

UNEDITED

The Water Rights Act

being

Chapter 48 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FOR HISTORICAL REFERENCE ONLY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 48
An Act respecting Water Rights

SHORT TITLE

Short title

- 1 This Act may be cited as *The Water Rights Act*.

R.S.S. 1953, c.48, s.1.

INTERPRETATION

Interpretation

- 2 In this Act:

“applicant”

1. **“applicant”** means a company which has applied or may apply for a licence;

“board”

2. **“board”** means the Local Government Board;

“chief engineer”

3. **“chief engineer”** means the chief engineer provided for in this Act;

“company”

4. **“company”** means any incorporated company, the object and powers of which extend to or include the construction or operation of any works under this Act, or the carrying on thereunder of the business of the supply, utilization or sale of water for any purpose, and includes any person who has been authorized or has applied for authority to construct or operate such works or carry on such business, or who has obtained a licence under this Act; and also includes a municipality and an irrigation district;

“Crown”

5. **“Crown”** means Her Majesty in right of Saskatchewan;

“department”

6. **“department”** means the Department of Agriculture;

“domestic purposes”

7. **“domestic purposes”** means household and sanitary purposes, and all purposes connected with the watering of stock and the working of agricultural machinery by steam, but does not include the sale or barter of water for such purposes;

“industrial purposes”

8. **“industrial purposes”** means any of the purposes of a railway or factory, but does not include the sale or barter of water for such purposes;

“licensee”

9. **“licensee”** means any company which has been granted a licence under this Act;

“mineral recovery”

10. **“mineral recovery”** means the taking of mineral water or the recovery from mineral water by artificial means of all minerals, including mineral salts, either in solution or suspension;

“mineral water”

11. **“mineral water”** means water containing in its natural state, either in solution or suspension, more than one per cent of minerals or mineral salts;

“mineral water purposes”

12. **“mineral water purposes”** means the purposes of a public bath house or public swimming pool, or medicinal purposes or purposes of sale, trade or barter;

“minister”

13. **“minister”** means Minister of Agriculture;

“municipal purposes”

14. **“municipal purposes”** means household and sanitary purposes, the watering of animals, streets, walks, paths, boulevards, lawns and gardens, fire protection and the flushing of sewers, and includes the construction of buildings and of civic works, and other purposes usually served by water within a city, town or village;

“works”

15. **“works”** includes dykes, dams, weirs, floodgates, breakwaters, drains, ditches, basins, reservoirs, canals, tunnels, bridges, culverts, cribs, embankments, headworks, flumes, aqueducts, pipes, pumps, measuring weirs, and any contrivance for carrying or conducting water, or other the construction of which is authorized under the provisions of this Act.

R.S.S. 1940, c.41, s.2; 1949, c.15, s.2;
R.S.S. 1953, c.48, s.2.

Unit of measurement

3(1) The discharge of one cubic foot of water per second shall be the unit of measurement of flowing water.

(2) The cubic foot, or acre foot, shall be the unit of measurement and quantity, and the acre foot is equivalent to forty-three thousand five hundred and sixty cubic feet.

R.S.S. 1910, c.41, s.3; R.S.S. 1953, c.48, s.3.

Administration of Act

4 The minister shall, through the department, manage and administer water rights and carry out the provisions of this Act.

1940, c.41, s.4; R.S.S. 1953, c.48, s.4.

WATER RIGHTS

Persons subject to Act

5 All companies formed to promote or operate and all companies and persons promoting or operating work for the supply, utilization or sale of water prior to the coming into force of this Act shall, except as to the power of companies to issue bonds, debentures or other securities, be subject to the provisions of this Act and the regulations.

R.S.S. 1940, c.41, s.5; R.S.S. 1953, c.48, s.5.

Water vested in Crown

6 Save as hereinafter provided, the property in and the right to the use of all water at any time in any river, stream, watercourse, lake, creek, spring, ravine, canyon, lagoon, swamp, marsh or other body of water shall, for the purposes of this Act, be deemed to be vested in the Crown, unless and until and except only so far as some right therein, or to the use thereof, inconsistent with the right of the Crown, and which is not a public right or a right common to the public, is established.

R.S.S. 1940, c.41, s.6; R.S.S. 1953, c.48, s.6.

Diversion of water prohibited

7(1) Subject to the provisions of subsection (2), no person shall divert or use any water from, and no person shall construct or cause to be constructed any dam or other works for the impounding of water in any river, stream, watercourse, lake, creek, spring, ravine, canyon, lagoon, swamp, marsh or other body of water, otherwise than under the provisions of this Act and the regulations, except in the exercise of a legal right existing at the time of such diversion or use or construction.

(2) Nothing contained in this Act or the regulations shall interfere with or be understood as intended to interfere with the right of any person owning or occupying any land which adjoins any river, stream, lake or other body of water referred to in this section, to use such quantity of its water as he may require for domestic purposes on such land, but he shall not be entitled to, nor shall he, impound or divert water therefrom by any dam, pipe, flume, channel, ditch or other means, unless authority therefor has been obtained under the provisions of this Act.

R.S.S. 1940, c.41, s.7; R.S.S. 1953, c.48, s.7.

Diversion of surface water prohibited

8(1) No person shall divert or impound any surface water not flowing in a natural channel or contained in a natural bed and no person shall construct or cause to be constructed any dam, dyke or other works for the diversion or impounding of such water, without having first obtained authority to do so under the provisions of this Act.

(2) If any person without having obtained such authority diverts or impounds surface water not flowing in a natural channel or contained in a natural bed or constructs or causes to be constructed any dam, dyke or other works for the diversion or impounding of such water, such person shall be liable to a civil action for damages at the instance of any person who is or may be damnified by reason of such diversion, impounding or construction.

R.S.S. 1940, c.41, s.8; R.S.S. 1953, c.48, s.8.

Powers of entry on land

9 The minister or any person acting under his instructions may enter upon any land for the purpose of opening up, taking down, removing or destroying any illegal dam, dyke or other works or any dam constructed by beaver or any natural obstruction whether formed by blown dirt, debris or otherwise, in any lake, river, stream or other body of water; and neither the minister nor his agent shall be liable for any damage done to the land which is necessarily incidental to the exercise of the powers hereby granted.

R.S.S. 1940, c.41, s.9; R.S.S. 1953, c.48, s.9.

