

The Highways Act

being

Chapter 21 of *The Revised Statutes of Saskatchewan, 1920*
(assented to November 10, 1920).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER 21

An Act respecting the Department of Highways

SHORT TITLE

Short title

1 This Act may be cited as *The Highways Act*.

1917, c.7, s.1; R.S.S. 1920, c.21, s.1.

INTERPRETATION

Interpretation

2 In this Act, unless the context otherwise requires, the expression:

“Construction”

1. “**Construction**” means the original work of constructing a public improvement or opening or making a public highway;

“Ditch” or “drain”

2. “**Ditch**” or “**drain**” means a ditch or drain opened or covered wholly or in part, whether in the channel of a natural stream, creek or watercourse or not, heretofore or hereafter constructed, repaired, maintained or improved at the expense of the North-West Territories or of the province, and all the work and materials necessary for any bridge, culvert, catch basin or guards connected therewith;

“Engineer”

3. “**Engineer**” means a member or associate member of the Engineering Institute of Canada, or a surveyor duly qualified to practise in the Province of Saskatchewan;

“Ferry”

4. “**Ferry**” means a scow, barge or boat used for the purpose of carrying passengers, freight, vehicles or animals across a river, stream or other body of water and includes any cable and appliances connected therewith;

“Land”

5. “**Land**” includes any estate, term, easement, right or interest in, to, over, or affecting land;

“Maintenance”

6. “**Maintenance**” means the preservation and keeping in repair of a public improvement;

“Main highway”

7. “**Main highway**” means a highway which, in the opinion of the minister, (a) is or should be or is likely to be the main thoroughfare connecting two populous districts or parts of one district or municipality, or forms the principal means of approach to a city or town, or (b) is necessary or desirable for securing adequate means of communication between different parts of the province;

“Municipality”

8. **“Municipality”** means a city, town, village or rural municipality or a local improvement district;

“Owner”

9. **“Owner”** means a person having an estate or interest in land, at law or in equity, in possession, futurity or expectancy;

“Public highway”

10. **“Public highway”** means a road allowance or a road, street or lane, vested in His Majesty or set aside for such purpose under the provisions of *The North-West Territories Act*, *The Public Works Act*, *The Public Highways Act*, *The Land Titles Act* or this Act, and shall include any bridge, culvert, drain or other public improvement erected upon or in connection with such public highway;

“Public improvement”

11. **“Public improvement”** means public highways, culverts, bridges, ditches, drains, ferries, wells and public fireguards, dams, reservoirs or other works constructed for the storage of water, water powers and works connected therewith; lands, streams, watercourses and property (real and personal) heretofore or hereafter acquired for any public improvement; and any matter or thing done or to be done in connection with any such public improvement under the provisions of this Act;

“Road allowance”

12. **“Road allowance”** means a road allowance laid out under the authority of a Dominion statute;

“Surveyor”

13. **“Surveyor”** means a person qualified under *The Saskatchewan Land Surveyors Act* to practise as a surveyor of lands in Saskatchewan.

1917, c.7, s.2; 1918-19, c.65, s.2; R.S.S. 1920, c.21, s.2.

ORGANISATION AND DUTIES OF THE DEPARTMENT

Organisation of department

3(1) There shall be a department of the Government of Saskatchewan which shall be called the Department of Highways, over which the Minister of Highways shall preside.

(2) The Lieutenant Governor in Council may appoint a deputy minister and such engineers, inspectors, officers, clerks and servants as are required for the proper conduct of the business of the department and for the purposes of this Act, all of whom shall hold office during pleasure, and shall receive such remuneration as may be fixed by the Lieutenant Governor in Council.

1917, c.7, s.3 (redrawn); R.S.S. 1920, c.21, s.3.

Administration

4 The minister shall have the administration, management and control of the department and of the general business thereof and shall oversee and direct the officers, clerks and servants of the department.

1917, c.7, s.4; R.S.S. 1920, c.21, s.4.

Powers and duties of minister**5** The minister shall:

- (a) have the control and management of all work to be undertaken by the department in connection with any public improvement; of the surveys and surveying of all lands required in connection with all public improvements; and of the government warehouse used for the handling and storing of materials and supplies required for public improvements;
- (b) lay out, plan and determine upon a system of public highways for the province, which system may from time to time be altered or modified as he may determine;
- (c) determine upon the most feasible and economic methods for constructing, improving and maintaining public highways;
- (d) furnish the officers of municipalities with information respecting the construction, improvement and maintenance of public highways;
- (e) have the control and regulation of all matters pertaining to the construction, by any person, across or along any public highway of irrigation ditches, drains, canals, telegraph, telephone or power transmission lines, pipe lines, steam or electric railways or other works;
- (f) have, in respect of roads, streets, lanes, parks or other reserves for public purposes, and in respect of drainage and sanitary conditions in connection therewith as well as of such other matters as may be deemed advisable in the public interest, the control, direction and regulation of all matters pertaining to the subdivision of land into lots or blocks; and to that end is authorised to make regulations for the purpose of giving effect to the powers by this Act conferred upon him in that behalf;
- (g) determine the conditions of employment for foremen, subforemen, mechanics, workmen, day labourers and teams;
- (h) generally possess and exercise such other powers and duties, not inconsistent with the provisions of this Act, as may be from time to time assigned to him by the Lieutenant Governor in Council.

1917, c.7, s.5 (redrawn); R.S.S. 1920, c.21, s.5.

