

UNEDITED

# *The Municipal Public Works Act*

*being*

Chapter 143 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FOR HISTORICAL REFERENCE ONLY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 143

### An Act respecting Municipal Public Works

#### SHORT TITLE

##### Short title

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

R.S.S. 1953, c.143, s.1.

#### INTERPRETATION

##### Interpretation

- 2 In this Act:

##### “council”

- 1 “**council**” means the council of a municipality;

##### “municipality”

- 2 “**municipality**” means a city, town or village.

R.S.S. 1953, c.143, s.2.

#### WATERWORKS AND SEWERS

##### Construction of waterworks and sewers

- 3 A municipality may construct, build, purchase, improve, extend, hold, maintain, manage and conduct waterworks and all buildings, materials, machinery and appurtenances thereto belonging in the municipality and in the neighbourhood thereof as hereinafter provided, and, either in connection with waterworks or not, a system of storm sewers or sanitary sewers, or both.

R.S.S. 1940, c.132, s.2; R.S.S. 1953, c.143, s.3.

##### Carrying out works

- 4 The municipality may employ such engineers, surveyors or other persons and may rent, with such conditions, covenants and stipulations as may be deemed requisite, or may purchase, at its option, such lands and buildings, waters and privileges as in the opinion of the council may, during the construction or at any future time, be necessary or expedient for carrying out the purposes of this Act.

R.S.S. 1940, c.132, s.3; R.S.S. 1953, c.143, s.4.

##### Power to enter upon and acquire land

- 5 The municipality, its engineers, servants and workmen may at such times as the council sees fit:

- (a) enter into and upon, take or use the land of any person, body politic or corporate in the municipality or within any distance thereof;
- (b) survey, set out and ascertain such parts thereof as are required for the purposes of the waterworks or sewers; and

(c) contract with the owner or occupant of land and any person having a right or interest in any water for the purchase or renting thereof, or any part thereof, or any privilege connected therewith and required for the purpose of the waterworks or sewers.

R.S.S. 1940, c.132, s.4; R.S.S. 1953, c.143, s.5.

#### **Construction of other necessary works**

**6** The municipality may construct, erect and maintain in and upon lands acquired under the provisions of this Act, all reservoirs, waterworks and machinery requisite for the undertaking and for conveying the water thereto and therefrom in, upon and through any lands lying intermediate between the reservoirs and waterworks and the rivers, ponds and springs, streams or waters from which the same are procured and the municipality, by one or more lines of pipes as may be found necessary or expedient.

R.S.S. 1940, c.132, s.5; R.S.S. 1953, c.143, s.6.

#### **Intermediate lands**

**7(1)** The municipality and its servants with its authority may, for the said purposes, enter and pass upon and over such intermediate lands and may cut and dig up the same if necessary and may lay down pipes through the same and in, upon, through, over and under highways, streets, lanes, roads or other passages, and may for the purposes of such waterworks enter and pass upon and over such lands as the council deems expedient and may cut and dig up the same if necessary, and may lay sewers through the same and in, through, over and under highways, streets, lanes, roads and other passages.

**(2)** All lands not the property of the municipality and all highways, roads, streets, lanes or other passages so dug up or interfered with shall be restored to their original condition without unnecessary delay.

**(3)** The municipality may enter upon, set out, ascertain, purchase, use and occupy such parts of the said lands as the council thinks necessary and proper for making and maintaining the said works or for opening new streets required for the same; and for purchasing the lands required for the protection of the said works or for preserving the purity of the water supply, or for taking up, removing, altering or repairing the same and for distributing water to the inhabitants of the community or for the uses of the corporation or for the proprietors or occupiers of the land through or near which the same may pass.

R.S.S. 1940, c.132, s.6; R.S.S. 1953, c.143, s.7.

#### **Distribution pipes**

**8** For the purpose of distributing water or for the purpose of sewerage, the municipality may sink and lay down pipes, tanks, reservoirs and other conveniences and may alter all or any of the said works as well in the position as in the construction thereof.

R.S.S. 1940, c.132, s.7; R.S.S. 1953, c.143, s.8.

#### **Works, etc., vested in municipality**

**9** All works, pipes, erections and machinery requisite for the undertaking shall be vested in and be the property of the municipality.

R.S.S. 1940, c.132, s.8; R.S.S. 1953, c.143, s.9.

**Service pipes and sewers**

**10(1)** Service pipes and sewers which may be required shall be constructed and laid down up to the outer line of the street by the municipality, and the municipality shall be solely responsible for keeping the same in repair.

(2) Where vacant space intervenes between the outer line of the street and the wall of the building or other place into which the water is to be taken or with which the sewer is to be connected, the municipality may, with the consent of the owner, lay the service pipes across the vacant space and charge the cost thereof to the owner of the premises, or the owner may lay service pipes or sewers if he does so to the satisfaction of the council or of the person appointed by it in that behalf.

