

# *The Highways and Transportation Act*

*Repealed*

by [Chapter H-3.01 of the \*Statutes of Saskatchewan, 1997\*](#)  
(effective July 1, 1997)

*Formerly*

[Chapter H-3 of \*The Revised Statutes of Saskatchewan, 1978\*](#) (effective February 26, 1979) as amended by [The Revised Statutes of Saskatchewan, 1978 \(Supplement\), c.27](#) and the [Statutes of Saskatchewan, 1979, c.29](#); [1979-80, c.M-32.01 and 92](#); [1980-81, c.24](#); [1982-83, c.16 and 36](#); [1983, c.31, 77 and 82](#); [1983-84, c.5, 16 and 54](#); [1984-85-86, c.48](#); [1986, c.15 and 33](#); [1989-90, c.15, 53 and 54](#); [1992, c.A-24.1](#); [1995, c.11](#); [1996, c.E-9.3](#); and [1997, H-3.01](#).

## **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 H-3

### An Act respecting Highways and certain other aspects of Transportation

#### SHORT TITLE

##### Short title

1 This Act may be cited as *The Highways and Transportation Act*.

R.S.S. 1978, c.H-3, s.1; 1983-84, c.5, s.4.

#### INTERPRETATION

##### Interpretation

2 In this Act:

(a) **“construction”** means the work of constructing a public improvement or opening or making a public highway;

(b) **“controlled access highway”** means:

(i) a provincial highway or a part of a provincial highway; or

(ii) any land over which the minister proposes to construct a highway and in respect of which there is a plan in the department indicating the route of the proposed highway;

designated by regulation as a controlled access highway by the Lieutenant Governor in Council;

(b.1) **Repealed.** 1983-84, c.5, s.5.

(b.2) **“department”** means the Department of Highways and Transportation;

(c) **“ditch”** or **“drain”** means a ditch or drain open or covered wholly or in part, whether in the channel of a natural stream, creek or watercourse or not, heretofore or hereafter constructed, repaired, maintained or improved at the expense of the North-West Territories or of the province, and all the work and materials necessary for any bridge, culvert, catch basin or guards connected therewith;

(d) **“engineer”** means a professional engineer, as defined in *The Engineering and Geoscience Professions Act*;

(e) **“ferry”** means a scow, barge or boat used for the purpose of carrying passengers, freight, vehicles or animals across a river, stream or other body of water and includes any cable and appliances connected therewith;

- (f) **“land”** includes any estate, term, easement, right or interest in, to, over or affecting land;
- (g) **“maintenance”** means the preservation and keeping in repair of a public improvement;
- (g.1) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (h) **“municipality”** means a city, town, village, rural municipality or northern municipality;
- (i) **“official sign”** means a sign, pavement marking, barricade or object that the minister or an officer or employee of the department with the written authority of the minister authorizes to be erected, placed or painted upon the roadway or right of way of a public highway for the legal control, warning, guidance, direction or information of traffic on the highway;
- (j) **“owner”** means a person who has an estate or interest in land, at law or in equity, in possession, futurity or expectancy;
- (k) **“provincial highway”** means a public highway, or a proposed public highway in respect of which there is a plan in the department, designated by regulation as a provincial highway by the Lieutenant Governor in Council and includes any part of a provincial highway to which subsection (1) of section 33 applies;
- (l) **“public highway”** means a road allowance or a road, street or lane, vested in Her Majesty or set aside for such purpose under *The North-West Territories Act* or an Act of Saskatchewan, and includes a bridge, culvert, drain or other public improvement erected upon or in connection with such public highway;
- (m) **“public improvement”** means public highways, culverts, bridges, aerodromes, air services, public transit systems, private transit systems where considered by the minister to be a public benefit, railways, ditches, drains, ferries, wells and public fire-guards; dams, reservoirs or other works constructed for the storage of water, water powers and works connected therewith; lands, streams, water courses and property, real and personal, heretofore or hereafter acquired for any public improvement or land required for securing material in connection with road construction; and any matter or thing done or to be done in connection with any such public improvement under this Act;
- (n) **“public improvement construction service”** includes labour, equipment, materials and supplies requisite for the construction, maintenance, repair, alteration or extension of public improvements;
- (o) **“road allowance”** means a road allowance laid out under the authority of an Act of Canada or Saskatchewan;
- (p) **“roadway”** means that part of a public highway designed or intended for use by vehicular traffic;

(q) “**surveyor**” means a person registered as a Saskatchewan land surveyor under *The Saskatchewan Land Surveyors Act*.

R.S.S. 1978, c.H-3, s.2; 1979-80, c.M-32.01, s.16;  
1982-83, c.36, s.3; 1983, c.77, s.31; 1983-84, c.5,  
s.5; 1989-90, c.54, s.7; 1996, c.E-9.3, s.60.

**3 to 6 Repealed.** 1983-84, c.5, s.6.

## CONTRACTS

**7 Repealed.** 1983-84, c.5, s.6.

### Contracts with Canada and other provinces

**8** The department may enter into contracts with the Government of Canada or of any province of Canada for the purpose of the construction, reconstruction, maintenance or repair of highways or the sharing of the cost thereof notwithstanding that the highways are wholly or partially outside Saskatchewan.

R.S.S. 1978, c.H-3, s.8.

### Contracts with municipalities

**9(1)** Where in the opinion of the minister it is desirable that a municipality should undertake the expenditure of moneys under the control of the department and available for public improvements, the department may, under such orders as are approved in that behalf by the minister, enter into a contract or contracts with the municipality for the purpose.

(2) Where the council of a municipality desires the department to undertake the expenditure of moneys under the control of the council and available for public improvements, the department may, on such terms and conditions as are approved by the minister, enter into a contract or contracts with the council for the purpose.

R.S.S. 1978, c.H-3, s.9; 1989-90, c.54, s.4.

### Execution of contracts

**10** All contracts entered into under this Act shall be in writing and shall be signed by the minister or by an officer of the department so authorized by the minister.

R.S.S. 1978, c.H-3, s.10; 1983-84, c.5, s.7.

### Tenders invited

**11** The minister shall invite tenders by public advertisement or other public notice for the construction and repair of all public improvements to be undertaken by the department, except in cases where the minister, having regard to the nature of the work and the size of the undertaking, is of opinion that the work can be carried out more expeditiously and economically by order or commission or under the direction of the officers of the department.

R.S.S. 1978, c.H-3, s.11.

**Security for performance of contract**

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

R.S.S. 1978, c.H-3, s.12.

**Authority for awarding contract to other than lowest bidder**

**13** Where the minister deems it inexpedient to let the work to the lowest bidder, he shall report the matter to and obtain the authority of the Lieutenant Governor in Council before awarding the contract to any other than the lowest bidder.

R.S.S. 1978, c.H-3, s.13.

**Conditions of payment**

**14** No sum of money shall be paid to a contractor, nor shall work be commenced on a contract, until the contract has been signed by all parties named therein and any security required has been given.

R.S.S. 1978, c.H-3, s.14.

**Contract to inure to Her Majesty**

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

R.S.S. 1978, c.H-3, s.15.

**Actions instituted by Attorney General**

**16** All actions, suits and other proceedings for the enforcement of a contract, or for the recovery of damages for breach of contract, or for the trial of a right in respect of property, real or personal, under the control of the department, shall be instituted in the name of Her Majesty by the Attorney General.

R.S.S. 1978, c.H-3, s.16.

**Fair wages paid**

**17** In every case where public works are carried on, whether by contract, or by order or commission, or under the direction of the officers of the department, all mechanics, labourers and other persons who perform labour on the works shall be paid such wages as are generally accepted as current for competent workmen in the district in which the work is being performed; and if there is no current rate in the district, then a fair and reasonable rate; and if a dispute arises as to what is the current or a fair and reasonable rate, it shall be determined by the fair wage officer of the Government, whose decision shall be final.

R.S.S. 1978, c.H-3, s.17.

## ACCOUNTS

**Vouchers**

**18** All accounts for expenditures under this Act shall be paid by the Minister of Finance upon the production of proper vouchers by the department.

R.S.S. 1978, c.H-3, s.18.

**Deposit of moneys collected**

**19** All moneys collected by the department under this Act, with the exception of reimbursements on projects the cost of which is shared with the Government of Canada or of any province of Canada or with a municipality and reimbursements in respect of public improvement construction service provided under section 26, shall be deposited to the credit of the consolidated fund.

R.S.S. 1978, c.H-3, s.19.