Property in water not transferred by grant of land

10 Except pursuant to an agreement or undertaking existing on the first day of April, 1931, no grant shall be made by the Crown of lands or of any estate therein, in such terms as to invest in the grantee any exclusive or other property or interest in, or any exclusive right or privilege with respect to, any river, stream, watercourse, lake, creek, spring, ravine, canyon, lagoon, swamp, marsh or other body of water, or in or with respect to the water contained or flowing therein, or any exclusive or perpetual property, interest or privilege in the land forming the bed or shore thereof:

Provided that this section does not affect the right of the Crown under any other Act of the Legislature to dispose of minerals in, on or under lands forming the bed or shore of any such body of water;

Provided also that this section does not affect the right of the Crown under this Act or any other Act of the Legislature to grant to any holder of a mineral claim the right to deposit tailings, slimes or other waste products of mining operations into any body of water, or on the lands forming the bed or shore of any body of water, lying within an area of land which has been set aside as a tailings disposal area.

R.S.S. 1940, c.41, s.10; R.S.S. 1953, c.48, s.10.

Right of diversion not vested in owner

11 Unless acquired by a grant made in pursuance of an agreement or undertaking existing on the first day of April, 1931, no right to the permanent diversion or to the exclusive use of the water in any river, stream, watercourse, lake, creek, spring, ravine, canyon, lagoon, swamp, marsh or other body of water shall be acquired by any riparian owner or any other person by length of use or otherwise than as it may be acquired or conferred under the provisions of this Act or the regulations.

R.S.S. 1940, c.41, s.11; R.S.S. 1953, c.48, s.11.

Existing rights preserved

12 Every company or person who immediately prior to the first day of April, 1931:

- (a) held water rights of a class similar to those which may be acquired under this Act; or
- (b) with or without authority had constructed or was then operating works for the utilization of water;

may, if he or it had, prior to the first day of April, 1931, obtained a licence under the *Irrigation Act (Canada)*, chapter 104 of the *Revised Statutes of Canada, 1927*, or any former *Irrigation Act of Canada*, exercise such rights and carry on such works under the provisions of this Act.

R.S.S. 1940, c.41, s.12; R.S.S. 1953, c.48, s.12.

Control of use of interprovincial waters

13 Subject to the approval of the Lieutenant Governor in Council, the minister may enter into agreements with the Governments of other provinces and with the Government of Canada for the establishment of a board or commission for the purpose of regulating and controlling the use of waters which flow through the province and another province or through the province and the North-West Territories or of boundary waters between the province and the North-West Territories, and the minister may do or carry out or cause to be done or carried out all such acts, transactions, matters and things as are deemed expedient for the proper performance of any agreement so entered into.

R.S.S. 1940, c 41, s.13; R.S.S. 1953, c.48, s.13.

Acquisition of water for domestic, industrial and other purposes

14(1) Any water, the property in which is vested in the Crown may be acquired for:

- (a) domestic, municipal, industrial, irrigation or other like purposes or mineral water purposes;
- (b) purposes of mineral recovery under the authority of The Mineral Resources Act, by diversion or otherwise, subject to the regulations;

and permission may be granted to erect fishways, dams, piers, booms and other necessary works in any non-navigable stream to facilitate the passage of logs, timber and other products of the forrest or stream along such stream, upon application thereof as provided in this Act and the regulations.

(2) Subject to subsection (3) no applicant shall be entitled to a prior right to water by reason of precedence of application to the department.

(3) Applications for the several purposes mentioned in subsection (1) shall have precedence in the following order: first, domestic purposes; second, municipal purposes; third, industrial purposes; fourth, irrigation purposes; fifth, other like purposes; sixth, mineral water purposes; an seventh mineral recovery purposes.

(4) Any person requiring water for a purpose which, under the provisions of subsection (3), has precedence over the purpose for which any water is used, the right to the use of which was acquired under the provisions of this Act, may apply to the minister to have such right cancelled, in whole or in part, and if the minister approves of such application such right shall be cancelled, or diminished, accordingly, and the applicant for the cancellation may apply, under the provisions of this Act, for a grant of the water for such preferred purpose, and such grant may, with the approval of the minister, be given the same priority as the right had which it replaces”

Provided that with respect to water the property in which is vested in the Crown and which is specially adapted for or suited to a particular use, the Lieutenant Governor in Council may alter the order of precedence above established for the purpose of adapting the same to that particular use.

(5) The owner or owners of such cancelled right, and the owner or owners of any other right which may be affected, shall be entitled to be compenstated by the applicant for any loss or damage sustained by him or them in consequence of such cancellation.

(6) If the applicant and the owner or owners of the right cancelled, or the rights affected, do not agree upon the amount to be paid as compensation, and the terms of payment thereof, the matter shall be determined under *The Arbitration Act*.

(7) A licensee of water for irrigation purposes, or a person who has acquired from a licensee water for such purposes, shall be entitled to use such water for domestic purposes.

(8) Notwithstanding any other provisions of this Act, the Lieutenant Governor in Council may reserve any unappropriated water, the property in which is vested in the Crown, in order that he may, after survey made as provided in the regulations, determine how such water may be used to the best advantage, and may thereafter authorize the allocation of the whole or any part of the water so reserved among the applicants therefor or otherwise, as he deems best in the public interest, and may fix a period of time within which advantage may be taken of the allocation and may prescribe the relative order precedence of the allotments made in the allocation:

Provided that no applicant shall acquire the right to use any water so allocated until he has complied with the provisions of this Act and the regulations.

R.S.S. 1940, c.41, s.14; 1951, c.21, s.2;
R.S.S. 1953, c.48, s.14.

Certain rights of riparian owners protected

15 No application for any purpose shall be granted where the proposed use of the water would deprive any person owning lands adjoining the river, stream, lake or other source of supply of whatever water he requires for domestic purposes.

R.S.S. 1940, c.41, s.15; R.S.S. 1953, c.48, s.15.

CONSTRUCTION, HOW AUTHORIZED

Licence to do preliminary work

16 An applicant contemplating or projecting any works under this Act may, upon submitting a general description of the works and upon payment of such fees as may be provided by regulation, obtain from the chief engineer a licence to do the necessary preliminary work in connection with the location of such works.

1940, c.41, s.16; R.S.S. 1953, c.48, s.16.

Right of entry

17 The applicant after he obtains a licence may, with such assistants as are necessary, doing no unnecessary damage, enter into and upon any public or private lands to take levels, make surveys and do other necessary work in connection with such location.

R.S.S. 1940, c.41, s.17; R.S.S. 1953, c.48, s.17.

Material to be filed by applicant

18(1) Every applicant under this Act shall file in the department a memorial in the form prescribed by the minister, in which the applicant shall set forth all particulars required by the regulations.

- (2) Every applicant shall also file in the department:
- (a) permission in writing from the municipal or other authorities having jurisdiction in that behalf, to construct any canal, ditch, reservoir or other works referred to in the memorial upon, along, across or under any road allowance, or any public highway, square or other public place which may be affected by such works, or from the board as provided by section 23, if such permission can be obtained in advance of authorization;
 - (b) any plans or other material required by the regulations.

