

# Municipal Government Act

## CHAPTER 18 OF THE ACTS OF 1998

*as amended by*

2000, c. 9, ss. 32-37, 39, 41-60; 2000, c. 28, s. 85; 2001  
c. 6, s. 119(1), (2), (4)-(8); 2001, c. 14, ss. 2, 3; 2001, c. 35, ss. 2-28;  
2002, c. 6, s. 56; 2002, c. 10, s. 22; 2002, c. 36, ss. 1-3; 2003, c. 9,  
ss. 49-95; 2004, c. 4, s. 116; 2004, c. 7, ss. 2-20; 2004, c. 38, s. 26;  
2004, c. 44; 2005, c. 9, ss. 6-15; 2005, cc. 22, 55; 2006, cc. 38, 39, 40;  
2007, c. 9, ss. 31, 32; 2007, c. 47; 2008, c. 25 (except s. 9); 2008, c. 26;  
2008, c. 36, ss. 4, 5; 2008, c. 39, ss. 387-389; 2010, c. 22; 2010, c. 64,  
ss. 1, 2; 2011, c. 4, ss. 6-9; 2011, c. 17, ss. 2, 3; 2011, c. 41, s. 142; 2011,  
c. 68, s. 29; 2012, cc. 27, 28; 2012, c. 63, ss. 1-4; 2014, c. 16, ss. 12, 13;  
2014, c. 21; 2015, c. 23; 2015, c. 24, ss. 1-3; 2016, c. 12, s. 1; 2016,  
c. 13, ss. 1, 2; 2016, c. 25, ss. 1, 2; 2017, c. 13, ss. 1, 4, 5, 9, 10



© 2018 Her Majesty the Queen in right of the Province of Nova Scotia  
Published by Authority of the Speaker of the House of Assembly  
Halifax

(10) A decision of the Minister of Natural Resources may be appealed within thirty days to the Supreme Court of Nova Scotia.

(11) Where land ceases to vest in Her Majesty in right of the Province pursuant to this Section, the land is deemed never to have vested in Her Majesty pursuant to this Section.

(12) Where a dominant tenement vests in Her Majesty in right of the Province pursuant to this Section, an easement or a right-of-way appurtenant to it passes to Her Majesty, and where a servient tenement vests in Her Majesty pursuant to this Section, the vesting does not terminate or affect an easement or a right-of-way to which it is subject. 1998, c. 18, s. 135.

#### **Personal claims on Crown land**

**136 (1)** A person who claims to own land that vests in Her Majesty in right of the Province pursuant to this Act may apply to the Supreme Court of Nova Scotia for an order declaring what rights that person would have had to the land if the land had not vested in Her Majesty, and the Court may direct that any necessary inquiries be made and may finally adjudicate the matter.

(2) An application pursuant to subsection (1) may be made within ten years after the land vests in Her Majesty in right of the Province or, where the person who claims to own the land is under the age of nineteen years or of unsound mind when the land vests in Her Majesty, within ten years after that person attains the age of nineteen years or becomes of sound mind, but no application may be made more than twenty years after the land vests in Her Majesty.

(3) Where the Supreme Court of Nova Scotia determines that a person owns land that has vested in Her Majesty in right of the Province pursuant to this Act, the Minister of Natural Resources, in the Minister's absolute discretion, shall

(a) pay to that person the value of the land at the date the land vested in Her Majesty, less

(i) the amount of taxes, interest and allowance for expenses paid by the Minister, and

(ii) any grants in lieu of taxes that may have been paid with respect to the land; or

(b) upon payment of the amount of taxes, interest and allowance for expenses paid by the Minister and any grants in lieu of taxes that may have been paid with respect to the land, convey the land to that person. 1998, c. 18, s. 136.

#### **Tax sale property list**

**137 (1)** Where land is to be sold for taxes, a list of the properties to be put up for sale shall be prepared setting out, with respect to each lot

- (a) the name and address of the person assessed;
- (b) a brief description of the lot sufficient to identify and locate it;
- (c) the amount of arrears, including interest; and
- (d) the years in which the arrears were levied.