## PROCUREMENT OF MACHINERY, SUPPLIES AND MATERIALS

**Procuring machinery, equipment, supplies and materials**

**20(1)** The department may procure:

- (a) all such construction and maintenance machinery and equipment;
- (b) all such supplies, required for the operation, maintenance and repair of such machinery and equipment; and
- (c) all such materials, to be used in, on or for a public improvement;

as may be requisite for use in connection with public improvements carried on under its direction.

(2) The supplies procured pursuant to subsection (1) may be charged directly against the account to which the particular machinery or equipment for which they are required are charged or may be placed in stock to be subsequently distributed.

(3) The materials procured pursuant to subsection (1) may be charged directly against the project for which they are required or placed in stock to be subsequently distributed.

(4) Supplies and materials placed in stock shall be distributed as may be required under such regulations as may be prescribed by the Lieutenant Governor in Council.

R.S.S. 1978, c.H-3, s.20.

**21 and 22 Repealed.** 1983-84, c.5, s.8.

**23 to 30 Repealed.** 1982-83, c.36, s.4.

## CLASSIFICATION OF PUBLIC HIGHWAYS

**Classes of public highways**

**31(1)** For the better administration of this Act and for the purpose of more effectively carrying out its provisions, public highways in the province may be classified by the minister in accordance with the following classes:

- (a) with respect to rural roads:
  - (i) freeways;
  - (ii) arterial highways;
  - (iii) collector highways;
  - (iv) collector roads that may be further classified as main market grid roads or otherwise;
  - (v) local roads;
  - (vi) development roads;
- (b) with respect to urban streets:
  - (i) freeways;
  - (ii) arterial streets;
  - (iii) collector streets;
  - (iv) local streets;
  - (v) freeway highway connectors;
  - (vi) arterial highway connectors;
  - (vii) collector highway connectors.
- (2) In this section:
  - (a) **“rural road”** means a public highway outside an urban area;
  - (b) **“urban street”** means a public highway within an urban area but does not include a lane;
  - (c) **“urban area”** means:
    - (i) a city, town or village that has a population of one thousand or more; or
    - (ii) a city, town or village, together with an adjacent area populated in the manner of a city, town or village, where the combined population of the city, town or village and that area is one thousand or more.
- (3) The minister may request any municipality or department of the Government of Saskatchewan to furnish him annually with a report setting forth the length and surface type of the public highways under the jurisdiction of the municipality or department.



## STATUS OF DETOURS AND RELOCATED PROVINCIAL HIGHWAYS

### Establishment of detours and effect thereof

**32** The minister may authorize the establishment of detours from provincial highways and when a detour is so established and is marked by an official sign it is subject to all statutory provisions applying to provincial highways.

R.S.S. 1978, c.H-3, s.32.

### Effect of relocation of provincial highway

**33(1)** Where a part of a provincial highway has been relocated and constructed on its relocation and has been opened to traffic by order of the minister, it is a provincial highway.

(2) Unless a part of a provincial highway to which subsection (1) applies is designated as a provincial highway by the Lieutenant Governor in Council and the former location of that part of the provincial highway is not so designated, that former location, if it remains in use as a public highway, continues as a provincial highway until notice is given by the minister to the council of the municipality or department of government concerned that it will no longer be a provincial highway as at a date which shall be specified in the notice and will thereafter be the statutory responsibility of the municipality or department.

R.S.S. 1978, c.H-3, s.33.

## SURVEYS

### Trails and public highways

**34(1)** The minister may from time to time cause to be surveyed and marked out on the ground by a surveyor, an old trail that existed as such prior to the subdivision into sections of the land that it crosses, or any land required for a public highway; and one copy of the plan of any such survey approved by the minister or by an officer of the department so authorized by the minister shall be filed with the department and two copies shall be forwarded to the land titles office for the land registration district within which the old trail or public highway is situated.

(2) The effect of the forwarding and receipt in the land titles office of copies of such plan of survey, whether before or after the coming into force of this Act, shall be to vest the lands shown on the plan in Her Majesty for the public use of the province, without prejudice to the legal rights of the owner to compensation therefor:

Provided that the right and title to all mines and minerals that may be found under the lands shall continue to be vested in the owner and his assigns; and provided, also, that the expression "mines and minerals" shall not be deemed to include, and shall be deemed to have never included, rock, shale, gravel, sand, clay or other material used in the construction, maintenance or repair of a public improvement.

**c. H-3****HIGHWAYS AND TRANSPORTATION**

(3) The minister may approve the survey as marked out on the ground of any land required for an old trail or public highway and such approval shall operate as a dedication of the land as a public highway, and nothing herein shall be taken to require the plan of the survey to be prepared or deposited in the land titles office before or at the time of the approval.

(4) Such old trails or public highways shall be laid out not less than twenty metres in width; and in making the survey of an old trail the surveyor may make such changes in the location thereof as he deems necessary, but without altering its main direction.

R.S.S. 1978, c.H-3, s.34; 1979, c.29, s.3; 1983-84, c.5, s.9.

**Liability respecting preservation of legal survey monuments**

**35(1)** No public highway outside a city, town or village may be widened, constructed, reconstructed, repaired or maintained by any person, municipality or department of the Government in a manner that will result in the destruction of a legal survey monument at a section or quarter-section corner, or the existing evidence thereof, without first having had the monument legally referenced in accordance with the manual of instructions mentioned in subsection 56(2) of *The Land Surveys Act*.

(2) A person, municipality or department who or which contravenes subsection (1) is liable for the cost of the legal re-establishment and legal referencing of any monument destroyed.

(3) The plan of a reference survey carried out under subsection (1), approved by the minister or by an officer of the department so authorized by the minister, shall be filed in the land titles office for the land registration district within which the land is situated and after filing one copy shall be filed with the department.

R.S.S. 1978, c.H-3, s.35; 1983-84, c.5, s.10; 1995, c.11, s.11.

**36 Repealed.** 1995, c.11, s.11.

**LANDS REQUIRED FOR PUBLIC IMPROVEMENTS****Expropriation, etc.**

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

- (a) enter upon and take possession of any lands, in whomsoever vested, required for a public improvement;
- (b) enter into and upon any land to whomsoever belonging, and survey and take levels of the land and take such borings or sink such trial pits as he deems necessary for any purpose relative to a public improvement;

- (c) enter upon and take possession of any land the expropriation of which the minister deems necessary for the use, construction, maintenance or repair of a public improvement or for obtaining better access thereto;
- (d) enter with workmen and equipment upon any land and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood or other material found on the land required for a public improvement, or for the purpose of digging up, quarrying and carrying away earth, stones, gravel or other material and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom for the purpose of making, constructing, maintaining or repairing the public improvement;
- (e) make and use all such temporary roads to and from such timber, stones, clay, gravel, sand or gravel pits as are required for the convenient passing to and from public improvements during their construction and repair;
- (f) enter upon any land for the purpose of making proper drains to carry off the water from the public improvement or of keeping such drains in repair;
- (g) divert or alter temporarily or permanently, the course of any brook, rivulet or public highway, or raise or sink the level thereof in order to carry it over or under, on the level of or by the side of the public improvement as he thinks proper; but before discontinuing or altering a public highway, another convenient road in lieu thereof shall be substituted; and the land theretofore used for a public highway or part of a public highway so discontinued may be transferred by the minister to, and shall thereafter become the property of, the owner of the land of which it originally formed a part;
- (h) divert or alter the position of any water pipe, gas pipe, oil pipe, drain or telephone or electric light wire or pole.

R.S.S. 1978, c.H-3, s.37.

#### Acquisition of surplus property

**38(1)** Where in the opinion of the minister the taking of land required for a public improvement is likely to cause such damage to the remaining property of the claimant that it would be reasonable for Her Majesty to acquire the remaining property of the claimant so damaged, or a fractional part thereof, such remaining property may be included with land taken for a public improvement and in such a case the remaining property taken shall be deemed to be land taken for a public improvement.

(2) **Repealed.** 1983-84, c.5, s.11.

R.S.S. 1978, c.H-3, s.38; 1983-84, c.5, s.11.

**Removing fences, constructing ditches**

**39** Where it is necessary in building, maintaining or repairing a public improvement, to take down or remove a wall or fence of an owner or occupier of land or premises adjoining the public improvement, or to construct a back ditch or drain for carrying off water, the wall or fence shall be replaced as soon as the necessity that caused its taking down or removal has ceased; and after it has been so replaced, or when the drain or back ditch is completed, the owner or occupier of the land or premises shall maintain the wall or fence, drain or back ditch to the same extent as the owner or occupier might by law be required to do if the wall or fence had never been so taken down or removed or the drain or back ditch had always existed.

R.S.S. 1978, c.H-3, s.39.