R.S.S. 1940, c.41, s.18; R.S.S. 1953, c.48, s.18.

Publication of notice of filing

19(1) Subject to the provisions of subsection (2), the minister shall, forthwith after the filing of the memorial and plans, forward a notice of such filing to the postmaster of the post office nearest the site of the proposed works and to the office of the clerk or secretary treasurer of the municipality in which the site is located with a request that the notice be posted in a conspicuous and public place in their respective offices for a period of thirty days from the date thereof. The minister shall also send two copies of the notice to the applicant, who shall immediately post them and keep them posted for a period of thirty days from the date thereof at two conspicuous points on the margin of the water adjacent to the site.

(2) Instead of proceeding under subsection (1) the minister may require any applicant to publish a notice of the filing of the memorial and plans in a newspaper to be named by the minister, such notice to appear not less than once a week for a period of thirty days and to contain the name of the applicant, a statement of the nature of the rights applied for and the general character and location of the proposed works.

(3) Any person who objects to the granting of the application may, within the period of thirty days mentioned in subsection (1) or subsection (2), as the case may require, file with the minister a statement of his reasons therefor.

R.S.S. 1940, c.41, s.19; R.S.S. 1953, c.48, s.19.

Examination of documents by chief engineer

20 The memorial and plans filed in the department, as provided by section 18, shall be examined by the chief engineer, and, after they have been approved by him, one copy shall be kept as a record in the department.

R.S.S. 1940, c.41, s.20; R.S.S. 1953, c.48, s.20.

Authorization of construction

21(1) Upon receipt of the memorial and plans, properly approved, together with a certificate of the proper officer that notice of the filing of such memorial and plans has been published as required and that, if such is the case, permission has been granted by the municipal or other authorities respectively having jurisdiction in that behalf, or by the board as provided by section 23, to construct the said works upon, along, across or under every road allowance, public highway, square or other public place affected thereby, and after considering all protests filed, the minister may authorize the construction of the proposed works with such changes and variations as he deems necessary, fixing in the authorization a term within which the construction of the works is to be completed.

(2) If, as respects any such road allowance, public highway, square or other public place, the permission of the municipal or other authorities, or order of the board, cannot be obtained until the works are authorized, the minister may authorize their construction, subject to the conditions that before the works are constructed upon, along, across or under such road allowance, public highway, square or other public place, the requisite permission shall have been obtained and filed in the department.

R.S.S. 1940, c.41, s.21; R.S.S. 1953, c.48, s.21.

Construction of highway by municipality

22(1) If the municipal or other authorities having jurisdiction, authority or control over any public highway desire to construct such highway over or across the works of any company and cannot obtain the consent of the company to do so, or cannot obtain such consent otherwise than subject to terms and conditions not acceptable to them, they may apply to the board for leave to construct, maintain and operate such highway over or across such works.

(2) Upon such application the authorities so applying shall submit to the board a plan of the works of the company at the point where it is desired to make such crossing and a plan or plans showing the proposed method of constructing the highway over or across the works, and such other plans, drawings and specifications as the board in any case or by regulation requires.

(3) The board may, by order:

- (a) grant such application in whole or in part on such terms and conditions as it deems just and proper, subject to the provisions of this Act;
- (b) change the plans, drawings and specification submitted;
- (c) fix the place and mode of crossing and give directions as to the manner in which the crossing is to be constructed; and
- (d) order that detailed plans, drawings and specifications of any structures, equipment or appliances required shall before construction or erection be submitted to and approved by the chief engineer.

(4) Upon such order being made, the authorities so applying may exercise the powers granted by the order in accordance with the terms, provisions and conditions thereby prescribed.

R.S.S. 1940, c.41, s.22; R.S.S. 1953, c.48, s.22.

Powers of board where municipality refuses consent

23(1) If the applicant cannot obtain the consent of the municipal or other authorities having jurisdiction, authority or control over any road allowance, public highway, square or other public place affected by the proposed works, or cannot obtain such consent otherwise than subject to conditions not acceptable to the applicant, the applicant may apply to the board for leave to maintain and operate the said works upon, along, across or under such road allowance, public highway, square or other public place.

(2) Upon such application the applicant shall submit to the board a plan of such road allowance, public highway, square or public place at the point where it is desired to construct such works upon, along, across or under the same, and such other plans, drawings and specifications as the board in any case or by regulation requires.

- (3) The board may, by order:
- (a) granted such application in whole or in part on such terms and conditions as it deems just and proper;
 - (b) change the plans, drawings and specifications submitted;
 - (c) fix the place and mode of crossing and give directions as to the manner in which the crossing is to be constructed; and
 - (d) order that detailed plans, drawings and specifications of any structures, equipment or appliances required shall before construction or erection be submitted to and approved by the chief engineer.
- (4) Upon such order being made the applicant may exercise the powers granted by the order in accordance with the terms, provisions and conditions thereby prescribed.

R.S.S. 1940, c.41, s.23; R.S.S. 1953, c.48, s.23.

Application of *Local Government Board Act*

24 All the relevant provisions of *The Local Government Board Act* apply, *mutatis mutandis*, to the board in the exercise of the jurisdiction conferred by this Act and to all persons concerned and all things affected by such exercise.

R.S.S. 1940, c.41, s.24; R.S.S. 1953, c.48, s.24.

Maintenance of crossings

25(1) When an order is made by the board granting leave to construct, maintain and operate a public highway over or across the works of any company at a point where such works are crossed by a road allowance laid out according to the system of survey provided for by *The Land Surveys Act*, the bridges and approaches thereto necessary for such crossing shall be constructed and maintained by the company in a manner satisfactory to the chief engineer of the Department of Highways and Transportation.

(2) This section does not apply to any works for the construction of which a company obtained authorization before the first day of April, 1931.

R.S.S. 1940, c.41, s.25; R.S.S. 1953, c.48, s.25.

Use of water during construction of works

26(1) Notwithstanding any provision of this Act or the regulations, the minister may, if he considers it expedient to do so, permit the diversion and use of water by an applicant who has received authorization to proceed with the construction of works, as provided in this Act, or the supply of water to others by such applicant during the construction of the works, but any permit so granted shall make the applicant subject to all the provisions of this Act applicable to licensees.

(2) Subsection (1) applies to all cases in which the minister has authorized an applicant to divert or use or to construct works for the diversion or use of water from any of the bodies of water referred to in this Act.

R.S.S. 1940, c.41, s.26; R.S.S. 1953, c.48, s.26.