Duties of Deputy Minister**6** The deputy minister shall:

- (a) prepare or cause to be prepared maps, plans, specifications and estimates for public improvements which are to be constructed, altered or repaired by the department;
- (b) examine, revise and approve the plans, specifications and estimates of other surveyors, engineers, and officers in respect to any public improvement to be undertaken by the department, and, generally, advise the minister on all surveying and engineering questions affecting such public improvements;

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(c) conduct, under the direction of the minister, the correspondence of the department, and see that all contracts entered into by the minister are properly drawn and executed, and that all letters, reports and other documents are properly copied or filed, as the case may be, and generally, do and perform all such acts and things as are necessary for the carrying out of the provisions of this Act;

(d) inquire into and report for the information of the minister upon such matters as he may direct.

1917, c.7, s.6; R.S.S. 1920, c.21, s.6.

ANNUAL EXPENDITURES

Annual expenditure determined by Lieutenant Governor

7(1) There shall be expended annually under the provisions of this Act for public improvements, such sums as may be determined from time to time by the Lieutenant Governor in Council, not exceeding in the aggregate the amount voted by the Legislative Assembly for the purpose.

(2) For the purpose of better carrying out the provisions of this Act the Lieutenant Governor in Council may from time to time make such general regulations as may be deemed advisable regarding the expenditures to be made by the department on public improvements.

1917, c.7, s.7; R.S.S. 1920, c.21, s.7.

GRANTS TO MUNICIPALITIES

Grants to rural municipalities

8(1) For the purpose of assisting in the maintenance of main highways leading to market towns, and subject to the provisions hereinafter contained, there shall be paid by the department, out of any legislative appropriation made for public improvements chargeable to income, a grant in each year of \$500 to each municipality comprising nine townships, and a grant to each municipality comprising more or less than nine townships of a sum bearing the same proportion to \$500 that the number of townships does to nine.

(2) As soon as possible after the first day of January in each year but not later than the first day of April, the minister shall notify the secretary of each rural municipality of the amount of the grant proposed to be allotted to it as approved by the Lieutenant Governor in Council. Upon receipt of such notice the council shall pass a resolution setting forth how and where the moneys shall be expended, and on or before the first day of June shall forward to the department a copy of such resolution certified as correct by the secretary of the municipality.

(3) The minister shall thereupon approve or disapprove of the proposed method of expenditure as set forth in the resolution of the council. If the resolution be approved, the amount authorised by the Lieutenant Governor in Council shall be paid to the municipality. If disapproved in whole or in part the minister shall notify the secretary of the municipality accordingly, stating the grounds of his objection.

(4) The municipal council may thereupon amend the resolution and upon the approval of such amended resolution by the minister, the grant shall be paid to the municipality.

(5) In the event of the resolution of council not being received by the department on or before June first in any year, no grant shall be made in that year to the municipality defaulting.

(6) It shall be the duty of the reeve and secretary of every rural municipality on or before the fifteenth day of December in each year to submit to the council a report in detail in the form prescribed by the minister, giving particulars showing how and where such grant has been actually expended, which report when approved by the council, shall be forwarded to the department by the secretary, on or before the thirty-first day of December.

(7) In the event of the council of any municipality failing to send in the report as required by subsection (6), or if upon investigation by the minister it is found that the grant has not been expended in accordance with the terms of the resolution as approved by the minister, no grant shall be made to such municipality for the year next ensuing.

1918-19, c.65, s.3; R.S.S. 1920, c.21, s.8.

CONTRACTS

Department may enter into contracts

9 The department may enter into any contract that may be necessary or advisable in carrying out the provisions of this Act.

1917, c.7, s.9; R.S.S. 1920, c.21, s.9.

Contracts with rural municipalities

10(1) When in the opinion of the minister it is desirable that a rural municipality should undertake the expenditure of moneys under the control of the department and available for public improvements, the department may under such regulations as are approved in that behalf by the minister, enter into a contract or contracts with such rural municipality for the purpose.

(2) When the council of a rural municipality desires the department to undertake the expenditure of moneys under the control of the council of the municipality and available for public improvements, the department may on such terms and conditions as are approved by the minister enter into a contract or contracts with such council for the purpose.

1917, c.7, s.10; R.S.S. 1920, c.21, s.10.

Contracts signed by minister

11 All contracts entered into under the provisions of this Act shall be in writing and shall be signed by the minister.

1917, c.7, s.11; R.S.S. 1920, c.21, s.11.

Tenders invited

12 The minister shall invite tenders by public advertisement or other public notice for the construction and repair of all public improvements, except in cases where from the nature of the work it can be more expeditiously and economically executed by order or commission or under the direction of the officers of the department.

1917, c.7, s.12; R.S.S. 1920, c.21, s.12.

Security for performance of contract/Authority for awarding contract to other than lowest bidder

13 The minister, when any public improvement is being carried out by contract, may require that security be given to and in the name of His Majesty, for the due performance of the work within the time specified for its completion; and, where it seems to the minister to be inexpedient to let the work to the lowest bidder, he shall report the same and obtain the authority of the Lieutenant Governor in Council before awarding the contract to any other than such lowest bidder.

1917, c.7, s.13; R.S.S. 1920, c.21, s.13.

Conditions of payment

14 No sum of money shall be paid to a contractor, nor shall work be commenced on a contract, until the contract has been signed by all the parties named therein and any security required been given.

1917, c.7, s.14; R.S.S. 1920, c.21, s.14.

Contract to inure to His Majesty

15 All contracts respecting public improvements or property (real or personal) under control of the department, heretofore or hereafter entered into by the minister or by any person thereunto duly authorised, shall inure to the benefit of His Majesty and may be enforced as if they had been entered into with His Majesty under the authority of this Act.

1917, c.7, s.15; R.S.S. 1920, c.21, s.15.

Actions instituted by Attorney General

16 All actions, suits and other proceedings for the enforcement of a contract, or for the recovery of damages for breach of contract, or for the trial of any right in respect of property (real or personal) under the control of the department, shall be instituted in the name of His Majesty by the Attorney General.

1917, c.7, s.16; R.S.S. 1920, c.21, s.16.