(3) The expense incidental to the laying and repairing as hereinafter provided of the service pipes or sewers, if laid or repaired by the municipality, except the repairing of the service pipes or sewers from the main pipe to the outer limit of the street which shall be borne solely by the municipality, or of superintending the laying or repairing of the same if laid or repaired by any other person, shall be payable by the owner on demand to the municipality, or if not paid may be collected forthwith in the same manner as water rates:

Provided that in no case shall the expense of superintending the laying or repairing of a service pipe or sewer exceed \$2.

R.S.S. 1940, c.132, s.9; R.S.S. 1953, c.143, s.10.

**Service pipes and sewers under control of municipality**

**11(1)** The service pipes or sewers from the line of street to the interior face of the outer walls of the building supplied, together with all branches, couplings, stopcocks and apparatus placed therein by the municipality, shall be under its control; and if damage is done to this portion of the service pipe or sewer or its fittings, either by neglect or otherwise, the occupant or owner of the lands shall forthwith repair the same to the satisfaction of the council; and, in default of his so doing, whether notified or not, the municipality may enter upon the lands where the service pipes or sewers are, and, by its officers, agents or servants, repair the same and charge the same to the owner of the premises.

(2) The stopcock placed by the municipality inside the wall of the building shall not be used by the water tenant except in cases of accident or for the protection of the building or the pipes and to prevent the flooding of the premises.

(3) Parties supplied with water by the municipality may be required to place only such taps for drawing and shutting off the water as are approved by the council.

R.S.S. 1940, c.132, s.10; R.S.S. 1953, c.143, s.11.

**Power to inspect premises**

**12** Any person authorized by the council shall have free access at proper hours of the day and upon reasonable notice given and request made, or with the written authority of a commissioner in any particular case, without notice, to all parts of every building or other premises in which water is delivered and consumed or which is served by a sewer, for the purpose of inspecting or repairing any service pipe or sewer or for placing meters upon any service pipe or connection within or without any house or building, as he deems expedient; and, for this purpose or for the purpose of protecting or of regulating the use of any meter, may set or alter the position of the same or of any pipe connection or tap, may fix the price to be paid for the use of a meter and the times when and the manner in which it shall be payable, and may also charge for and recover the expenses of the alterations; and the price and the expense of the alterations may be collected in the same manner as water rates.

R.S.S. 1940, c.132, s.11; R.S.S. 1953, c.143, s.12.

**Regulating use of water and rates**

**13(1)** The municipality shall regulate the distribution and rates and use of the water in all places and for all purposes where it may be required, and may fix the prices for the use thereof and the times of payments; and it may erect public hydrants in such places as the council sees fit and the council may direct in what manner and for what purposes they shall be used, all which it may change at discretion, and may fix the rate of rent to be paid for the use of water by hydrants or fire plugs and public buildings.

(2) The sum payable by the owner or occupant of any house, tenement, lot or part of a lot for the water supplied to him there or for the use thereof, and all rates, costs or charges by this Act to be collected in the same manner as water rates, shall be a preferential lien and charge on the house, tenement, lot or part of a lot; and may be levied and collected in like manner as municipal rates and taxes are by law recoverable.

R.S.S. 1940, c.132, s.12; R.S.S. 1953, c.143, s.13.

**Bylaws for maintenance and management of works and collection of rates**

**14(1)** The council may make bylaws, rules and regulations not inconsistent with this Act for:

- (a) the general maintenance or the management or conduct of the waterworks and of the officers and others employed in connection with them;
- (b) collection of the water rates;
- (c) fixing the times when and places where water rates shall be payable; and
- (d) allowing discount for prepayment.

(2) In case of default in payment of water rates, the municipality may enforce payment:

- (a) by shutting off the water;
- (b) by action in a court of competent jurisdiction; and

(c) by distress and sale of the goods and chattels of the owner or occupant, or of goods and chattels in his possession wherever the same may be found within ten miles of the property in respect of which the water rate is payable, or of goods and chattels found on the premises the property of or in the possession of any other occupant of the premises; but where the arrears exceed three months no distress shall be made of goods and chattels which are not the property of the person liable for the water rate.

(3) The distress and sale may be conducted in the same manner as distresses and sales are conducted for arrears of taxes, and the costs chargeable shall be those payable under *The Distress Act*.

R.S.S. 1940, c.132, s.13; R.S.S. 1953, c.143, s.14.

#### **Collectors and others**

**15(1)** The council may employ the ordinary collectors and assessors and other persons necessary to carry out the objects of this Act, and may specify their duties and fix their remuneration.

(2) All such persons shall hold office at the pleasure of the council or as the council shall determine by bylaw, and shall give the security required by the council.

(3) The assessors and collectors shall have and may exercise the same powers in the performance of their duties as they possess for the collection of municipal taxes.

R.S.S. 1940, c.132, s.14; R.S.S. 1953, c.143, s.15.

