

Guideline Form 5

Purpose of Form: To provide a declaration by each registered owner of a parcel regarding their residency status and any occupation of the parcel without permission

Instrument Type: N/A

LR or ROD: This document is not recorded under either system.

Mandatory E-Submission Applies: No (not a recordable document)

Accompanying Instrument Required: No

Fee Required: No

Description of Use of Form:

This form is one of the supporting documents required to be retained by an authorized lawyer who has registered title to a pursuant to subsection 10(6) of the *Land Registration Administration Regulations*. This form is to be retained on file and make available for review by the Registrar General upon request and/or audit by the Nova Scotia Barristers' Society.

This form provides information regarding any occupation without permission affecting any or the entire parcel on which an Application for Registration has been made. It also declares that the owner(s) is a resident or is a non-resident of the Province of Nova Scotia as defined by the *Land Registration Administration Regulations*.

All owners of a parcel are required to sign Form 5. Submission of Form 5 may be authorized by a person other than the owner of a parcel if the authorizing person;

is the mortgagee of a parcel and the owner of the parcel has refused to register title to the parcel;

is a non-owner who has permission from the owner to act in the place of the owner, and the document evidencing the permission has been recorded under the Act or registered under the *Registry Act*;

is a mortgagee who is the plaintiff in a foreclosure action respecting the parcel, or a receiver or trustee by way of assignment in bankruptcy or otherwise and has authority to act by virtue of a court order, debenture or

other document, and the document evidencing the authority has been recorded under the Act or registered under the *Registry Act*, or

is a person who has authority to act by virtue of a court order, debenture or other document, and the document evidencing the authority has been recorded under the Act or registered under the *Registry Act*.

An owner's declaration in Form 5 may be executed by an authorized lawyer or authorized surveyor, if the authorized lawyer or authorized surveyor is able to execute the declaration based on

- (a) Personal knowledge of the facts; or
- (b) Information received from the current or previous owner.

If a person executing an owner's declaration in Form 5 is an authorizing person under subsection (5), the Form 5 may indicate that the person executing the Form 5 has no personal knowledge regarding occupancy of the parcel.

If an owner's declaration regarding occupation in Form 5 discloses the existence of occupation without permission, the parcel owner must

- (a) immediately after submitting the AFR in final form, provide a notice of parcel registration in Form 9 to the occupier indicating that an AFR of the parcel has been made; and
- (b) submit a true copy of the notice sent to the occupier in Form 9 together with proof of service in accordance with Section 29, using Form 26N.

If at any time after registration of title to a parcel, a registered owner becomes aware that the declaration required under clause (6)(b) was not accurate, they must do all of the following without delay:

- (a) complete a new Form 5;
- (b) provide notice in Form 9 to any occupier;
- (c) submit a true copy of the notice and proof of service, as required by subsection (9), using Form 26N.

Supporting Form(s) / Document(s) required:

- This form is part of the documentation that the authorized lawyer is required to maintain for review or audit pursuant to subsection 10(6) of the *Land Registration Administration Regulations*.
- This form is not a recordable document.
- Land Registration Offices do not accept bundle documents for parcels registered on or after June 12, 2006.