

UNEDITED

The Drainage Act

being

Chapter 314 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FOR HISTORICAL REFERENCE ONLY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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SCHEDULE

CHAPTER 314

An Act respecting Drainage

SHORT TITLE

Short title

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

R.S.S. 1953, c.314, s.1.

INTERPRETATION

Interpretation

2 In this Act:

“construction”

1 “**construction**” means the original work of opening or making any drainage work;

“council”

2 “**council**” means the council of a municipality;

“drainage work”

3 “**drainage work**” or “**work**” means the construction of a drain, and includes the deepening, straightening, widening of, the clearing of obstructions from, or otherwise improving a stream, creek or watercourse, the lowering of the waters of a lake or pond and the construction of necessary guards in connection therewith;

“engineer”

4 “**engineer**” means an engineer registered and licensed as a professional engineer under *The Engineering Profession Act*, or a surveyor duly qualified to practise in Saskatchewan;

“land”

5 “**land**” includes everything annexed to the soil by nature or lying in or under the soil, except mines and minerals, precious or base, belonging to the Crown;

“maintenance”

6 “**maintenance**” means preservation of a drainage work and keeping it in repair;

“minister”

7 “**minister**” means the Minister of Agriculture;

“owner”

8 “**owner**” means:

- (a) the purchaser of land under agreement of sale, or, if there is no such purchaser, the registered owner;
- (b) in the case of Crown land, the person lawfully in possession thereof under homestead or pre-emption entry or under agreement of sale; and
- (c) as regards roads, the municipality or municipalities within which the same or part thereof are situated;

“parcel of land”

9 **“parcel of land”** means a quarter section of land according to the system of surveys under *The Land Surveys Act* or any smaller area owned by one person, or by two or more persons as joint tenants or tenants in common, and, as regards roads, so much of the roads within the drainage district as lie within any one municipality;

“petition”

10 **“petition”** includes an amended petition;

“resident owner”

11 **“resident owner”** means an owner who resides within a distance of ten miles by the nearest road from the land in question or any part thereof, and includes a municipality having jurisdiction over any roads in the drainage district;

“road”

12 **“road”** includes a road, street or land surveyed and set apart as a highway under the *North-West Territories Act* or any Act of Saskatchewan;

“secretary”

13 **“secretary”** means the treasurer of a city or town or the secretary or secretary treasurer of a village or rural municipality.

R.S.S. 1.940, c.242, s.2; 1948, c.93, s.2; R.S.S. 1953, c.314, s.2.

PART I

Organization

PROCEDURE ON PETITION

Examination and report authorized by minister

3(1) Upon receipt of a petition (form A) signed by the resident owners of at least two-thirds of the total area by minister of the lands of resident owners lying within the area sought to be drained as described in the petition, the minister may, for the purpose of ascertaining whether the drainage work is required and the probable cost thereof, instruct an engineer to make an examination and report of the area sought to be drained, the stream, creek or watercourse sought to be deepened, straightened, widened, cleared of obstructions or otherwise improved, or the lake or pond the waters of which are sought to be lowered.

(2) The petition shall be accompanied by:

- (a) a statement (form B), setting forth the names and addresses of all resident owners of lands situated within the area sought to be drained as described in the petition and the lands respectively owned by them, verified by the statutory declaration of at least two of the petitioners; and
- (b) extracts from the last revised assessment roll of the municipality giving the names and addresses of the owners of all lands included in the petition and certified as correct by the secretary.

R.S.S. 1940, c.242, s.3; R.S.S. 1953, c.314, s.3.

Investigation and report by engineer

4 The engineer shall investigate the feasibility and utility of the proposed drainage work and shall make a preliminary report thereon, and, if instructed by the minister, shall prepare a complete report, including plans, specifications, estimate of cost and an estimate of the area to be benefited in each parcel, stating, as nearly as may be, in his opinion, the proportion of the cost of the work which should be borne by each parcel.

R.S.S. 1940, c.242, s.4; R.S.S. 1953, c.314, s.4.

Amendment of petition

5(1) If, in the opinion of the engineer, lands not within the area described in the petition would be benefited by the construction of the proposed work, the minister shall return the petition to be amended so as to include such lands; and the amended petition shall satisfy the requirements of section 3 before any further action is taken thereon.

(2) If lands are included in the petition which, in the opinion of the engineer, will not be benefited by the construction of the proposed work, the minister shall remove all reference to such lands from the petition; and the amended petition shall satisfy the requirements of section 3 before any further action is taken thereon.

R.S.S. 1940, c.242, s.5; R.S.S. 1953, c.314, s.5.

Minister's report

6(1) Upon receipt from the engineer of his report or reports, as the case may be, and of the amended petition, if amendment is necessary, the minister shall report upon the utility and desirability of the work, and shall submit his report together with a summary of the engineer's report or reports to the Lieutenant Governor in Council for his decision as to whether the said work shall be undertaken.

(2) If it is determined not to proceed with the work, every person who signed the petition shall be chargeable with and liable to the minister for a share of the total expenses incurred by him in and about the investigation by the engineer.

(3) The share payable by each signatory to the petition shall bear the same ratio to the total expenses as the area of his land as stated in the petition bears to the total area of the lands of the petitioners as set forth therein, and shall be recoverable in the same manner as is provided by section 9.

R.S.S. 1940, c.242, s.6; R.S.S. 1953, c.314, s.6.

Notice of intention to undertake work

7(1) If the proposed work is approved by the Lieutenant Governor in Council, the minister shall forthwith publish a notice of his intention to undertake it at an estimated cost as a local improvement, and to assess and levy the cost thereof against the lands to be benefited.

(2) The notice shall contain:

- (a) a description of the proposed work;
- (b) the estimated cost thereof; and
- (c) an estimate of the amount to be assessed against each parcel of land;

and shall fix a date, not less than seven days nor more than twenty days after the last publication in *The Saskatchewan Gazette*, on or before which any petitioner may withdraw therefrom or any owner may appeal against the assessment.

