156 in force in May 2009. The upshot is you will come across parcels (especially in the early counties of Colchester, Cumberland, Pictou, and Antigonish) that may look unusual and may require updating, but were not "wrong" at the time. The regulations have had more frequent, and more significant changes, as have the variety of associated forms (now greatly reduced from the original 50+, which is why the form numbers you now see are not sequential). The important things to remember are to view each parcel individually as you are working, as few if any are "cookie cutter" and will reflect the quality of work and the state of the law at the time. Older Continuing Legal Education materials, while invaluable on the substantive law, must also be read now with an eye to the current legislative and regulatory framework (so don't be surprised if your research turns up, for example, references to Form 17 only to find that such a form no longer exists!)

**By the same token, these materials were originally written in spring 2012 and revised in spring 2016. As you complete this course, be aware that certain final wording, and cross-references (particularly on checklists) may be slightly out of date.**

## FISHING FOR FEEDBACK

The most seasoned counsel in the LRA world now has around twelve years' experience, as opposed to decades under the old regime. We're still learning, and learning from each other. It is the writer's experience that conveyancing practice has become more collegial (that does not mean easier) and efficient under the LRA and part of that may be due to the willingness of counsel (absent conflicting interests) to assist with new experiences and formats. The moderator of the qualification assessment (as well as other resources of which you will learn) are available both during and after this course, firm in the knowledge that some day one of us will more than likely have to call on you, or someone in your office.

That "mutual aid society" starts now.

The law is always changing (and with them, these materials). Some things will require more detailed treatment; others less. Some concepts may still be foreign after taking the course and that will require the materials to be revisited and clarified. There will inevitably be carryovers from prior versions and/or ambiguities. These materials were written by many people and at different times, and so you will occasionally see differences in style, organization and presentation. We welcome your feedback both to enhance the experience for the next **students**, and to improve the system overall.

## BEFORE YOU START

Remember Public Law? Lesson one was "read the legislation." It's good advice. The *Land Registration Act* ("LRA") and the Land Registration Administration Regulations ("LRAR" or "Admin Regs" – you will shortly find yourself speaking in abbreviations!) are detailed pieces of legislation with new concepts that take some time to get around (hence, this course). Your best grounding for this program is to take a couple hours to review these from beginning to end so you have a basic introduction to their construction and concepts. They are both substantive and procedural in nature and while the review materials from this program go into the details of both, they do not always lend themselves to watertight compartments.

It would also be helpful to get an introduction to the Property Online system.

## QUESTIONS

For questions relating to the online modules, please contact Caron Ferguson Eagan, Staff Lawyer, Education & Credentials at [cferguson@nsbs.org](mailto:cferguson@nsbs.org).

For online technical assistance, please contact CPLED Technical Assistance at [cpled.support@lawsociety.ab.ca](mailto:cpled.support@lawsociety.ab.ca)

## BACKGROUND

The *Land Registration Act* (“LRA”) modernizes the way real property is conveyed in Nova Scotia as we move from a names based property registration system to an electronic, parcel based registration system. All land in Nova Scotia is now subject to the Act. Over time, all of the land in Nova Scotia will be registered, or converted (also known as “migrated”), to the land registration system. The LRA has changed both the substantive law and procedure in many aspects of property practice. Accordingly, Service Nova Scotia and Municipal Relations (“SNSMR”) and the Nova Scotia Barristers' Society (the “Society”) have cooperated to create this mandatory assessment. In doing so, we hope to help you learn the LRA and its procedures, and to emphasize how important it will be for you to exercise your professional skills and judgment in the new system. This is exemplified in the revised Professional Standards which are now incorporated into the regulations under the *Legal Profession Act*, and are part of your certification under the LRA. As these standards (like the L.R.A. and its regulations) are not static but are amended and embellished, it is important to remember that this assessment is not the end - but only the beginning – of your training. Your need to remain abreast of the law and practice is greater under this system than ever before. The resources with which you may do so will be sprinkled throughout these materials. The Society acknowledges the tremendous contribution by the many lawyers who volunteered their time and expertise in the development and revision of the qualification assessment.

### Overview

In Law School, we were told in our first week to “read the statute.” Nothing could be more true with the LRA and regulations (the Land Registration Administration Regulations, “LRAR”), and Practice Standards. Changes to the law are both substantive and procedural, and have even evolved in gigantic ways since proclamation in April 2003 (some of these “holdovers” and changes are discussed in the module on revision of registration, in particular, so this evolution is not simply of academic import). Although this assessment is focused on mechanics and logistics (as it interplays with changes in the substantive law - most notably on prescriptive rights - NOTHING will prepare you for the LRA world without reading the original sources (again the LRA, the LRAR, the Practice Standards and occasionally the Regulations under the *Legal Profession Act*). In short, if you do not read the primary source material you will NOT be able to practice effectively in the LRA world.