(2) The tax sale list, or a copy certified by the treasurer, is conclusive evidence of the facts stated therein. 1998, c. 18, s. 137.

#### **Tax sale preliminary notice**

**138** After the tax sale list is compiled, the municipality shall mail to each owner named in the list a preliminary notice setting out the information contained in the list with respect to the person and advising that the property is liable to be sold for the arrears, with interest and expenses, and that tax sale procedures will be commenced and costs expended unless the arrears are paid within fourteen days of the date of the preliminary notice, or such longer period as the council may, by policy, prescribe. 1998, c. 18, s. 138.

#### **Title search and survey**

**139 (1)** After the time set out in the tax sale preliminary notice has expired, a title search shall be conducted for each property on the list for which the taxes have not been paid.

(2) The cost of the title search, from the date it is ordered, is part of the expenses of the sale and a lien on the property for which it is ordered.

(3) Where the treasurer determines that a survey of the property is necessary for the proper identification and description of the land to be sold, a survey may be undertaken before or after the sale.

(4) The cost of a survey, from the date it is ordered, is part of the expenses of the sale and a lien on the property for which it is ordered and where the survey is not undertaken prior to the sale, the expenses of the sale shall include an estimate of the cost of the survey.

(5) Where the title search or survey is done by an employee of the municipality, the cost included in the expenses of the sale is the amount determined by the treasurer to be the reasonable cost of having the same work performed by a solicitor or surveyor in private practice. 1998, c. 18, s. 139.

#### **Application to court by treasurer**

**139A (1)** The treasurer may apply to a court of competent jurisdiction for

- (a) an order that there are arrears of taxes respecting a property proposed to be sold for taxes that would allow the sale;

(b) an order prescribing that upon the sale the tax deed will convey all outstanding interests in the property, or subject to such interests in the property, or subject to such interests as the court may specify; and

(c) directions respecting the manner in which notice may be provided, the persons to be notified and such other matters respecting the carrying out of the sale as the court deems appropriate.

(2) The court may require that persons appearing to have an interest in the property other than the assessed owners be notified of the tax sale.

(3) The court may require that any person appearing to have an interest in the property, whether that person is assessed for that interest or not, be given an opportunity to appear on the application.

(4) A tax sale conducted pursuant to an order obtained under this Section is not open to challenge on any grounds and a tax deed of the property so sold conveys a fee simple interest in the property sold, free and discharged of all encumbrances, charges and liens, except any right to redeem pursuant to Section 152, and subject to the exceptions in subsection 156(3) and any exceptions, exclusions or partial interests set out in the order of the court. 2003, c. 9, s. 54.

#### **Notice of intent to sell**

**140 (1)** Upon completion of the title search and any survey, the owner of each lot and a person with a mortgage, lien or other charge on the land shall be served with notice of intent to sell the land for taxes.

(2) The spouse of each owner of a lot referred to in subsection (1) shall be notified in accordance with the *Matrimonial Property Act*.

(3) The notice shall contain

(a) a general description of each lot of land;

(b) the amount of arrears of taxes and expenses incurred to date, the year or years in which they were levied and the person in whose name the land was then assessed;

(c) a statement that the land is liable to be sold for the arrears with interest and expenses of, and incidental to, the sale unless they are paid within sixty days from the date of the notice;

(d) an estimate of the total expenses that would be incurred if the property is sold for taxes;

(e) the proposed date of the sale;

(f) a statement to the effect that if the owner challenges the right of the municipality to set the land up for sale the owner should obtain legal advice and contact the municipality. 1998, c. 18, s. 140.

**Public auction**

**141 (1)** Unless the arrears of taxes, interest and expenses are paid, the treasurer shall proceed to sell land liable to be sold for taxes at public auction.

**(2)** The treasurer may, with the consent of the council, call tenders for property rather than put the property up for sale at public auction.

**(3)** The council may direct the treasurer as to what constitutes an acceptable minimum tender or bid, if the treasurer is of the opinion that the property might not realize sufficient to cover the outstanding taxes, interest and expenses.

