

UNEDITED

# *The Public Works Act*

*being*

Chapter 30 of *The Revised Statutes of Saskatchewan, 1953*  
(effective February 1, 1954).

FOR HISTORICAL REFERENCE ONLY

## **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 30

### An Act respecting Public Works

#### SHORT TITLE

##### Short title

1 This Act may be cited as *The Public Works Act*.

R.S.S. 1953, c.30, s.1.

#### INTERPRETATION

##### Interpretation

2(1) In this Act:

##### “construction”

1 “**construction**” means the original work of constructing a public work;

##### “land” or “lands”

2 “**land**” or “**lands**” means lands, messuages, tenements, and hereditaments, corporeal or incorporeal of every nature and description and includes every estate or interest therein whether such estate interest is legal or equitable, together with all paths, passages, ways, water courses, liberties, privileges and easements appertaining thereto, and tress and timber thereon, and mines, minerals and quarries thereon or thereunder lying or being;

##### “maintenance”

3 “**maintenance**” means the preservation and keeping in repair of a public work and includes heating, caretaking and otherwise providing for the efficiency, health and comfort of those occupying a public work

##### “owner”

4 “**owner**” includes every person having an estate or interest in land, at law or in equity, in possession, futurity or expectancy;

##### “public work”

5 “**public work**” means any building or part of a building heretofore or hereafter acquired or constructed for the use of the province, as well as any land now or hereafter connected therewith or

(2) The powers conferred and the duties imposed by this Act shall not be exercised or performed with respect to any matter within the jurisdiction of the Department of Public Health under section 4 of *The Mental Hygiene Act* or within the jurisdiction of the Department of Social Welfare and Rehabilitation under section 6 of *The Department of Social Welfare and Rehabilitation Act*.

R.S.S. 1940, c.27, s.3; R.S.S. 1953, c.30, s.2.

#### ORGANIZATION AND DUTIES OF THE DEPARTMENT

##### Organization

3 There shall be a department of the Government of Saskatchewan which shall be called the Department of Public Works, over which the Minister of Public Works shall preside.

R.S.S. 1940, c.27, s.3; R.S.S. 1953, c.30, 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.

R.S.S. 1940, c.27, s.4; R.S.S. 1953, c.30, s.4.

**Government buildings**

5(1) The minister shall have the management, charge and direction of the construction and maintenance of all public works, and the superintendence of such public institutions as may be assigned to him by order of the Lieutenant Governor in Council.

(2) The Provincial Treasurer may advance to the minister such sums of money, required for the purchase of supplies necessary for the management and superintendence of public institutions, as may be authorized by the Lieutenant Governor in Council, and the minister shall account for the purchases in such manner as may be determined by the Lieutenant Governor in Council.

R.S.S. 1940, c.27, s.5; 1947, c.7, s.3; R.S.S. 1953, c.30, s.5.

**Additional powers and duties of minister**

6 The minister shall have and exercise such other powers and duties as may be assigned to him by the Lieutenant Governor in Council.

1952, c.17, s.2; R.S.S. 1953, c.30, s.6.

**Staff**

7 The staff of the department shall consist of a deputy minister, to be called the Deputy Minister of Public Works, and such other employees as are required for the proper conduct of the business of the department.

R.S.S. 1940, c.27, s.7; R.S.S. 1953, c.30, s.7.

**Duties of deputy minister**

8(1) The deputy minister shall, as directed by the minister, prepare or cause to be prepared maps, plans, specifications and estimates for all public works which are about to be constructed, altered or repaired; he shall report for the information of the minister on any question relating to a public work which is submitted to him; he shall examine, revise and approve the plans, specifications and estimates of engineers, architects, and officers with respect to any public work, and, generally, he shall advise the minister on all engineering and architectural questions affecting any public work.

(2) He shall also prepare reports and 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, that all letters, reports and other documents are properly copied or filed, as the case may be, and generally do and perform such acts and things pertaining to the business of the department as he may from time to time be directed to do by the minister.