Power to waive publication of filing

27 The minister may, if he considers it expedient to do so, waive the necessity for giving public notice of the filing of the memorial or the memorial and plans, as the case may be, as required by section 19, and dispense with the certificate with respect to such notice as mentioned in subsection (1) of section 21.

R.S.S. 1940, c.41, s.27; R.S.S. 1953, c.48, s.27.

CONSTRUCTION OF WORKS

Power to commence construction of works

28 The applicant, immediately after the receipt of the authorization, may proceed with the construction of the works authorized.

R.S.S. 1940, c.41, s.28; R.S.S. 1953, c.48, s.28.

Commencement and prosecution of construction

29(1) The construction shall be commenced not later than two months after the date of the authorization, unless such two months expire between the first day of November and the first day of May following, in which case the time of commencement shall not be later than the said first day of May, and shall proceed continuously until sufficiently completed to supply water to all persons applying therefor within the area described in the authorization, provided there is sufficient water available for that purpose; and the minister, or such officer as he designates, shall be the sole arbiter as to whether the work is being prosecuted with sufficient dispatch.

(2) Where unforeseen disaster intervenes to prevent the commencement of construction or the completion of the works within the time limited, or, if for any other reason the minister deems it expedient, he may authorize an extension of time for the commencement or completion of the works.

R.S.S. 1940, c.41, s.29; R.S.S. 1953, c.48, s.29.

Inspection

30(1) Any works authorized under this Act shall, if the minister so determines, be constructed subject to inspection during construction by the chief engineer or any other officer named by the minister.

(2) The cost of inspection, or such portion thereof as the minister decides, shall be borne by the company constructing such works.

R.S.S. 1940, c.41, s.30; R.S.S. 1953, c.48, s.30.

Roads to be kept open during construction

31(1) Every applicant constructing works under the provisions of this Act shall, during construction, keep open for safe and convenient travel all public highways theretofore publicly travelled as such, where they are crossed by the works, and shall, before water is diverted into, conveyed or stored by any such works extending into or crossing any such highway, construct, to the satisfaction of the minister, a substantial bridge, not less than fourteen feet in breadth, with proper and sufficient approaches thereto, over the works.

(2) Every such bridge and the approaches thereto shall thereafter be maintained by the applicant in a manner satisfactory to the chief engineer of the Department of Highways and Transportation.

R.S.S. 1940, c.41, s.31; R.S.S. 1953, c.48, s.31.

EXPROPRIATION

Power of applicant to expropriate lands

32 For the purpose of constructing works authorized, the applicant shall have the powers conferred by *The Expropriation Act* in so far as the same are applicable to the undertaking and are not inconsistent with the provisions of this Act or with the authority given to the applicant.

R.S.S. 1940, c.41, s.32; R.S.S. 1953, c.48, s.32.

Idem

33 Lands required for the works of an applicant, as shown by the maps and plans filed, in whomsoever they are vested, whether in the Crown or in any other applicant or licensee, or in any railway company, or in any other person whomsoever, or any interest in or right or privilege with regard to such land which is so required, may be taken and acquired by the applicant and thereupon all the provisions of *The Expropriation Act* shall apply as if they were included in this Act:

Provided that the minister may impose such terms and conditions as he thinks proper in the public interest in connection with the acquisition under this section of any lands which are so vested or of any interest in such lands or any right or privilege affecting such lands.

R.S.S. 1940, c.41, s.33; R.S.S. 1953, c.48, s.33.

Lands for connecting works

34 Lands required by any person for works to be constructed to connect with and to obtain and carry water from or to works already authorized, plans of which have been filed as required under the provisions of this Act, may be taken and acquired by the said person under the provisions of section 33, upon his filing with the minister a memorial and plans of the connecting works, together with evidence in writing that the owner of the works already authorized has ben consented to water being diverted therefrom or carried thereto by means of such connecting works, and obtaining thereupon the authorization of the minister for the construction of such connecting works.

R.S.S.1940, c.41, s.34; R.S.S. 1953, c.48, s.34.

Telegraph or telephone lines

35 The applicant may, for the purposes of his undertaking, construct or acquire electric, telegraph and telephone lines or any other contrivances for the transmission of messages through or along wires, rods, tubes or other appliances, and may acquire any land necessary for the construction and operation of such lines or contrivances, and the lands necessary to be taken and acquired for this purpose may be acquired under the provisions of section 33.

R.S.S. 1940, c.41, s.35; R.S.S. 1953, c.48, s.35.

Disputes as to area of land required

36 The minister, or such officer as he designates, shall, in case of dispute, be the sole arbiter as to the area of land which may be taken by the applicant without the consent of the owner for any purpose in the construction or maintenance of the works.

R.S.S. 1940, c.41, s.36; R.S.S. 1953, c.48, s.36.

LICENCES AND LICENSEES

Inspection of works on completion, and issue of licence

37(1) Upon the expiration of the time mentioned in the authorization for the construction of any works, or at any time before such date, if the construction is sooner completed, an inspection shall be made by the chief engineer or such other officer as the minister appoints.

(2) If the chief engineer or other officer upon such inspection is satisfied that the works have been completed in accordance with the authorization, that the right of way for the works has been obtained, that agreements have been entered into for the supply of water for the irrigation of lands which are not the property of the applicant, and that the works as constructed are capable of carrying and utilizing a stated quantity of water, he shall issue and forward to the department a certificate setting forth the facts.

(3) Upon receipt of such certificate the minister shall issue a licence to the applicant for the quantity of water to which he is entitled, and such licence shall be recorded in the department.

R.S.S. 1940, c.41, s.37; R.S.S. 1953, c.48, s.37.

Easements

38(1) Where it appears from the licensee's application or the plans filed in the department that the works will affect any land other than that on which the works are constructed, and the registered owner of such other land has consented to the construction of the works, the chief engineer shall forthwith after the issue of the licence issue and forward to the registrar of land titles for the land registration district in which the lands are situated a certificate stating that the licence has been issued and setting forth the date of the licence, the name and address of the licensee, a description of the land on which the works are constructed and a description of the land which will be affected by the works.

(2) In any certificate issued under subsection (1) the lands shall be described by reference to sections, quarter sections or legal subdivisions or by reference to a plan registered in the land titles office.

(3) The certificate shall be signed by the chief engineer and shall be witnessed by one person, who shall sign his name as a witness, but no further or other formality shall be required as a condition of the acceptance of the certificate for registration.

(4) Upon receipt of the certificate the registrar shall without fee register the certificate against the land therein described, and thereupon the certificate shall become and be an easement whereby the owner of the servient tenement has granted to the owner of the dominant tenement the right to use his land for the purposes and to the extent shown in the said application or plans, such right to run with the land and be binding upon the owner of the servient tenement, his heirs, executors, administrators and assigns.