**Sidings, conduits or tracks**

**40(1)** Where any gravel, stone, earth, sand or water is taken at a distance from the public improvement, the minister may cause to be laid down the necessary sidings, water pipes or conduits or tracks over or through any land intervening between the public improvement and the land on which the material or water is found, whatever the distance may be; and the provisions of this Act apply and may be used and exercised to obtain the right of way from the public improvement to the land on which the material or water is situated.

(2) Such right of way may be acquired for a term of years or permanently as the minister thinks proper; and the powers contained in this section may at all times be exercised and used in all respects after the public improvement is constructed for the purpose of repairing and maintaining it.

R.S.S. 1978, c.H-3, s.40.

**Survey and plan**

**41(1)** Lands taken for a public improvement shall be surveyed and marked on the ground by a surveyor who shall prepare a proper plan of the survey.

(2) The minister may approve the survey as marked on the ground and his approval shall operate as a dedication of the land as a public improvement, and nothing herein shall be taken to require a plan of the survey to be prepared before or at the time of the approval.

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

R.S.S. 1978, c.H-3, s.41.

**Plans filed**

**42** One copy of the plan of lands required for a public improvement approved by the minister or by an officer of the department so authorized by the minister shall be filed with the department and two copies shall be forwarded to the land titles office for the land registration district within which the public improvement is situated.

R.S.S. 1978, c.H-3, s.42; 1983-84, c.5, s.12.

**Land vests in Her Majesty**

**43** The effect of the forwarding and receipt in a land titles office of such copies of the plan shall be to vest the lands shown on the plan in Her Majesty for the public use of the province, without prejudice to the legal rights of the owner to compensation therefor:

Provided that the right and title to all mines and minerals that may be found under the lands shall continue to be vested in the owner and his assigns; and provided, also, that the expression “mines and minerals” shall not be deemed to include, and shall be deemed to have never included, rock, shale, gravel, sand, clay or other material used in the construction, maintenance or repair of a public improvement.

R.S.S. 1978, c.H-3, s.43.

**Filing of notification in lieu of plans and effect thereof**

**44(1)** Notwithstanding sections 41 and 42, where the land required for a public improvement consists of a lot or parcel shown on a plan that is registered under *The Land Titles Act*, or of a parcel that is the subject matter of a separate certificate of title, or of a legal subdivision within the meaning of *The Land Surveys Act*, the land shall be deemed to have been surveyed and a plan thereof shall be deemed to have been filed within the meaning of *The Land Titles Act* and this Act upon the filing in the land titles office of a notification from the minister that the lot, parcel or subdivision is required for the purpose of a public improvement.

(2) The effect of filing a notification under subsection (1) shall be the same as the effect under section 43 of receipt in the land titles office of copies of a plan.

R.S.S. 1978, c.H-3, s.44.

**Filing of notice of abandonment by minister**

**45(1)** Where at any time before compensation mutually agreed upon is paid, or before the conclusion of a hearing to determine compensation payable, the land or a part thereof is found to be unnecessary for the purposes of the public improvement, the minister or an officer of the department so authorized by the minister may sign a notice of abandonment containing a description of or exhibiting a plan of the land or such part thereof as is not required for the public improvement.

(2) One copy of the notice of abandonment shall be filed with the department and two copies shall be forwarded to the land titles office for the land registration district within which the land to be abandoned is situated.

(3) The minister shall cause one copy of the notice of abandonment to be forwarded to the person shown by the records of the land titles office to be the registered owner of the land described in the notice of abandonment immediately prior to the vesting of the land in Her Majesty pursuant to sections 43 and 44.

(4) The forwarding and receipt in a land titles office of the copies of the notice of abandonment reverts the land described in the notice of abandonment or in a plan attached thereto in the person shown by the records of the land titles office to be the registered owner of the land described in the notice of abandonment immediately prior to the vesting of the land in Her Majesty pursuant to sections 43 and 44, subject to all encumbrances against and interests in the land existing immediately prior to the vesting of the land in Her Majesty pursuant to sections 43 and 44.

R.S.S. 1978, c.H-3, s.45; 1983-84, c.5, s.13.

**Determination of compensation where land is abandoned**

**46(1)** Where part only of the land taken for a public improvement is abandoned, the fact of such abandonment and the damage, if any, resulting from the taking of the portion of land so abandoned and all other circumstances of the case shall be taken into account in determining the compensation for the part that is not abandoned.

(2) Where the whole of the land taken for a public improvement is abandoned, the person entitled to claim compensation with respect to such taking is entitled to compensation for all damages sustained and all costs incurred by him in consequence of the taking and abandonment; and the amount of the compensation, if not agreed upon by the parties, shall be determined in accordance with sections 49 to 58 of this Act.

R.S.S. 1978, c.H-3, s.46.

**Suppression of resistance**

**47(1)** If resistance or opposition is made by a person to the entering into or upon or the taking of possession of land under section 37, 38, 39, or 40 a judge of the Court of Queen's Bench may, upon being satisfied that the entering into or upon or the taking of possession is within the authority conferred by this Act, issue his warrant to the sheriff at the judicial centre nearest to which the land is situated directing him to put down the resistance or opposition and take such steps as may be necessary to assure peaceable entry into or upon the land by the minister or a person acting for him or to put the minister or that person in possession of the land.

(2) The sheriff shall taken with him sufficient assistance for that purpose and shall put down the resistance or opposition and take such steps as may be necessary to assure peaceable entry into or upon the land by the minister or the person acting for him in possession of the land, as the case may require; and shall forthwith make a return to the Court of Queen's Bench of the warrant and of the manner in which he executed it.

R.S.S. 1978, c.H-3, s.47.

**Opening of road on petition and payment of expenses**

**48** If a person petitions the minister for the opening of a road through land, and the minister is of opinion that such road may be reasonably opened for the convenience and benefit of the applicant but is not required in the interest of the public generally, the minister may require the applicant to deposit with the Minister of Finance such sum as the minister considers sufficient to cover the cost of opening the road and paying compensation in connection therewith, and if the road, or a road that in the opinion of the minister will be of equal or nearly equal convenience and benefit to the applicant, is thereafter opened, the sum so deposited or so much thereof as may be necessary may be applied towards paying the expenses of opening the road and paying compensation in connection therewith, and any balance that remains shall be repaid to the applicant.

R.S.S. 1978, c.H-3, s.48; 1982-83, c.16, s.22.

**COMPENSATION FOR LANDS TAKEN****Notice by minister to interested parties**

**49(1)** When the plan of land required for a public improvement has been forwarded to the land titles office for registration under this Act, the minister shall, except in cases where the compensation therefor has been mutually agreed upon, cause to be served by ordinary process of mail upon the registered owner a notice setting forth the area that is being expropriated and stating to whom claims for compensation are to be made. A copy of the notice shall also be mailed to the first mortgagee, if any, and to any purchaser of the land under an agreement of sale if his name and address are known to the minister.

**Same**

(2) When the plan has been registered the minister shall, except in case where compensation has been mutually agreed upon, cause to be served by registered mail upon the registered owner of the land and upon any purchaser under an agreement of sale, if his name and address are known to the minister, or upon their agents, a notice setting forth the compensation that the minister is prepared to pay for the land.

**Payment into court**

(3) Where compensation is claimed by two or more persons who are unable to agree as to the division thereof, the minister may pay the amount into the office of the local registrar of the Court of Queen's Bench at the judicial centre nearest to which the land affected is situated, to be paid out to the parties interested in such proportions as may be ordered by a judge of the said court on application therefor.

R.S.S. 1978, c.H-3, s.49; 1979-80, c.92, s.34.

**Claims for increased compensation**

**50(1)** If a person entitled to compensation is dissatisfied with the amount offered he shall, within one month from the date of the notice mentioned in subsection (2) of section 49, notify the minister of the fact in writing and shall in his notice name the amount he claims and make a full statement of the facts in support of his claim.

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(2) If such notification is not received by the minister within the period mentioned, the person entitled to compensation shall be deemed to be satisfied and shall accept the amount of compensation set forth in the notice mentioned in subsection (2) of section 49.

R.S.S. 1978, c.H-3, s.50.

**Minister's decision**

**51** If a claim is made for increased compensation the minister shall consider the claim and shall notify the claimant of his decision in respect thereof by registered letter addressed to the claimant's last known place of abode.

R.S.S. 1978, c.H-3, s.51.

**Notice of arbitration**

**52(1)** The claimant, if dissatisfied with the decision of the minister, may, within sixty days after notice thereof, give notice in writing to the minister, which may be by registered letter, that he will submit the claim to arbitration and the claim shall thereupon be submitted by the minister to arbitration.

