



Association of Canada Lands Surveyors

ACLS Recommendations to modernize
the Act

March 12, 2020

Summary of proposed amendments

The proposal would modernize the Act by

Improving the complaints and discipline processes through greater transparency (Annex A);

Transferring administrative responsibilities from Regulations to By-laws (Annex B);

Aligning with Labour mobility provisions with the Canadian Free Trade Agreement (Annex C)

Amend incompatibilities between the English and French versions of the Act. (Annex D)

Problem Definition (Proposed Amendment - Fix)

Person may have a commission as a Canada Lands Surveyor without being a member of the ACLS, hence not subject to the act and regulations. (Amend Section 2 – Definition of "Canada Lands Surveyor".)

Delays in the Minister's appointments creates vacancies on Council and the Complaints and Discipline committees. This slows down the processes and the resolution of complaints. (Amend Subsections 17 (1) and 17 (2) Related to Subsection 13 (e) – Such that the "current" Minister's appointments of non-members to Council remain in place until "new" appointments are confirmed.)

First, the complaints committee recommends to Council. Council (elected body) should be left out of complaints and discipline processes. Second, complaints committee either dismisses or recommends for disciplinary hearing. The Complaints Committee should be allowed to find and implement resolutions. (Amend Section 25 to remove Council and to allow complaints committee to seek resolutions.)

Impact

Protection of the Canadian public, the reputation of the profession, and the integrity of the Canada Lands survey system

Improve Council's decision making and the Complaints and Discipline processes. Improve Canadian economy and the safety of Canadians.

Excluding Council and providing the Complaints Committee the authority to take such action as it considers appropriate to resolve a complaint provides more transparency and protection of the Canadian public while streamlining the complaints and discipline processes.



ANNEX A – (Continued)

Protecting the Canadian public through greater transparency and improved complaints and discipline processes

Problem Definition (Proposed Amendment - Fix)

A complainant may charge a member (The issuing of a charge should be left to the Association Amend Paragraphs 25 (5) (b) and Subsection 25 (6) removing the complainant's right to lay a charge. In Section 28 replace Council with the Complaints Committee.)

Even after the Complaints Committee finds grounds for potential disciplinary actions the member is permitted to continue practicing until the disciplinary hearing is complete. There may be strong evidence of professional misconduct or incompetence.

(Amend Section 25 to provide the Complaints Committee the authority to temporarily suspend a member in circumstances where the public may be at risk (e.g. mental illness, increase potential of boundary disputes etc....)

Impact

Transparency, fairness and protection of the public.
Improve the profession's reputation.

Excluding Council from the complaints and discipline processes and providing the complainant a right of appeal provides more transparency and protection of the Canadian public while streamlining the complaints and discipline processes.

Transparency, fairness and protection of the public.
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Providing the authority to temporarily suspend a member provides more transparency and protection of the Canadian public while streamlining the complaints and discipline processes.

ANNEX A – (Continued)

Protecting the Canadian public through greater transparency and improved complaints and discipline processes

Problem Definition (Proposed Amendment - Fix)

The member subject to the potential of disciplinary actions may be in agreement with the findings of the Complaints Committee and willing to forego a formal hearing.

(Amend Section 25 as an alternative to a formal discipline hearing providing the Discipline Committee the authority to apply sanctions within the meaning of the act.)

The Association does not have the authority to continue with any authorized disciplinary or legal action if it is unable to obtain a response from a person under investigation.

(Add new Section(s) to provide the authority to compel the member to respond within a prescribed period and additionally, if the person under investigation is uncooperative or unresponsive, to provide the authority to carry out any disciplinary action authorized by the legislative framework.)

Impact

Transparency, fairness and protection of the public.
Improve the profession's reputation.

Allows the complaints and discipline processes to move forward in a timely fashion while improving its effectiveness.

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Provides more transparency and protection of the Canadian public while streamlining the complaints and discipline processes allowing the processes to move forward in a timely fashion.

ANNEX A – (Continued)

Protecting the Canadian public through greater transparency and improved complaints and discipline processes

Problem Definition (Proposed Amendment - Fix)

The Discipline Committee does not have the authority to compel a witness to appear at a Discipline Committee hearing. (Amend Section 31 to provide the authority to the Discipline Committee to compel a witness to appear and give evidence at a Discipline Committee Hearing.)