#### **Non-liability for breakage or stoppage**

**16** The municipality shall not be liable for damages caused by the breaking of a service pipe or attachment, or for shutting off water to repair mains:

Provided that reasonable notice of the intention to shut off the water shall be given whenever the same is intended to be shut off for more than six hours at any one time.

R.S.S. 1940, c.132, s.15; R.S.S. 1953, c.143, s.16.

#### **Power to supply water outside of municipality**

**17** The municipality may supply with water upon special terms any person or corporation outside the municipality, and may do all things necessary to the carrying out of its agreement with such person or corporation, as well within the suburbs as within the municipality; and it may also make and carry out any agreement deemed expedient for the supply of water to a railway company or factory:

Provided that, where water is to be supplied in another municipality which itself possesses waterworks, no pipes for this purpose shall be carried in, upon, through, over or under any highway or public street, lane, road or passage within such other municipality without the consent of the council of that municipality; in such case the agreement may be for a term of years or otherwise.

R.S.S. 1940, c.132, s.16; R.S.S. 1953, c.143, s.17.

#### **Bylaws prohibiting wrongful use of water and regulating supply**

**18(1)** The council may make bylaws for prohibiting by fine, not exceeding \$20 and costs, or by imprisonment in the first instance for any term not exceeding one month, the tenant, occupant or inmate of any house, building or other place supplied with water from the waterworks from:

- (a) lending, selling or disposing of the water;
  - (b) giving it away or permitting it to be taken or carried away;
  - (c) using or applying it to the use or benefit of others or to any other than his own use and benefit; or
  - (d) increasing the supply of water agreed for with the municipality, or wrongfully neglecting or improperly wasting the water.
- (2) The council may also make bylaws regulating the time, manner, extent and nature of the supply by the works to the premises or parties to which and to whom the same shall be furnished, the price or prices to be exacted therefor and every other matter or thing related to or connected therewith which it may be necessary or proper to direct, regulate or determine in order to secure to the inhabitants of the municipality a continued and abundant supply of pure and wholesome water, and to prevent the practising of frauds upon the municipality with regard to the water so supplied.
- (3) The amount of the fine, duration of the imprisonment, and also the option between fine and imprisonment, shall be in the discretion of the justice of the peace before whom any proceedings may be taken for the enforcement of the bylaw.

R.S.S. 1940, c.132, s.17; R.S.S. 1953, c.143, s.18.

**Petition for construction of waterworks**

**19** If a petition signed by two-thirds of the resident burgesses of the municipality, is presented to the council asking for the construction of waterworks under the powers conferred on the municipality by this Act:

- 1 The council shall forthwith prepare a bylaw for the submission of the question in accordance with the prayer of the petitioners, or in a form approved by the vote of two-thirds of the members of the council, and shall submit the same to the vote of the burgesses within six weeks after the receipt of the petition by the council;
- 2 The power of the council shall not be deemed to be abridged by this Act except as expressly stated herein;
- 3 The proceedings in taking the vote and the persons having the right to vote shall be the same as nearly as may be as are required by the municipal law in force in respect of the particular municipality concerned in case of bylaws creating debts.

R.S.S. 1940, c.132, s.18; R.S.S. 1953, c.143, s.19.

**If bylaw approved council constructs works**

**20** If the bylaw is approved by two-thirds of the burgesses voting thereon, the council shall pass the bylaw and forthwith proceed with the construction of the works:

Provided that the council may for any good cause, by a vote of two-thirds of its members, postpone construction until after the next general municipal election.

R.S.S. 1940, c.132, s.19; R.S.S. 1953, c.143, s.20.

## LIGHTING, HEATING AND POWER WORKS

**Construction of light, heat and power works**

**21(1)** The municipality shall have power to:



- (a) manufacture and supply for its own use and the use of the inhabitants of the municipality gas, including natural gas, for heating, cooking and all other purposes for which gas can be used;
  - (b) manufacture and supply electric, galvanic or any other artificial light, heat or power either in connection with gas or otherwise;
  - (c) construct, purchase, improve, extend, hold, maintain, manage and conduct any works for the foregoing purposes which the council deems necessary;
  - (d) acquire any patent or other rights for the manufacture or production of artificial light, heat or power; and
  - (e) supply, sell or lease all fittings, machines, apparatus, meters or other things required for such purposes.
- (2) The municipality may sell or dispose of coke, tar and every product, refuse or residue obtained in or from its works, and any surplus of coal which it may have on hand.
- (3) The municipality may rent or purchase lands and buildings which the council deems necessary or advantageous for the said purposes.

R.S.S. 1940, c.132, s.20; R.S.S. 1953, c.143, s.21.

#### **Breaking up streets**

**22** The municipality may, for the purpose of laying down, taking up, examining or keeping in repair the pipes, wires or rods used for conducting the gas, electricity or other means of producing light or heat or power, break up, dig and trench in, upon, through, over and under the highways, streets, lanes, roads, squares and other public passages and places in the municipality, or, with the consent of the owner, in, upon, through, over or under any private property; or may, upon poles or otherwise, conduct such wires and rods along and across such streets, lanes, roads, squares and other public passages and places or with the consent of the owner upon private property.

