

UNEDITED

The Public Utilities Easements Act

being

Chapter 117 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FOR HISTORICAL REFERENCE ONLY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 117

An Act to provide for the Acquisition of Certain Easements for Public Utilities

Short title

1 This Act may be cited as *The Public Utilities Easements Act*.

R.S.S. 1953, c.117, s.1.

Easements for public works and public utilities

2(1) The registered owner of a parcel of land may grant to the Crown in right of Canada or of the province or to a public utility company, railway company telegraph company or gas or oil pipe line company, whether incorporated under the laws of the province or otherwise;

(a) the right to carry its wires, cables, conductors, telegraph lines, telephone lines or electric power transmission or distribution lines upon, over, under or across the land;

(b) the right to construct its spur tracks, snow fences, drainage ditches or sewage disposal plant upon or to construct its drain pipes, sewer pipes, water pipes, gas or petroleum pipes or other conduits through, under or across the land;

(c) the right of access to and egress from any of its wires, cables, conductors, telegraph lines, telephone lines, electric power transmission or distribution lines, spur tracks, snow fences, drainage ditches, sewage disposal plant, drain pipes, sewer pipes, water pipes, gas or petroleum pipes or other conduits;

(d) the right to remove from the land any building, structure, tree, shrub, bush, hedge, fence or object which might interfere with flying, including the taking- off or landing of aircraft; or

(e) the right to prevent the placing or bringing on the land of any vehicle, wire, apparatus, appliance or thing which is capable of causing interference with radio transmission or reception;

(f) such other rights with respect to the land as may be required by the Crown or the company.

(2) Such owner may grant to a municipal corporation or to a company operating aircraft such of the rights mentioned in subsection (1) as the corporation or company may require in the exercise of its corporate powers and functions.

(3) Rights created under the preceding subsections are in this Act termed easements.

(4) An agreement containing the grant of an easement may be registered, and upon registration the rights and privileges thereby created and the covenants relating thereto shall inure to the benefit of the Crown, of the municipality or of the company, its successors and assigns, owners of the utility, railway, telegraph system, gas or oil pipe line, air training school, airfield or airport for the purposes of which the easement is granted and shall run with the land and be binding upon the grantor, his heirs, executors, administrators and assigns, and, subject to the provisions hereinafter contained, upon all other persons interested in the land.

R.S.S. 1940, c.107, s.2; 1942, c.22, s.2; 1950, c.30, s.2; R.S.S. 1953, c.117, s.2.

Where others interested in the land

3 Where the records of the land titles office show that any person other than the registered owner is interested in the land, then, if the person so interested executes a consent, verified by the affidavit of an attesting witness, to the amount proposed to be paid as compensation and to the payment thereof to the registered owner, or with the approval of the registered owner, verified as aforesaid, to some other specified person, the registrar shall, on such consent being filed in his office, register the agreement.

R.S.S. 1940, c.107, s.3; R.S.S. 1953, c.117, s.3.

Notice to such persons

4(1) In lieu of proceeding under section 3 the grantee of the proposed easement may give to each person so interested a notice by registered mail requiring him within thirty days after the date of mailing the notice to state in writing to the grantee at a specified address in Saskatchewan whether or not he consents to the amount of the compensation and the payment thereof to the registered owner.

(2) The notice shall be directed to such person at his address as shown by the records of the land titles office and shall:

- (a) describe the land affected;
- (b) state the name of the easement to be granted; and
- (c) state the amount proposed to be paid as compensation therefor.

R.S.S. 1940, c.107, s.4; R.S.S. 1953, c.117, s.4.

Consents

5 A person so notified may execute a consent as provided for in section 3, and, if all the persons so notified execute such consents, the provisions of section 3 regarding registration shall apply.

R.S.S. 1940, c.107, s.5; R.S.S. 1953, c.117, s.5.

Failure to comply

6 If any person so notified does not reply within the time limited, he shall be deemed to consent to the grant of the easement on the proposed terms.

R.S.S. 1940, c.107, s.6; R.S.S. 1953, c.117, s.6.

When objection made

7 If any such person objects within the time limited to the amount of compensation to be paid or to the disposition to be made thereof, the grantee of the proposed easement may submit the matter to arbitration.

R.S.S. 1940, c.107, s.7; R.S.S. 1953, c.117, s.7.

District court judge to be arbitrator

8 There shall be one arbitrator, who shall be the judge of the district court of the judicial district in which the land lies, and all the relevant provisions of *The Arbitration Act* shall apply to the arbitration. If the judge is unable to act, the Attorney General may name another district court judge to act as arbitrator. The arbitration shall not proceed except upon reasonable notice to all persons appearing by the records of the land titles office to be interested.

R.S.S. 1940, c.107, s.8; R.S.S. 1953, c.117, s.8.

Scope of award

9 The arbitrator shall decide the amount to be paid as compensation for the proposed easement, and to whom it is to be paid. There shall be no appeal from his award.

R.S.S. 1940, c.107, s.9; R.S.S. 1953, c.117, s.9.

Registration

10 On proof by affidavit to the satisfaction of the registrar that the requirements of the foregoing sections have been complied with and, where the matter has been submitted to arbitration, upon production to the registrar of the award and deposit with him of a sworn or notarial copy thereof and on proof of payment of the amount awarded in accordance with the terms of the award, the registrar shall register the agreement.

R.S.S. 1940, c.107, s.10; R.S.S. 1953, c.117, s.10.

Notation on certificate

11(1) When an agreement containing the grant of an easement is registered, the registrar shall enter a memorandum thereof upon the certificate and duplicate certificate of title to the land affected thereby.

(2) Where no certificate of title has been issued, such agreement may be protected by filing the same in the proper land titles office and in such case the registrar shall, on receipt of the agreement, enter the same in the day book and endorse upon the certificate of title, when one is granted, a memorandum of the agreement but no certificate of title shall be issued therefor.

R.S.S. 1940, c.107, s.11; 1951, c.35, s.2; R.S.S. 1953, c.117, s.11.

Filing plan

12 Before registering an agreement for an easement, the registrar may require a plan of the land affected by the easement to be filed, such plan to be drawn in accordance with the requirements of section 95 of *The Land Titles Act*.

R.S.S. 1940, c.107, s.12; R.S.S. 1953, c.117, s.12.

Assignment of discharge of easement

13(1) An instrument purporting to assign mortgage or charge an easement acquired under this Act may, if executed on behalf of the Crown or municipal corporation or by the owner of the public utility, railway, telegraph system, gas or oil pipe line, air training school, airfield or airport, be registered in the land titles office.

(2) An easement acquired under this Act may be released or discharged by an instrument executed on behalf of the Crown or municipal corporation or by the owner of the public utility, railway, telegraph system, gas or oil pipe line, air training school, airfield or airport, as the case may be; and upon registration of such instrument, the rights and privileges arising under the easement shall cease.

(3) Notwithstanding subsections (1) and (2), where the easement is one with respect to which an agreement has been filed under subsection (2) of section 11, the instrument purporting to assign, mortgage, charge, release or discharge the easement shall be filed and not registered and in such case the registrar shall, on receipt of such instrument, enter the same in the day book and endorse upon the certificate of title, when one is granted, a memorandum of such instrument.

1942, c.22, s.3; 1951, c.35, s.3; R.S.S. 1953, c.117, s.13.

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