R.S.S. 1940, c.27, s.8; R.S.S. 1953, c.30, s.8.

## PUBLIC WORKS

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**Survey for public work**

**9** The minister may cause to be made by a duly qualified surveyor, the survey of any area required for a public building or other public work.

R.S.S. 1940, c.27, s.9; R.S.S. 1953, c.30, s.9.

## WITNESSES

**Examination**

**10(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 minister; 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) When the circumstances of the case warrant the same the minister may, with the approval of the Lieutenant Governor in Council, pay such remuneration to witnesses 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, is guilty of an offence and liable on summary conviction to a fine of \$25 and, in default of payment forthwith after conviction, to imprisonment for one month.

R.S.S. 1940, c.27, s.10; R.S.S. 1953, c.30, s.10.

## PUBLIC PROPERTY

**Ownership and control**

**11** All lands, streams, water courses and property, real or personal, heretofore or hereafter acquired for the use of public works, 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 Government of Canada, shall be and remain vested in Her Majesty in right of Saskatchewan, and so far as not under the control of any other department shall be under the control of the department.

R.S.S. 1940, c.27, s.11; R.S.S. 1953, c.30, s.11.

**Other works may be declared public works**

**12** The Lieutenant Governor in Council may from time to time declare any other property, real or personal, and other works, buildings or things specified in section 11 and purchased, acquired or constructed at the public expense, to be public works subject to the provisions of this Act, and they shall thenceforth be vested in Her Majesty in right of Saskatchewan, and under the control of the department.

R.S.S. 1940, c.27, s.12; R.S.S. 1953, c.30, s.12.

**Maps, etc., to be furnished when required by department**

**13** Any person having possession of any maps, plans, specifications, estimates, reports or other papers, books, drawing instruments, models, contracts, documents or records relating to any public work who neglects or refuses, upon demand of the minister or any other person authorized to require it, forthwith to deliver the same to the department is guilty of an offence and liable on summary conviction to a fine of \$25.

R.S.S. 1940, c.27, s.13; R.S.S. 1953, c.30, s.13.

**Sale of public property**

**4(1)** Any lands and any property, real or personal, taken for public works may, when no longer required for the use of a public work, 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.

**(2)** All lands or property when sold, leased or otherwise disposed of, may be sold, leased or otherwise disposed of under the hand and seal of the minister.

R.S.S. 1940, c.27, s.14; R.S.S. 1953, c.30, s.4.

**Administration and disposal of public lands**

**15(1)** The minister shall have the administration and management of all lands acquired for public works as herein provided, and such lands may be disposed of from time to time under regulations to be prescribed by the Lieutenant Governor in Council.

**(2)** The said lands may, when leased or transferred, be leased or transferred under the hand and seal of the minister.

R.S.S. 1940, c.27, s.15; R.S.S. 1953, c.30, s.15.

**LANDS REQUIRED FOR PUBLIC WORKS****Expropriation**

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

- (a) enter upon and take possession of any lands, in whomsoever vested, required for a public work;
- (b) enter into and upon any lands 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 work;
- (c) enter upon and take possession of any lands the expropriation of which is in his judgment necessary for the use, construction, maintenance or repair of any public work or for obtaining better access thereto;
- (d) enter with workmen, cars, 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 work or for the purpose of digging up, or quarrying or carrying away earth, stones, gravel or other material, and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom for making, constructing, maintaining or repairing the public work;

- (e) make and use all such temporary roads to and from such timber, stones, clay, gravel, sand or gravel pits as are required by him for conveniently passing to and from the works during construction and repair;
- (f) enter upon any lands for the purpose of making proper drains to carry off water from public works or for keeping such drains in repair;
- (g) divert or alter, as well temporarily as permanently the course of any brook, rivulet, road, street or way, 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, a public work as he thinks proper, but before discontinuing or altering a public road, another convenient road in lieu thereof shall be substituted, and the land theretofore used for a road or part of a road 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;
- (h) divert or alter the position of any water pipe, gas pipe, sewer, drain or any telephone, electric light or other wire or pole.