Fair wages paid

17 In every case where public works are carried on, whether by contract, or by order or commission, or under the direction of the officers of the department, all mechanics, labourers, or other persons who perform labour on such works shall be paid such wages as are generally accepted as current for competent workmen in the district in which the work is being performed; and if there be no current rate in such district, then a fair and reasonable rate; and in the event of a dispute arising as to what is the current or a fair and reasonable rate, it shall be determined by the fair wage officer of the Government, whose decision shall be final.

1917, c.7, s.17; R.S.S. 1920, c.21, s.17.

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ACCOUNTS

Vouchers

18 All accounts for expenditures under the provisions of this Act shall be paid by the Provincial Treasurer upon the production of proper vouchers by the department.

1917, c.7, s.18; R.S.S. 1920, c.21, s.18.

SUPPLIES AND MATERIALS

Procuring supplies

19 The department may procure all such supplies as may be requisite for use in connection with public improvements carried on under its direction. Such supplies may be charged directly against the particular service for which they are required or placed in stock to be subsequently distributed.

1917, c.7, s.19; R.S.S. 1920, c.21, s.19.

Advances

20(1) The Provincial Treasurer may from time to time and upon the requisition of the minister, advance out of the consolidated fund such sums of money as may be required to pay for supplies which are to be placed in stock as provided in the next preceding section.

(2) The net amount of such advances shall not at any time exceed the sum of \$200,000.

1917, c.7, s.20; R.S.S. 1920, c.21, s.20.

Distribution of supplies

21 The department shall distribute as may be required supplies purchased in the manner provided by section 20, under such regulations as may be prescribed by the Lieutenant Governor in Council in that behalf.

1917, c.7, s.21; R.S.S. 1920, c.21, s.21.

Charging of supplies

22 The quantity of such supplies so distributed and the value thereof shall be charged by the Provincial Treasurer to the particular service in connection with which such supplies are used on an account thereof being rendered by the department, the amount of such charge being at the same time credited to the account of the advance made by the Provincial Treasurer on the requisition of the minister as hereinbefore provided.

1917, c.7, s.22; R.S.S. 1920, c.21, s.22.

Accounting for cost

23 In computing the value of any supplies distributed to a particular service, the minister shall take into account the cost of maintaining the department's warehouse and its staff as well as the cost of any mechanical or other assistance that may have been given by any person in connection with the handling, storage, assembling, distributing or auditing of such supplies between the times of their being first ordered and finally distributed, the Provincial Treasurer being hereby authorised to advance the cost of such assistance or other expenditure in the same manner as though the payment was for the original purchase of such supplies.

1917, c.7, s.23; R.S.S. 1920, c.21, s.23.

Statement of standing

24 The Provincial Treasurer shall publish annually with the public accounts a statement showing the standing at the close of each fiscal year of the account of such advances, taking cognisance of the value of all supplies on hand at the beginning of the fiscal year, the names of all persons or firms to whom payments have been made for such supplies, with the gross amount of payments so made, together with a statement showing details regarding the taking in of stock at a fair valuation of such material as may have been previously distributed or otherwise charged against any particular service, the gross amount charged against any particular service, and credited in reimbursement of the advances made, with the value of the supplies on hand at the close of the fiscal year, any profit or loss that may be found to result from the year's operation being shown clearly but neglected in the consideration of the following year's transactions.

1917, c.7, s.24; R.S.S. 1920, c.21, s.24.

Redistribution of supplies

25 Where supplies have once been distributed for any particular service and it is found desirable to discard, transfer or otherwise dispose of them they may be ordered by the minister to be taken into stock at their fair value and redistributed or otherwise dealt with in such manner as may be approved by regulations made by the Lieutenant Governor in Council.

1917, c.7, s.25; R.S.S. 1920, c.21, s.25.

Checking of stock

26 The minister shall make such arrangements as shall give to the Provincial Auditor all needed facility and assistance to check the stock on hand at the close of each year, and shall furnish the Provincial Treasurer with any information necessary to complete the statement required to be published in the public accounts with respect to the value of the stock on hand and the value placed upon any supplies discarded and taken into stock, or any other information material to the above purposes.

1917, c.7, s.26; R.S.S. 1920, c.21, s.26.

DIRECTOR OF SURVEYS

Director of surveys

27 The Lieutenant Governor in Council may appoint a duly qualified Saskatchewan land surveyor, who is also a Dominion land surveyor, to be Director of Surveys for the province, and may define the duties and fix the remuneration of such officer.

1917, c.7, s.27; R.S.S. 1920, c.21, s.27.

SURVEYS OF PUBLIC HIGHWAYS

Surveys of trails, etc.

28(1) The minister may from time to time cause to be surveyed and marked out on the ground by a duly qualified surveyor, any old trail which existed as such prior to the subdivision of the land which it crosses into sections, or of any land required for a public highway; and one copy of the plans of such surveys approved by the minister shall be filed with the department and a second copy shall be forwarded to the land titles office for the land registration district within which such old trail or public highway is situated.

Land to vest in His Majesty

(2) The effect of the forwarding and receipt in a land titles office of such copy of plans of survey, whether before or after the coming into force of this Act, shall be to vest the lands shown on such plans in His Majesty for the public use of the province, without prejudice however to the legal rights of the owner to compensation therefor:

Provided that the right and title to all mines and minerals which may be found under such land shall continue to be vested in the owner and his assigns.

(3) The minister may approve of the survey as marked out on the ground of any land required for an old trail or public highway and such approval shall operate as a dedication of the land as a public highway, and nothing herein contained shall be taken to require the plan of such survey to be prepared or deposited in the land titles office before or at the time of such approval.

(4) Such old trails or public highways shall be laid out not less than one chain (or sixty-six feet) in width; and in making the survey of any old trail the surveyor may make such changes in the location thereof as he deems necessary, without however altering its main direction.

