

Registrar General's Directive
Pursuant to Subsection 10(14) of the *Land Registration Administration Regulations*
“Necessary Changes”

If an AFR includes a benefit/burden on the parcel being registered, the submitting lawyer is required to identify any parcels which are affected by the corresponding benefit/burden, and to comply with the requirements in Regulation 14:

- unless it is a burden which is in favour of a public utility, an unidentified utility, or a municipality or is in the form of restrictive covenants-(see Regulation 16), or
- unless a registrar determines it is not practicable to do so (see Regulation 17).

Some questions have been raised by members of the practicing bar as to the extent to which the rules in Regulation 14 apply to an AFR process. The RG's office has received feedback from members of the real estate bar as to how Regulation 14 should be interpreted in the context of an AFR and the interplay between Regulations 14 and 22. Consultations and discussions are ongoing. In the interim, this directive is meant to provide clarification to the practitioner on the steps to be taken and to provide new directions to the real estate bar on the Regulation 17 exemption and a new blanket exemption regarding condos.

The general rule set out in Regulation 10, and Regulations 14-18 is that there ought to be a match between all parcels affected by benefits/burdens, whether arising on an AFR or after, except where to do so gives rise to issues of conflicting professional opinions, or the impracticability of effecting a match. Where it is appropriate to do so, an exemption may be sought under Regulation 17. This directive gives guidance as to how an application for exemption will be considered by the RG's office.

The Directive:

1. If you are a submitting lawyer on an AFR and are of the opinion that there are benefits/burdens that are part of the title being registered, then as the submitting lawyer, you must first consider the following:

A. Can you identify the other parcels affected by the benefits/burdens that you opine are part of the title you are registering ?

If you cannot identify the other parcels affected, or if it is not practicable to identify the parcels, then you may consider seeking an exemption under Regulation 17 to allow you to identify in the AFR the corresponding affected parcels as “various PIDs”. (see below- Regulation 17 exemption).

All requests should be directed to the Register General. An Email to RGLandTitles@gov.ns.ca is the most expedient way to contact the Registrar General.

B. How many “flip-side” parcels are affected by the benefits/burdens in the parcel you are registering?

- If the number of parcels is large and thus makes it impracticable (eg. large cost and/or administrative burden) to comply with Regulation 14, then you may consider seeking an exemption under Regulation 17 or at least a direction for substituted service of the Form 8s.

2. If the corresponding parcel (“flip-side” parcel) is an LR registered parcel

A. Match

(i) If the corresponding benefit/burden in the “flip-side” parcel is already included in the parcel register (ie. there is no mismatch), you do not need to take any further action.

(ii)-If the corresponding benefit/burden in the “flip-side” parcel is identified as “Various Owners” or “Various PID’s” and a review of the PDCA and the enabling instrument on the parcel register lead you to conclude that it is the same benefit/burden, then a match is presumed, and you do not need to take any further action.

Note: In order to allow LRO staff to identify a Form 6A or 24 where the lawyer has opined that the “flip-side” is already present in the corresponding parcel register(s), an extra box has been added in italics to the prescribed versions of the forms. In order to prevent a rejection, please use this version of the form in either of the above two scenarios.

B. Mismatch

(i)- If, as the submitting lawyer on an AFR, you are of the opinion that it is an error that the corresponding benefit/burden was not included in the “flip-side” parcel register, then you may contact the original certifying lawyer to see if he/she will either correct the parcel register, or will allow you to correct the parcel register, if the lawyer is unable to do so, using a Form 6A (see the requirements in Regulation 22 which require a lawyer who is notified of an error to correct that error). In many cases, it is expected that the certifying lawyer will fulfill his/her obligations to correct the parcel register and will respond in a collegial fashion, if the lawyer agrees there was an error. Once the benefit/burden has been added using a Form 6A, and the parcel description is amended to add the reference to the benefit/burden, no further action needs to be taken.