### The Changes

Nova Scotia has had 250 years of recording property documents using a names-based system rather than by a parcel based system. Under the new system, Nova Scotia is moving to the organization of land information on a parcel based system – one which will provide a government guarantee to the ownership interests in a parcel, supported by a lawyer's certification, thereby providing greater security for property owners and the public alike. The new land registration title or parcel system guarantees the contents of the parcel register but does not guarantee the boundaries of a parcel. This is an important distinction from a true Torrens system. Lawyers will still have to interpret instruments and their effect in the parcel register similar to what we have had to do under the older Registry system. The focus is on creating a record for each parcel (called a parcel register) of land in Nova Scotia that will allow a person to view all interests affecting a parcel using only the unique parcel identification number (the PID), the owner's name or the civic address.

### Electronic Access

The government's goal is to have a system that is accessed by lawyers and their support staff, as well as other users, from computers anywhere. The two processes used to convert properties to the land registration system are electronic. These are the Parcel Description Certification Application (“PDCA”) and Application for Registration (“AFR”). We also have the ability to register or record certain types of documents using an e-submission process where a scanned copy of the original document is sent electronically to the Land Registration Office. E-submission is mandatory throughout Nova Scotia where a document is capable of being so submitted.

## Lawyers and Surveyors

Lawyers and surveyors have a mandated role in the conversion of a parcel to the new land registration system. The term "Authorized Lawyer" means a qualified solicitor who is subject to the POL user agreement and pre-authorized debit agreements required under Section 3 of the Land Registration Administration Regulations (LRAR). Only authorized lawyers may practice within the new system. Surveyors are authorized to the extent that they, after entering into a contract with SNSMR, are able to submit descriptions for approval within the new system (PDCA).

## Conversion

There are two stages in the conversion process. The first deals with the certification of the legal description of a parcel of land. Authorized lawyers and surveyors are both allowed to carry out this initial process, which results in the certification of the correct or "approved" description of a parcel for the new system (PDCA). As at this writing, the Society and the Association of Nova Scotia Land Surveyors are in the process of clarifying which profession plays what role in this process (concurrency and exclusivity). The discussion paper is commended to your reading and is linked in the PDCA module.

The second stage is the Application for Registration (AFR) which is the registration of the title to a parcel of land, with all of its attributes, including the nature of access to the parcel. Only an authorized lawyer is entitled to "raise title" in the new system. This means that only authorized lawyers may submit the final application for registration of title (AFR). Once a parcel is converted into the land registration system no longer will a full historic title search be required for transactions involving that parcel. Once a parcel is "converted" in the new system, a "parcel register" is created in the Nova Scotia Property Online data base which is accessed via the internet. With only a few exceptions, the parcel register is the view of all the interests (registered and recorded) which affect a parcel. One exception is those interests which do not require registration, such as overriding interests. It is useful to note here that the judgment and power of attorney rolls remain names-based.

## Audit and Compensation

Under the LRA, the lawyer who converts a parcel of land from the Registry of Deeds system to the new land registration system will certify as to the state of title for the parcel being converted, to the government of Nova Scotia. That lawyer is responsible for that certificate for ten years after from the date of the certification. There is a process for compensation, in the event that a person has lost an interest in land due to a negligent error in conversion. Because the evidence supporting the lawyer's opinion will be reflected in the abstract of title existing at the time of conversion, the foundation for the opinion is capable of review by the government. The Society and the N.S. Government have developed an audit system which includes a review of the Application for Registration (AFR) bundles. This bundle contains the forms required to allow the lawyer to complete the conversion as well as the title search and other documents. Currently, the bundles must be retained in the lawyer's file and produced when required for audit by the Registrar General ("RG"), or by the Society. In the past they were filed with the government. Audits are selected on the basis of specific risk criteria (e.g. possessory title, certain textual qualifications). The auditor requests the bundle from the lawyer and reviews the selected bundles to assess the lawyer's compliance with the Society's Regulations respecting Real Estate Practice, the *Land Registration Act* and with the Professional Standards. Individual lawyers whose practices raise concerns may, themselves, be audited as well. The targeted audit will occur when information comes to the attention of the Executive Director of the Society that raises concerns that a lawyer's practice may pose a risk to the land registration system. The Executive Director shall direct an Auditor to conduct an audit of the AFR bundle by the member. If the Executive Director receives a written complaint, and the report of the auditor may be considered a complaint, then the Executive Director may order a targeted audit of the lawyer's files. If significant breaches are uncovered then the lawyer may be the subject of a full practice review.

# THE PROFESSIONAL STANDARDS FOR REAL PROPERTY TRANSACTIONS

## New Roles and Responsibilities

Throughout these materials, we will make repeated reference to the Professional Standards. These are now enshrined in the Legal Profession Act regulations (Regulation 8.2) and are part of your certification when you submit your final AFR (electronic Form 6). It is the writer's view that this changes the prior law as enunciated by Carver, J. in *Hebb v. Woods* (1996), 150 N.S.R. (2d) 16 (S.C.) and that they are now directory rather than advisory. In any event, they are now part of the regulatory and certificatory framework under which we operate and, presumably, we are as liable as we would be for any other negligent certification or opinion.

