

# *The Special Surveys Act*

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Chapter 71 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 71

### An Act to provide for Special Surveys

#### Short title

- 1 This Act may be cited as *The Special Surveys Act*.

1916, c.36, s.1; R.S.S. 1920, c.71, s.1.

#### Interpretation

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

##### “Complete survey”

1. “**Complete survey**” means a survey which defines on the ground every angle of every allotment as set out in *The Saskatchewan Surveys Act*, with such deviations therefrom as the Master of Titles may consider necessary under the circumstances of any particular case;

##### “Block outline survey”

2. “**Block outline survey**” means a survey in which monuments of a durable character are established at suitable points at or near certain or all street or road intersections or angles, or, in cases where no streets or roads exist, then at other suitable points.

1916, c.36, s.2; R.S.S. 1920, c.71, s.2.

#### Attorney General may direct a special survey

3(1) The Attorney General may, upon the request of the council of any municipality wherein the land to be affected is situate, or upon the request of the Master of Titles, or at the request of two or more owners of lands affected, or, if he think proper, without any such request, direct a special survey to be made by a Saskatchewan land surveyor approved by the Master of Titles of any land in such municipality or in any land registration district, for the purpose of correcting any error or supposed error in respect of any existing survey or plan, or of plotting land not before subdivided, or of showing the divisions of land of which the divisions are not shown on any plan of subdivision, or for the purpose of fixing the location or width of any roads or highways or of establishing any boundary lines, the position of which, owing to the obliteration of the original monuments defining the same on the ground, has become doubtful or difficult of ascertainment; and, upon every such special survey, may require a plan to be prepared on the principle of a block outline survey or a complete survey, either in whole or in part.

(2) The Master of Titles may direct that where any lands so affected are occupied or improved in whole or in part, the survey shall in respect of such lands be a complete survey; and, in addition to the posts, marks or monuments set in such survey, there shall be established a sufficient number of durable monuments of a design and character approved by the Master of Titles.

(3) Nothing in this Act shall prevent a Saskatchewan land surveyor from re-establishing monuments or boundary lines as provided by *The Saskatchewan Surveys Act*.

(4) The order directing the survey to be made shall direct that the cost of the survey and other expenses and fees connected therewith shall, in respect of the area of land contained in streets, lanes, parks or other reserves for public purposes, be charged against the municipality wherein the land affected is situate, and shall, in respect of the lots or land, be charged against the owners thereof in direct proportion to the respective areas contained within the limits of the survey; and the proportion of expenses and fees so charged shall, when determined, be assessed proportionately by the municipality against the lots or land so affected, and shall become a lien upon such lots or land, to be collected in the same manner as other municipal taxes.

(5) Notwithstanding the direction mentioned in subsection (4), the Master of Titles may, in cases where he deems the provisions of such subsection inapplicable, charge the whole cost of the special survey to the municipality in which the land affected is situate.

(6) In case the land affected is situate in an unorganised district, the Master of Titles may order that such proportion as he may determine of the expenses and fees in respect of the area of land contained in streets, roads, and lanes shall be paid out of the consolidated fund.

1916, c.36, s.3; R.S.S. 1920, c.71, s.3.

#### **Survey and plan made under instructions of Master of Titles**

4(1) Such special survey and plan shall be made under the guidance of and instructions from the Master of Titles. When the plan is completed it shall be filed in triplicate with the Master of Titles for approval, together with a tabulated list of occupied or improved land the boundaries of which appear as altered by the said plan of special survey. Duplicates of such plan and list shall also be filed with the clerk or secretary treasurer of the municipality if the land is situate within a municipality, or with the Minister of Public Works if the land is in an unorganised district.

(2) The surveyor in charge of such special survey shall prepare for the use of the Master of Titles a clear and concise statement in tabulated form, certified and attested in the manner provided in *The Land Titles Act* for the attestation of instruments under that Act, setting forth the following information:

- (a) a statement of the costs of the special survey with a recommendation of fair and equitable distribution of such costs between the municipality and the properties affected;
- (b) the methods adopted upon which the distribution of the costs of special survey was based;
- (c) a copy of the field notes of the special survey.

(3) The surveyor shall, in addition to the statements provided for in the previous subsection, prepare a general report covering the special survey dealing with the cost thereof, the difficulties encountered, evidence concerning re-establishment of original and lost monuments, the system of survey employed and degree of accuracy used, the nature and cost of each and all monuments erected and such other information bearing on the special survey as may be of service to the Master of Titles.

(4) The surveyor in charge of the special survey shall obtain all evidence in connection therewith in accordance with section 5 of *The Saskatchewan Surveys Act*, and such evidence shall be reduced to writing as prescribed in that Act and shall be attached to the surveyor's general report to the Master of Titles.

1916, c.36, s.4; R.S.S. 1920, c.71, s.4.

#### **Advertising special survey**

5 The Master of Titles may then cause to be published, as part of the costs incident to such survey, in *The Saskatchewan Gazette* and in any other newspaper, if he think proper to so direct, a notice setting forth that such plan of special survey and a statement of the costs incurred by such survey and the proportions in which they are to be taxed against the municipality and the lands affected thereby respectively, have been filed with him, and also setting forth the object of the special survey and a day, hour and place fixed by him for the hearing of any complaints that may be made against such special survey or plan by any person interested in the property thereby affected.