(3) The notice shall be inserted in two successive issues of the *Gazette* and contemporaneously once a week for at least two successive weeks in two newspapers, one published in the city of Regina and the other as determined by the minister, and a copy of the notice shall, before the last publication in the *Gazette*, be sent by registered letter to the address of each owner whose land will be affected, as shown on the extracts from the assessment roll accompanying the petition.

R.S.S. 1940, c.242, s.7; R.S.S. 1953, c.314, s.7.

WITHDRAWAL FROM PETITION

Withdrawal of names from petition

8(1) Any person who has signed a petition may withdraw from and abandon the petition at any time on or before the date fixed by the notice referred to in section 7, upon serving the minister, by prepaid registered mail, with a notice of withdrawal (form C).

(2) If by reason of withdrawals the area represented by the resident owners petitioning is reduced below one-half of the area of the lands of resident owners as set forth in form B, the further consideration of the petition and prosecution of the work shall be discontinued.

R.S.S. 1940, c.242, s.8; R.S.S. 1953, c.314, s.8.

Costs in case of abandonment

9(1) If the proposed work is not proceeded with on account of a withdrawal or withdrawals from the petition, every person who has signed the petition shall be chargeable with and liable to the minister for a share of the expenses incurred by him thereunder, including the engineer's remuneration and expenses and the cost of advertising.

(2) The share chargeable to each signatory to the petition shall bear the same ratio to the total expenses incurred as the area of his land, as stated in the petition, bears to the total area of the lands of the petitioners as set forth therein.

(3) The amounts with which such persons are respectively chargeable shall, upon notification by the minister to the secretary of the municipality within which the lands are situated, be entered upon the assessment roll of the municipality against their respective lands:

Provided that, if in the opinion of the minister the amount to be collected is too large to be levied in one year, the secretary of the municipality shall, on the instructions of the minister, levy the amount with interest at eight per cent per annum, in equal annual instalments of principal and interest combined, for a period not exceeding five years.

(4) Such amounts or instalments, as the case may be, shall form a charge upon the said lands, and shall be a tax payable to and collectable by the municipality in the same manner in all respects as taxes levied by and due to the municipality; and when collected shall be transmitted forthwith to the minister.

R.S.S. 1940, c.242, s.9; R.S.S. 1953, c.314, s.8.

APPEALS

Appeal by owners

10(1) Any owner whose land is to be assessed may appeal against the proposed assessment on or before the date fixed by the notice referred to in section 7, upon serving the minister, by prepaid registered mail, with a notice of appeal (form D).

(2) After the expiration of ten days from the date fixed for entering appeals, the minister shall, if any appeals have been entered unless by reason of withdrawals the work is not to be proceeded with, obtain from the judge of the district court of the judicial district within which the proposed drainage district is situated, an appointment for the hearing and determination of the appeals.

(3) If the proposed drainage district is situated partly in one judicial district and partly in another judicial district or other judicial districts, the appointment shall be obtained from the judge of the district court whose place of residence is nearest to the proposed drainage district.

(4) The appointment shall fix a day and hour and a place for the hearing and determination of appeals in chambers, the day fixed to be such as will conveniently permit of the giving of the notice mentioned in section 11, and the place to be such as the judge may deem most convenient for all parties interested.

(5) Upon applying for the appointment the minister shall file an affidavit briefly setting forth the facts, including the publication and mailing of the notice required by section 7, and showing that the petition has not lapsed by reason of withdrawals, and shall exhibit with such affidavit copies of all notices of appeal received by him against the assessment, and a plan indicating the limits of the proposed drainage district.

R.S.S. 1940, c.242, s.10; R.S.S. 1953, c.314, s.10.

Publication of notice

11 The minister shall, not less than twenty days before the date so fixed for hearing appeals, cause notice of the appointment to be published in one issue of the *Gazette* and send notice of the appointment by prepaid registered mail addressed to the appellants who have furnished addresses for service.

R.S.S. 1940, c.242, s.11; R.S.S. 1953, c.314, s.11.

Hearing of appeals

12(1) Upon the date and at the place so appointed the judge who has granted the appointment shall proceed to hear all appeals notice of which has been duly received by the minister, and shall hear and receive the evidence adduced on the part of the appellants and of the minister and of other persons interested in the appeals, which evidence shall be taken *viva voce* upon oath.

(2) At the hearing the minister shall produce for the information of the judge all plans, profiles and specifications for or relating to the proposed drainage work and all estimates of the cost thereof and of the assessments to be made upon the various parcels of land.

R.S.S. 1940, c.242, s.12; R.S.S. 1953, c.314, s.12.

Order for attendance of witness

13(1) Any party interested in an appeal may obtain of witness from the judge an order for the attendance of a witness for the purpose of giving evidence and for the production by such witness of documents at and for the purpose of the hearing.

(2) Any person served with a copy of such order, who, after having been paid his proper conduct money as upon service of a subpoena issued out of a district court, fails to obey the same, shall be guilty of contempt of court and shall be punished in the same manner as if the order had been a subpoena issued out of a district court in a civil action.

R.S.S. 1940, c.242, s.13; R.S.S. 1953, c.314, s.13.

Adjournment of hearing

14 The judge may, if he deems it advisable, adjourn the hearing and determination of appeals from time to time, and he shall make and preserve a minute of all witnesses examined and of their evidence and of the proceedings at the hearing.

R.S.S. 1940, c.242, s.14; R.S.S. 1953, c.314, s.14.

Orders upon appeal

15(1) Upon hearing the appeals the judge may:

- (a) make such orders thereon as he considers just, and such changes in the proposed assessments appealed from as he considers just and proper according to the evidence adduced, and such consequential changes in the other assessments as may be thereby rendered necessary; and
 - (b) award costs, including disbursements for conduct money paid to witnesses, to any party so appealing.
- (2) If costs are awarded to an appellant, they shall be payable by the minister as a portion of the expense of the work.
- (3) The award and determination of the judge upon each appeal shall be final.