1917, c.7, s.28; R.S.S. 1920, c.21, s.28.

Closing up highways

29(1) The minister may close up the whole or any portion of a public highway and may deal with the land such public highway as may seem expedient.

(2) All documents necessary to transfer the title to the portion of a public highway, which has been closed as herein provided, shall be signed by the minister.

(3) The minister may grant a permit to any owner of land or lessee of a tract of land, held under grazing lease or used for grazing purposes, to close up or fence off any specified part of a public highway, where lands held under grazing lease or used for grazing purposes are on both sides thereof.

(4) Where an old trail crosses any land so closed up or fenced off, the holder of such permit shall place a gate and two tie posts at the point of intersection of such trail with the boundary fence and erect a notice board requiring the public to leave the gate closed:

Provided that the right of the public to the free and uninterrupted use of such trail shall in no wise be affected.

(5) Any person who fails to leave any such gate properly closed shall be guilty of an offence and liable upon summary conviction to a fine not exceeding \$50 or to imprisonment for thirty days.

1917, c.7, s.29; R.S.S. 1920, c.21, s.29.

LANDS REQUIRED FOR PUBLIC IMPROVEMENTS

Expropriation of lands for public improvements

30 The minister may, by surveyors, engineers, foremen, agents, workmen and servants:

Entering

(a) enter upon and take possession of any lands, in whomsoever vested, required for a public improvement;

Surveys

(b) enter into and upon any land to whomsoever belonging, and survey and take levels of the same and take such borings or sink such trial pits as he deems necessary for any purpose relative to a public improvement;

Taking possession

(c) enter upon and take possession of any land the expropriation of which the minister deems necessary for the use, construction, maintenance or repair of any public improvement or for obtaining better access thereto;

Deposit or removal of material

(d) enter with workmen, carts, carriages and horses upon any land and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood or other material found on the land required for a public improvement or for the purpose of digging up, quarrying and carrying away earth, stones, gravel or other material and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom for the making, constructing, maintaining or repairing the public improvement;

Road

(e) make and use all such temporary roads to and from such timber, stones, clay, gravel, sand or gravel pits as are required by it for the convenient passing to and from the improvements during their construction and repair;

Drains

(f) enter upon any land for the purpose of making proper drains to carry off the water from the public improvement or for keeping such drains in repair;

Divert streams or highways

(g) divert or alter, as well temporarily as permanently, the course of any brook, rivulet, or public highway, or raise or sink the level of the same in order to carry it over or under, on the level of or by the side of the public improvement as he thinks proper; but before discontinuing or altering any public highway, another convenient road in lieu thereof shall be substituted; and the land theretofore used for any public highway or part of a public highway so discontinued may be transferred by the minister to, and shall thereafter become the property of the owner of the land of which it originally formed a part;

Pipes, wires, poles

(h) divert or alter the position of any water pipe, gas pipe, drain or telephone or electric light wire or pole.

1917, c.7, s.30; R.S.S. 1920, c.21, s.30.

Removing fences: constructing ditches

31 Whenever it is necessary, in the building, maintaining or repairing of a public improvement, to take down or remove any wall or fence of an owner or occupant of land or premises adjoining the public improvement, or to construct any back ditch or drain for carrying off water, such wall or fence shall be replaced as soon as the necessity which caused its taking down or removal has ceased; and after the same has been so replaced, or when such drain or back ditch is completed, the owner or occupier of such land or premises shall maintain such wall or fence, drain or back ditch to the same extent as such owner or occupier might by law be required to do if such wall or fence had never been so taken down or removed or such drain or back ditch had always existed.

1917, c.7, s.31; R.S.S. 1920, c.21, s.31.

Sidings, conduits or track

32(1) Whenever any gravel, stone, earth, sand or water is taken as aforesaid at a distance from the public improvement, the minister may cause to be laid down the necessary sidings, water pipes or conduits or tracks over or through any land intervening between the public improvement and the land on which such material or water is found, whatever the distance may be; and all the provisions of this Act shall apply and may be used and exercised to obtain the right of way from the public improvement to the land on which such materials are situate.

(2) Such right of way may be acquired for a term of years or permanently as the minister thinks proper; and the powers in this section contained may at all times be exercised and used in all respects after the public improvement is constructed for the purpose of repairing and maintaining the same.

1917, c.7, s.32; R.S.S. 1920, c.21, s.32.

Survey and plan

33(1) Lands taken for any public improvement shall be surveyed and marked on the ground by a surveyor who shall prepare a proper plan of the same. The minister may approve of the survey as marked out on the ground and such approval shall operate as a dedication of the land as a public improvement, and nothing herein contained shall be taken to require a plan of such survey to be prepared before or at the time of such approval.

(2) Every person who interrupts, hinders or molests any person while engaged under authority of the minister in removing any obstruction, making an examination for or constructing, maintaining or repairing a public improvement or any works connected therewith on any land after the survey thereof has been approved by the minister, shall be guilty of an offence and liable, upon summary conviction, to a penalty not exceeding \$50 and costs or to imprisonment for a period not exceeding thirty days, or to both.

1917, c.7, s.33; R.S.S. 1920, c.21, s.33.

Plan approved by minister

34 The plans of any lands required for a public improvement shall be examined and approved by the minister; and one copy thereof shall thereupon be filed with the department.

1917, c.7, s.34; R.S.S. 1920, c.21, s.34.

Application to judge for vesting order

35 The minister may thereupon apply *ex parte* to a judge of the Court of King's Bench for an order vesting in His Majesty every estate and interest in the lands shown on the plan in section 34; and the judge shall, upon the production to him of a copy of the said plan, certified by the minister and a certificate of the minister stating that the said lands are required for the purposes of this Act, make such order, and the order shall have the effect of divesting all persons other than His Majesty of any interest in the said land:

Provided that the right and title to all mines and minerals which may be found to exist under such land shall continue to be vested in the owner and his assigns.