Ability to serve notices by regular mail. (Amend Section 71 to allow for the delivery of notices or documents by electronic means.

The public, and particularly the media, may view the profession as lacking openness and transparency in managing its complaints and discipline processes. (Add new sections to establish that, when all public security, privacy (personal) rights, and individual safety can be preserved, discipline hearings are public.)

Impact

Transparency, fairness and protection of the public. Improve the profession's reputation.

Allows the complaints and discipline processes to move forward in a timely fashion while improving its effectiveness.

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Openness, transparency, fairness and protection of the public. Improve the profession's reputation.

ANNEX A – (Continued)

Protecting the Canadian public through greater transparency and improved complaints and discipline processes

Problem Definition (Proposed Amendment - Fix)

The Discipline Committee has the authority to “impose... a penalty not in excess of \$10,000” Considering the legislation was enacted in 1999 the amount of the penalty is considered insufficient (applying an annual inflation rate of 5% for 20 years to \$10,000 in 2019 \$ yields nearly a \$25,000).

Amend the act such that the amount of the penalty shall be established by and specified in the regulations.

Impact

Transparency, fairness and protection of the public.
Improve the profession’s reputation.

Allows the Association to work with the Minister to set the penalty at a reasonable level from time to time without having to amend the Act every time.

Bring in-line with today’s economy. Increase deterrent.

Alleviating the regulatory burden by transferring administrative responsibilities to the appropriate legal instrument

Problem Definition (Proposed Amendment - Fix)

A number of current regulations are administrative in nature and therefore would be more appropriate as by-laws. (Amend Subsection 18 (1) Authority to make by-laws (administrative) and Section 62 (regulatory) authority to make regulations under Minister's scrutiny and approval to move certain items of a more administrative nature from regulations to by-laws.)

In changing the authority to make Regulations and By-laws by moving several items from regulations to by-laws a transition and transfer is required.

Amend the act such that all existing regulations under Canada Lands Surveyors Regulations SOR/99-142 for which the authority is transferred to making by-laws are automatically moved in bulk to the Association of Canada lands Surveyors By-Laws.

Impact

This will serve to reduce the regulatory burden on both the Association and NRCan. (Nota: Complaints and Discipline processes remain under the act).

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This will provide for a seamless transition.

Problem Definition (Proposed Amendment - Fix)

The Act requires the Registrar to keep all records and documents related to the examination of candidates. When the Canada Lands Surveys Act was split in two, it required NRCan to turn over all relevant records to the ACLS.

Repeal Section 34 (3) of the Act since this was a transition clause and the requirements under Section 34 (3) of the act are considered to be spent.

Impact

ACLS may dispose of unnecessary documents

Problem Definition (Proposed Amendment - Fix)

The Act outlines the conditions for a licence. It does not address Labour Mobility in Canada. Currently, along with provincial land surveyor associations, the Association of Canada Lands Surveyors is a signatory to the “Mutual Recognition Agreement on Labour Mobility for Land Surveyors in Canada”. This agreement is in line with the most recent (2017) “CANADIAN FREE TRADE AGREEMENT”.

(Amend Section 52 to provide for Labour Mobility across Canada by adding that the Association will deal with a member in good standing with the right to practice in another jurisdiction in Canada by respecting the requirements of the “CANADIAN FREE TRADE AGREEMENT” or any subsequent replacement.)

Impact

This will enhance labor mobility by aligning the Act with the Agreement on Internal Trade.

This will make the existing agreement between Canadian jurisdictions applicable.

<i>Problem Definition (Proposed Amendment - Fix)</i>	Impact
<p><i>The Senate’s Standing Joint Committee for the Scrutiny of Regulations requested that the French and English versions of Section 53 of the Act be harmonized.</i> (Amend Section 53 of the Act in order to harmonize the English version with the French version.)</p>	<p>Consistency</p>
<p><i>There is one other section where the English version is inconsistent with the French version.</i> (Amend Sections 68 such that the English version is equivalent to the French version.)</p>	<p>Consistency</p>