The point to remember is that the Standards are not static. They are frequently amended and annotated and are available online at [http://www.lians.ca/real\\_estate/standards/](http://www.lians.ca/real_estate/standards/) (downloading the searchable pdf to your desktop can pay rewards, remembering to update as necessary).

Pay particular attention to the directory "must," the advisory "should" and the permissive "may" in the wording of the standard under consideration.

## THE PROPERTY ONLINE SYSTEM

*Property Online* ("POL") is an Internet browser application that provides online access to land-ownership and related information collected through the province's Land Registration Offices ("LRO"), Registries of Deeds and other sources. The POL database contains ownership information, including property maps, for more than 540,000 properties in Nova Scotia, and is available to subscribers.

Law firms must subscribe to use the LRA system. Go to [Property Online](#) and click in the "Subscribe to Property Online" box. The types of functionality will depend on whether you have been accredited as a qualified lawyer, whether you have enrolled for e-submission, and so on (the links to the functions not licensed to you will not work).

Others can obtain more limited subscriptions that are query-only or (for surveyors) query+PDCA.

Subscribers can view maps of land parcels at various levels of magnification. Maps can also display topographical monuments such as houses and road centre lines, and the service can be used to create and print customized maps.

The following information can be queried by all subscribers:

- Property ownership data on a province-wide basis (updated continuously as documents are processed by staff). Assessment information on a province-wide basis (updated every two weeks).
- Grantor Grantee Index (GGI) information for all counties (updated continuously as documents are processed by staff). Start dates vary from county to county but are generally now in the 19th century or before. Most documents and plans are now scanned and this will be completed eventually.
- Property tax information for various municipalities throughout the province (updated nightly), with links to order a tax certificate (provided in partnership with the municipalities). Note: Some municipalities restrict access to authorized lawyers.

*Property Online* provides access to land ownership information for the entire province from your computer. The information can be searched by Parcel Identification Number (PID), owner name, assessment account number, civic address, and geographic location (e.g. town, county).

### Computer Requirements for Access to *Property Online*

To access *Property Online* efficiently you will need hardware sufficient to operate the system. For details regarding the requirements visit Service Nova Scotia [Computer Requirements](#) page.

#### ***Certified Browsers***

Explorer is generally tested for functionality (although some configurations with Vista and very recent updates may pose some problems for a time). The author generally uses Chrome with success. Other browsers are less used.

#### ***Non-Windows Configurations***

PLEASE NOTE: The Government of Nova Scotia is not formally testing the new land registration application against non-Windows configurations and are therefore not fully guaranteeing this compatibility.

#### ***Screen Resolution***

The screen presentations in *Property Online* have been designed for use with a display resolution of 1024 by 768 pixels. While you will still be able to view the screens at lower resolutions, it will involve continual scrolling, both up and down, and side to side in order to view all of the information. The recommended display resolution is 1024 by 768 pixels.



## Types of Users

Type of Access	Description of Access	Who can be a user?
<b>Query Access Only</b>	Allows the user to query land- ownership and related property information	Anyone who enters into a Query Access User Agreement
<b>Parcel Certification (includes Query)</b>	Allows the user to query land- ownership and related property information and electronically submit Parcel Description Certification Applications on behalf of parcel owners	Individuals authorized by the Land Registration Administration Regulations (initially only lawyers and surveyors) who have taken required training and have entered into a Parcel Certification User Agreement
<b>Authorized Lawyer (includes Parcel Certification and Query)</b>	Allows the user to query land- ownership and related property information, electronically submit Parcel Description Certification Applications and electronically submit draft and final form Applications for Registration on behalf of parcel owners	Practicing, insured members of the Nova Scotia Barristers' Society who have completed the required education sessions and have entered into an Authorized Lawyer User Agreement
<b>Account Administration</b>	Allows an enterprise to establish one account for multiple users (cost savings), establish users and change passwords	Any enterprise (firm or company) that enters into an Account Administration Agreement

## Cost of Subscribing

A [monthly subscription fee](#) provides up to five hours of online search time, regardless of the user type. Additional search time is charged per hour. Through a special Account Administration User Agreement, multiple users in one enterprise may set up one account for billing purposes, which will reduce the per user cost of POL access. Government departments and municipalities that have entered into data sharing agreements with the Province should contact the POL toll free number for information on subscription costs.

## How to Subscribe

To subscribe to POL you must sign a *Property Online* User Agreement with Service Nova Scotia and Municipal Relations, the government department responsible for this service.

A lawyer can subscribe to POL prior to the completion of the mandatory LRA Qualification Assessment and become a query user; however, access to the PDCA and AFR processes will not be permitted until it has been certified by the Society that the qualification assessment has been successfully completed. The Society will forward the list of those who have successfully completed the assessment, and who are practicing insured members of the Society, to SNSMR; it will be up to you to complete the subscription and authorized user agreements.