1917, c.7, s.35; R.S.S. 1920, c.21, s.35.

Suppression of resistance to minister

36(1) If resistance or opposition is made by any person to the taking, by the minister or any person authorised by him, of lands for public improvements, as provided by this Act, a judge of the Court of King's Bench may, on proof of the proper taking of such lands as herein provided, issue his warrant to the sheriff of the judicial district within which such lands are situated, directing him to put down such resistance or opposition, and to put the minister or some person acting for him in possession of the lands.

(2) The sheriff shall take with him sufficient assistance for such purpose, and shall put down such resistance or opposition and put the minister or the person acting for him in possession thereof; and shall forthwith make a return to the Court of King's Bench of the warrant and of the manner in which he executed the same.

1917, c.7, s.36; R.S.S. 1920, c.21, s.36.

Opening of road on petition and payment of expenses

37 If any person petition the minister for the opening of a road through land, and the minister is of the opinion that such road may be reasonably opened for the convenience and benefit of such person but is not required in the interest of the public generally, the minister may require the applicant to deposit with the Provincial Treasurer such sum as he considers sufficient to cover the cost of opening the road and paying compensation in connection therewith, and if the said road or any road which in the opinion of the minister will be of equal or nearly equal convenience and benefit to the applicant is thereafter opened, the sum so deposited or so much thereof as may be necessary may be applied towards paying the expenses of opening the road and paying compensation in connection therewith, and any balance which remains shall be repaid to the applicant.

1917, c.7, s.37; R.S.S. 1920, c.21, s.37.

COMPENSATION FOR LANDS TAKEN**Notice of compensation**

38(1) Upon the plan of any land taken for any public improvement being filed with the department as hereinbefore provided, the minister shall, except in cases hereinafter provided for, cause to be served, by ordinary process of mail, upon all persons shown by the records of the land titles office to be interested in the lands so taken, a notice setting forth the compensation which the department is ready to pay for such lands.

(2) When compensation is claimed by two or more persons who are unable to agree as to a division thereof, the minister may pay the same into the office of the district court nearest to the land affected, to be paid out to the parties interested in such proportions as may be ordered by a judge of the said court on application therefor.

1917, c.7, s.38; R.S.S. 1920, c.21, s.38.

Claim for increased compensation

39(1) If any person entitled to compensation for lands taken for a public improvement is dissatisfied with the amount offered therefor, he shall, within one month from the date of the notice provided in section 38, notify the minister of the fact in writing and shall in his notice name the amount he claims, and make a full statement of the facts in support of his claim.

(2) In the event of no such notification being received by the minister within the period mentioned, the person entitled to compensation shall be deemed to be satisfied and shall accept the amount of compensation mentioned in the notice referred to in section 38.

1917, c.7, s.39; R.S.S. 1920, c.21, s.39.

Minister's decision on such claim

40 In case a claim is made for increased compensation as above provided, the minister shall consider such claim and shall notify the claimant of his decision in respect thereof by registered letter addressed to the claimant's last known place of abode.

1917, c.7, s.40; R.S.S. 1920, c.21, s.40.

Submission to arbitration

41(1) Such claimant, if dissatisfied with the decision of the minister, may, within sixty days after notice of such decision give notice in writing to the minister, which may be by registered letter, that he will submit the claim to arbitration and the claim shall thereupon be submitted by the minister to arbitration.

(2) Such arbitration shall be by one arbitrator, who shall be the judge of the district court of the judicial district in which the public improvement or any part thereof is or is to be situated, and all the provisions of *The Arbitration Act* shall apply thereto. If for any reason such judge is unable to act, the Attorney General shall name any other district court judge to act as such arbitrator.

1917, c.7, s.41; R.S.S. 1920, c.21, s.41.

Failure of claimant to notify

42 If the claimant does not so notify the minister, and make the deposit as in section 43 required, within the said period of sixty days from the registration of the notice in section 41, he shall be deemed to have accepted the minister's decision, and shall not thereafter question it.

1917, c.7, s.42; R.S.S. 1920, c.21, s.42.

Security for costs

43 The claimant shall with the notice of submission to arbitration deposit with the minister, as security for the costs of the arbitration, a sum equal to 10 per cent of the amount claimed by him but in any event not less than \$25.

1917, c.7, s.43; R.S.S. 1920, c.21, s.43.

Provisions as to cost

44(1) If the sum awarded to the claimant is not greater than the sum offered by the minister, the claimant shall pay the costs and expenses of the arbitration; if greater, the department shall pay them.

(2) In case the costs and expenses are to be paid by the claimant, the minister may deduct such costs and expenses from the moneys deposited, and the surplus, if any, shall be returned to the claimant.

(3) Should the claimant not be required to pay the minister's costs of the arbitration, the full amount deposited by him shall be returned to him.

(4) The only costs allowable upon an arbitration under this section shall be arbitrator's and witness' fees.

1917, c.7, s.44 (redrawn); R.S.S. 1920, c.21, s.44.

Basis of award

45(1) In estimating the amount to which the claimant is entitled the arbitrator shall consider and find separately as to the following:

- (a) the value of the land taken and all improvements thereon;
 - (b) damage, if any, to the remaining property of the claimant;
 - (c) the original cost only of any extra fencing which may be necessary by reason of the taking of the land, such cost to be computed at the rate of \$150 per mile.
- (2) If the value of the remaining property of the claimant is increased by reason of the construction of the public improvement through his property, by the extension of the same in either direction, or by the construction of any other public improvement in connection therewith, the increase of value shall be deducted from the amount to which the claimant would otherwise be entitled, and the balance, if any, shall be the amount awarded to him.
- (3) The judge, for his services as arbitrator, may be allowed such fee, and such allowance to reimburse him for his expenses incurred while attending such arbitration, as are fixed by regulations approved by the Lieutenant Governor in Council.