R.S.S. 1940, c.132, s.21; R.S.S. 1953, c.143, s.22.

#### **Carrying pipes and wires through parts of buildings**

**23(1)** Where there are buildings within the municipality different parts whereof belong to different proprietors or are in possession of different tenants, the municipality may carry pipes, wires or rods to any part of any building so situated, passing over the property of one or more proprietors or in the possession of one or more tenants, to convey the gas, electricity or other means of providing light or heat or power to the property of another or in the possession of another.

(2) The pipes, wires or rods shall be carried up and attached to the outside of the buildings, unless consent is obtained to carry the same inside.

R.S.S. 1940, c.132, s.22; R.S.S. 1953, c.143, s.23.

#### **Breaking up passages**

**24** The municipality may also break up and uplift all passages common to neighbouring proprietors or tenants and dig or cut trenches therein for the purpose of laying down pipes or wires or taking up or repairing or examining the same, doing as little damage as possible in the execution of the powers hereby conferred and restoring the passages to their original condition without unnecessary delay.

R.S.S. 1940, c.132, s.23; R.S.S. 1953, c.143, s.24.

**Entry on lands without consent**

**25(1)** A municipality which has entered into or hereafter enters into a contract for the supply to it of electrical energy, steam or natural or manufactured gas by The Saskatchewan Power Commission or Saskatchewan Power Corporation may by its employees or agents, without the consent of the owner or any other person interested therein, enter on the lands and property of any person for the purpose of placing thereon such poles, structures, wires, conduits and pipes as it may consider necessary.

(2) The municipality shall pay compensation for any damage caused by such action, and the amount thereof shall be determined in the manner provided by *The Municipal Expropriation Act* for determining the compensation to be paid for lands injuriously affected in cases where a city, town or village takes lands in the exercise of any of its powers.

(3) The leave of a judge or payment into court shall not be necessary before the exercise of the powers conferred by this section.

1950, c.39, s.2; R.S.S. 1953, c.143, s.25.

**Public health and safety not to be endangered**

**26** The municipality shall construct its gas and other works and all apparatus and appurtenances thereunto be endangered longing or appertaining or connected therewith and where ever situated so as not to endanger the public health or safety.

R.S.S. 1940, c.132, s.24; R.S.S. 1953, c.143, s.26.

**Supply to buildings on request**

**27** Where the municipality has constructed works for supplying the municipality with light, heat or power as hereinbefore provided, and where there is a sufficient supply thereof, it shall be the duty of the municipality to supply all buildings within the municipality situated upon land lying along the line of supplies, upon the same being requested by the owner, occupant or other person in charge of any such building, at the customary charges and on the customary terms.

R.S.S. 1940, c.132, s.25; R.S.S. 1953, c.143, s.27.

**Bylaws for maintenance and management of works**

**28** The council may make and enforce all necessary bylaws, rules and regulations for the general maintenance and management of all the works constructed or maintained under this Act, and of the officers or others employed in connection with them and for the collection of the rates and charges for supplying gas or electricity or other means of providing light or heat or power hereunder, and for the rent of fittings, machines, apparatus, meters or other things leased to consumers, and for fixing the rates, charges and rents and times and places when and where the same shall be payable; and the council may allow for prepayment or punctual payment such discount as it may deem expedient.

R.S.S. 1940, c.132, s.26; R.S.S. 1953, c.143, s.28.

**Enforcing payment of rates**

**29(1)** The municipality may enforce payment of the rates, charges or rents by action in any court of competent jurisdiction, or by distress and sale of the goods and chattels of the person owing such rates, charges or rents wherever the same may be found in the municipality in which the gas, electricity or other means of providing light, heat or power is supplied.

(2) The distress and sale shall be conducted in the same manner as distresses and sales are conducted for arrears of taxes and the costs chargeable shall be those payable under *The Distress Act*.

(3) Where a consumer discontinues the use of gas or other means of providing light or heat or power furnished by the municipality, or the municipality lawfully refuses to continue to supply the same, the officers and servants of the municipality may at all reasonable times enter the premises in or upon which the consumer was supplied with gas or the means of providing light, or heat or power, for the purpose of removing therefrom any fittings, machines, apparatus, meters, pipes or other things, the property of the municipality in or upon the premises, and may remove the same therefrom doing no unnecessary damage.

R.S.S. 1940, c.132, s.27; R.S.S. 1953, c.143, s.29.

**Extension of works beyond municipality**

**30** The municipality may, under a bylaw of an adjoining municipality, exercise the like powers within the adjoining municipality as it may under this Act within its own municipality, upon such terms as may be agreed upon; and the adjoining municipality may require to be paid a sum in gross or annually for such privilege, or may pay a sum in gross or annually therefor.

R.S.S. 1940, c.132, s.28; R.S.S. 1953, c.143, s.30.