R.S.S. 1940, c.27, s.16; R.S.S. 1953, c.30, s.16.

#### **Removing fences; construction ditches**

**17** When it is necessary in building, maintaining or repairing a public work to take down or remove the wall or fence of an owner or occupant of land or premises adjoining it, or to construct a back ditch or drain for carrying off the 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 the land or premises shall maintain such wall or fence, drain or back ditch to the same extent as he 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.

R.S.S. 1940, c.27, s.17; R.S.S. 1953, c.30, s.17.

#### **Siding, conduits or tracks**

**18(1)** When any gravel, stone, earth, sand or water is taken as aforesaid at a distance from the public work the minister may cause to be laid down the necessary siding, water pipes or conduits or tracks over or through any land intervening between the public work 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 work to the land on which materials are situated.

**(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 work is constructed for the purpose of repairing and maintaining the same.

R.S.S. 1940, c.27, s.18; R.S.S. 1953, c.30, s.18.

#### **Survey and plan**

**19(1)** Lands taken for a public work shall be surveyed and marked on the ground by a duly qualified surveyor who shall prepare a proper plan of the same, but nothing herein contained shall be taken to require such plan to be prepared before or at the time of the entry or taking possession of such lands under section 16.

(2) Every person who interrupts, hinders or molests any person while engaged under the authority of the minister in removing any obstruction, making an examination for or in constructing, maintaining or repairing a public work or any works connected therewith on land either before or after the survey thereof has been approved by the minister, is guilty of an offence and liable on summary conviction to a fine not exceeding \$50.

R.S.S. 1940, c.27, s.19; R.S.S. 1953, c.30, s.19.

#### **Plans approved by minister**

**20** The plan of any land required for a public work shall be examined and approved by the minister and one copy thereof shall thereupon be filed in the department.

R.S.S. 1940, c.27, s.20; R.S.S. 1953, c.30, s.20.

#### **Application to judge for vesting order**

**21** The minister may thereupon apply *ex parte* to a judge of the Court of Queen's Bench for an order vesting in Her Majesty every estate and interest in the lands shown on the plan mentioned in section 20; and the judge shall, upon the production to him of a copy of the plan certified by the minister or deputy minister and a certificate stating that the 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 Her Majesty of any interest in the lands; provided that the right and title to all mines and minerals which may be found to exist under the lands shall continue to be vested in the owner and his assigns.

R.S.S. 1940, c.27, s.21; R.S.S. 1953, c.30, s.21.

#### **Suppression of resistance**

**22(1)** If resistance or opposition is made to the taking by the minister or any person authorized by him, of lands for public works as provided by this Act, a judge of the Court of Queen's Bench may, on proof of the proper taking of the lands as herein provided, issue his warrant to the sheriff of the judicial district within which the lands are situated directing him to put down such resistance or opposition and to put the minister or 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 of the lands; and he shall forthwith make a return to the Court of Queen's Bench of the warrant and of the manner in which he has executed the same.

R.S.S. 1940, c.27, s.22; R.S.S. 1953, c.30, s.22.

#### **Notice of compensation**

**23(1)** Upon the plan of any land taken for a public work being filed in the department as required by section 20, 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 land so taken, a notice setting forth the compensation which he is ready to pay therefor.

(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 clerk of the district court nearest to the land afflicted, to be paid out to the parties interested in such proportions as may be ordered by the judge of the said court on application therefor.

R.S.S. 1940, c.27, s.23; R.S.S. 1953, c.30, s.23.



**Claim for increased compensation**

**24(1)** If any person entitled to compensation for land taken for a public work is dissatisfied with the amount offered therefor, he shall, within one month from the date of the notice provided for in section 23 notify the minister of the fact in writing and shall in his notice name the amount which he claims and make a full statement of the facts in support of his claim.