1917, c.7, s.45; R.S.S. 1920, c.21, s.45.

PUBLIC PROPERTY

Public improvements; the property of His Majesty controlled by minister

46 All lands, streams, watercourses and property (real or personal) heretofore or hereafter acquired for the use of public improvements; all dams, reservoirs or other works erected for the storage of water; all hydraulic powers created by the construction of any public improvement; all roads, culverts and bridges; all drains and drainage works; all ferries; all wells; and all property heretofore or hereafter acquired, constructed, repaired, maintained or improved at the expense of the North-West Territories or of the province and not under the control of the Dominion government, shall be and remain vested in His Majesty in the right of Saskatchewan, and, so far as not under the control of any other department, shall be under the control and administration of the department.

1917, c.7, s.46; R.S.S. 1920, c.21, s.46.

Other works may be declared public improvements

47 The Lieutenant Governor in Council may from time to time declare any other property (real or personal) any works, roads, bridges, or other things specified in the last preceding section and purchased or constructed at the public expense, to be public improvements subject to the provisions of this Act, and they shall thenceforth be vested in His Majesty in the right of Saskatchewan and under the control of the department.

1917, c.7, s.47; R.S.S. 1920, c.21, s.47.

Public property may be sold

48(1) Any lands, and any property (real or personal) taken for public improvements, when no longer required for the use of a public improvement, may be sold, leased or otherwise disposed of under the authority of the minister; and the proceeds of all such sales, leases and dispositions shall be deposited to the credit of the consolidated fund of the province.

(2) All lands or property when required to be sold, leased or otherwise disposed of, may be so sold, leased or otherwise disposed of under the hand of the minister or deputy minister:

Provided always that such lands or property shall whenever practicable be sold, leased or disposed of by tender or public auction.

1917, c.7, s.48; 1917 (sess. 2), c.60, s.1; R.S.S.
1920, c.21, s.48.

Public reserves

49 All public reserves vested in His Majesty in the right of Saskatchewan by reason of the registration in the land titles office of the plan of the subdivision into lots or blocks of any land, shall be under the control of the minister, and such lands may be leased or otherwise disposed of or placed under the control of any municipality under regulations to be prescribed by the Lieutenant Governor in Council.

1917, c.7, s.49; R.S.S. 1920, c.21, s.49.

Maps, etc., not private property may be required by minister

50 Any person having possession of any maps, plans, specifications, estimates, reports or other papers, books, drawings, instruments, models, contracts, documents or records relating to any public improvement, who refuses or neglects, upon demand of the minister or other person authorised to require it, forthwith to deliver the same to the department, shall be guilty of an offence and liable on summary conviction to a penalty of \$25 and in default of payment forthwith after conviction, to imprisonment for one month.

1917, c.7, s.50; R.S.S. 1920, c.21, s.50.

DRAINAGE WORKS FOR ROADS**Department may purchase Dominion lands to be benefited**

51(1) Whenever the minister deems it necessary in the public interest that any submerged or swampy Dominion lands should be reclaimed by drainage in order to facilitate the construction or improvement of public highways through the district in which the said lands are situated, and upon the consent of the Dominion Government having been obtained for the drainage of any bodies of water within the purview of *The Irrigation Act* and for the construction of the proposed drainage works on the said lands or for the purpose of draining them, the minister may make application to the Dominion Government for the purchase of such portion of the Dominion lands to be reclaimed as will in the opinion of the minister be sufficient when sold by the department to fully cover the cost of the drainage work, and road work, and such lands may be purchased by the department from the Dominion Government upon such terms and conditions as may be approved by the Lieutenant Governor in Council.

(2) The minister, on making application to the Dominion Government for the purchase of such lands, shall with such application forward to the Minister of the Interior a copy of the report, plans and profiles and estimate of the cost of the proposed drainage work, together with a statement of the estimated benefit to each parcel of land to be affected, made by an engineer appointed by the minister.

1917, c.7, s.51; R.S.S. 1920, c.21, s.51.

Dominion lands purchased sold to cover cost of work

52 Any land so purchased by the department from the Dominion Government, shall be offered for sale by the department at public auction in accordance with such conditions and regulations as may be specified by the Lieutenant Governor in Council and approved by the Dominion Government, and the proceeds of the sale of such lands shall be applied towards reimbursing the department for the cost of construction of said drainage work and road work, including the purchase price paid or to be paid by the department to the Dominion Government for the land, together with all expenses incurred by the department in connection with the sale of the lands and the collection of the purchase price paid therefor. Any surplus money remaining after the total cost of such drainage work and road work shall have been repaid to the department, shall be refunded to the Dominion Government.

1917, c.7, s.52; R.S.S. 1920, c.21, s.52.

MAINTENANCE OF DRAINAGE WORK

Owners to bear share of maintenance

53 No such drainage work shall be undertaken by the department unless and until at least two-thirds of the owners residing on the lands to be benefited thereby agree in writing to bear their share of the annual cost of maintenance as hereinafter provided.

1917, c.7, s.53; R.S.S. 1920, c.21, s.53.

Maintenance of work within one municipality

54 Where any such drainage work does not extend beyond the limits of one municipality, it shall be maintained and kept in repair by such municipality in the manner provided for in this Act.

1917, c.7, s.54; R.S.S. 1920, c.21, s.54.

Maintenance of work in two or more municipalities

55 Any such drainage work constructed under this Act which is commenced in one municipality and continued into any other municipality or municipalities, shall after the completion thereof, be maintained by the former municipality from the point of commencement thereof to the point at which the drainage work crosses the boundary line into another municipality and by every other municipality in like manner through or into which the drainage work is continued.