(5) Where the works in respect of which a certificate has been registered under subsection (4) have been destroyed or damaged to the extent that they are rendered useless for the purpose for which they were constructed and the licence mentioned in the certificate has been cancelled, the certificate may be released or discharged by a notice in writing to the registrar executed in the same manner as that provided for execution of the certificate; and upon receipt of such notice the registrar shall without fee register the same.

R.S.S. 1940, c.41, s.38; 1953, c.23, s.1;
R.S.S. 1953, c.48, s.38.

Priorities of licences

39(1) Licensees shall have priority among themselves according to the numbers of their licences, so that each licensee shall be entitled to receive the whole of the supply to which his licence entitles him before any licensee whose licence is of a higher number has any claim to a supply.

(2) If a complaint is made to the minister, or to an officer authorized by him to receive such complaints, that any licensee is receiving water from a source of supply to which another licensee is entitled by virtue of priority of right, and that the licensee having such priority of right is not receiving the supply to which he is entitled, an officer to be named by the minister, or the officer to whom complaint is so made, as the case may be, shall inquire into the circumstances of the case, and, if he finds that there is ground for the complaint, shall cause the headgates of the ditch or other works of the licensee who is receiving an undue supply of water to be closed, so that the supply to which the other licensee is entitled shall pass and flow to his works.

R.S.S. 1940, c.41, s.39; R.S.S. 1953, c.48, s.39.

Licensee's rights limited by capacity of works

40(1) When any works for carrying water are not of sufficient capacity to carry the quantity of water acquired by their owner, his exclusive right shall be limited to the quantity which such works are capable of carrying.

(2) In case of dispute as to such quantity, the minister may order an inspection of the works.

(3) The report and finding of the inspecting officer as to capacity thereof shall, for the purpose of this section, be final and conclusive.

R.S.S. 1940, c.11, s.40; R.S.S. 1953, c.48, s.40.

No discrimination in prices

41(1) No licensee undertaking to sell water conveyed by his works shall, subsequently to the first four years after the construction of such works as are necessary to convey the water to the users, discriminate between the users of such water regarding the price thereof.

(2) If from any cause the whole amount of water agreed to be supplied by a licensee is not available, the licensee shall furnish to each user so much water as shall bear to the available water the same proportion as his usual supply bears to the whole amount agreed to be furnished.

R.S.S. 1940, c.41, s.41; R.S.S. 1953, c.48, s.41.

Storage of water

42(1) The minister may grant to any licensee the right, during periods of flood or high water, or during those portions of the year when water is not required for irrigation purposes, to store for purposes any water which is not required or not being used therefor.

(2) The minister may grant to any applicant for for the carriage of water to his lands, the rights to use any portion of the works constructed, under construction, or to be constructed, by any company whenever, in his opinion, it is necessary or desirable so to do in order to secure a more equitable or economical use of the available water supply and when it will not interfere with the use made, or to be made, of such works by the owner thereof, and may authorize such enlargement of the works constructed, under construction, or to be constructed, as in his opinion is requisite for such purpose.

(3) The method of compensating the owners for the use of any such works and for dividing the cost of enlarging, or of jointly constructing any such works, shall be set forth in an agreement to be executed by the respective parties and filed with the minister.

(4) If they fail to agree, or if, in the opinion of the minister, there is unreasonable delay in effecting an agreement, the minister may prescribe the manner in which the work shall be done and the costs apportioned, and his decision shall be binding upon all the parties concerned:

Provided that any applicant who is authorized to enlarge any works previously constructed shall be responsible for any loss or damage which may be sustained by the owner of the said works as a result of such enlargement; and the minister shall determine the amount to be paid for such loss or damage, and such determination shall be final.

(5) The cost of maintaining the works after enlargement, or of works constructed jointly, or of works used in common, shall be borne by the respective parties in such manner as may be mutually agreed upon, but such cost shall be limited to those portions of the works which are jointly used for the storage, diversion or carriage of water.

(6) The method of conducting the work and sharing the cost thereof shall be set forth in an agreement to be executed by the respective parties and filed with the minister, and if they fail to agree, or if, in the opinion of the minister, there is unreasonable delay in effecting an agreement, the minister may determine the manner in which the work shall be done and the cost apportioned, and his decision shall be binding upon all the parties concerned.

(7) If, in the opinion of the minister, any works for the carriage of water are not being utilized to their full capacity by their owners, and can be advantageously utilized to carry a larger quantity of water required for domestic purposes, without interfering with the use of the works by their owners, the works shall be placed at the disposal of the minister for such purpose, and if they are not so placed within a period of fifteen days from the date of notice to the owners by the minister that he requires possession of them for such purpose he may take possession thereof without further notice:

Provided that if injury or damage results to the works because of the carrying of such larger quantity of water, the minister may fix the amount of compensation to which the owners of the works are in his opinion entitled, and that amount shall be paid to the owners out of the consolidated fund.

(8) All orders made under this section shall be approved by the Lieutenant Governor in Council.

Disposal of surplus water to applicants

43(1) Licensees shall dispose of any surplus water flowing in their works, which is not being utilized for the purposes authorized, to any person applying therefor for irrigation purposes and tendering payment for one month in advance at the regular prices.

(2) The delivery of such surplus water need not be made until the applicant pays or tenders an amount equal to the cost and expenses of the works required to convey the surplus water to him, or until he has constructed such works.

(3) When the necessary works have been so constructed the applicant shall be entitled to the use of so much of the surplus water as such works have the capacity to carry.

(4) Nothing in this section shall be construed to give to any person acquiring the right to use surplus water any right to the said surplus water when it is needed by the licensee for the purposes authorized, or to waste or sell or dispose thereof after being used by him, or shall prevent the original owners from retaking, selling or disposing thereof in the usual customary manner after it has been so used.

R.S.S. 1940, c.41, s.43; R.S.S. 1953, c.48, s.43.

COMPLAINTS AND INSPECTION**Order by minister in case of complaint against licensee**

44(1) When a complaint, under oath of the complainant and of at least one other person, is made to the minister by a consumer of water who has paid his rates, that a licensee who has engaged or is under obligation to supply him with water is failing to do so, or is failing to keep his works in proper condition, the minister or some person or officer appointed by him for the purpose may make immediate inquiry and take all necessary steps to ascertain the truth of the complaint, and, if he considers the complaint established, may order that the licensee shall take forthwith such action as the minister or such person or officer considers necessary in order, as far as possible, to remove the cause of complaint.

(2) If the licensee fails to obey such order, the minister shall forthwith issue a certificate to that effect, reciting all the facts.