(2) The arbitration shall be by one arbitrator who shall be a judge of Her Majesty's Court of Queen's Bench for Saskatchewan sitting at the judicial centre nearest to which the public improvement or any part thereof is or is to be situated, and *The Arbitration Act, 1992* shall apply thereto.

(3) **Repealed.** 1979-80, c.92, s.34.

R.S.S. 1978, c.H-3, s.52; 1979-80, c.92, s.34;  
1982-83, c.16, s.22; 1992, c.A-24.1, s.61.

**Failure of claimant to give notice**

**53** If the claimant does not so notify the minister, and make the deposit as required by section 54, within sixty days from the date of registration of the notice given by the minister to the claimant pursuant to section 51, the claimant shall be deemed to have accepted the minister's decision and shall not thereafter question it.

R.S.S. 1978, c.H-3, s.53.

**Security for costs**

**54** The claimant shall, with the notice of submission to arbitration, deposit with the minister as security for the costs of the arbitration the sum of \$50.

R.S.S. 1978, c.H-3, s.54.

**Payment of costs**

**55(1)** If the difference between the sum awarded to the claimant and the amount offered by the minister is less than the difference between the sum awarded to the claimant and the amount claimed, the claimant shall pay all costs and expenses of the arbitration; and if the difference between the sum awarded to the claimant and the amount offered by the minister is greater than the difference between the sum awarded to the claimant and the amount claimed, the department shall pay all costs and expenses of the arbitration.



- (2) If the costs and expenses are to be paid by the claimant the minister may deduct the costs and expenses from the moneys deposited, and the surplus, if any, shall be returned to the claimant.
- (3) If the claimant is not required to pay the minister's costs of the arbitration, the full amount deposited by the claimant shall be returned to him.
- (4) The only costs allowable upon an arbitration under this section shall be arbitrator's and witnesses' fees.

R.S.S. 1978, c.H-3, s.55.

**Basis of award**

**56(1)** In estimating the amount to which the claimant is entitled the arbitrator shall consider and find separately as to the following:

- (a) the value of the land taken and all improvements thereon;
  - (b) damage, if any, to the remaining property of the claimant;
  - (c) the original cost only of extra fencing that may be necessary by reason of the taking of the land.
- (2) If the value of the remaining property of the claimant is increased by reason of the construction of the public improvement through his property, by the extension thereof in either direction or by the construction of any other public improvement in connection therewith, the increase shall be deducted from the amount to which the claimant would otherwise be entitled, and the balance, if any, shall be the amount awarded to him.
- (3) The judge, for his services as arbitrator, may be allowed such fee, and such allowance to reimburse him for his expenses incurred while attending the arbitration, as are fixed by regulations approved by the Lieutenant Governor in Council.

R.S.S. 1978, c.H-3, s.56.

**Notice of award**

**57(1)** Forthwith after making the award the arbitrator shall give notice thereof to each party to the arbitration or to the person who appeared for him in the arbitration proceedings.

- (2) A notice may be given pursuant to subsection (1) by personal service or by sending it by registered mail in an envelope addressed to the usual or last known post office address of the person to be notified, and where given by registered mail it shall be deemed to have been given on the day of the date of the receipt from the postmaster for the envelope containing the notice.

R.S.S. 1978, c.H-3, s.57.

**Appeal from award**

**58(1)** A party to the arbitration may, within thirty days after notice of the award has been given to him, appeal from the award to the Court of Appeal upon any question of law or fact or upon any other ground of objection.

(2) Upon an appeal under subsection (1) the procedure shall be, as nearly as may be, the same as upon an appeal from a judgment of a judge of the Court of Queen's Bench and the Court of Appeal may make such award as in its opinion ought to have been made or may dismiss the appeal.

R.S.S. 1978, c.H-3, s.58.

## CLOSING OF HIGHWAYS

### Power to close highways

**59(1)** The minister or an officer of the department authorized to do so by the minister may close the whole or any portion of a public highway and may deal with the land in the public highway as he deems expedient.

(2) Subject to a bylaw closing a public highway with the consent of the minister pursuant to section 211 of *The Rural Municipality Act* or section 146 or 147 of *The Urban Municipality Act*, the minister may deal with the land in the public highway as he deems expedient.

(3) All documents necessary to transfer the title to the portion of a public highway closed pursuant to subsection (1) and (2) shall be signed by the minister or by officer of the department so authorized by the minister.

(4) The minister, or an officer of the department authorized in writing by the minister to do so, may grant a permit to any owner of land or lessee of a tract of land, held under grazing lease or used for grazing purposes, to close or fence off a specified part of a public highway, where lands held under grazing lease or used for grazing purposes are on both sides thereof.

(5) Where an old trail crosses land so closed or fenced off, the holder of such permit shall place a gate and two tie posts at the point of intersection of the trail with the boundary fence and erect a notice board requiring the public to leave the gate closed; provided that the right of the public to the free and uninterrupted use of the trail shall not be affected.

(6) A person who fails to leave any such gate properly closed is guilty of an offence and liable on summary conviction to a fine not exceeding \$50 or to imprisonment for thirty days.

(7) The minister or a person authorized by him may temporarily close all or any section of any public highway at and for any time that he considers necessary:

(a) in the interest of public safety; or

(b) to allow for the expeditious completion of work on the highway;

and a person using a highway so closed does so at his own risk, and has no right to recover damages from the Province, its agencies, servants or agents.

(8) Every person who uses a highway closed to traffic under subsection (7) or removes, defaces or damages a notice or obstruction placed thereon by authority of the minister is guilty of an offence and liable on summary conviction to a fine not exceeding \$30, and is also liable for any damage or injury to the highway or to the property of the department occasioned by such action.

R.S.S. 1978, c.H-3, s.59; 1983, c.31, s.5; 1983-84, c.5, s.14.

## PUBLIC PROPERTY

### **Public improvements the property of Her Majesty controlled by department**

**60** All lands, streams, watercourses and property real or personal, heretofore or hereafter acquired for the use of a public improvement; all dams, reservoirs and other works erected for the storage of water; all hydraulic powers created by the construction of a public improvement; all roads, culverts and bridges; all drains and drainage works; all ferries; all wells; and all property heretofore or hereafter acquired, constructed, repaired, maintained or improved at the expense of the Northwest Territories or of the province and not under the control of the Government of Canada, shall be and remain vested in Her Majesty in right of Saskatchewan, and, so far as not under the control of any other department, shall be under the control and administration of the department.

R.S.S. 1978, c.H-3, s.60.

### **Other works may be declared public improvements**

**61** The Lieutenant Governor in Council may from time to time declare any other property, real or personal, any works, roads, bridges or other things specified in section 60 and purchased or constructed at the public expense, to be public improvements subject to this Act, and they shall thenceforth be vested in Her Majesty in right of Saskatchewan and under the control of the department.

R.S.S. 1978, c.H-3, s.61.

### **Power to dispose of public property**

**62(1)** Any lands and any property, real or personal, taken for public improvements may be sold, leased or otherwise disposed of under the authority of the minister or by an officer of the department authorized to do so by the minister; and the proceeds of the sale, lease or disposition shall be deposited to the credit of the consolidated fund.

(2) Lands or property when required to be sold, leased or otherwise disposed of, may be sold, leased or otherwise disposed of under the hand of the minister or deputy minister or by an officer of the department authorized to do so by the minister; provided that such lands or property shall whenever practical be sold, leased or disposed of by tender or public auction.

(3) Notwithstanding subsection (1), the minister may sell gravel from Crown lands owned or controlled by the department to a city, town, village, rural municipality, school district, school unit, hospital or church, and may sell such gravel to other persons where gravel from other sources is not reasonably available to them, but no sale of gravel to any such other person shall, except with the approval of the Lieutenant Governor in Council, exceed 250 cubic metres in quantity.

R.S.S. 1978, c.H-3, s.62; 1979, c.29, s.4; 1983-84, c.5, s.15.

**Maps, etc., not private property may be required by minister**

**63** A person having possession of maps, plans, specifications, estimates, reports or other papers, books, drawings, instruments, models, contracts, documents or records relating to any public improvement, who fails, upon demand of the minister or any other person authorized to make the demand, to deliver them to the department forthwith, is guilty of an offence and liable on summary conviction to a fine of \$25 and in default of payment to imprisonment for thirty days.

R.S.S. 1978, c.H-3, s.63.

## PROTECTION OF PUBLIC IMPROVEMENTS

**Penalty for obstructing public highways**

**64(1)** A person who willfully and without lawful excuse places or leaves an obstruction on a public highway or who prevents, hinders or causes delay to a person desiring to travel on a public highway is guilty of an offence and liable on summary conviction to a fine of not more than \$200.