**Restrictions when mains already existing**

**31** If any person, firm or company has laid down main pipes for the supply of gas in or through any of the streets, squares or public places of the municipality, the municipality shall not, without the consent of such person, firm or company first had and obtained nor otherwise than upon payment to such person, firm or company of such compensation as may be agreed upon, lay down any main pipe for the supply of gas within six feet of the main pipes of such person, firm or company, or, if it is impracticable to cut drains for such main pipes at a greater distance, then as nearly six feet as the circumstances of the case will admit. This section is subject to any antecedent agreement between such person, firm or company and the municipality.

R.S.S. 1940, c.132, s.29; R.S.S. 1953, c.143, s.31.

## GENERAL

**No unnecessary damage to be done**

**32** The municipality shall do as little damage as possible in the execution of the powers by this Act granted to it and shall make reasonable and adequate satisfaction to the owners, occupiers or other persons interested in the land, water, rights or privileges entered upon, taken or used by the municipality or injuriously affected by the exercise of its powers, and, in case of disagreement, the compensation or damages shall be ascertained as provided in like cases by *The Municipal Expropriation Act*.

R.S.S. 1940, c.132, s.30; R.S.S. 1953, c.143, s.32.

**Attempt to collect rates not to invalidate lien**

**33(1)** An attempt to collect rates by process herein before mentioned shall not invalidate the lien on the premises as hereinbefore provided.

(2) If the rate remains unpaid and continues to be a lien upon the premises the amount of the rate in arrears shall be returned by the collectors to the clerk or secretary treasurer of the municipality annually on or before the eighth day of April or such other time as may be fixed by bylaw of the municipality; and such amount, together with interest at the rate of ten per cent per annum, shall thereupon be collected by the clerk or secretary treasurer in like manner as municipal taxes and rates are by law recoverable.

R.S.S. 1940, c.132, s.31; R.S.S. 1953, c.143, s.33.

**Protection and power of officers**

**34** The municipality and its officers, agents and servants shall have the like protection in the exercise of their respective offices and the execution of their duties as public officers have under the laws of the province, and the watchmen and other officers of the municipality when in the discharge of their duties shall be *ex officio* possessed of all the powers and authority of constables.

R.S.S. 1940, c.132, s.32; R.S.S. 1953, c.143, s.34.

**Property exempt from execution**

**35** All materials procured or partly procured under contract with the municipality, and upon which the municipality has made advances in accordance with such contract, shall be exempt from seizure under execution.

R.S.S. 1940, c.132, s.33; R.S.S. 1953, c.143, s.35.

**Property exempt from taxation**

**36** The lands, buildings, machinery, reservoirs, pipes, poles, wires, rods, meters, fittings, and all other real or personal property connected with or appertaining or belonging to any work under this Act shall be exempt from taxation for municipal, school or other purposes.

R.S.S. 1940, c.132, s.34; R.S.S. 1953, c.143, s.36.

**Property exempt from distress**

**37** Property owned by the municipality under the authority of this Act shall not be liable to seizure by way of distress for rent.

R.S.S. 1940, c.132, s.35; R.S.S. 1953, c.143, s.37.

**Power to sell property**

**38(1)** Subject to the provisions of Part III of *The Public Utilities Companies Act*, a municipality may, with the approval of the Local Government Board, and upon such terms and conditions as the board may prescribe, sell any real or personal property acquired by it for the purposes of this Act when no longer needed, and may, subject to the same approval, rent or lease the same until sold.

(2) Subject to the provisions of *The Local Government Board (Special Powers) Act*, but notwithstanding anything contained in any other Act, any municipality may sell to Saskatchewan Power Corporation its plant, machinery, apparatus and equipment, used or intended for use in the generation, transmission, distribution or supply of electrical energy, steam or natural or manufactured gas, and the land occupied by the same, or used in connection therewith, or any part thereof; and subsection (1) shall not apply to any such sale and the assent of the burgesses and the approval of the Local Government Board shall not be and shall be deemed never to have been required.

(3) The property so sold shall be free from any charge or lien on account of any mortgage, bonds, debentures or other securities issued by the municipality, but the proceeds of the sale shall be considered to be held on capital account and may be invested in the same manner as sinking funds, or may be used for the purposes of any of the municipality's public utilities, or for other capital expenditure and on terms approved by the Local Government Board.

(4) The income derived from the investment of the proceeds may be appropriated by the council, with the approval of the Local Government Board, as if it were money raised by general rate for general municipal purposes.

(5) The securities representing the moneys invested in the same manner as sinking funds shall be deposited with the sinking fund trustees, where the municipality has appointed sinking fund trustees; otherwise they shall be deposited with the Local Government Board.

(6) Notwithstanding anything contained in this or any other Act, whether general or special, where a municipality has sold to The Saskatchewan Power Commission or has sold or hereafter sells to Saskatchewan Power Corporation any property referred to in subsection (2), or where any such property is expropriated by Saskatchewan Power Corporation, the amount of debentures issued by the municipality for the acquisition, construction or extension of the said property, less a proportionate amount of the funds or securities held in the sinking fund to meet such debentures, shall not be included in the debenture debt of the municipality for the purpose of ascertaining the limits of its borrowing powers.