(3) A judge of the Court of Queen's Bench, upon the production of such certificate, shall hear and determine the matter in a summary manner, and shall order the licensee to proceed with all dispatch to take such measures as the judge considers necessary in the premises.

(4) The refusal or neglect to obey any order made by a judge under this section may be punished as contempt of court, and such other proceedings may be had and taken thereon as in the case of non-compliance with any other mandatory order of the said court or a judge thereof.

R.S.S. 1940, c.41, s.44; R.S.S. 1953, c.48, s.44.

Disputes as to quantity diverted

45 In case of dispute as to the quantity of water diverted, the minister may order an inspection of the works of the licensee by an officer named by the minister for that purpose; and, for all purposes of this Act, the report and finding of such officer as to the quantity diverted shall be final and conclusive.

R.S.S. 1940, c.41, s.45; R.S.S. 1953, c.48, s.45.

Inspection on application of proprietor near works

46(1) A person residing on or owning land in the neighbourhood of works, either completed or in course of construction, may apply to the minister in writing for an inspection of such works, and the minister may order an inspection thereof.

(2) The minister may require the applicant to make a deposit of such sum of money as the minister thinks necessary to pay the expenses of an inspection, and, in case the application appears to him not to have been justified, may cause the whole or part of the expenses to be paid out of such deposit.

(3) In case the application appears to the minister to have been justified, he may order the applicant for a licence or the licensee, as the case may be, to pay the whole or any part of the expenses of the inspection, and such payment may be enforced as a debt due to the Crown.

(4) Upon any inspection under the provisions of this section the minister may order the applicant or licensee to make any addition or alteration, which he considers necessary for their security, to or in any works of the applicant or licensee, and if the applicant or licensee fails to obey such order, the minister shall forthwith issue a certificate to that effect, reciting all the facts, and any judge of the Court of Queen's Bench, upon the production of such certificate, shall hear and determine the matter in a summary manner and shall order the applicant or licensee to proceed with all dispatch to take such measures as the judge considers necessary in the premises.

(5) The refusal or neglect to obey an order made by a judge under this section may be punished as contempt of court, and such other proceedings may be had and taken thereon as in the case of non-compliance with any other mandatory order of the said court or a judge thereof.

(6) This section does not apply to cases where the minister waives the filing of plans.

R.S.S. 1940, c.41, s.46; R.S.S. 1953, c.48, s.46.

Information to be afforded to inspecting officer

47(1) Every applicant or licensee, and the officers and directors of the applicant or licensee, if an incorporated company, shall afford to any inspecting officer such information as is within their knowledge and power in all matters inquired into him, and shall submit to such inspecting officer all plans, specifications, drawings and documents relating to the construction, repair or state of repair of the works or any portion thereof.

(2) The production of instructions in writing signed by the minister or his deputy shall be sufficient evidence of the authority of such inspecting officer.

R.S.S. 1940, c.41 s.47; R.S.S. 1953, c.48, s.47.

AMALGAMATION OF COMPANIES

Amalgamation and notice thereof

48(1) The Lieutenant Governor in Council may authorize two or more companies, whose works are contiguous, to unite and form one company with a view to providing increased water supply and extending their works, when he is satisfied that:

- (a) the holders of more than fifty per cent of the capital stock of each company are in favour of the union;

- (b) the users dependent upon the water supply will not be injured; and
 - (c) the companies to be united have the necessary financial means for carrying out the proposed undertaking.
- (2) In such case the same particulars shall be furnished to the Lieutenant Governor in Council as are required to be furnished upon an application for authorization to construct works under this Act.
- (3) Public notice of the authorization of the union and the proposed works shall be given in the manner prescribed by this Act respecting the publication of a notice of the filing of memorials and plans.

R.S.S. 1940, c.41, s.48; R.S.S. 1953, c.48, s.48.

EXPROPRIATION, CANCELLATION AND FORFEITURE

Power to expropriate works

49(1) The Lieutenant Governor in Council may, if in the public interest he deems it advisable to do so, take over and operate or otherwise dispose of the works of any licensee under this Act:

Provided that no person other than the licensee who is then using the waters of the works shall be deprived of the quantity of water to which he is entitled, and that the Lieutenant Governor in Council shall have due regard to the claims to consideration of any persons who have prepared or have in course of preparation any land to be supplied with water by the works taken over.

- (2) Compensation shall be paid for such works at such value as shall be ascertained by arbitration under *The Arbitration Act*.
- (3) In estimating such value the arbitrators may take into account the expenditure of the licensee and interest on such expenditures, and the value of his property, works and business.

R.S.S. 1940, c.41, s.49; R.S.S. 1953, c.48, s.49.

Cancellation of licence and issue of new licence to purchaser

50(1) When the land to be irrigated by the water granted to a licensee is land for which letters patent from the Crown have not been issued, being held by the licensee under a conditional entry, or is land held under a lease in accordance with the provisions of *The Provincial Lands Act*, or under an agreement to purchase, the licence for such water shall be cancelled upon receipt by the minister of a certificate of the cancellation of such conditional entry, lease or agreement:

Provided that the water right necessary for the irrigation of such land may be reserved for such time as the minister determines, and may be disposed of, together with all works connected therewith, to the next occupant or purchaser of such land, upon such terms and conditions as the minister determines.

- (2) The new licence issued for such water shall have the same number and hold the same priority of right as the original or cancelled license.

R.S.S. 1940, c.41, s.50; R.S.S. 1953, c.48, s.50.

Forfeiture for abandonment or non-compliance

51(1) When a licensee abandons or ceases to use or wastes water to which his licence entitles him and a charge of such abandonment or ceasing to use or wasting is made to the minister, such charge may be inquired into by him or by any person appointed by him for that purpose.

(2) The minister, if he deems it just and proper, may by order declare a forfeiture of the licence, and the licence so declared to be forfeited shall thereupon be cancelled and shall cease and determine.

(3) In every licence issued under this Act or the regulations to impound, divert or use water, or to construct or operate works for the impounding, diversion or utilization of water, there shall be implied a condition that:

- (a) on default in payment of any rent, royalty, fee, charge or other consideration thereby reserved or of any instalment thereof; of
- (b) for the breach or non-performance of any covenant, proviso, condition or stipulation therein contained and to be observed and performed by the person claiming under the licence; or
- (c) for the failure of such person to observe or perform any provision of this Act or the regulations; or
- (d) if such person has been guilty of fraud or imposition in connection with the licence; or
- (e) if the licence has been issued in error or mistake;

the minister may, by thirty days' written notice to such person, declare a forfeiture of the licence, whereupon the licence shall be forfeited and all rights of the licensee shall cease and determine. The minister may also, in his discretion, forfeit to the Crown all rents, royalties, fees, charges or other consideration paid by the licensee and dispose of the rights for which such licence was issued as if no disposition thereof had been made.