**(4)** Where lands to be sold for taxes are partly in one municipality and partly in another, the treasurer may sell the entire lot if

(a) notice of the sale is given to the other municipality;  
and

(b) the taxes, interest and expenses due to the other municipality are included in the amount for which the land is to be sold,

and the taxes, interest and expenses shall be paid to the other municipality forthwith after the sale. 1998, c. 18, s. 141.

**Tax sale advertisement**

**142 (1)** After the notice of intent to sell land for taxes has been served

(a) the land liable to be sold for taxes shall be advertised for sale at public auction; or

(b) tenders shall be called for the land.

**(2)** Notice of the sale at public auction or the call for tenders shall be published

(a) at least twice prior to the sale or when tenders close in a newspaper circulating in the municipality;

(b) with the first advertisement appearing at least thirty days prior to the sale or when tenders close; and

(c) setting out each lot of land to be sold and the date, time and place of the sale or when tenders close.

**(3)** It is sufficient to state in the advertisements the street and number of a property advertised or to include any other such short reference by which the property may be identified, together with a statement that a full description can be seen at the office of the treasurer. 1998, c. 18, s. 142.

**Municipal purchase of tax sale property**

**143 (1)** A municipality, by an official or agent, may bid for and purchase land at a tax sale for any municipal purpose.

(2) Where no bid is received for land sufficient to satisfy the full amount of the taxes, interest and expenses due in respect of the land, the treasurer may bid the amount of the taxes, interest and expenses and purchase the land for the municipality.

(3) Where a municipality purchases land at a tax sale the subsequent proceedings shall be the same as for a purchase by another person.

(4) Where no bid is received for any land sufficient to satisfy the full amount of the taxes, interest and expenses due in respect of the land and the municipality does not purchase the land, the municipality may, without further notice to the owner and encumbrancers, again advertise the property and

- (a) sell it at auction for the best price that may be obtained;
- or
- (b) call tenders for the property and sell it for the highest tender,

and the council may direct the treasurer as to what constitutes an acceptable minimum bid or tender price.

(5) Subsections 142(2) and (3) apply to the advertising referred to in subsection (4). 1998, c. 18, s. 143; 2003, c. 9, s. 55.

#### **Conflict of interest**

**144 (1)** *repealed 2001, c. 35, s. 11.*

- (2) No
  - (a) council member or employee of a municipality that sells land for arrears of taxes;
  - (b) member of a village commission or employee of a village that sells land for arrears of taxes;
  - (c) spouse of a person referred to in clause (a) or (b); or
  - (d) company in which a person referred to in clause (a), (b) or (c) owns or beneficially owns the majority of the issued and outstanding shares,

shall purchase the land at the sale either directly or through an agent.

(3) A person who contravenes this Section is liable, on summary conviction, to a penalty of five thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months.

(4) Where there is a conviction pursuant to subsection (3), the relevant person referred to in clause (2)(a) or (b) forfeits their office or employment, as the case may be. 1998, c. 18, s. 144; 2001, c. 35, s. 11.

**Arrears**

**145** Where a municipality collects taxes for a village, service commission or any other body, the arrears of the taxes are deemed to be those of the municipality in all proceedings for the sale of land for taxes. 1998, c. 18, s. 145.

**Investment of purchase money**

**146 (1)** The purchase money received at a tax sale shall be applied, so far as it extends

(a) firstly, to payment of the taxes, interest and expenses owing with respect to the land;

(b) secondly, to payment of any taxes due by the owner of the land to a village;

(c) thirdly, to payment of any other taxes, charges for water or electricity and other sums due by the owner to the municipality that are not a lien,

and the balance shall be deposited to the credit of the tax sale surplus account.

**(2)** Where the land sold for taxes is redeemed, the balance shall be applied to reduce the amount that the person redeeming is required to pay.

**(3)** Where the owner of land sold for taxes owes the municipality any taxes or charges not secured by a lien on the land sold, the taxes or charges may be paid from the balance.