1916, c.36, s.5; R.S.S. 1920, c.71, s.5.

#### **Substitute for Master of Titles**

6 The Master of Titles may, with the approval of the Attorney General, appoint some other person to hear such complaints or perform any of the functions required by this Act to be performed by him, and such other persons shall in all such matters have the same powers as the Master of Titles.

1916, c.36, s.6; R.S.S. 1920, c.71, s.6.

#### **Procedure with complaints**

7 Any person desiring to complain against such special survey or plan shall deliver or cause to be delivered to the Master of Titles, by mail or otherwise, at any time prior to the day named in the advertisement for hearing such complaints, a written statement setting forth the nature and grounds of his complaint.

1916, c.36, s.7; R.S.S. 1920, c.71, s.7.

#### **Adjournment**

8 The hearing of such complaints may be adjourned from time to time by the Master of Titles, or by the person acting on his behalf, and an adjournment may be made at any time whether any of the parties interested be present or not.

1916, c.36, s.8; R.S.S. 1920, c.71, s.8.

#### **Evidence**

9 The Master of Titles, or the person appointed to act on his behalf, may, on such hearing, receive any evidence which he may think proper to admit, and may examine on oath any parties interested and such witnesses as appear before him, and administer such oath.

1916, c.36, s.9; R.S.S. 1920, c.71, s.9.

**Subpoenas**

**10** The Master of Titles or any party interested, upon his order, may issue out of the Court of King's Bench upon *proecipe* a subpoena commanding the attendance for examination of any witness and the production by such witness of any document or plan at the time and place mentioned in such subpoena; and the disobedience of any such subpoena shall be deemed a contempt of court and shall be punishable in the same manner and to the like extent as in the case of a subpoena issued out of the same court in a civil cause.

1916, c.36, s.10; R.S.S. 1920, c.71, s.10.

**Witnesses**

**11** The same fees shall be payable for such subpoena as in cases of subpoenas issued out of the said court in civil cases and the witnesses shall be entitled to the like conduct money.

1916, c.36, s.11; R.S.S. 1920, c.71, s.11.

**Disposition of complaint**

**12** Upon the hearing of the complaint the Master of Titles may dispose of the same in such manner and may make such order as to the payment, by any party interested, of the costs of the survey, the fees and expenses of any person appointed to act under the provisions of section 6, and other expenses, and the costs of the hearing and adjudication of the complaints, as he shall deem just and equitable under all circumstances; and he may order that a survey and plan be varied, altered or amended in such manner as he may deem fit and may then proceed to deal with the amended plan as if such plan had originally been filed with him.

1916, c.36, s.12; R.S.S. 1920, c.71, s.12.

**Compensation**

**13(1)** Upon the hearing of the complaint the Master of Titles may fix the amount of compensation the complainant will be entitled to by reason of the adoption of the new survey and plan, and may direct by whom such compensation shall be paid to the complainant.

(2) The compensation so fixed and any costs, fees or other expenses awarded under section 12 shall be a debt payable by the person directed to make such compensation or pay such costs, fees, and expenses, and the amount thereof may be recovered by action in any court of competent jurisdiction.

(3) The Master of Titles shall lodge a certified copy of every decision, order or direction made under this or section 12 in the proper land titles office for public inspection, until the expiration of four weeks from the publication in *The Saskatchewan Gazette* of the notice thereof required by section 17, or until an appeal therefrom has been disposed of as hereinafter provided.

1916, c.36, s.13; R.S.S. 1920, c.71, s.13.

**Decision**

**14(1)** Any decision, order or direction of the Master of Titles given or made under sections 12 and 13 shall be final, excepting as to the amount of compensation to be allowed to a complainant, which shall be subject to an appeal to the Court of Appeal.

(2) The court shall decide the amount of compensation as it may consider just and equitable upon the evidence before it and its decision shall be final. The court may also award such costs to any of the parties as it may deem proper.

(3) On an appeal under this section no evidence shall be adduced other than such as was before the Master of Titles when the decision as to compensation appealed from was given.

(4) A certified copy of such decision on appeal shall be registered with the decision, order or direction of the Master of Titles.

1916, c.36, s.14; R.S.S. 1920, c.71, s.14.

**Approval**

**15** At any time after the date named in the advertisement provided for in section 5, and after he has heard and disposed of the complaints against the special survey, if any, and without further notice to any of the parties interested, the Master of Titles may:

(a) approve of such special survey and plan, or any part thereof, and declare the said survey and plan, or such portion thereof as he may approve, to be the true and correct survey and plan of the land thereby affected;

(b) declare that all boundaries and lines fixed by such survey and plan or part thereof so approved are the true boundaries and lines, whether of roads, streets, lanes, rivers, or creeks (when such rivers or creeks are defined on the plan by measurements or lines in such manner as to be capable of absolute reproduction on the ground), or as between adjoining owners or between adjoining lots, and whether or not such boundaries and lines were in fact before such approval the true boundaries and lines;

(c) if such special survey and plan is a complete survey and plan, direct that such plan or part thereof so approved be substituted for all, or corresponding portions of all, former plans of surveys of the land affected which may have been theretofore registered.