R.S.S. 1940, c.242, s.15; R.S.S. 1953, c.314, s.15.

Judge entitled to expenses of fee for hearing

16 The judge shall receive for his services the amount of the expenses actually incurred by him in attending upon the hearing of the appeals, and also the sum of \$20 for each day or part of a day during which he is engaged in the hearing; and the amount of the judge's expenses and remuneration shall be included in and form part of the cost of the work.

R.S.S. 1940, c.242, s.16; R.S.S. 1953, c.314, s.16.

Judge to report his decision to minister and return plans, etc.

17(1) The judge shall, as soon as possible, after his determination of the appeals, report to the minister:

- (a) his decision thereon;
- (b) the changes to be made in the assessments;
- (c) the amount allowed by him to any party for costs; and
- (d) his own fees and expenses;

and shall with his report return to the minister all plans, profiles, specifications, estimates, assessments, notices and other documents and material in his hands relating to the appeals.

(2) The minister shall alter the amounts of the assessments in accordance with the report of the judge, and the amounts as so corrected shall be final and not subject to further appeal, and the corrected statement of assessments shall be taken to be the final apportionment of the estimated cost of the drainage work over the parcels of lands within the proposed district, subject only to the provisions of section 60.

(3) If no appeals are received, or if the appeals received are disallowed, the statement of assessments set out in the published notice provided for in section 7 shall be final and shall be taken to be the final apportionment of the estimated cost of the drainage work over the parcels of land within the proposed district, subject only to the provisions of section 60.

R.S.S. 1940, c.242, s.17; R.S.S. 1953, c.314, s.17.

No fees on issue of appointment or order

18 No fees shall be payable upon the issue of any appointment or order under the provisions of this Act relating to appeals.

R.S.S. 1940, c.242, s.18; R.S.S. 1953, c.314, s.18.

Report of minister regarding proposed work

19 Unless the prosecution of the proposed work has been discontinued by reason of withdrawals, the minister shall, after the expiration of the time limited for appealing by the published notice, or, if appeals have been received, after the disposal thereof by the judge, lay before the Lieutenant Governor in Council a report and recommendation with regard to the proposed drainage work, setting out:

- (a) the notice published under section 7;
- (b) the estimated cost of the work;
- (c) a description of each parcel of land in the proposed district, with the number of acres to be benefited in each parcel as shown by the engineer's report;
- (d) the amount which each parcel is to bear as its share of the cost of the work as set out in the published notice or as altered pursuant to the judge's order.

R.S.S. 1940, c.242, s.19; R.S.S. 1953, c.314, s.19.

Power of Lieutenant Governor in Council to approve or disallow proposed work

20(1) The Lieutenant Governor in Council may thereupon finally approve or disallow the prosecution of the proposed work.

(2) In the event of approval the Lieutenant Governor in Council shall constitute and declare the area to be drained, as shown in the petition or the amended petition, to be a drainage district under this Act, and shall assign to it a name and number. The district shall thereafter be known as “_____ Drainage District No._____”.

(3) The minister shall cause to be published in the *Gazette* within one month after the issue of such order a notice of the constitution of the drainage district, which notice shall be in form E in the schedule to this Act.

(4) After such publication the validity of the formation of the district shall not be questioned in any way, notwithstanding any want of compliance with the terms of this Act, and the district shall be constituted as if all the terms of this Act had been fully complied with.

(5) If the Lieutenant Governor in Council disallows the prosecution of the proposed work under subsection (1), the cost of the work incurred shall be provided for as directed by the Lieutenant Governor in Council.

R.S.S. 1940, c.242, s.20; R.S.S. 1953, c.314, s.20.

WITHDRAWAL AFTER APPROVAL

Where cost materially exceeds estimate

21(1) If, upon tenders being received for the construction of the proposed work, it is found that the cost will materially exceed the estimate, the minister shall cause notice of the probable cost to be given in the manner provided in subsection (3) of section 7.

(2) The notice shall state a date not less than seven days nor more than twenty days after the last publication in the *Gazette* on or before which anyone who signed the petition may withdraw therefrom.

(3) Any person who signed the petition may withdraw from and abandon such petition on or before the date fixed by the notice, upon serving the minister by prepaid registered mail with a notice of withdrawal (form C).

(4) If by reason of such withdrawals the area represented by the resident owners petitioning is reduced below one-half of the area of the lands of resident owners as set forth in form B, the prosecution of the work shall be discontinued, and the expenses incurred by the minister shall be apportioned among the signatories to the petition and recovered from them in the manner prescribed by section 9, otherwise the work may be proceeded with.

R.S.S. 1940, c.242, s.21; R.S.S. 1953, c.314, s.21.

Abandonment of project

22(1) If a drainage project is abandoned after the constitution of the district, whether by reason of withdrawals as provided in section 21, or for any other reason, the Lieutenant Governor in Council may rescind the order constituting the district, and a notice of such rescission may be published in the *Gazette*, whereupon the district shall be disorganized.

(2) If a district is disorganized otherwise than by reason of withdrawals under section 21, the expenses incurred by the minister may be apportioned among the signatories to the petition and recovered from them in the manner prescribed by section 9, or the same may be otherwise provided for as directed by the Lieutenant Governor in Council.

R.S.S. 1940, c.242, s.22; R.S.S. 1953, c.314, s.22.

APPLICATION OF HIGHWAYS AND TRANSPORTATION ACT

Application of *The Highways and Transportation Act*

23(1) The work shall be proceeded with and completed in the same manner as other public improvements of the province, and for that purpose all the provisions of *The Highways and Transportation Act* apply to the work.

(2) All payments for work performed under the provisions of this Act shall be made by the Provincial Treasurer upon the submission of properly certified vouchers.

R.S.S. 1940, c.242, s.23; R.S.S. 1953, c.314, s.23.