(2) Where a person is convicted under subsection (1), the convicting judge or justice of the peace may, in addition to the penalty imposed, order the person to remove the obstruction within a specified period and, if he fails to comply with the order, he is guilty of an offence and liable on summary conviction to a fine of not more than \$300.

(3) Where a person fails to comply with an order made under subsection (2), the minister may cause the order to be carried out and the expense that he so incurs may be recovered from the person who failed to comply with the order as a debt due to Her Majesty in right of Saskatchewan.

(4) A police officer or representative of the department may remove or cause to be removed from a provincial highway any obstruction likely to interfere with traffic.

(5) The reasonable costs of an action taken pursuant to subsection (4) shall be a debt owed to Her Majesty in right of Saskatchewan by the owner of the obstruction or any person responsible for the obstruction, and the minister may sue in a court of competent jurisdiction for the recovery of that debt.

(6) Section 47 applies *mutatis mutandis* to any resistance or opposition made to any action taken pursuant to subsection (3) or (4).

1983, c.31, s.6.

**Penalty for injuring public improvements**

**65(1)** Each of the following persons:

- (a) a person who unlawfully breaks, cuts, fills up or otherwise injures a public improvement; and
- (b) where injury to a public improvement is caused by means of a vehicle, building, object or contrivance, the owner of the vehicle, building, object or contrivance; and
- (c) the owner of an animal that causes any injury to a public improvement;

is guilty of an offence and liable on summary conviction to a fine not exceeding \$100 and in default of payment to imprisonment for a period not exceeding sixty days.

(2) Where such person or owner is convicted, the convicting provincial magistrate or justice of the peace may, if the public improvement injured is a public highway classified as a local road or anything forming part of or used in connection with such highway, order the person or owner to pay to the municipality in which the public improvement is situated the cost of repairing the injury, and if the person or owner fails to comply with the order the cost of repairing the injury may be recovered from the person or owner as a debt due to the municipality.

(3) Where such person or owner is convicted, the convicting provincial magistrate or justice of the peace may, if the public improvement injured is one to which subsection (2) does not apply, order the person or owner to pay to Her Majesty the cost of repairing the injury, and if the person or owner fails to comply with the order the cost of repairing the injury may be recovered from him as a debt due to Her Majesty.

R.S.S. 1978, c.H-3, s.65.

**66 Repealed.** 1983, c.31, s.7.

**Use of bridges or culverts by certain vehicles or implements**

**67(1)** A person who uses a bridge or culvert, the property of Her Majesty, in connection with the movement of a vehicle within the meaning of *The Highway Traffic Act*, or a farm implement shall, if the vehicle or implement has wheel lugs, track lugs, wheel flanges, disc wheels or narrow tires that might cause damage to the bridge or culvert, provide planks or timbers not less than seven centimetres in thickness, not less than twenty-five centimetres in width and not less than three metres in length and lay them across the bridge or culvert, on the deck thereof, in the direction of the course of the vehicle or implement and under the wheels, tracks or discs, to the extent of the full width thereof, and shall keep the planks or timbers under the wheels, tracks or discs continuously during the passage of the vehicle or implement over the bridge or culvert.

(2) A person who violates subsection (1) is guilty of an offence and liable on summary conviction to a fine of not less than \$25 nor more than \$50.

R.S.S. 1978, c.H-3, s.67; 1979, c.29, s.5; 1983, c.82, s.4; 1986, c.33, s.12.

**Regulations**

**68** For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make regulations that are ancillary to and not inconsistent with this Act, and every regulation made under this section has the force of law and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations:

- (a) defining any word or expression used in this Act but not defined in this Act;
- (b) fixing the maximum of any dimension or dimensions and the maximum weight, both gross and tare, of any vehicle or combination of vehicles, including load or contents of any kind or description, that may be operated or moved, and of any building, object or contrivance that may be operated or moved upon wheels, rollers or otherwise, over or upon any public highway, or any section thereof, subject to the height of the clearance at any subway, without a permit issued pursuant to section 70;
- (c) fixing the maximum gross weight that may be transmitted to the road through any point or points of contact of any vehicle when operated or moved over or upon any public highway, or any section thereof, without a permit issued pursuant to section 70;
- (d) prohibiting the operation, or the movement upon wheels, rollers or otherwise, upon or over any public highway, or any section thereof, without a permit issued pursuant to section 70, of any class or classes of vehicles or of any vehicle, building, object or contrivance of any kind or description and in particular of any vehicle or combination of vehicles, building, object or contrivance, whose dimensions or weight, both gross and tare, including load or contents, exceed the maximum fixed by regulation, or where the maximum gross weight carried on any axle or group of axles or wheel or group of wheels of such a vehicle exceeds the maximum fixed by regulation;
- (e) exempting any vehicle, building, object or contrivance, either wholly or to a limited extent, from the provisions of any regulation;
- (f) specifying considerations which the minister or person authorized by the minister shall consider in deciding whether or not to grant a permit under section 70;
- (g) respecting any matter considered by the minister to be necessary or desirable to carry out the intent and purpose of this Act.

R.S.S. 1978 (Supp.), c.27, s.3; 1989-90, c.15, s.3.

**Minister's orders prohibiting operation of vehicles**

**69(1)** The minister may by order:

- (a) at such times and for such periods of time in any year as he deems necessary for the protection of any public highway, prohibit the operation of vehicles, or impose restrictions as to the class and gross weight of vehicles or the gross weight that may be transmitted to the road through any point or points of contact of any vehicle that may be operated, over or upon the highway or any section of the highway without a permit issued pursuant to section 70;

- (b) exempt any vehicle either wholly or to a limited extent from the provisions of any order.
- (2) The minister shall cause notice to be given of an order made under subsection (1) or of an amendment or cancellation thereof, in such manner as he deems advisable.

R.S.S. 1978, c.H-3, s.69.

**Permit to operate vehicle over maximum weight or to move building, etc., over highway**

**70(1)** Where a person desires to operate upon a public highway a motor vehicle having a weight or carrying on any axle or wheel thereof a gross weight in excess of the maximum gross weight prescribed by regulations or an order of the minister made under this Act, he shall obtain from the minister, or from a person authorized in writing by the minister to issue the same, a permit to do so.

(2) Where a person desires to operate or move, upon or over a public highway, a vehicle, other than a motor vehicle, or a building, object or contrivance, having a gross weight in excess of 10,000 kilograms, or a vehicle, building, object or contrivance having any dimension or dimensions, including its load, greater than those allowed by regulations made under this Act, or a vehicle carrying on any axle or wheel thereof a gross weight in excess of that prescribed by such regulations or by an order of the minister made under this Act, he shall obtain from the minister, or from a person authorized in writing by the minister to issue the same, a permit to do so.

(3) Subject to any regulation made pursuant to clause 68(f), the granting or refusing of a permit under subsection (1) or (2) shall be in the discretion of the minister or person authorized by the minister, and a permit shall be subject to such terms and conditions as may be specified therein and to the height of the clearance at any subway and to cancellation or suspension by the minister at any time, and may be general or may limit its duration or the particular section of the highway that may be used.

(4) The owner, driver, operator or mover of a vehicle, building, object or contrivance who has obtained a permit under this section shall, unless he has entered into a written agreement with the minister to the contrary, be responsible for any damage that may be caused to a public building or public improvement, or to any person or property by reason of the driving, operating or moving of the vehicle, building, object or contrivance.

(5) **Repealed.** 1983, c.82, s.4.

R.S.S. 1978, c.H-3, s.70; R.S.S. 1978 (Supp.), c.27, s.4; 1979, c.29, s.6; 1983, c.82, s.4.

**Power of officer to weigh vehicle and load**

**71(1)** Where a police officer, police constable, traffic officer appointed for the purpose of enforcing *The Highway Traffic Act* or any official appointed by the minister has reason to believe that the gross weight of a vehicle and its load or the gross weight on an axle or wheel of a vehicle is in excess of the maximum gross weight prescribed by:

- (a) the regulations;

- (b) an order of the minister under this Act;
- (c) an order issued pursuant to paragraph 6 of section 222 of *The Rural Municipality Act*; or
- (d) a permit issued pursuant to section 70;

he may weigh the vehicle and its load by means of portable or stationary scales and may:

- (e) require the person in charge of the vehicle to take the vehicle and the load to the nearest scales where those scales are not more than forty kilometres distant; or
- (f) where the nearest scales are closed for the night, detain the vehicle until the scales re-open on the following morning.