R.S.S. 1940, c.132, s.36; 1950, c.39, s.3; R.S.S.  
1953, c.143, s.38.

**No councilor to be interested in contract**

**39** No member of the council shall personally hold any contract in connection with works under this Act, or be directly or indirectly interested in any of them; but no person shall be disqualified from being elected or sitting as a member of the council by reason of his being a taker or consumer of water, light, heat or power supplied by the municipality, or by reason of any dealing or contract with the municipality with reference to the supply of water, light, heat or power to him.

R.S.S. 1940, c.132, s.37; R.S.S. 1953, c.143, s.39.

**Liability of persons doing damage**

**40** All persons and corporations who by themselves, their servants or agents by act, default, neglect or omission occasion any loss, damage or injury to public works constructed under the provisions of this Act, or to any plant, machinery, fitting or appurtenances thereof shall be liable to the municipality for or in respect of such damage, loss or injury and damages in respect thereof may be recovered by the municipality in any court of competent jurisdiction.

R.S.S. 1940, c.132, s.38; R.S.S. 1953, c.143, s.40.

**Purchase or lease of existing works**

**41** The municipality may purchase or lease works constructed for the supply of water, light, heat and power within or in the neighbourhood of the municipality, and under the provisions of this Act may improve or extend such works.

R.S.S. 1940, c.132, s.39; R.S.S. 1953, c.143, s.41.

**Penalties**

**42** If a person does or commits any of the following acts:

- (a) wilfully or maliciously hinders or interrupts or causes or procures to be hindered or interrupted the municipality or its managers, contractors, servants, agents, workmen or any of them, in the exercise of any of the powers and authorities in this Act authorized and contained;
- (b) wilfully or maliciously lets off or discharges water or gas so that the same runs waste;
- (c) not being in the employment of the municipality and not being a member of the fire brigade and duly authorized in that behalf, wilfully opens or closes any hydrant or obstructs the free access to any hydrant, stopcock, chamber pipe or hydrant chamber by placing on it any building material, rubbish or other obstruction;
- (d) throws or deposits injurious, noisome or offensive matter into the water or waterworks, or upon the ice if such water is frozen, or in any way fouls the water, or commits wilful damage or injury to the works, pipes or water or encourages the same to be done;
- (e) wilfully alters a meter placed upon a service pipe or connected therewith within or outside any house, building or other place so as to lessen or alter the amount of water, gas or electricity registered thereby, unless specially authorized by the municipality for that particular purpose and occasion;
- (f) lays or causes to be laid or attached a pipe or main or wire or rod to communicate with any pipe or main or wire or rod of the works, or in any way obtains or uses any water, gas or electricity thereof without the consent of the municipality;
- (g) washes or cleanses cloth, wool, leather, skin or animals or places any nuisance or offensive thing within a distance of one mile from the source of supply for such waterworks in any river, pond, creek, spring, source or fountain from which the water of the waterworks is obtained, or conveys, casts, throws or puts any filth, dirt, dead carcass or other noisome or offensive thing therein or within that distance, causes, permits or suffers the water of any sink, sewer or drain to run or be conveyed in the same or causes any other thing to be done whereby the water therein may be in any way tainted or fouled;



he is guilty of an offence and liable on summary conviction to a fine of not less than \$1 nor more than \$20, with costs, or to imprisonment for a term not exceeding thirty days.

R.S.S. 1940, c.132, s.40; R.S.S. 1953, c.143, s.42.

#### **Application of penalties**

**43** Money penalties recovered under section 42 shall be paid to the convicting justice and by him paid one-half to the treasurer of the municipality and the other half to the prosecutor, unless the prosecutor is an officer or servant of the municipality in which case the whole of the penalty shall be paid to the municipality.

R.S.S. 1940, c.132, s.41; R.S.S. 1953, c.143, s.43.

#### **Works as single or joint undertaking**

**44** Any municipal public work provided for in this Act may be constructed, built, purchased, improved, extended, held, maintained, managed and conducted either separately as distinct undertakings or in conjunction as one entire undertaking.

R.S.S. 1940, c.132, s.42; R.S.S. 1953, c.143, s.44.

#### **Money borrowed a charge on works**

**45** Any public work constructed or acquired under this Act and all lands acquired for the purpose thereof, and every matter and thing appertaining thereto and all revenues derived therefrom, shall be held to be entirely separate from all other assets of the municipality and shall not be liable for any debt of the municipality heretofore or hereafter contracted on the credit of the municipality at large; and such public work, lands, appurtenances and revenues shall be and are hereby specially charged with the repayment of any sums which may be borrowed on the credit thereof by the municipality for the purposes thereof, and of any debentures which may be issued therefor; and the holders of such securities shall have a preferential lien and charge on the said work, lands, appurtenances and revenues for securing repayment of the same and the interest thereon, irrespective of the order in which they are issued.