ALTERATION OF PLANS

Power of minister to vary preliminary plans

24 The minister may, for the better carrying out of work under the provisions of this Act, vary or alter the preliminary plans, drawings and profiles of the work either at its inception or during its prosecution; but such variation or alteration shall not violate, annul or render abortive the organization or extent of the drainage district or have the effect of absolving or freeing the lands therein from payment of the special drainage tax.

R.S.S. 1940, c.242, s.24; R.S.S. 1953, c.314, s.24.

OBSTRUCTIONS

Removal of obstructions

25 When a drainage work becomes obstructed by dams, bridges, fences, washouts, or by any other cause due to the act or neglect of the owner or occupant of the lands, so that the free flow of water is thereby impeded, such owner or person in possession shall, upon reasonable notice in writing given by the council of the municipality, remove such obstructions, and if not so removed within the time specified in the notice the council shall forthwith cause their removal.

R.S.S. 1940, c.242, s.25; R.S.S. 1953, c.314, s.25.

Cost thereof

26 If the cost of removing the obstructions is not paid by such owner or occupant to the municipality forthwith after completion of the work, the council may pay the same, and the secretary of the municipality shall place the amount upon the assessment roll against the lands, with ten per cent added thereto, and the same shall be collected in the same manner as taxes.

R.S.S. 1940, c.242, s.26; R.S.S. 1953, c.314, s.26.

Allowance for obstructions removed

27 When a dam or artificial obstruction exists in the course of or below a drainage work, the minister may, upon payment of the amount agreed upon or determined, remove the same, in whole or in part, and any amount so paid shall be deemed to be part of the cost of constructing the original work.

R.S.S. 1940, c.242, s.27; R.S.S. 1953, c.314, s.27.

Clearing road allowance

28 When it is necessary to construct a drainage work on or along a road allowance, the minister may cause not less than twelve feet of the middle of the road allowance, if required, to be close-chopped or grubbed and cleared, and the earth taken from the work to be spread thereon, and shall charge the cost of so doing as part of the cost of the drainage work.

R.S.S. 1940, c.242, s.28; R.S.S. 1953, c.314, s.28.

EXTENSION**Continuing work beyond drainage district**

29 In the performance of a drainage work the minister may, when necessary, extend the same outside a drainage district for the purpose of carrying off the water by a proper channel or outlet, and the cost of the extended work shall be treated as part of the cost of the drainage work.

R.S.S. 1940, c.242, s.29; R.S.S. 1953, c.314, s.29.

Same

30 When a drainage work is necessarily extended beyond the limits of a drainage district, the minister may continue the same on, along or across any road allowance, and thence into or through any municipality, until a point is reached where the discharge will do no injury to lands or roads.

R.S.S. 1940, c.242, s.30; R.S.S. 1953, c.314, s.30.

Extension by municipality of drainage work after completion

31(1) The municipalities liable to maintain any completed drainage work may deepen, widen or extend the same provided the cost of deepening, widening or extension does not in any one year exceed the sum of \$1,000 in which case the proceedings to be taken shall be as hereinafter provided.

(2) For the purpose of collecting the cost of deepening, widening or extending the work the provisions of section 38 shall apply *mutatis mutandis*.

R.S.S. 1940, c.242, s.31; R.S.S. 1953, c.314, s.31.

Extension by minister of drainage work after completion

32(1) When for the greater efficiency of a drainage work, or to prevent damage to lands or roads, it is deemed expedient to change the course of the work, or to make a new outlet for the whole or any portion thereof, or otherwise to improve, extend or alter the same, the minister may, upon the petition of the municipality or the joint petition of the municipalities whose duty it is to maintain and keep the drainage work in repair, and without any preliminary requirements other than a report of an engineer appointed by him to examine and report upon the same, undertake and complete such change of course, new outlet, improvement, extension or alteration.

(2) The minister shall apportion the cost over the lands within the drainage district in accordance with the proportions fixed under subsection (2) or (3) of section 17, and the same shall be assessed and charged against the lands in the drainage district in the manner provided by sections 51 and 52, and the provisions of sections 51 to 54 inclusive shall, so far as applicable, apply.

R.S.S. 1940, c.242, s.32; R.S.S. 1953, c.314, s.32.

INCORPORATION OF OTHER WORKS

Powers of minister

33 The minister may incorporate in whole or in part in the drainage work being done in any district, any other drainage work done or being done therein by any person, and may pay such person an amount which, in the opinion of the minister, represents the value to the drainage district of the work done by him, and any amount so paid shall be treated as part of the cost of the drainage work.

R.S.S. 1940, c.242, s.33; R.S.S. 1953, c.314, s.33.

CONSTRUCTION OF BRIDGES, ROADS, ETC.

Powers of minister

34 The minister may:

- (a) authorize the construction, enlargement or improvement of bridges or culverts rendered necessary by a drainage work crossing a public highway or the travelled portion thereof;
- (b) authorize the construction or enlargement of bridges required to afford access from the lands of owners to the travelled portion of a public road or highway; and
- (c) provide for the construction or enlargement of bridges rendered necessary by a drainage work upon the lands of any owner or fix the amount to be paid to the respective owners entitled thereto in consequence of the construction or enlargement of such bridges.

R.S.S. 1940, c.242, s.34; R.S.S. 1953, c.314, s.34.

RELIEF WORK

Construction of relief drainage work

35 If, as a result of any drainage work done under this Act, water is caused to flow upon and injure lands or roads outside the drainage district, the construction of all drainage work required for relieving the lands or roads injuriously affected may be undertaken by the minister as part of the general work.

R.S.S. 1940, c.242, s.35; R.S.S. 1953, c.314, s.35.

MAINTENANCE

Maintenance of drainage work wholly within one municipality

36 Where a drainage work does not extend beyond the limits of one municipality it shall be maintained and kept in repair by such municipality.

R.S.S. 1940, c.24, s.36; R.S.S. 1953, c.314, s.36.