(2) The police officer, police constable or traffic officer or official may require the person in charge of the vehicle to unload immediately such portion of the load as may be necessary to decrease the gross weight of the vehicle and its load or the gross weight on any axle or wheel of the vehicle to the maximum gross weight prescribed therefor by the said regulations or order or permit.

(3) The police officer, police constable or traffic officer or official may, without warrant, seize any vehicle that in his opinion has a gross weight of the vehicle and its load, or a gross weight on any axle or wheel of the vehicle, exceeding the maximum gross weight prescribed therefor by the said regulations or order or permit and may retain the vehicle in his custody until the expenses of seizing the vehicle and of keeping it in custody are paid or, if an information is laid within three days from the date of the seizure, until the case is judicially disposed of.

(4) If the nearest weighing machine is more than forty kilometres distant, or in lieu of proceeding to a weighing machine, the police officer, police constable or traffic officer or official may require the person in charge of the vehicle to produce forthwith an inventory showing the true weight of the vehicle and its load, or the gross weight transmitted to the road through any point or points of contact of the vehicle, verified in writing by the owner of the vehicle.

(5) A person driving or moving upon or over a public highway a vehicle, building, object or contrivance shall, upon being requested or signalled to do so by a police officer or police constable or a traffic officer mentioned in subsection (1) or by an official appointed by the minister, stop driving or moving the vehicle, building, object or contrivance in order to permit the officer, constable or official to make any examination or investigation deemed necessary by him to determine the dimensions and weight of the vehicle, building, object or contrivance and the gross weight transmitted to the road through any point or points of contact of the vehicle.

(6) Where a weighing machine has been established adjacent to a public highway, every person driving a motor vehicle intended for the conveyance of live stock, goods, merchandise or other commodities shall, if directed to do so by an official sign erected within one kilometre from the machine, bring the vehicle to the weighing machine.



(7) A person who fails to comply with a request made by a traffic officer or official pursuant to a power conferred by this section or who violates subsection (6) is guilty of an offence and liable on summary conviction to a fine of not more than \$300 for the first offence and not more than \$500 for a subsequent offence.

(8) A rural municipality may, in writing, grant to one or more persons all of the powers granted by this section to a police officer, police constable, traffic officer appointed for the purpose of enforcing *The Highway Traffic Act* or an official appointed by the minister, but the power granted pursuant to this subsection may only be used within the rural municipality and with respect to suspected offences on those public highways maintained by that rural municipality.

R.S.S. 1978, c.H-3, s.71; 1979, c.29, s.7; 1983, c.31, s.8; 1983, c.82, s.4; 1986, c.33, s.12.

#### Penalties

**72(1)** A person who:

- (a) violates any provision of:
  - (i) a regulation made pursuant to section 68;
  - (ii) an order made pursuant to section 69; or
  - (iii) an order issued pursuant to paragraph 6 of section 222 of *The Rural Municipality Act*;
- (b) exceeds the maximum weight specified in a permit issued to him pursuant to section 70;
- (c) exceeds a maximum dimension specified in a permit issued to him pursuant to section 70; or
- (d) fails to comply with any term or condition specified in a permit issued to him pursuant to section 70;

is guilty of an offence and liable on summary conviction to a fine of not more than \$300 for the first offence and not more than \$500 for a subsequent offence, and is liable for any damage or injury done or caused to a public highway, a public building or improvement or to any person or property through the violation.

(2) Where a violation under subsection (1) relates to the operation of a vehicle that exceeds the maximum gross weight fixed by the regulations or specified in an order or permit, the judge or justice of the peace:

- (a) shall assess a fine, in addition to the fine set out in subsection (1), of \$10 for each 50 kilograms or fraction thereof that the actual gross weight exceeds the prescribed maximum gross weight:
  - (i) in the case of a conviction based on a certificate described in subsection (6), minus 5% of the prescribed maximum gross weight; or
  - (ii) in a case other than one mentioned in subclause (i), minus the lesser of 500 kilograms or 2% of the prescribed maximum gross weight;
- and

(b) may order the vehicle in respect of which the offence was committed to be seized and impounded for a period of five days or until the fine and costs, including the expenses of impounding the vehicle and keeping it impounded, have been fully paid, whichever is later.

(3) In the event of default of payment of any sum imposed pursuant to subsection (2), the judge or justice of the peace may issue his warrant directed to a sheriff for the distress and sale of the goods and chattels of the defaulter, other than those exempt from seizure under writs of execution, and no provision of the *Criminal Code*, as amended from time to time, for enforcing an order for payment of a sum of money applies.

(4) The load on an impounded vehicle is not impounded and protection of the load from damage and theft is the responsibility of the owner of the vehicle; and, if the owner does not remove the load from the vehicle before it is impounded and does not remove the load from the place in which the vehicle is impounded, any expenses accruing by reason of its non-removal shall be added to the costs.

(5) In a prosecution for a violation of a regulation made under section 68 or of an order of the minister made under subsection (1) of section 69 or of an order issued pursuant to paragraph 6 of section 222 of *The Rural Municipality Act* or for exceeding the maximum weight specified in a permit issued under section 70, a certificate of inspection and verification of a weighing machine, bearing date not more than one year prior to or subsequent to the date of the offence charged in the information or complaint and purporting to be signed by an inspector within the meaning of the *Weights and Measures Act* (Canada), as amended from time to time, shall be received as *prima facie* evidence of the accuracy of the weighing machine and of the authority of the person issuing the certificate without proof of appointment or signature and a certificate, purporting to be signed on behalf of the administrator designated pursuant to *The Vehicle Administration Act* and stating that a certificate of registration of the motor vehicle described in the information was issued for the registration year in which the offence was committed to the person named in the certificate of registration shall be received as *prima facie* evidence of the facts stated therein and of the authority of the person issuing the certificate without proof of appointment or signature.

(6) Notwithstanding subsection (5), in a prosecution for a violation of a regulation made under section 68 or of an order of the minister made under subsection (1) of section 69 or of an order issued pursuant to paragraph 6 of section 222 of *The Rural Municipality Act* or for exceeding the maximum weight specified in a permit issued under section 70, where a police officer, police constable or traffic officer, an official appointed by the minister for the purpose or a person to whom powers have been granted pursuant to subsection 71(8) has purportedly signed a certificate stating:

(a) that, using weighing equipment approved for the purpose by the minister, he weighed a vehicle and its load;

- (b) that he determined the gross weight transferred to the road through any point or points of contact of the vehicle with the road; and
- (c) the gross weight of the vehicle and its load;

the certificate shall, subject to subsection (8), be conclusive evidence of the weight specified therein without proof of the appointment, authority or signature of the person who signed the certificate.

(7) Where a vehicle and its load is weighed using equipment mentioned in clause (a) of subsection (6), the police officer, police constable or traffic officer, an official appointed by the minister for the purpose or a person to whom powers have been granted pursuant to subsection 71(8) shall forthwith advise the person in charge of the vehicle that in lieu of having weight determined with the equipment referred to in clause (a) of subsection (6), he has the right to take the vehicle and its load forthwith to a weighing machine, capable of weighing the vehicle and its load, certified by an inspector within the meaning of the *Weights and Measures Act* (Canada), as amended from time to time; and the police officer, police constable or traffic officer, an official appointed by the minister for the purpose or a person to whom powers have been granted pursuant to subsection 71(8) has the power to take such steps as he considers necessary to ensure that no alteration in the weight of the vehicle or its load occurs during transit to that weighing machine.

(8) Where the person in charge of a vehicle takes the vehicle and its load pursuant to subsection (7) to a weighing machine capable of weighing the vehicle and its load as described in subsection (7) and intends that the weight of the vehicle and its load so determined is to be used in any prosecution, he shall:

- (a) immediately on being advised of the option available to him pursuant to subsection (7), advise the police officer or other person who stops him in connection with an alleged violation that he intends in any prosecution with respect to that violation to use the weight of the vehicle and its load so determined; and
- (b) provide the certificate of that weight certified by an inspector within the meaning of the *Weights and Measures Act* (Canada), as amended from time to time, to the court in any prosecution with respect to that violation.

(8.1) Where the person in charge of a vehicle described in subsection (8) fails to comply with clause (8)(a) or (b), the certificate signed pursuant to subsection (6) is admissible in evidence in any prosecution as conclusive proof of the weight of the vehicle and its load specified in the certificate without proof of the appointment, authority or signature of the person who signed the certificate.

(8.2) Where the person in charge of a vehicle described in subsection (8) complies with that subsection, a certificate signed pursuant to subsection (6) is not admissible in evidence as proof of the weight of the vehicle and its load.