1917, c.7, s.55; R.S.S. 1920, c.21, s.55.

Cost of maintenance of work borne by owners of land

56(1) All maintenance work shall be done at the expense of the lands in any way benefited by the original construction of the drainage work and in proportion to the benefit to each parcel of land as determined by the engineer in his report to the minister in connection with the cost of the construction of the original work.

(2) For the purpose of collecting the cost of such maintenance every municipality undertaking any work of maintenance shall upon completion thereof forward to the minister properly certified accounts showing the total cost of the work done, and the minister shall prior to the next annual assessment apportion the cost of such maintenance against the lands to be assessed therefor, and shall notify the secretary of the municipality concerned of such apportionment; and such municipality shall have all the power and authority for levying and collecting the same as are provided for levying and collecting ordinary municipal rates, and the secretary shall forthwith proceed to levy and collect the amounts so assessed.

(3) If from any cause any land cannot be legally subjected to the special tax for maintenance, the amount thereof shall be deducted and rateably distributed between the lands liable, and collected in the annual levies from the lands so liable upon the principle of apportionment hereinbefore provided.

1917, c.7, s.56 (redrawn); R.S.S. 1920, c.21, s.56.

All lands benefited liable to bear cost of maintenance work

57(1) All lands which are shown by the engineer's report to be benefited by the original construction of the drainage work shall be liable for any special tax levied for the purpose of maintaining the drain, and for this purpose the municipalities within which such lands are situated shall be deemed to be owners of the public highways within their limits and as such liable for assessment in proportion to the benefit to such public highways as determined by the report of the engineer.

(2) The department shall be liable for, any special tax made for the purpose of maintaining the drainage work in respect of any lands purchased by the department from the Dominion Government in connection with the construction of the said drainage works until such lands are sold by the department.

1917, c.7, s.57 (redrawn); R.S.S. 1920, c.21, s.57.

Drainage work outside municipality

58 Where any drainage work is carried on through lands not within a municipality the Minister of Municipal Affairs shall with respect to such lands have and exercise all the powers and duties hereby vested in or devolving upon the council or secretary with respect to lands within a municipality.

1917, c.7, s.58; R.S.S. 1920, c.21, s.58.

PROTECTION OF PUBLIC IMPROVEMENTS

Penalty for obstructing public highway

59 Any person who obstructs or interferes in any manner with a public highway shall be guilty of an offence and liable, upon summary conviction, to a fine not exceeding \$50 or to imprisonment for thirty days, or to both.

1917, c.7, s.59; R.S.S. 1920, c.21, s.59.

Penalty for injuring public improvements

60(1) Any person who unlawfully breaks, cuts, fill up or otherwise injures a public improvement shall be guilty of an offence and liable, upon summary conviction, to a fine not exceeding \$100 and costs, and, in default of payment forthwith after conviction, to imprisonment for a period not exceeding sixty days.

(2) The justice of the peace before whom the case is tried may also order the offender to repair the damage or remove the obstruction within a limited time, and, in case of his failure to do so, the offender shall be guilty of a further offence and liable, on summary conviction, to a fine not exceeding \$100 and costs, and, in default of payment forthwith after conviction, to imprisonment for a period not exceeding sixty days.

1917, c.7, s.60; R.S.S. 1920, c.21, s.60.

Traffic on bridges

61 Any person who rides or drives a horse or a mule or cattle, or who drives a portable engine, upon or across a bridge, the property of His Majesty, at a pace faster than a walk, or who drives a motor vehicle across such bridge at a speed exceeding eight miles an hour, shall be guilty of an offence and liable, upon summary conviction, to a penalty not exceeding \$25.

1917, c.7, s.61; R.S.S. 1920, c.21, s.61.

Obstructing bridges

62 Any person who wilfully and without lawful excuse, places an obstruction on a bridge the property of His Majesty, or who prevents, hinders or causes delay to any person desiring to travel across such bridge, shall be guilty of an offence and liable, upon summary conviction, to a penalty not exceeding \$50.

1917, c.7, s.62; R.S.S. 1920, c.21, s.62.

Use of bridges by engines

63(1) Every person who uses a bridge or culvert, the property of His Majesty, in connection with the movement of a portable or traction engine, by whatsoever power drawn or propelled, shall provide sufficient planks or timbers of an aggregate width equal to the full width of the two rear wheels.

(2) Such planks or timbers shall be not less than three inches in thickness, not less than ten inches in width and not less than twelve feet in length, and shall be laid across such bridge or culvert, upon the floor thereof, in the direction of the course of the engine and under the wheels to the extent of the full width thereof, and shall be kept thereunder continuously during the passage of the engine over the bridge or culvert.

(3) Any person who violates the provisions of this section shall be liable, on summary conviction, to a penalty of not less than \$50 nor more than \$500.

1917, c.7, s.63; R.S.S. 1920, c.21, s.63.

HIGHWAYS

c. 21

Penalty for obstructing district surveyors and engineers

64 Any person who interrupts, hinders or molests a surveyor or an engineer engaged in making any examination, exploration or survey in connection with a work authorised by this Act, shall be guilty of an offence and liable, on summary conviction, to a penalty not exceeding \$50 or to imprisonment for a term not exceeding two months, or to both.

1917, c.7, s.64; R.S.S. 1920, c.21, s.64.

PUBLIC FERRIES

Public ferries

65(1) The minister may, when deemed expedient to do so, establish one or more public ferries on any river, stream or other body of water in the province; and shall maintain and operate such ferries as a public improvement, and collect all tolls which may be determined on.

(2) The Lieutenant Governor in Council may from time to time make such regulations as may be deemed expedient governing the operation of public ferries and fixing the tolls to be charged thereon.