Maintenance of drainage work wholly within one municipality

37 A drainage work which is commenced in one municipality and continued thence into any other municipality or municipalities shall, after its completion, be maintained by the municipality in which it was commenced from the point of commencement to the point at which it crosses the boundary line into another municipality, and in like manner by every other municipality through or into which the work is continued.

R.S.S. 1940, c.242, s.37; R.S.S. 1953, c.314, s.37.

Maintenance

38(1) All drainage works shall be maintained at the expense of the lands assessed for the construction thereof, and in the proportions in which the lands are at the time assessed for the cost of construction. If the cost of construction is or has been paid out of the proceeds of the sale of Dominion lands sold under Part II of *The Reclamation Act*, and there is no assessment for such cost, the drainage work shall be maintained at the expense of the lands in the drainage district and in the proportions in which the lands would, if assessed for the cost of construction, have been liable under subsection (2) or (3) of section 17.

(2) For the purpose of collecting the cost of any maintenance work, the municipality which has done the work shall upon completion thereof forward to the minister properly certified accounts showing the total cost of the work done; and the minister shall, prior to the next annual assessment, apportion the cost against the lands to be assessed therefor and shall notify the secretary of the municipality or municipalities concerned of the apportionment.

(3) With respect to lands of which the minister is not the owner, the sums so apportioned shall be added to and form part of the municipal taxes and the municipality or municipalities concerned shall have the like powers and authority for collecting the same as are provided for collecting ordinary municipal rates or taxes; and the secretary shall forthwith proceed to levy the amount so assessed.

(4) The secretary of each municipality shall remit the amounts collected by him to the minister, who shall pay the same to the municipality or municipalities which have borne the cost of the maintenance work.

R.S.S. 1940, c.242, s.38; R.S.S. 1953, c.314, s.38.

Method of doing work

39 Maintenance work required in a municipality may be done by day labour or under contract as the council may deem expedient.

R.S.S. 1940, c.242, s.39; R.S.S. 1953, c.314, s.39.

Petition for completion of work in current year

40(1) In any drainage district for which debentures have been sold having a face value of over \$15,000, the municipality or municipalities responsible for maintenance may, on receipt of a petition to that effect signed by resident owners representing at least one-half of the area of lands of resident owners in the district, request the minister to carry out the maintenance work required during the then current year; and the minister may, without any preliminary requirements other than a report of an engineer appointed by him to examine and report on the same, undertake the work.

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(2) The minister shall assess and charge all expenditures so incurred by him against the lands in the drainage district in the proportions in which the lands are at the time assessed for the cost of construction, and the amounts so assessed shall be recovered in the manner provided for in section 38:

Provided that, if in the opinion of the minister the amount to be collected is too large to be levied in one year, the secretary of the municipality shall, on instructions from the minister, levy the amount, with interest at eight per cent per annum, in equal annual instalments of principal and interest combined, over a period not exceeding five years, such instalments to be added to and form part of the municipal taxes, and in the meantime and until repayment the expenditures made by the minister shall remain a charge upon the consolidated fund.

R.S.S. 1940, c.242, s.40; R.S.S. 1953, c.314, s.40.

DAMAGES

Power of minister to make awards

41(1) The minister shall consider all claims for damages occasioned by the performance of any work undertaken by him under this Act, and may authorize payment of such amount as may be determined in the manner provided for in subsection (2):

Provided that any claim for damages under this section shall be made to the minister within one year after the completion of the work.

(2) In settling the amount of compensation for damages with the owners of lands all the provisions of *The Highways and Transportation Act* with respect to compensation apply.

R.S.S. 1940, c.242, s.41; R.S.S. 1953, c.314, s.41.

Certain payments to be charged to district

42 Payments made by the minister under the provisions of section 33, 34, 35 or 41 shall be deemed to be expenditures on account of the drainage district within which or on account of which the work is performed.

R.S.S. 1940, c.242, s.42; R.S.S. 1953, c.314, s.42.

PART II**Financial Provisions**

DEBENTURES

Issue and negotiation of debentures

43 Upon the organization of a drainage district, the Lieutenant Governor in council may before, during or after the execution of a drainage work therein order the issue and negotiation of debentures of the district for the estimated or actual cost of the work, including the estimated or actual cost of the issue and sale of debentures.

R.S.S. 1940, c.242, s.43; R.S.S. 1953, c.314, s.43.

Requirements of debentures

44(1) Subject to subsection (2), all debentures issued under the provisions of this Act shall:

- (a) run for such period of not less than 20 nor more than 35 years, and be in such form and of such denominations, as the Lieutenant Governor in Council determines;
 - (b) bear interest payable annually or semi-annually at the rate determined by the Lieutenant Governor in Council;
 - (c) be numbered and specify the name and number of the district on account of which they are issued;
 - (d) have coupons attached providing for the payment of interest, which coupons shall be in the form approved by the Lieutenant Governor in Council;
 - (e) be made payable in lawful money of Canada or in sterling money of Great Britain or in gold coin of or equal to the standard of fineness and weight fixed for gold coin at the date of issue by the laws of the United States of America, at any place or places in Canada, Great Britain or the United States of America or elsewhere;
 - (f) be signed by the Provincial Treasurer or bear his signature lithographed or engraved, the signature in the latter case being countersigned by the Deputy Provincial Treasurer or such other official of the Treasury Department as may be appointed for the purpose; and be sealed with the Great Seal of the province attested as provided by *The Provincial Secretary's Act*. The coupons for interest may bear the signature of the Provincial Treasurer lithographed or engraved thereon.
- (2) Pending the issue of debentures under subsection (1), interim debentures may be issued in such form and signed in such manner as may be determined by the Lieutenant Governor in Council.

R.S.S. 1940, c.242, s.44; R.S.S. 1953, c.314, s.44.