R.S.S. 1940, c.41, s.51; R.S.S. 1953, c.48, s.51.

Cancellation for non-compliance of works

52 Upon the expiration of the time limited under the provisions of this Act or under an extension granted by the minister for the completion of any authorized work, the rights granted to the company shall cease and determine, except in so far as they are necessary for effectually operating the works then completed, and any works at the date of such forfeiture constructed or acquired may be taken over and operated or disposed of by the minister in the manner and upon the terms hereinbefore provided.

R.S.S. 1940, c.41, s.52; R.S.S. 1953, c.48, s.52.

OFFENCES AND PENALTIES

Obstruction of inspector

53 Every person who wilfully obstructs an inspector in the execution of his duty is guilty of an offence and liable on summary conviction to a fine not exceeding \$20 or to imprisonment for a term not exceeding two months, or to both.

R.S.S. 1940, c.41, s.53; R.S.S. 1953, c.48, s.53.

Failure to carry out order

54 Every person who refuses or neglects to obey or carry out any order given to him by, or by authority of, the minister under this Act, is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 for each offence or to imprisonment for a term not exceeding two months, or to both.

R.S.S. 1940, c.41, s.54; R.S.S. 1953, c.48, s.54.

Interference with engineer or surveyor

55 Every person who interrupts, molests or hinders in his work any engineer or Saskatchewan land surveyor engaged in making surveys or levels, or in other operations in connection with any work authorized under this Act, is guilty of an offence and liable on summary conviction to a fine not exceeding \$20 or to imprisonment for a term not exceeding two months, or to both.

R.S.S. 1940, c.41, s.55; R.S.S. 1953, c.48, s.55.

Interference with survey monuments or water gauges

56 Every person who knowingly and wilfully defaces, alters or removes any survey monument, bench mark or water gauge placed by an engineer or Saskatchewan land surveyor engaged in making surveys or levels, or in other operations in connection with any work authorized by this Act, is guilty of an offence and liable on summary conviction to a fine not exceeding three months, or to both.

R.S.S. 1940, c.41, s.56; R.S.S. 1953, c.48, s.56.

Diversion of water without authority

57(1) Every person who wilfully, without authority, takes or diverts any water from any river, stream, watercourse, lake, creek, spring, ravine, canyon, lagoon, swamp, marsh or other body of water or from any works authorized under this Act, and every licensee or other person who takes or diverts therefrom any greater quantity of water than he is entitled to, is guilty of an offence and liable on summary conviction to a fine not exceeding \$5 per or fraction of a day for each unit or fraction of a unit of water improperly diverted, or to imprisonment for a term not exceeding thirty days, or to both.

(2) Every person who wilfully, without authority under section 8, diverts or impounds surface water not flowing in a natural channel or contained in a natural bed is guilty of an offence and liable on summary conviction to a fine not exceeding \$100 or to imprisonment for a term not exceeding thirty days, or to both.

R.S.S. 1940, c.41, s.57; R.S.S. 1953, c.48, s.57.

Discrimination in supply of water

58 Every licensee under obligation to sell water conveyed by his works, who, after the expiration of four years from the time of completion of the works so as to convey the water to the users, discriminates between users of such water in the prices charged or who in case of a deficiency in the whole amount agreed to be supplied, discriminates between the users of the water regarding the proportionate quantity to be furnished to each user, is guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000 for each offence, or to imprisonment for a term not exceeding two months, or to both.

R.S.S. 1940, c.41, s.58; R.S.S. 1953, c.48, s.58.

GENERAL

Chief engineer and staff

59 A chief engineer may be appointed and such engineers, inspectors, clerks and employees as are considered necessary to carry out the provisions of this Act and the regulations and orders in council made thereunder.

R.S.S. 1940, c.41, s.59; R.S.S. 1953, c.48, s.59.

Approval of bylaws, tariffs and agreements

60(1) The bylaws and regulations of companies operating under this Act shall be subject to revision and approval by the minister and shall not contain anything contrary to the true intent and meaning of this Act.

(2) No tariff of charges for water furnished by any licensee shall come into operation until it has been approved by the minister.

(3) No agreement for the supply of water to consumers by companies operating under this Act shall contain anything contrary to the true intent and meaning of this Act, nor shall any such agreement become effective unless the general form thereof and the conditions contained therein have been first authorized or approved by the minister.

(4) Copies of all such bylaws, regulations, agreements and tariffs shall be filed in the department.

R.S.S. 1940, c.41, s.60; R.S.S. 1953, c.48, s.60.

Returns by companies

61(1) Every company licensed under this Act except municipal corporations shall, on or before the thirty-first day of January in each year, make a return to the minister, attested by the oath of its president and secretary, for the year ending on the thirty-first day of December preceding, showing the:

- (a) amount expended on construction;
- (b) amount expended on repairs;
- (c) amount received from shareholders;
- (d) amount of bonds issued;
- (e) amount received for water supplied for irrigation;
- (f) amount received from other sources;
- (g) amount of dividend declared and paid;
- (h) amount of capital stock authorized;
- (i) amount of capital stock subscribed;
- (j) amount of capital stock paid up to date;
- (k) amount of bonded indebtedness;
- (l) amount for which bonds sold;
- (m) rate of interest which bonds bear;
- (n) amount of indebtedness other than bonds, and the rate of interest such indebtedness is bearing;

- (o) cost of management;
 - (p) works, and their extent and character;
 - (q) number of miles of canals and ditches;
 - (r) number of users;
 - (s) number of acres actually under irrigation;
 - (t) number of acres of irrigable land in the system;
 - (u) names of officers and employees;
 - (v) proposed extensions during ensuing years and the acreage to be covered thereby; and
 - (w) such other data as the Lieutenant Governor in Council may order.
- (2) Every return shall have attached thereto a copy of the bylaws of the company, showing all amendments thereto during the year covered by the return.
- (3) The returns required by this section may be waived by the minister in the case of a private person or a company supplying water solely to himself or itself.

R.S.S. 1940, c.41, s.61; R.S.S. 1953, c.48, s.61.

