

Subject: **DEALINGS WITH PROVINCIAL CROWN INTERESTS**

BACKGROUND

Provincial Crown land which is registered in the name of "His majesty the King in right of Alberta as Represented by [specific Minister of the Crown]" remains under the administration of one minister until either administration or the fee simple estate is transferred in accordance with authorizing legislation (1) When a transaction is between ministers, administration is dealt with rather than the fee simple estate since the estate continues to vest in His majesty as legal owner of the land. When a transaction is between a minister and a Crown corporation, the fee simple estate passes rather than administration as the Crown and a Crown corporation are separate legal entities, even though the corporation may be an agent of the Crown.

The minister, acting minister, deputy minister or acting deputy minister of the department shown on the certificate of title is generally authorized to deal with titled Crown land and Crown interests in land. (2) Approval by the Lieutenant Governor in Council is required in some cases. (3) When documents executed by the minister or deputy minister of the department shown on the certificate of title are received for registration, it is assumed that all required consents and approvals have been obtained and that the minister or deputy minister is authorized to execute the documents submitted.

If a department wishes to deal with property registered in the name of the Crown as represented by the minister of another department, documentation transferring administration to the minister of the department that wishes to deal with the land must be registered or enabling legislation identified. Except where an order-in-council is made, the transfer of administration from one minister to another must be consented to by the transferee.

Provincial legislation that empowers Ministers to act on behalf of the Crown permits the minister to delegate authority to employees of the department for which the Minister is responsible. (4) A statement in the document verifying that the signatory has been authorized by the Minister or Deputy Minister to execute the document is sufficient for registration. Their printed name and position must be provided.

REGISTRATION PROCEDURE

A. TRANSFER OF ADMINISTRATION

1. **Orders-in-Council** - An order-in-council may be used to transfer administration of Crown land to another Minister and is required if administration of 640 acres or more is being transferred. (5) A photo copy of the order is registered document code ORIC to

change the department designations and addresses shown on all certificates of title affected by the order. Orders-in-Council can be verified by accessing the Government of Alberta website and searching Publications.

2. **Ministerial Orders**

(a) Unless specifically provided otherwise in an Act or Order-in-Council, any Minister of the Crown may transfer the administration of land less than 640 acres under his administration to any other Minister. (6) A signed copy of the ministerial order transferring administration. Ministerial Orders can be signed by an authorized person as stated in the last paragraph of the BACKGROUND. They must state that they have been authorized to sign the document.

(b) If a transfer is submitted for 640 acres or more, and is not accompanied by an order in council, then the express statutory authority for such transfer must be set out and it must be other than s. 12 of the Public Lands Act.

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Order – New Title

The code used for registration at Land Titles is: ORDT

3. **Transfers** - A (FORM 8) or (FORM 10) transfer executed by a minister or deputy minister may also be registered to transfer administration of land less than 640 acres in area to another minister of the Crown. The words "all my estate and interest in" in the form should be replaced with "administration of". The Change of Name (CHAN) screen is used to register the instrument.

4. **Public Lands Within Special Areas** – All public lands within Special Areas is under the Administration of the Minister of Municipal Affairs c/o Special Areas Board, notwithstanding that a certificate of title may be shown to be under the administration of another Minister. (7)

B. **TRANSFER OF LAND**

1. Transfers of land from the Crown to a person other than the Crown (except tax recovery transfers under the Municipal Government Act) are processed in the same manner as any other transfer except that normal dower and attestation requirements need not be complied with. (8) If the transfer has been executed by someone other than the minister or deputy minister of the department shown on the certificate of title, the minister's seal on the document or a certified copy of the applicable written delegation of authority will be accepted as evidence of authority.

2. A (FORM 8) transfer of land is usually used to transfer the fee simple estate in land to and from a Crown corporation. However, other documents affecting a transfer will be accepted for registration if authorized by legislation. (9)

C. OTHER DOCUMENTS SUCH AS UTILITY RIGHTS OF WAY, EASEMENTS, LEASES, DISCHARGES AND TRANSFERS OF INSTRUMENTS OR CAVEATS

Other documents such as utility rights of way, easements, leases, discharges and transfers of instruments or caveats protecting Crown interests, and other dealings with Crown interests, are processed in the usual manner except that normal attestation requirements need not be complied with. (6) If the document has been executed by a person other than the minister or deputy minister of the department shown on the certificate of title, a statement contained in the document indicating that the signatory has been authorized by the minister or deputy minister to execute the document will be accepted as evidence of authority.

D. DELEGATION OF AUTHORITY TO EXECUTE DOCUMENTS

1. A delegation of authority signed by a minister or deputy minister authorizing a person to sign a general class of documents may be registered using the General Power of Attorney (POWG) screen.
2. If the authority to execute documents has been delegated to any person holding a specific position in a department, the position of the person who executes a document submitted for registration should be indicated on the document.

STATUTE AND CASE REFERENCES

Statute references are to the Public Lands Act, R.S.A.2000, c. p-40, unless otherwise indicated.

1. s. 12; s. 7(m), Special Areas Act, R.S.A. 2000, c. S-16; s. 10, Schedule 11, Government Organization Act, R.S.A. 2000, c. G-10; s. 3, Schedule 14, Government Organization Act
2. s. 21, Interpretation Act, R.S.A. 2000, c. I-8
3. s. 12(1)
4. s. 9, Government Organization Act
5. s. 12(1)
6. s. 12
7. s.3, Special Areas Act
8. s. 159(j), Land Titles Act, R.S.A. 2000, c. L-4
9. for example, s. 7(d) and 12