Debentures constitute a lien

45(1) Subject to subsections (2), (3) and (4), every debenture issued under the provisions of this Act and the coupons attached thereto shall be a perpetual lien in favour of the holder thereof upon all lands included in the district upon account of which it has been issued so long as the same or any part thereof remains unpaid.

(2) No debenture or coupon shall constitute a lien on any parcel of land within the district to a greater extent than the amount assessed against the land pursuant to the provisions of this Act with penalties, and remaining from time to time unpaid by the owner.

(3) An owner may, with the consent of the Provincial Treasurer, at any time after debentures have been issued, upon furnishing satisfactory evidence that no portion of the amount assessed against his land remains over due and unpaid, pay to the Provincial Treasurer such sum as will, in the opinion of the treasurer, provide for the annual interest and sinking fund charges upon the portion of the debenture debt represented by the assessments which have not yet fallen due.

(4) The Provincial Treasurer shall upon payment under subsection (3), notify the secretary of the municipality of such payment, and the land in respect of which the payment has been made shall thereupon be released from the charge for interest and sinking fund created by the assessment, and subject to the provisions of sections 31, 32 and 55, no further amount shall be levied thereon by the municipality for the original cost of the work, but no such release shall relieve the land from maintenance charges.

R.S.S. 1940, c.242, s.45; R.S.S. 1953, c.314, s.45.

Guarantee of debentures by province

46 The Provincial Treasurer may, with the approval of the Lieutenant Governor in Council, guarantee the payment of the principal and interest of any debenture issued under the authority of this Act, which guarantee shall be endorsed upon the debenture and shall be in the form determined by the Lieutenant Governor in Council; and every debenture so guaranteed shall constitute a charge upon the consolidated fund of the province until the principal and interest thereof are fully paid.

R.S.S. 1940, c.242, s.46; R.S.S. 1953, c.314, s.46.

Operation of guaranteed debentures

47 Every guaranteed debenture and coupons shall constitute a perpetual lien in favour of the Provincial Treasurer upon the land in the drainage district on account of which it was issued so long as the same or any part thereof remains unpaid:

Provided that no debenture or coupon shall constitute a lien on any parcel of land within the district to a greater extent than the amount assessed against the land pursuant to the provisions of this Act, with penalties, and from time to time remaining unpaid by the owner.

R.S.S. 1940, c.242, s.47; R.S.S. 1953, c.314, s.47.

Special account

48(1) The Provincial Treasurer shall open a special account to be called "Drainage Districts Debentures Account" wherein shall be recorded a description of the drainage districts, the issue and sale of debentures and the receipt of the proceeds thereof, the nature and costs of the work undertaken, together with all incidental expenditures thereon, the interest and sinking fund accounts and all other matters deemed necessary or desirable for the purpose of setting forth a true and correct statement of the affairs of each drainage district.

(2) The Lieutenant Governor in Council may, upon the recommendation of the Provincial Treasurer, make regulations governing the disposition of any portion of the proceeds of the sale of debentures in excess of the expenditures on the work for which the debentures have been issued, and if, in any case the proceeds are not sufficient to provide for the cost of a work, he may, upon the recommendation of the Provincial Treasurer, authorize him to advance for the time being the sums required, and may authorize a special levy to be made for reimbursement of the advances, in which case the procedure laid down in sections 51, 52 and 53 shall be followed with the necessary modifications.

R.S.S. 1940, c.242, s.48; R.S.S. 1953, c.314, s.48.

Advances pending issue of debentures

49 Pending the issue and sale of debentures the Lieutenant Governor in Council may authorize the Provincial Treasurer to advance from time to time out of the consolidated fund any sums deemed necessary or desirable for the execution of the work required to be done in a district, and such advances shall be repaid out of the proceeds of the sale of debentures together with interest at a rate not to exceed six per cent per annum computed from the dates of the advances.

R.S.S. 1940, c.242, s.49; R.S.S. 1953, c.314, s.49.

Validation of debentures

50 A debenture issued under the authority of this Act, bearing the Great Seal of the province and executed as provided by section 44, shall not be questioned but shall be deemed valid to all intents and purposes.

R.S.S. 1940, c.242, s.50; R.S.S. 1953, c.314, s.50.

ASSESSMENT AND LEVY**Completion of assessment**

51(1) When debentures have been issued and sold, the Provincial Treasurer shall notify the minister of the amount required annually to provide for interest and a sinking fund for redemption of the debentures at maturity, the sinking fund to be based upon such rate of interest as the Provincial Treasurer may determine.

(2) The combined amount of interest and sinking fund to be raised annually shall be apportioned by the minister among the lands in the district in accordance with the proportions shown in the statement provided for in subsection (2) or (3) of section 17.

(3) The minister shall forward a copy of the completed assessment statement to the secretary of each municipality in which land to be assessed is situated and to the Minister of Municipal Affairs, and shall file another copy thereof in the land titles office for the land registration district in which the land or any portion thereof lies.

(4) The registrar of land titles shall on receipt of the statement note on the certificate of title that the land is subject to assessment under *The Drainage Act*:

Provided that the amounts of any assessments apportioned to roads shall not be noted on the certificate of title by the registrar, and need not be entered in the assessment roll of the municipality, but the same shall be paid annually by the municipality to the Provincial Treasurer.

(5) On payment of all amounts assessed against any lot or parcel of land, the minister shall notify the registrar of land titles of such payment, and the registrar shall thereupon cancel the note mentioned in subsection (4).

R.S.S. 1940, c.242, s.51; R.S.S. 1953, c.314, s.51.

Entry of levy in assessment roll

52(1) The secretary of any municipality receiving a completed assessment statement shall forthwith enter upon the assessment roll of the municipality, opposite every parcel of land liable to be assessed, the amount to be levied thereon, as shown in the statement, and shall notify each owner of land affected of the amount so entered:

Provided that if the roll has been finally revised the same shall be entered upon the assessment roll for the following year.

(2) The secretary shall, annually thereafter during the currency of the debentures, enter in the assessment roll against the lands affected the respective amounts required as set forth in the statement.