1916, c.36, s.15; R.S.S. 1920, c.71, s.15.

**Vesting land**

**16(1)** The Master of Titles may by order, vest in any person, or municipality any land within such municipality which shall by the special survey be added to any lot, block, subdivision, road or street shown on the original survey of the lands affected.

(2) The Master of Titles shall, by order, vest in the Crown in the right of the province any addition to a road or street the title to which is so vested.

1916, c.36, s.16; R.S.S. 1920, c.71, s.16.

**Notice of approval published in the gazette**

**17(1)** Notice of each order of the Master of Titles approving of a plan of special survey, or affecting the same, shall be published in *The Saskatchewan Gazette*, and such order shall take effect at the expiration of four weeks from the date of the publication unless appealed from on the question of compensation to be allowed a complainant.

(2) Such notice when so published shall be conclusive evidence of the order of the Master of Titles, of the regularity of all proceedings leading up to such order, and of the approval of the survey and plan; and, excepting in so far as it may be set aside or varied in the matter of compensation to be allowed a complainant under the provisions of this Act, such order shall not be set aside on any ground whatever, and such survey and plan shall be thenceforth held to be approved and shall be final and binding on all parties.

1916, c.36, s.17; R.S.S. 1920, c.71, s.17.

**Appeal**

**18** An appeal under section 14 shall be brought and notice thereof left at the office of the Attorney General and at the office of the Master of Titles within four weeks after the publication in *The Saskatchewan Gazette* of the notice of an order of the Master of Titles, as set forth in section 17.

1916, c.36, s.18; R.S.S. 1920, c.71, s.18.

**Registration of plan**

**19(1)** So soon as an order of the Master of Titles under this Act approving of a complete survey or a block outline survey of the lands affected thereby shall have come into force without an appeal being taken, a certified copy of the same, together with the plan of special survey, shall be registered in the proper land titles office, and such registration, and all necessary entries shall be made without the payment of any fees.

(2) Upon such registration taking place, such plan of special survey shall become the official plan of that portion of the municipality thereby affected and shall be binding on all owners, corporations and persons, and shall, if the plan of special survey is complete as to the portion thereof showing increases in the area of lots, blocks or subdivisions as compared with the original survey or plan, operate as a conveyance to the proper person, persons or corporations of all lands added to his or their original holding by the adoption of the said plan of special survey, unless a contrary intention is evidenced by any order of the Master of Titles made under the provisions of this Act.

(3) In case of an appeal being taken to the Court of Appeal on the question of the amount of compensation to be allowed to any complainant, the order of the Master of Titles shall not be registered until the registration of the certified copy of the final judgment on the matter of compensation given by the Court of Appeal.

(4) The Master of Titles by his order, or the Court of Appeal on appeal, may require that the order of the Master of Titles shall not be registered until proof has been furnished to the satisfaction of the registrar that the compensation directed to be paid to any complainant by such order or by the judgment in appeal, as the case may be, has been paid to the person entitled to receive the same.

1916, c.36, s.19; R.S.S. 1920, c.71, s.19.



**Costs of survey**

**20** The costs of and incidental to such survey and plan and the confirmation and registration thereof and the amount of interest, if any, which may accrue on same prior to the date of payment on same in the manner hereinafter set forth, shall be ascertained and fixed by the Master of Titles after such inquiry and on such evidence as he may deem sufficient, and he shall apportion and charge such costs and interest in the manner set forth in section 3, subsection (4).

1916, c.36, s.20; R.S.S. 1920, c.71, s.20.

**Statements**

**21** The Master of Titles shall prepare a statement setting forth the proportionate amounts which he has so fixed and charged against each parcel of land included in such survey.

1916, c.36, s.21; R.S.S. 1920, c.71, s.21.

**Amounts fixed collected as taxes**

**22(1)** The Master of Titles shall forward the statement referred to in section 21 hereof, signed by him, to the assessor, secretary treasurer or other proper officer having charge of the assessment roll of the city, town, village or rural municipality in which the lands therein described are situated, and it shall be the duty of such officer upon receiving such statement to enter the sums therein contained against the respective lands thereby affected in the tax rolls to be prepared next after the forwarding of said statement.

(2) The treasurer, secretary treasurer or tax collector, as the case may be, of such city, town, village or rural municipality shall thereafter collect such sums along with the ordinary taxes owing upon said lands, and shall at least once a year pay the sums so collected to the Provincial Treasurer. In default of payment, any sums so charged against such lands shall be collected in the same manner and shall be treated in all respects as ordinary taxes due on said lands, and the municipality shall be liable to the Provincial Treasurer for any sums so collected.

1916, c.36, s.22; R.S.S. 1920, c.71, s.22.

**Payment**

**23** The costs of and incidental to any such survey and to the confirmation thereof and the registration of the plan thereof shall in the first instance be paid out of the consolidated fund of the province.

1916, c.36, s.23; R.S.S. 1920, c.71, s.23.