(2) If no such notification is received by the minister within the period mentioned, the person entitled to compensation shall be deemed to be satisfied and shall accept the amount mentioned in the notice referred to in section 23.

R.S.S. 1940, c.27, s.24; R.S.S. 1953, c.30, s.24.

**Minister's decision**

**25** If a claim is made for increased compensation, the minister shall consider the 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.

R.S.S. 1940, c.27, s.25; R.S.S. 1953, c.30, s.25.

**Notice of arbitration**

**26(1)** The claimant, if dissatisfied with the decision of the minister, may, within sixty days after the registration of the notice of such notice in writing to the minister, which may letter, that he will submit the claim to arbitration and the claim shall be submitted by the minister to arbitration.

(2) The arbitration shall be by one arbitrator who shall be the judge of the district court of the judicial district in which the public work or any part thereof is or is to be situation, and all the provisions of *The Arbitration Act* shall apply thereto. If the judge is unable to act, the Attorney general shall name another district court judge to act as arbitrator.

R.S.S. 1940, c.27, s.26; R.S.S. 1953, c.30, s.26.

**Failure of claimant to give notice**

**27** If the claimant does not within the said period of sixty days after the registration of the notice mentioned in section 26 notify the minister and make the deposit required by section 28, he shall be deemed to have accepted the minister's decision and shall not thereafter question it.

R.S.S. 1940, c.27, s.27; R.S.S. 1953, c.30, s.27.

**Security for costs**

**28** 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 ten per cent of the amount claimed by him but in any event not less than \$25.

R.S.S. 1940, c.27, s.28; R.S.S. 1953, c.30, s.28.

**Payment of costs**

**29(1)** If the difference between the sum awarded to the claimant and the amount offered by the minister is less than the difference between the sum awarded to the claimant and the amount claimed, the claimant shall pay all costs and expenses of the arbitration; and if the difference between the sum awarded to the claimant and the amount offered by the minister is greater than the difference between the sum awarded to the claimant and the amount claimed, the minister shall pay the costs and expenses of the arbitration.

(2) If 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) If the claimant is not required to pay the minister's costs of the arbitration, the full amount deposited shall be returned to him.

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

R.S.S. 1940, c.27, s.29; R.S.S. 1953, c.30, s.29.

**Basis of award**

**30(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) the damage, if any, to the remaining property of the claimant;
- (c) the original costs 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 the construction of the public work through his property, by the extension of the same in any direction, or by the construction of any other public work in connection therewith, the increase in 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.

R.S.S. 1940, c.27, s.30; R.S.S. 1953, c.30, s.30.

**Penalty for injuring public work**

**31** Any person who unlawfully breaks, cuts, fills up or otherwise injures any public work is guilty of an offence and liable on summary conviction to a fine not exceeding \$100, and the convicting justice may further order the offender to forthwith repair the damage or remove the obstruction.

R.S.S. 1940, c.27, s.31; R.S.S. 1953, c.30, s.31.

## MACHINE SHOPS AND REPAIR DEPOTS

### Power to operate machine shops and repair depots

**32** When authorized by the Lieutenant Governor in Council to do so, the department may operate machine shops and repair depots and exercise all necessary powers incidental to the operation thereof.

1949, c.8, s.3; R.S.S. 1953, c.30, s.32.

### Treasury advances

**33(1)** The Provincial Treasurer may, upon the requisition of the minister, advance out of the consolidated fund such sums of money as are required to pay for supplies to be placed in stock for use in, on or in connection with public works and to pay for supplies and services in connection with the operation of machine shops and repair depots by the department.

(2) The net amount of such advances shall not at any time exceed \$250,000.

1949, c.8, s.3; R.S.S. 1953, c.30, s.33.

### Distribution and sale of supplies, etc.

**34** The distribution and sale of supplies and the furnishing of services to be paid for from moneys advanced under section 33 shall be subject to such regulations as the Lieutenant Governor in Council may prescribe in that behalf.