R.S.S. 1940, c.242, s.52; R.S.S. 1953, c.314, s.52.

Amounts collected remitted to Provincial Treasurer

53 The secretary shall remit the amounts collected to the Provincial Treasurer, designating the name and number of the drainage district on account of which payment is made, and the Provincial Treasurer shall credit the same to the appropriate accounts distinguishing between interest and sinking fund.

R.S.S. 1940, c.242, s.53; R.S.S. 1953, c.314, s.53.

Assessments deemed a tax

54 Every assessment upon land under this Act shall upon the entry of the amount upon the assessment roll of the municipality pursuant to sections 51 and 52 be deemed to be a tax, not subject to appeal, payable to and collectable by the municipality, or, in respect of work outside a municipality, by the Minister of Municipal Affairs, and shall be and constitute a charge upon the land assessed; and the like proceedings, remedies and penalties for and in respect of the payment or non-payment of the same may be taken, acted upon and imposed in the like manner, within the same time and by the same persons and tribunals as if the assessment were in fact and in law a tax owing to the municipality.

R.S.S. 1940, c.242, s.54; R.S.S. 1953, c.314, s.54.

Power to make further assessments and issue debentures

55 If the estimated cost for which debentures have been issued and sold proves insufficient for the completion of the proposed work, the Provincial Treasurer may issue and sell debentures for the additional amount required, including the estimated or actual cost of the issue and sale of the debentures, Thereupon:

- (a) the Provincial Treasurer shall notify the minister of the sum to be raised annually for interest and sinking fund;
- (b) the minister shall apportion that amount among the lands of the district in the proportions mentioned in subsection (2) of section 51;
- (c) the necessary assessment and levy shall be made in the manner provided for by sections 51 and 52;

and the provisions of sections 44 to 54 inclusive shall, so far as applicable, apply to the debentures, their issue and the subsequent proceedings.

R.S.S. 1940, c.242, s.55; R.S.S. 1953, c.314, s.55.

Assessment of lands using drainage works and an outlet

56(1) The lands and roads lying outside a drainage district, whether belonging to a municipality, company or individual using any drainage work as an outlet or for which an improved outlet is thereby provided either directly or through the medium of any other drainage work or any works constructed under *The Private Ditches Act*, may be charged for the construction of the drainage work so used as an outlet, or for providing an improved outlet, to the extent of the benefit accruing to such municipality, company or individual as such may be determined by the minister.

(2) The amount so charged, when received, shall be credited to the drainage district and applied in reduction of the payments of the owners of assessed lands within the district.

R.S.S. 1940, c.242, s.56; R.S.S. 1953, c.314, s.56.

Assessment of lands benefited by works as an outlet

57 If at any time after the completion of a drainage work it is found necessary to use it as an outlet for subsequent work done, either under this Act, or under *The Private Ditches Act*, the land benefited by the subsequent work shall be assessed for an amount in proportion to the benefit derived as such may be determined by the minister, and if by reason of the additional area being drained the original work requires enlarging or improving the amount so assessed shall be applied to the enlargement or improvement; otherwise it may be credited to the assessment of the original work in proportion to the rate of such assessment.

R.S.S. 1940, c.242, s.57; R.S.S. 1953, c.314, s.57.

Unaccrued levies

58 Unaccrued assessments and levies under this Act shall not be deemed to be an encumbrance as between vendor and purchaser.

R.S.S. 1940, c.242, s.58; R.S.S. 1953, c.314, s.58.

Liability of municipal secretary

59 For the purpose of complying with the provisions of sections 52 and 53 the secretary of a municipality shall be the officer of the minister, and as such shall be bound to comply with his directions, and in case of default he may, by order of the Lieutenant Governor in Council, be dismissed from office and in addition upon the complaint of the minister or the Provincial Treasurer is liable on summary conviction to a fine of not more than \$100, or to imprisonment for a term not exceeding six months, or in default of payment of such fine and costs to imprisonment for a term not exceeding six months.

R.S.S. 1940, c.242, s.59; R.S.S. 1953, c.314, s.59.

LANDS LIABLE**Reapportionment of assessment**

60(1) If any land in a drainage district cannot legally assessment be assessed hereunder, the amount required annually for interest and sinking fund shall be apportioned among the other lands in the district.

- (2) If land which has been assessed reverts to the Crown in right of the province, or if land which at the date of the assessment was not liable to assessment subsequently becomes so liable, the minister may reassess the lands in the district, apportioning the amount required annually for interest and sinking fund among all the lands liable.
- (3) In case of a reassessment under subsection (2) the minister shall forward copies of the amended statement to the secretary of each municipality affected, and to the Minister of Municipal Affairs, and shall file another copy in the land titles office of the land registration district in which the lands or any portions thereof lie.
- (4) The secretary of any municipality receiving an assessment statement under subsection (3) shall proceed in the manner prescribed by sections 52 and 53.
- (5) The registrar of land titles shall, on receipt of such statement, note on the proper certificates of title, in accordance with the changes effected thereby, either that the lands therein described, not having been previously assessed, are subject to assessment under *The Drainage Act*; or that, having been previously subject thereto, they are no longer so assessable.
- (6) Instead of proceeding under subsection (2) the minister may apply to the Provincial Treasurer, who may, in his discretion, pay out of the consolidated fund the amounts assessed against lands which, having been assessed, revert to the Crown in right of the province.

R.S.S. 1940, c.242, 60; R.S.S. 1953, c.314, s.60.

Assessment of lands purchased under *Reclamation Act*

61(1) Notwithstanding anything in this Act, lands purchased from the Dominion Government under the provisions of Part II of *The Reclamation Act*, may, so long as such lands remain unsold, be assessed for construction and maintenance in the same manner as the lands of owners other than the minister, and when so assessed the amounts of the assessments shall be paid out of the consolidated fund, which fund shall, subject to any regulations of the Governor General in Council or of the Lieutenant Governor in Council affecting the matter, be reimbursed out of the proceeds of sale of the said lands; and, in the case of assessments under section 51, the amounts of such assessments shall be credited annually by the Provincial Treasurer to the appropriate accounts, distinguishing between interest and sinking fund.