(ii)-If the certifying lawyer disagrees that there has been an error (either as a matter of professional judgment or for example because the benefit/burden is outside of the certifying lawyer’s marketable title search period) and is, therefore, not willing to file a correcting Form 6A, and you remain of the view that the benefit/burden is still appropriate for the property you are registering, you may consider contacting the RG’s office for assistance. While the RG may not adjudicate a title dispute, the RG’s Office has been very helpful in resolving issues of differences of opinion between lawyers.

(iii)- If contact with the RG’s office does not result in a resolution of the disagreement but you remain of the view that that the benefit/burden is still appropriate for the property you are registering, you must, pursuant to Regulation 17, apply to the RG in writing for an exemption from the requirement to add the benefit/burden to the “flip-side” parcel [as required by Regulation 14 (2)], in a case where it would not be practicable to add the corresponding benefit/burden, given the difference of opinion.

Note: The RG may consider that one basis for being ‘satisfied’ pursuant to s.17 is that the objectives of notice can be met in another manner .

Note: If serving notice in Form 8 by personal service or registered mail is not practicable, you may seek directions for substituted service from the Registrar General (see Regulation 31).

Note: An amending PDCA is not required if the affected parcel is a condominium unit.

3. Non-LR registered parcels

If the corresponding benefit/burden affects a “flip-side” parcel which has not been registered under the LRA, then you must file a Form 8A under the *Registry Act*,

- on which you list the current owners of each of the affected parcels as shown on the Grantor/Grantee index (GGI- the consolidated index under the *Registry Act*) **or**
- you may list the owners as shown on Property Online for each of the parcels which is associated with an assessment account in Property Online; **or**
- you may obtain written directions from the Registrar General on how to reference the owners, if there is no assessment account associated with a parcel and the RG is satisfied that it would not be practicable to list the owners as shown in the Grantor/Grantee Index. Email your request for directions, outlining why it would be impracticable to: RGLandTitles@gov.ns.ca

Note: You must indicate in the relevant boxes on the Form 8A, the PID number of the parcel(s) being migrated which you are referencing in the benefit/burden in your AFR.

Note: Over 90% of the parcels shown in POL have an associated assessment account.

Note: There is no cost to record a Form 8A. When giving notice of a burden for a migrated parcel you must enter the apparent Dominant Tenement PID in the “Interest holder name” in the box. Only one Form 8A needs to be used to list all of the non LR affected parcels.

4. Regulation 17 exemption requests

If you believe that it would not be practicable to identify or add a corresponding benefit/burden to other affected parcels, or if you are in the position as described in Paragraph 2B(iii), then you may request an exemption, in writing, from “a registrar”, although practically, any registrar will be directed in this regard by the RG. The exemption, if granted, may incorporate directions on how the PID(s) should be identified, what information must be included in a textual qualification on your AFR, if any notice is required, and if so, to whom, or any other terms or conditions of the exemption to be granted. When you have complied with the exemption directions, you will not be required to take any further action under Regulation 14.

For example, if it is not practicable to identify the PID(s), you will be allowed to indicate on the AFR that the “flip-side” is “various PIDs”. Please note that a large number of affected PIDs does not necessarily mean that it is not practicable, although this may be a factor in the RG’s decision. Other factors may include: difficulty in identifying the affected PIDs (which can include extent of title issues) or large additional cost or administrative burden in adding the corresponding benefits/burdens. The RG will consider the circumstances in each case and may permit “various PIDs” for all of the PIDs or may require you to comply with Regulation 14 in relation to some of the PIDs but allow you to use “various PIDs” for the some of the affected parcels.

Requirement for textual qualification with “Various PIDs”:

When granted an exemption under Regulation 17, you must add a textual qualification in the AFR, providing additional information about the benefit/burden on the parcel being registered and cautioning that the corresponding benefit/burden may not be shown in the parcel registers of other affected “flip-side” parcels. The textual qualification must be pre-approved by the Registrar General.

Blanket “Various PIDs” exemption for corresponding benefits/burdens affecting condos:

In the case where the corresponding benefit/burden affects units in a condominium corporation, and you believe it would be impracticable to comply with Regulation 14, then you may use the “Various PIDs” designation, without seeking permission from the RG, provided that you add the textual qualification as standardized by the RG’s office to the parcel being migrated. The RG will provide standardized language for the TQ, where possible.