**(4)** Except as provided in this Section, no part of the balance may be withdrawn from the tax sale surplus account during the period in which the land may be redeemed. 1998, c. 18, s. 146.

**Application for order directing payment**

**147 (1)** A person with an interest in land sold for taxes may apply to the Supreme Court of Nova Scotia for an order directing the payment of all, or part, of the balance to that person.

**(2)** An application pursuant to subsection (1) may be made at any time after the period of redemption has expired and before the expiry of twenty years from the date of the sale.

**(3)** Where the Supreme Court of Nova Scotia orders payment, the Court shall order the payment of that part of the balance proportional to the applicant's interest in the property before it was sold.

**(4)** Interest is not payable with respect to the payment of the balance and costs may not be awarded against the municipality on an application pursuant to subsection (1).

(5) Where a balance remains in the tax sale surplus account twenty years after the sale, the municipality shall transfer it to its capital reserve fund. 1998, c. 18, s. 147.

#### **Payment of purchase money**

**148 (1)** Payment at a tax sale shall be by cash, certified cheque, money order, bank draft, irrevocable letter of credit or lawyer's trust cheque and not otherwise.

(2) The purchaser at a tax sale shall immediately pay the purchase price or deposit a smaller amount equal to the taxes, interest and expenses for which the land was sold, failing which the treasurer shall forthwith put the land up for sale again.

(3) Where the balance of the purchase money is not paid within three business days, the land shall again be advertised and put up for sale.

(4) The expenses of the resale shall be deducted from the deposit and the balance shall be refunded after the resale is held. 1998, c. 18, s. 148; 2004, c. 7, s. 9.

#### **Tenders**

**149 (1)** Where a municipality calls tenders for land to be sold for taxes, the municipality may reject all tenders if

- (a) the price tendered is less than the taxes, interest and expenses; and
- (b) the council considers that the best price offered is inadequate,

and may again put the land up for sale, by tender or by public auction.

(2) Where a municipality calls tenders for land to be sold for taxes, the person whose tender is accepted shall pay the tender price within three business days after being notified of the acceptance.

(3) Where the balance of the purchase money is not paid within three business days, the land shall again be advertised and put up for sale.

(4) The expenses of the resale shall be deducted from the deposit and the balance shall be refunded after the resale is held. 1998, c. 18, s. 149.

#### **Sale certificate**

**150 (1)** After land is sold for taxes, upon payment of the purchase money the treasurer shall give the purchaser a certificate of sale, in Form C in Schedule A or to like effect, describing the land sold and stating the sum for which it was sold.

(2) The certificate shall state that a deed conveying the land to the purchaser, or as directed by the purchaser, shall be provided upon payment of the prescribed fee at any time after six months from the date of the sale, if the property is not redeemed.

(3) The treasurer shall register a copy of the certificate of sale in the registry.

(4) A copy of the certificate of sale shall be served on each owner of the land sold and, if the land may be redeemed, a notice that the land may be redeemed shall be included with the copy of the certificate of sale. 1998, c. 18, s. 150.

### **Purchaser rights**

**151** On receipt of the certificate of sale, the purchaser

(a) has all the rights of action and powers of an owner needed to protect the land and may collect rents due, or to grow due, and use the land without diminishing its value, but shall not cut down any trees on the land, injure the premises or knowingly allow any other person to do so;

(b) is not liable for damage done to the land without the purchaser's knowledge; and

(c) shall insure any buildings on the land, if the buildings are insurable, and is deemed to have an insurable interest in the land. 1998, c. 18, s. 151.

### **Redemption of tax sale property**

**152 (1)** Land sold for non-payment of taxes may be redeemed by the owner, a person with a mortgage, lien or other charge on the land or a person having an interest in the land within six months after the date of the sale, but where, at the time of sale, taxes on the land are in arrears for more than six years, no right of redemption exists.