1949, c.8, s.3; R.S.S. 1953, c.30, s.34.

### Costs of distribution and sale

**35** All costs in connection with the distribution and sale of supplies and the furnishing of services shall be payable from moneys advanced under section 33.

1949, c.8, s.3; R.S.S. 1953, c.30, s.35.

### Statement in public accounts respecting advances

**36** The Provincial Treasurer shall publish annually with the public accounts a statement showing the sums of money advanced under section 33, the total disbursements made from moneys so advanced and the total amount received from the sale of supplies and the furnishing of services.

1952, c.17, s.3; R.S.S. 1953, c.30, s.36.

### Treasury Board regulations

**37** The Treasury Board may make regulations governing the records to be kept by the department with respect to advances received under section 33.

1949, c.8, s.3; R.S.S. 1953, c.30, s.37.

## CONTRACTS

### Powers of minister

**38** The minister may enter into any contract or agreement that may be deemed necessary or advisable for the purpose of carrying out the provisions of this Act, but no deed, contract, document or writing in respect of any matter under the control or direction of the minister shall be binding on the department, unless signed by the minister or by the deputy minister.

R.S.S. 1940, c.27, s.32; R.S.S. 1953, c.30, s.38.

**Tenders invited**

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

R.S.S. 1940, c.27, s.33; R.S.S. 1953, c.30, s.39.

**Security for performance of contract**

**40** The minister may, when a public work is being carried out by contract, require that security be given to and in the name of Her Majesty for the due performance of the work within the time specified for its completion.

R.S.S. 1940, c.27, s.34 (1) in part; R.S.S. 1953, c.30, s.40.

**Letting to other than lowest bidder**

**41** Where it seems to the minister to be inexpedient to let the work to the lowest bidder, he shall report the same to and obtain the authority of the Lieutenant Governor in Council before awarding the contract to any other than such lowest bidder.

R.S.S. 1940, c.27, s.34 (1) in part; R.S.S. 1953, c.30, s.41.

**Conditions of payment**

**42** 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 has been given.

R.S.S. 1940, c.27, s.34 (2); R.S.S. 1953, c.30, s.42.

**Contracts to inure to Her Majesty**

**43** All contracts respecting public works or property, real or personal, under the control of the department heretofore or hereafter entered into the minister or any other person thereunto duly authorized, shall inure to the benefit of Her and may be enforced as if been entered into with Her Majesty under the of this Act.

R.S.S. 1940, c.27, s.35; R.S.S. 1953, c.30, s.43.

**Actions instituted for Attorney General**

**44** 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 Her Majesty by the Attorney General.

R.S.S. 1940, c.27, s.36; R.S.S. 1953, c.30, s.44.

## PUBLIC WORKS

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**Fair wages paid**

**45** 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 and 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 is no current rate in such district then they shall be paid wages at a fair and reasonable rate; and in the even 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.

R.S.S. 1940, c.27, s.37; R.S.S. 1953, c.30, s.45.

## ACCOUNTS

**Vouchers**

**46** 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.

R.S.S. 1940, s.27, s.38; R.S.S. 1953, c.30, s.46.

**Accounts verified**

**47** The minister may require accounts sent in by any person employed by the department to be verified by oath, affirmation or statutory declaration, which as well as those to be taken by witnesses, may be administered or taken by the minister or by any person authorized by him to do so.

R.S.S. 1940, c.27, s.39; R.S.S. 1953, c.30, s.47.

## EVIDENCE OF RECORDS

**Copies of records as evidence**

**48** Copies of any records, documents, plans, books or papers belonging to or deposited in 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.

R.S.S. 194, c.27, s.40; R.S.S. 1953, c.30, s.48.

## ANNUAL REPORT

**Annual report**

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

R.S.S. 1940, c.27, s.41; R.S.S. 1953, c.30, s.49.

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