R.S.S. 1940, c.132, s.43; R.S.S. 1953, c.143, s.45.

#### **Application of revenue**

**46** After the construction of the works all the revenues arising from and out of the supplying of water, light, heat or power, or from the real and personal property connected with the works to be acquired by the municipality under this Act, shall, after providing for the expenses attendant upon the maintenance of the works and after payment of the amount payable for principal and interest or sinking fund and interest up to the end of the then current year, be year by year transferred to and form part of the general funds of the municipality and may be applied accordingly.

R.S.S. 1940, c.132, s.44; R.S.S. 1953, c.143, s.46.

#### **Rights of debenture holders on default**

**47** If default is made in the payment of moneys so borrowed or the interest thereon, the holders of the debentures may, as often as such default occurs and continues for the space of twelve months, but without prejudice to the jurisdiction of any competent court to interfere before the expiration of that period:

(a) enter upon and take possession of the public work or works, lands and appurtenances and operate the same until all arrears of principal and interest, and the reasonable costs and expenses of taking possession and operation shall be fully paid; and

(b) on such terms as the court or judge may order advertise and sell the said public work or works, with lands and appurtenances by public auction and apply the proceeds of sale in repayment of the moneys borrowed, interest, costs and expenses; the balance, if any, remaining after such payment to be paid over to the municipality.

R.S.S. 1940, c.132, s.45; R.S.S. 1953, c.143, s.47.

#### **Rights of purchasers**

**48** On such sale the purchaser and his assigns shall have and may exercise all the rights, powers, privileges and franchises relating to the construction, maintenance, operation and conduct of the work by this Act conferred upon the municipality, subject to the right of the municipality to resume the ownership thereof at the expiration of ten years from the sale on giving six month's notice and on payment therefor within six months after such period of ten years, at a valuation to be ascertained by arbitration, subject to the assent of the burgesses as in the case of the original construction or purchase of the works.

R.S.S. 1940, c.132, s.46; R.S.S. 1953, c.143, s.48.

#### **Right of municipality to resume ownership**

**49** If the municipality fails to exercise the right of resuming the ownership of the public work at the expiration of the said period, the municipality may similarly exercise such right at the expiration of any fifth year thereafter, upon giving one year's notice to the purchasers or their assigns.

R.S.S. 1940, c.132, s.47; R.S.S. 1953, c.143, s.49.

#### **Powers to borrow are in addition to powers under any Act**

**50(1)** The power to borrow and issue debentures hereby conferred shall not be accounted as diminishing the power of the municipality to borrow and issue debentures conferred by any other Act, nor shall they be taken as restricting the powers of the municipality to borrow and issue debentures on the credit of the municipality at large under any Act within the limit of the amount therein prescribed, for the purpose of constructing or purchasing any such public work or works or assisting therein and in borrowing for the said purposes, or for the purpose of constructing a system of sewerage in connection with a system of waterworks. The municipality in borrowing whether under the provisions of this Act or any other Act may extend the time of repayment for any term up to fifty years.

(2) Debentures issued in pursuance of a bylaw passed under the authority of this Act may be dated as of the actual date of the issue thereof:

Provided that such date is within four years from the date of the final passing of the bylaw and that the debentures may be made payable in such manner that for the first five years succeeding their date interest only shall be payable.

R.S.S. 1940, c.132, s.48; R.S.S. 1953, c.143, s.50.



**Special frontage rate**

**51** For the purpose of assisting in the payment of any debentures issued for the purpose of waterworks constructed or acquired under the provisions of this Act or any other Act and the interest thereon, the council may provide by bylaw for the assessment and collection of a special tax or rate in each year not exceeding four mills on the dollar of the assessed value, inclusive of improvements, of the several properties fronting or abutting on the street in, through and along which the waterworks mains are laid, as well as upon all other properties which may enjoy the advantage of the use of water from the said main, distant not more than 300 feet therefrom, for the purpose of protection against fire, whether the owners use the water or not for general purposes, to meet the yearly interest on any debentures issued for the purposes of the said waterworks and the annual instalment of principal or the annual amount of payment to the sinking fund for the payment of the principal thereof; provided that the collector of taxes, upon production by an owner or occupant using the said water of the receipt for payment of the rent chargeable for the use thereof during the year or such proportion thereof as equals the special tax, shall remit or allow to such owner or occupant the amount so paid as a payment *pro tanto* on account of the special tax authorized to be levied by this section.

R.S.S. 1940, c.132, s.49; R.S.S. 1953, c.143, s.51.

**Appointment of commissioners**

**52(1)** The municipality may itself or by its officers exercise and enjoy the powers, rights, authorities or immunities hereby conferred upon it or the council may, either before the commencement of the works or at any time while they are in course of construction or after their completion, provide by bylaw for the appointment of one or more commissioners for such purpose.