(2) To redeem the land the person redeeming shall pay

(a) the sum paid by the purchaser;

(b) interest at the rate of ten per cent per annum on the total sum paid by the purchaser from the date of the sale to the date of redemption;

(ba) the full amount of any outstanding taxes arising before the tax sale where the purchaser paid less than the amount of the outstanding taxes on the land;

(c) taxes levied on the land after the sale and any interest;

(d) the fee to record the certificate of discharge;

(e) all sums paid by the purchaser for fire insurance premiums to insure buildings on the land; and

(f) all amounts paid by the purchaser for necessary repairs made, with the written approval of the treasurer, to buildings on the land,

less any balance remaining in the tax sale surplus account with respect to the property and any rent or other income earned by the purchaser from the land.

(3) Where the municipality buys the land, the taxes payable by a person redeeming are the amount that would be payable if the municipality did not own the land.

(4) Where redemption takes place before the tax rate is set, the taxes payable by a person redeeming are those payable for the preceding year and after the tax rate is set, any surplus shall be refunded to the person redeeming and the land is liable for any deficiency.

(5) Where property has been redeemed, a certificate of discharge in Form D in Schedule A, or to like effect, shall be prepared and registered in the registry.

(6) The registrar of deeds shall make a marginal note referring to the registry of the certificate of discharge on the recorded copy of the certificate of sale. 1998, c. 18, s. 152; 2008, c. 25, s. 3.

#### **Repayment to purchaser**

**153** (1) Where redemption of land is to take place, the purchaser shall, within fourteen days of being requested to do so, provide a statement of amounts spent for fire insurance premiums and repairs made, with the written approval of the treasurer, to buildings on the land.

(2) After delivery of the statement of amounts spent, the purchaser shall receive the

- (a) sum paid upon the purchase of the land;
- (b) interest on the purchase price; and
- (c) sums paid with respect to fire insurance premiums and repairs,

less any rent or other income earned by the purchaser from the property.

(3) A dispute concerning the amount to be paid for redemption or to be repaid to the purchaser upon redemption may be referred to the Supreme Court of Nova Scotia. 1998, c. 18, s. 153.

#### **Purchaser rights cease**

**154** From the time of the payment to the treasurer of the full amount for redemption, the purchaser of the land ceases to have a right to it. 1998, c. 18, s. 154.

**Deed to purchaser**

**155 (1)** At the request of the purchaser at a tax sale and upon payment of the fee determined by the council, by resolution, the municipality shall deliver a deed to the land in Form E in Schedule A, or to like effect, to the purchaser, or as directed by the purchaser, at any time after the

- (a) sale if, at the time of the sale, taxes on the land were unpaid for more than six years before the sale; or
- (b) expiration of six months from the sale, if the land has not been redeemed.

**(2)** The deed shall

- (a) fully describe the land conveyed;
- (b) be signed by the mayor or warden and the clerk; and
- (c) be under the seal of the municipality. 1998, c. 18, s. 155.

**Tax sale deed**

**156 (1)** A deed to land sold for taxes is conclusive evidence that the provisions of this Act with reference to the sale of the land described in the deed have been fully complied with and each act and thing necessary for the legal perfection of the sale has been duly performed.

**(2)** The deed has the effect of vesting the land in the grantee in fee simple, free and discharged from all encumbrances.

**(3)** Notwithstanding subsection (1), where a dominant tenement is sold for taxes, an easement or right-of-way appurtenant to it passes to the purchaser and where a servient tenement is sold for taxes, the sale does not terminate or affect an easement or right-of-way to which it is subject. 1998, c. 18, s. 156.

**Persons with lien, charge or encumbrance**

**157** A mortgagee, judgment creditor or other person having a lien, charge or encumbrance on land liable to be sold for taxes, or in respect of which taxes are due

- (a) may pay the taxes, interest and expenses;
- (b) may add the amount paid for taxes, interest, expenses and any amount paid to redeem the property after a tax sale to the mortgage, judgment or other security;
- (c) has, in respect of the amount paid, the same rights, remedies and privileges as under the security; and
- (d) may sue for, and recover, the amount paid, with interest, from the person primarily liable to pay it. 1998, c. 18, s. 157.