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(9) Where there is a violation by a person, whether known or unknown, of a regulation made under section 68 or of an order of the minister made under subsection (1) of section 69 or of an order issued pursuant to paragraph 6 of section 222 of *The Rural Municipality Act* or for exceeding the maximum weight specified in a permit issued under section 70 insofar as the regulation, order or permit relates to the operation or movement of a vehicle, or combination of vehicles coupled together, the owner of the vehicle or combination of vehicles or, in the case of a motor vehicle, the person to whom a certificate of registration of the motor vehicle has been issued under *The Vehicle Administration Act* shall be deemed to be guilty of the violation and shall incur the penalties provided therefor, unless he proves both that the violation was not committed by him and that it was not committed by a person who at the time of the violation had authority from him to have possession or control of the motor vehicle, and nothing in this subsection shall relieve from liability the person by whom the violation was in fact committed.

(10) Where a person has been convicted and fined for a violation:

(a) on a public highway maintained by a rural municipality, other than a public highway maintained by the Department of Highways and Transportation or designated as a provincial highway under any provision of this Act or *The Rural Municipality Act*; and

(b) upon the information of a policeman, constable or other person who is appointed by the minister and employed and paid by the rural municipality and who is not a member of a force directly or indirectly employed and paid by the Province;

the fine imposed belongs to the rural municipality and the convicting judge or justice of the peace shall dispose of the fine accordingly.

R.S.S. 1978, c.H-3, s.72; 1979, c.29, s.8; 1983, c.31, s.9; 1983, c.82, s.4; 1983-84, c.16, s.8; 1984-85-86, c.48, s.3; 1986, c.33, s.12.

**TEMPORARY ENTRY UPON PRIVATE PROPERTY****Erection of snow fences and removal of drifted soil**

**73(1)** The minister may from time to time by his agents or servants enter upon land adjoining a public highway and:

(a) erect snow fences thereon and maintain and remove them;

(b) make snow ridges thereon;

(c) remove drifted soil that has accumulated along the boundary fence and spread it on the land and, if deemed necessary for that purpose, remove the boundary fence, replacing it in its former position after such purpose has been fulfilled.

(2) A person who obstructs or interferes with an agent or servant of the minister engaged in exercising on his behalf any of the powers conferred by subsection (1), or who takes down, removes or otherwise interferes with a snow fence or snow ridge erected or made under subsection (1), is guilty of an offence and liable on summary conviction to a fine not exceeding \$50.

R.S.S. 1978, c.H-3, s.73.

**Power of minister to open temporary road across private property**

74(1) The minister may open and maintain a temporary road or right of way for public purposes across any private property or properties when in the opinion of the minister the condition of the public roads in the neighbourhood makes such action expedient.

(2) The minister shall pay to the occupier of any land so opened as a temporary road or right of way such compensation for the use thereof and for any and all damages occasioned thereby as may be mutually agreed upon by the minister and the occupier, or, in the event of disagreement, such compensation as is determined by arbitration.

(3) In the event of disagreement the minister shall cause to be served by registered mail upon the occupier of the land or his agent a notice setting forth the compensation that the minister is prepared to pay for the temporary use of the land; and thereupon sections 50 to 55 and subsection (3) of section 56 shall apply *mutatis mutandis*.

(4) Where the minister opens a temporary road or right of way across land that has been or may thereafter be fenced, the minister may provide for the placing of gates at the points of intersection of the temporary road or right of way with the boundary fence and for the erection of notice boards requiring the public to leave the gates closed.

(5) A person who fails to comply with a notice so erected or who maliciously takes down, covers up, mutilates, defaces or alters such a notice is guilty of an offence and liable on summary conviction to a fine not exceeding \$25.

R.S.S. 1978, c.H-3, s.74.

**SIGNBOARDS, BUILDINGS, STRUCTURES, TREES, FENCES, LIGHTING  
DEVICES, CONTROLLED ACCESS HIGHWAYS, ETC.**

**Prohibitions**

75(1) Subject to subsections (1.1) and (1.2), no person shall erect, place, post, paste, paint or display or cause to be erected, placed, posted, pasted, painted or displayed, in any manner whatsoever, any notice, sign, signboard, billboard or advertising device on, or within 400 metres of, a provincial highway outside a city, town, village or organized hamlet unless the notice, sign, signboard, billboard or advertising device is used for the purpose of advertising:

- (a) for sale, by the occupier of the land or premises on or within which the notice, sign, signboard, billboard or advertising device appears, produce, goods or products grown, raised or manufactured on or in such land or premises; or

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- (b) accommodation or services offered by the occupier of the land or premises or displaying the name of the premises;
  - (c) **Repealed.** 1986, c.15, s.3.
  - (d) for sale, by the land-owner or his broker, the land on which the notice, sign, signboard, billboard or advertising device is located; or
  - (e) **Repealed.** 1986, c.15, s.3.
- (1.1) No notice, sign, signboard, billboard or advertising device to which clause (1)(a), (b) or (d) applies may exceed three square metres in area or any greater area that the minister or an officer of the department authorized for the purpose by the minister may, by a permit in writing, authorize.
- (1.2) The minister, an officer of the department authorized for the purpose by the minister or a person appointed by the minister for the purpose may issue a permit to an applicant authorizing the applicant to erect a sign within 400 metres of a provincial highway:
- (a) on any terms and conditions that the minister, employee or person considers appropriate; and
  - (b) subject to any regulations made pursuant to section 75.1.
- (2) Unless authorized by permit obtained from the minister or from an officer of the department authorized for the purpose by the minister, no person shall erect, place or excavate, or cause to be erected, placed or excavated, a building or structure of any nature whatever, a lighting device or reflecting device, an embankment or a well or a dugout or another excavation on, or within 90 metres of, a provincial highway that is outside a city, town, village or organized hamlet, and no person shall make, or cause to be made, any addition or alteration to any such building, structure, lighting device, reflecting device, embankment, dugout or excavation.
- (2.1) In subsection (2), “**structure**” includes a gasoline filling station, garage, automobile service station, refreshment station, power transmission line, transformer station and relay station.
- (3) Unless authorized by permit obtained from the minister or from an officer of the department authorized in writing by the minister to issue such permit, no person shall plant or place, or cause to be planted or placed, any tree, shrub, brush, hedge, fence or other object upon or within ninety metres from a provincial highway outside a city, town, village or organized hamlet; provided that nothing in this subsection applies to a wire fence.
- (4) Unless authorized by permit obtained from the minister or from an officer of the department authorized in writing by the minister to issue such permit, no person shall construct a canal or pipe line for the purpose of irrigation or for any other purpose within ninety metres from a provincial highway outside a city, town, village or organized hamlet. Every application for a permit shall be accompanied by a sketch showing the course of the proposed canal or pipe line.

(5) The granting or refusal of a permit under this section shall be in the discretion of the minister, officer of the department or person to whom the application is made and a permit shall be subject to such conditions as may be specified in the permit.

(6) An application for a permit under this section shall, in addition to the information required to be given by the provisions of this section, be accompanied by such plans, designs, specifications and other information as the minister, officer of the department or person to whom the application is made may require.

(7) The minister may make an agreement with the owner of land adjacent to a provincial highway for the removal of any tree, shrub, brush, hedge, fence or other object growing or standing upon the land if the minister is of opinion:

- (a) that the roadbed of the highway may be injuriously affected by the object; or
- (b) that the object may cause the drifting of snow and an accumulation thereof on the highway; or
- (c) that the vision of pedestrians or drivers of vehicles on the highway may be dangerously obstructed by the object; or
- (d) that the object is unsightly;

and may do all things necessary for the performance by him of an agreement so made.

(8) A person who violates this section or who erects a sign in contravention of any terms or conditions specified in a permit authorizing the erection of the sign or in contravention of any regulations under section 75.1 is guilty of an offence and liable on summary conviction to a fine not exceeding \$100.

(9) Where a judge of the provincial court convicts a person:

- (a) for a violation of subsection (1), (2) or (3), the convicting judge shall order the offender to remove, erase, obliterate or destroy, within a specified period, the thing in respect of which he is convicted;
- (b) for a violation of subsection (4), the convicting judge shall order the offender to fill in, within a specified period, the canal or remove, within a specified period, the pipe line in respect of which he is convicted;
- (c) for erecting a sign in contravention of any terms or conditions specified in the permit authorizing the erection of the sign or in contravention of any regulations under section 75.1, the convicting judge shall order the offender to erect or remove the sign or make such alterations in the sign or in the erection or location of the erection of the sign in respect of which he is convicted as are necessary for the offender to comply with the terms, conditions or regulations;

and after the expiry of the period specified in any such order, failing due compliance with the order, the offender shall from time to time be liable on summary conviction to a further fine not exceeding \$200 for each day during which the breach continues or to imprisonment for not less than 30 days or to both fine and imprisonment.