(2) Where more than one commissioner is appointed the provisions hereinafter contained with regard to one commissioner shall apply to the commissioners with the necessary modifications.

(3) Upon the appointment of a commissioner all the powers, rights, authorities or immunities which under this Act might have been exercised or enjoyed by the council and the officers of the municipality, shall and may be exercised by the commissioner and the officers appointed by him and the council thenceforth during the continuance in office of the commissioner shall have no authority in respect of such works.

(4) Any officer or employee appointed or employed by the council in or about the construction or management of the works shall be continued until removed by the commissioner unless his engagement shall sooner terminate.

(5) Nothing herein contained shall be construed to divest the council of its authority with reference to the providing of moneys required in respect of such works, and the treasurer of the municipality shall upon the written certificate of the commissioner pay out any moneys so provided.

R.S.S. 1940, c.132, s.50; R.S.S. 1953, c.143, s.52.

**Approval of bylaw appointing commissioner**

**53** The commissioner shall be appointed by bylaw of the council on terms and at a salary which it deems expedient; but the bylaw shall not take effect until approved by the Lieutenant Governor in Council, and shall cease to be valid after one month's notice from the Lieutenant Governor in Council that such approval has been withdrawn; and no repeal or amendment of the bylaw shall be valid unless such repeal or amendment has been approved in like manner, except as hereinafter provided.

R.S.S. 1940, c.132, s.51; R.S.S. 1953, c.143, s.53.

**Security by commissioner**

**54** Every commissioner shall before taking office give such security for the performance of his duties as the council shall require.

R.S.S. 1940, c.132, s.52; R.S.S. 1953, c.143, s.54.

**Commissioner not to be interested in any contract**

**55** No commissioner shall personally have or hold any contract in connection with the said works or be directly or indirectly interested in the same or any of them.

R.S.S. 1940, c.132, s.53; R.S.S. 1953, c.143, s.55.

**Power of council to remove commissioner**

**56** The council, where the construction of the works is entrusted to a commissioner, may by bylaw at any time assume the work, remove the commissioner, apportion his current year's salary and proceed with and manage the works; and in such case all the rights, powers, authorities, immunities, duties and liabilities then belonging to the commissioner shall be transferred to and vested in the council; but any officer or employee appointed or employed by the commissioner in or about the construction or management of the works shall be continued until removed by the council unless his engagement shall sooner terminate.

R.S.S. 1940, c.132, s.54; R.S.S. 1953, c.143, s.56.

**Accounts kept and return made by commissioner**

**57(1)** The commissioner shall keep or cause to be kept separate books and accounts of the receipts and disbursements for and on account of the works, distinct from the books and accounts relating to the other property, funds or assets belonging to the works; and all such books shall be open to the examination of any person appointed for that purpose by the council.

(2) The commissioner, on or before the fifteenth day of January in each year, or upon such other day as the council may name, shall cause a return to be made to the council containing a statement of the affairs of the works, which shall show:

- (a) the rents, issues and profits arising from the works and the number of consumers during the previous year;
- (b) the extent and value of the movable and immovable property belonging to the works;
- (c) the amount of debentures then issued and remaining unredeemed and uncanceled, and the interest paid thereon or overdue and unpaid;
- (d) the state of the sinking fund;
- (e) the expense of collection and management and all other contingencies;

- (f) the salaries of officials and servants;
  - (g) the cost of repairs, improvements and alterations;
  - (h) the prices paid for the acquisition of real property if any; and
  - (i) generally, the revenue and expenditure of the works in such manner as will at all times afford to the burgesses full and complete knowledge of the affairs of the works.
- (3) The commissioner shall also furnish such information as may be required by the council.
- (4) All accounts relating to the works shall be audited by the auditor for the municipality in regular course, and the commissioner and all the officers shall furnish to the auditor such information and assistance as may be in their power to enable the auditor properly to audit such accounts.

R.S.S. 1940, c.132, s.55; R.S.S. 1953, c.143, s.57.

**Oath of office and records of proceedings**

**58** The commissioner and the clerks employed in his revenue service shall be sworn before a justice of the peace for the faithful performance of their duties; the commissioner shall keep a book for the purpose of recording the whole of his official proceedings, and such book shall be open for inspection in the same manner as the books mentioned in section 57.

R.S.S. 1940, c.132, s.56; R.S.S. 1953, c.143, s.58.

**Powers of municipalities under other Acts**

**59** Nothing herein contained shall in any way cur tail the powers or authorities of cities, towns and villages as conferred upon them by *The City Act*, *The Town Act* and *The Village Act* respectively.

R.S.S. 1940, c.132, s.57; R.S.S. 1953, c.143, s.59.

**Power of borrowing declared to exist**

**60** The power to borrow money on the credit of the municipality at large and to issue debentures therefor for any of the purposes specified in this Act is hereby declared to be conferred and always to have been conferred by this Act.

R.S.S. 1940, c.132, s.58; R.S.S. 1953, c.143, s.60.

FOR HISTORICAL REFERENCE ONLY