1917, c.7, s.65; R.S.S. 1920, c.21, s.65.

PRIVATE FERRIES

License for private ferry

66 The minister may issue annual licenses for the establishment and operation of private ferries on any river, stream or other body of water in the province, granting an exclusive right to maintain and operate such private ferries within the limits specified in the licenses.

1917, c.7, s.66; R.S.S. 1920, c.21, s.66.

License specifies tolls

67 Every ferry license granted shall specify the maximum rate of tolls to be charged, the kind and size of the scow, barge or boat to be used, the limits of the river, stream or other body of water within which, and the hours during which such ferry shall be operated.

1917, c.7, s.67; R.S.S. 1920, c.21, s.67.

Lieutenant Governor may make regulations

68 The Lieutenant Governor in Council may from time to time make regulations fixing the license fees which shall be collected by the minister for the issue of licenses under this Act, the amount of bonus which the minister may pay to the holder of a license, and the conditions under which the licensee shall operate a private ferry.

1917, c.7, s.68; R.S.S. 1920, c.21, s.68.

INSPECTION OF FERRIES

Inspection of ferries

69 The minister may from time to time appoint such person as he may see fit to inspect and report on the condition of any ferry, or with reference to the complaint of any person using or desiring to use such ferry.

1917, c.7, s.69; R.S.S. 1920, c.21, s.69.

PENALTIES FOR OFFENCES

Punishment of persons refusing to pay tolls

70(1) If any person using a licensed ferry refuses to pay the toll or rates chargeable for ferrying him or his property, the licensee of the ferry may forthwith seize any property in possession of the offender then being ferried and hold the same.

(2) The person so refusing shall be guilty of an offence and liable, upon summary conviction, to a penalty not exceeding \$50 and in default of payment to imprisonment for a period not exceeding two months. The property seized shall be liable for payment of the fine, the toll and the costs of the prosecution, and may be sold under distress warrant to satisfy such charges.

1917, c.7, s.70; R.S.S. 1920, c.21, s.70.

Punishment for interfering with rights of licensed ferryman

71 Any person unlawfully interfering with the rights of a licensed ferryman by taking, carrying or conveying, within the limits of his ferry license, across the stream, river or other body of water on which the same is situate, any person or personal property or any vehicle or animal in a scow, barge, boat, raft or other contrivance, for hire or reward, or hindering or interfering with such licensee in any way, shall be guilty of an offence and liable, upon summary conviction, to a penalty not exceeding \$100, and in default of payment thereof, to imprisonment for any period not exceeding three months.

1917, c.7, s.71; R.S.S. 1920, c.21, s.71.

Penalty for violating terms of license or Act

72 A licensee who violates any of the terms or conditions of his license or of this Act shall be guilty of an offence and liable, on summary conviction, to a penalty not exceeding \$50, and in default of payment thereof, to imprisonment for a period not exceeding one month unless the fine and costs are sooner paid; and shall be further liable to forfeit his license under the direction of the minister.

1917, c.7, s.72; R.S.S. 1920, c.21, s.72.

Penalty for unlicensed ferryman

73 Any person operating a private ferry, without having first obtained a license therefor as provided by this Act, shall be guilty of an offence and liable, upon summary conviction, to a fine of \$10 for every day upon which such ferry is operated without license.

1917, c.7, s.73; R.S.S. 1920, c.21, s.73.

Deposit of moneys

74 All moneys collected by the department from tolls on public ferries, or from the issue of licenses for the operation of private ferries shall be deposited by the minister to the credit of the consolidated fund of the province.

1917, c.7, s.74; R.S.S. 1920, c.21, s.74.

EXAMINATION OF WITNESSES

Examination of witnesses

75(1) The minister may, by notice in writing signed by him, require the attendance before him or before any person designated by him in such notice, at a time and place to be named in the notice, of any person whose attendance is deemed necessary in connection with any matter under the jurisdiction of the department; and may, by the notice, require such person to bring with him all papers, plans, books, documents and things in his possession or under his control, bearing in any way upon the matter before him; and the minister or such person designated by him, may, at the time and place appointed by the notice, examine the person so notified to be present, on oath, touching such matter.

(2) Whenever the circumstances of the case warrant the same, the minister may, with the approval of the Lieutenant Governor in Council, pay such remuneration to a witness for time lost and expenses incurred as is deemed just and reasonable.

(3) Any person wilfully neglecting or refusing to comply with the notice of the minister, or to be examined as aforesaid, shall be guilty of an offence and liable on summary conviction to a fine of \$25, and on nonpayment of such fine forthwith after conviction, to imprisonment for one month.

1917, c.7, s.75; R.S.S. 1920, c.21, s.75.

EVIDENCE OF RECORDS

Copies of records when attested are *prima facie* evidence

76 Copies of any records, documents, plans, books or papers belonging to or deposited with the department, attested under the signature of the minister or of the deputy minister, shall be *prima facie* evidence of the same and shall have the same legal effect as the original in any court or elsewhere.

1917, c.7, s.76; R.S.S. 1920, c.21, s.76.

MANUAL OF INSTRUCTIONS

Manual of instructions

77 The minister may from time to time prescribe a manual of instructions for the guidance of surveyors employed in making surveys authorised by this Act, and may therein direct the manner in which such surveys shall be marked on the ground, and the plans and field notes of the same prepared

1917, c.7, s.77; R.S.S. 1920, c.21, s.77.

ANNUAL REPORT

Annual report to Legislature

78 The minister shall make and submit to the Lieutenant Governor an annual report on all the Works under the control of the department, to be laid before the Legislative Assembly within fifteen days from the commencement of the session next following the end of the year for which such report is made, with such further information as may be requisite to enable the Legislative Assembly to judge of the working of the department.

1917, c.7, s.78; R.S.S. 1920, c.21, s.78.