Powers of Lieutenant Governor in Council

62 The Lieutenant Governor in Council may:

- (a) authorize the installation in rivers, streams, lakes and other waters, of water gauges for computing the approximate volume and discharge of waters, the placing of high water marks on rivers, streams, lakes and other waters, when in flood, the taking of steps for securing analyses of the water of rivers, streams, lakes and other waters and the adoption of such other measures and proceedings for promoting the beneficial use of water, and for controlling and regulating the diversion and the application thereof as he finds necessary and expedient and as are consistent with the provisions of this Act;
- (b) take such steps as he deems necessary to secure a complete or partial survey of the sources of the water supply for irrigation and other purposes, with an estimate of the extent and location of irrigable lands, and of the site or sites suitable for ponds, basins and reservoirs for water storage, and irrigation canals and ditches, and reserve lands forming such sites from general sale and settlement and dispose thereof by sales or lease to be utilized for purposes within the purview of this Act; and where any of the lands required for such purposes are not provincial lands the minister may, with the approval of the Lieutenant Governor in Council, acquire title thereto by expropriation, and for that purpose the minister shall have the powers conferred upon the Minister of Public Works by *The Public Works Act* and all the provisions of *The Public Works Act*, in so far as applicable, apply to such acquisition;
- (c) take such steps as he thinks necessary to protect the sources of water supply and to prevent any act likely to diminish or injure such supply.

R.S.S. 1940, c.41, s.62; R.S.S. 1953, c.48, s.62.

Regulations

63(1) This Lieutenant Governor in Council may make such regulations and orders not inconsistent with this Act as are necessary to carry out its provisions according to their obvious intent or to meet herein; and without restricting the foregoing generality may make regulations for:

- (a) prescribing the particulars to be set forth in memorials and plans filed by applicants;
 - (b) the inspection of works and the investigation of complaints;
 - (c) regulating the utilization and disposition of water by licensees;
 - (d) defining the manner in which the measure of water shall be computed;
 - (e) fixing the fees or charges to be paid for licences, which fees or charges may be varied according to the capital employed or volume of water diverted;
 - (f) regulating the extent of diversion from rivers, streams, lakes or other waters;
 - (g) regulating the passage of logs, timber and other products of the forest through or over any dams or other works erected in rivers, streams, lakes and other waters under the authority of this Act;
 - (h) requiring any person authorized to construct any dams or other works to construct fishways to permit the free and unobstructed passage of fish up and down stream at any season of the year and requiring their operation in accordance with the provisions of any law in force in Saskatchewan with respect to fisheries and any regulation made thereunder;
 - (i) regulating from time to time the water rates which may be charged by licensees, and the publication of tariffs of rates;
 - (j) prescribing forms to be used in proceedings under this Act;
 - (k) imposing penalties for violations of any regulation made under the authority of this Act, which penalties shall in no case exceed \$200 or three months' imprisonment, or both;
 - (l) regulating the manner in which water is to be supplied to persons entitled thereto, whether continuously or at stated intervals, or under both systems;
 - (m) regulating the taking of ice from any river, stream, watercourse, lake, creek, spring, ravine, canyon, lagoon, swamp, marsh or other body of water controlled by the Crown under the provisions of this Act, and prescribing the fees to be paid for permits;
 - (n) regulating the taking or diversion of water for mineral water purposes or for mineral recovery from any river, stream, watercourse, lake, creek, spring, ravine, canyon, lagoon, swamp, marsh or other body of water controlled by the Crown under the provisions of this Act, and prescribing the royalties to be charged on mineral waters acquired or used for mineral water purposes.
- (2) Every regulation and order made under subsection (1) shall be part of this Act.

(3) Every regulation and order so made shall have force and effect only after the same has been published in *The Saskatchewan Gazette*, and all such regulations and orders shall be laid before the Legislative Assembly within the first fifteen days of its next session.

R.S.S. 1940, c.41, s.63; R.S.S. 1953, c.48, s.63.

Evidence

64(1) The minister or any one specially authorized by him may, when he deems it necessary for the satisfactory carrying out of the provisions of this Act or the regulations, summon before him any person by subpoena, examine such person under oath, and compel the production of papers and writings.

(2) Upon neglect to obey such summons or refusal to give evidence, or to produce the papers or writings demanded of him, the minister or the person authorized may, by warrant under his hand, order the person in default to be imprisoned in the nearest common jail as for contempt of court, for a period not exceeding fourteen days.

(3) All affidavits, oaths, solemn declarations or affirmations required to be taken under this Act or the regulations may be taken before the chief engineer, or any person specially authorized by the minister to take them, or any person authorized to take affidavits in the province.

(4) The minister may require any statement called for under this Act, or under any regulation, to be verified by oath, affidavit, affirmation or declaration.

R.S.S. 1940, c.41, s.64; R.S.S. 1953, c.48, s.64.

Drainage works

65(1) Notwithstanding anything herein contained, the minister may approve of the construction of any ditch or drain proposed to be constructed under the authority of any Act providing for the drainage of lands.

(2) Before such approval is given, there shall be filed with the minister a general description of the land which it is proposed to drain and the nature and location of the proposed works, and the minister shall have such investigation as he considers necessary made by an officer to be designated by him and a report submitted to him by such officer setting forth:

- (a) the effect of the operation of such proposed works upon the effectiveness or operation of any works theretofore authorized under this Act;
- (b) the effect of such operation upon irrigation or water supply generally, and their future development.

(3) The minister may, if he deems it advisable, require the filing of duplicate plans showing the proposed works and the land to be drained.

(4) When approval has been given by the minister in writing, the works may be constructed and operated under the provisions of the drainage laws applicable thereto, notwithstanding anything in this Act contained; and no further or other licence to use or affect such waters as are used or affected by the construction and operation of such works shall be necessary.

(5) Nothing in this section or in any such approval affects any right prior to the first day of April, 1931, and still subsisting.

R.S.S. 1940, c.41, s.65; R.S.S. 1953, c.48, s.65.

Non-liability of owner of land for certain damage

66 The owner of land, whether registered as such or upon which works have been constructed or maintained, or constructed and maintained, or through or over or upon which water has been conducted, stored or accumulated under and by virtue of this Act and the *Prairie Farm Rehabilitation Act (Canada)* or either of the said Acts, shall not, unless through his own action or the action of his servant or agent damage is done by such water, be liable in damages or otherwise to any person by reason of the construction, maintenance, operation, lack of or negligence in maintenance or operation, or existence of such works or by reason of the passing, flowing, storing or accumulating of such water through or over or upon such land, except in the case of works constructed or maintained, or constructed and maintained or water conducted, stored or accumulated, by such owner himself.

R.S.S. 1910, c.41, s.66; R.S.S. 1953, c.48, s.66.

Powers under *Water Power Act* and Part III of *Forest Act* not affected

67 Nothing in this Act shall have the effect of repealing or modifying any provision of *The Water Power Act* or of Part III of *The Forest Act* or affect any of the powers to the Lieutenant Governor in Council, or to the minister, or any rights granted or action taken under either of those Acts.

R.S.S. 1940, c.41, s.67; R.S.S. 1953, c.48, s.67.