- (2) If lands which have been purchased as mentioned in subsection (1) and thereafter sold revert to the minister, they shall be subject to the provisions of that subsection in the same manner as lands remaining unsold.

R.S.S. 1940, c.242, s.61; R.S.S. 1953, c.314, s.61.

PART III
Miscellaneous

PENALTIES

Penalty for removing posts, etc.

62 A person wilfully removing, defacing, cutting down, destroying or in any way interfering with any post, sign or other indication on or upon any drainage works, placed thereupon by the engineer in charge of the works, or by any other person by his direction, for the purpose of denoting lines or levels or for other purposes in connection with the works, is guilty of an offence and liable on summary conviction to a fine of not less than \$5 nor more than \$100, or to imprisonment for a term not exceeding six months, or in default of payment of such fine and costs to imprisonment for a term not exceeding six months.

R.S.S. 1940, c.242, s.62; R.S.S. 1953, c.314, s.62.

Penalty for injury to drains or water courses

63(1) A person wilfully obstructing, filling or damming up, cutting, injuring or destroying or in any other manner impairing the usefulness of a drain, ditch, creek or watercourse constructed under this Act, or wilfully destroying or injuring an embankment of such drain, ditch, creek or watercourse, or any drainage work connected therewith, is guilty of an offence and liable on summary conviction to a fine of not less than \$5 nor more than \$200, and in default of payment of such fine and costs to imprisonment for not less than one week nor more than two months.

(2) All penalties imposed by subsection (1) less costs shall be paid to the municipality concerned for doing the necessary repairs caused by the said wilful act.

R.S.S. 1940, c.242, s.63; R.S.S. 1953, c.314, s.63.

GENERAL PROVISIONS

Jurisdiction of Minister of Municipal Affairs

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

R.S.S. 1940, c.242, s.64; R.S.S. 1953, c.314, s.64.

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SCHEDULE

FORM A

(Section 3 (I))

PETITION FOR DRAINAGE WORK

To the Honourable the Minister of Agriculture:

The petition of the undersigned resident owners of at least two-thirds of the area of the lands of resident owners within the proposed drainage district

Humbly sheweth:

Your petitioners desire that the area of lands situated in the province, and described as follows: (*Here describe area by enumerating each parcel of land within the area*) may be drained, and request that an engineer be appointed to make an examination and report with a view to having the said area organized into a drainage district.

We hereby appoint _____ of _____ to represent us and act as secretary in carrying on any correspondence with your department.

And your petitioners will ever pray.

Dated at _____, in the Province of Saskatchewan, this _____ day of _____, 19____.

Signature of petitioners	Address	Lands owned within the proposed drainage district
.....
.....
.....
.....

CANADA
Province of Saskatchewan.

TO WIT:

We, _____, of _____ and _____ of _____ severally make oath and say:

- 1 That we are petitioners named in the petition hereto.
- 2 That the signatures of the said petitioners are their own and that the statements contained therein are true, to the best of our knowledge and belief.

Severally sworn before me at
 _____ in the
 Province of Saskatchewan, this
 _____ day of _____,
 19____.

.....
Signature.

.....
Signature.

.....
A Commissioner for Oaths.

FORM B

(Sections 3 (2), 8 (2) and 21 (4))

Statements of the names of all resident owners of lands within the area to be drained as described in the accompanying petition and the lands respectively owned by them.

Signature	Address	Lands owned				
		Qr.	Sec.	Tp.	Rge.	Mer.
.....					
.....					
.....					
.....					
.....					
.....					

STATUTORY DECLARATION

CANADA
 Province of Saskatchewan.

TO WIT:

In the matter of a petition to the Minister of Agriculture for the formation of a drainage district in _____ dated _____, 19____.

We, _____, of _____ in the Province of Saskatchewan, severally do solemnly declare as follows:

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That we are two of the signatories to the petition accompanying this statement, dated _____, 19____.

That the above statement of names is a true and complete list of the names of all the resident owners of land within the area desired to be drained as described in the accompanying petition, and that the lands set opposite the respective names are the lands within the said area owned by the said parties;

That we know the said resident owners, and are familiar with the said location.

And we severally make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Severally sworn before me at
 _____ in the
 Province of Saskatchewan, this
 _____ day of _____,
 19____.

.....
Signature.

.....
A Commissioner for Oaths.

FORM C

(Sections 8 (I) and 21 (3))

NOTICE OF WITHDRAWAL OF NAME FROM PETITION

To the Honourable the Minister of Agriculture:

Regina, Sask.

I, _____, resident owner of (*here describe land*), hereby withdraw my name from the petition for a drainage work in the area in which the said land is included.

Dated the _____ day of _____, 19____.

.....
Signature.

WITNESS:

.....

FORM D
(Section 10)

NOTICE OF APPEAL AGAINST ASSESSMENT

To the Honourable the Minister of Agriculture:

Regina, Sask.

I, _____, owner of (*here describe land*), hereby appeal against the proposed drainage assessment of the above described land for the following reasons: (*state reasons*).

Dated the _____ day of _____, 19____.

.....
Signature.

WITNESS:

.....

.....
Address for Service.

FORM E
(Section 20 (3))

NOTICE UNDER THE DRAINAGE ACT

Notice is hereby given that under the authority of section 20 of *The Drainage Act*, and an Order of the Lieutenant Governor in Council, dated _____, 19____, the following lands have been constituted and declared to be a drainage district under the Act, and that there have been assigned to it the name and number " _____ Drainage District No. _____":

(*Here describe land*)

Dated at Regina this _____ day of _____, 19____.

.....
Minister of Agriculture.

FOR HISTORICAL REFERENCE ONLY