(10) If the offender fails to comply with an order made under subsection (9) the minister may cause the order to be carried out at the expense of the person in default, and the expense thereof may be recovered from that person as a debt due to Her Majesty.

(11) The minister may appoint persons for the purpose of issuing permits under subsection (1.2) and may designate the area or areas of the province in respect of which the persons or any of them may issue permits.

R.S.S. 1978, c.H-3, s.75; 1979, c.29, s.9; 1983, c.31, s.10; 1983-84, c.5, s.16; 1984-85-86, c.48, s.4; 1986, c.15, s.3.

#### **Regulations regarding signs**

**75.1** The Lieutenant Governor in Council may make regulations:

- (a) regarding the erection of signs for which no permit is required pursuant to this Act along provincial highways;
- (b) fixing the size, shape, type, colour, quality and location of any sign or class or classes of signs for which a permit may be issued pursuant to section 75 and fixing the term for which any permit or class or classes of permits is valid;
- (b.1) classifying signs for which a permit may be issued pursuant to section 75;
- (c) prescribing the fees and charges payable to the department for a permit issued pursuant to section 75; and
- (d) prescribing the fees payable to the department by any person for whose benefit an official sign is to be erected.

1984-85-86, c.48, s.5; 1986, c.15, s.4.

#### **Considerations regarding signs**

**75.2** In:

- (a) authorizing the erection of a sign pursuant to subsection 75(1.2), the minister, authorized employee or appointed person; and
- (b) making a regulation pursuant to section 75.1, the Lieutenant Governor in Council;

may consider:

- (c) the effect of particular types of signs on the safety of users of provincial highways;
- (d) the clarity of the message that a sign is intended to communicate;
- (e) the impact of a sign on the visual environment along provincial highways.

1984-85-86, c.48, s.5; 1986, c.15, s.5.



**Removal of certain notices, etc.**

**76(1)** If a notice, sign, signboard, billboard or advertising device is erected, placed, posted, pasted, painted or displayed in a manner that contravenes section 75, the minister may, by order in writing, direct the person who caused it to be, or the owner or occupier of the land, building or structure on which it is, erected, placed, posted, pasted, painted or displayed to remove, erase, obliterate or destroy it within 21 days from the date of service of the order upon him.

(2) An order made under subsection (1) shall be served by personal service or by registered mail; and an order served by registered mail shall be deemed to have been served on the day of the date of the receipt from the postmaster for the envelope containing the order.

(3) If a person on whom an order made under subsection (1) has been served fails to comply with the order within the said 21 days he is guilty of an offence and liable on summary conviction to a fine not exceeding \$100.

(4) If a person on whom an order made under subsection (1) has been served fails to comply with the order within the said 21 days the minister may, whether or not proceedings have been instituted or a conviction has been obtained under subsection (3), cause the removal, erasure, obliteration or destruction of the notice, sign, signboard, billboard, advertising device or advertisement and dispose of it or any part thereof in such manner as he deems fit, and the expense of the removal, erasure, obliteration, destruction or disposal may be recovered from the person in default as a debt due to Her Majesty.

R.S.S. 1978, c.H-3, s.76; 1979, c.29, s.10; 1983, c.31, s.11; 1983-84, c.5, s.17.

**Prohibition respecting lighting devices and reflecting devices**

**77** No person shall erect or place upon or within 400 metres from a provincial highway outside a city, town, village or organized hamlet a lighting device or reflecting device that will cause or be likely to cause glare on the travelled portion of the highway or that might be confused with traffic warning or control lights or cause undue distraction to the operator of a vehicle on the highway, and subsections (8), (9) and (10) of section 75 apply *mutatis mutandis*.

R.S.S. 1978, c.H-3, s.77; 1979, c.29, s.11; 1983, c.31, s.12.

**Regulations respecting controlled access highways**

**78** The minister may, with the approval of the Lieutenant Governor in Council, make regulations with respect to any controlled access highway:

- (a) establishing a control line on one or both sides of the highway;
- (b) governing the design, location and construction of:
  - (i) any building or structure proposed to be located on land lying between the highway and a control line established pursuant to clause (a); and
  - (ii) any driveway from such building or structure to the highway;

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- (c) prohibiting the erection or placing of any building or structure mentioned in subclause (i) of clause (b);
- (d) determining the sites of tourist camps, motels and trailer camps and regulating the laying out thereof;
- (e) regulating, or prohibiting the construction, erection and maintenance of:
  - (i) signs and signboards;
  - (ii) the posting or painting of signs or notices;
  - (iii) the exposing of any advertising device on any land forming the site of the highway or within a distance of 400 metres from the highway; and
  - (iv) gas, oil, sewer and water pipe lines;
- (f) restricting access to the highway;
- (g) requiring that a permit be obtained from the minister prior to the location or erection of any place or structure that requires access to the highway;
- (h) prescribing terms and conditions applicable to the granting of a permit to locate or erect any place or structure that requires access to the highway.

R.S.S. 1978, c.H-3, s.78; 1979, c.29, s.12.

**Power to designate special controlled areas**

**79(1)** If a highway is a controlled access highway where it enters and leaves a town or village, all or any part of the highway lying within the town or village may, with the approval of the Lieutenant Governor in Council, be designated by regulation a special controlled area by the minister.

- (2) Section 78 applies *mutatis mutandis* with respect to a special controlled area.

R.S.S. 1978, c.H-3, s.79; 1989-90, c.54, s.7.

**Power to establish special control lines**

**80** If a highway is designated a special controlled area, the minister may establish a special control line on one or both sides of the highway but a special control line shall not extend further than 150 metres from the centre line of the roadway.

R.S.S. 1978, c.H-3, s.80; 1979, c.29, s.13.

**Penalties for contravention of regulations under section 78 or 79**

**81** A person who contravenes a regulation made under section 78 or subsection (2) of section 79 is guilty of an offence and liable on summary conviction to a fine of not less than \$5 nor more than \$100, and in addition may be ordered to pay the value of any property injured or destroyed, and in default of payment is liable to imprisonment for a term not exceeding one month, unless the fine and any amount ordered to be paid, and costs, are sooner paid.

R.S.S. 1978, c.H-3, s.81.

**“Highway” defined**

**82** In sections 78, 79 and 80 **“highway”** includes any land over which the minister proposes to construct a highway and in respect of which there is a plan in the department indicating the route of the proposed highway.

R.S.S. 1978, c.H-3, s.82.

**Certain prohibitions, etc., respecting controlled access highways**

**83(1)** No person who is the operator of, or who is in charge of, a vehicle as defined in *The Highway Traffic Act*:

- (a) shall enter a roadway of a controlled access highway:
    - (i) except by means of a road or driveway designated as an entrance road on a plan approved by the minister;
    - (ii) except by means of a road or driveway constructed by the minister or constructed by another person under the authority of the minister; or
    - (iii) except at a place where an official sign has been erected indicating that entering upon the highway is permitted at that place;
  - (b) shall depart from a roadway of a controlled access highway:
    - (i) except by means of a road or driveway designated as an exit road on a plan approved by the minister;
    - (ii) except by means of a road or driveway constructed by the minister or constructed by another person under the authority of the minister; or
    - (iii) except at a place where an official sign has been erected indicating that departing from the highway is permitted at that place.
- (2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not less than \$5 or more than \$100, and in addition may be ordered to pay the value of any property injured or destroyed, and in default of payment is liable to imprisonment for a term not exceeding one month, unless the fine and any amount ordered to be paid, and costs, are sooner paid.
- (3) In a prosecution for an offence under this section:
- (a) a plan purporting to be signed by the minister and purporting to be a plan indicating the location of an entrance road or an exit road is *prima facie* evidence that the location of the only entrance road or exit road existing within the territorial limits of the area shown on the plan is the location so indicated without proof of the signature of the minister;
  - (b) a certificate purporting to be signed by the minister stating that a particular road or driveway was not constructed by him or under his authority is conclusive evidence of that fact without proof of the signature of the minister.

R.S.S. 1978, c.H-3, s.83; 1983, c.31, s.13; 1986, c.33, s.12.

**Application of Act and regulations to controlled access  
highways and special controlled areas**

**84** Notwithstanding that a provincial highway or a part of a provincial highway has been designated as a controlled access highway or that a part of a highway has, under subsection (1) of section 79, been designated a special controlled area, all the provisions of this Act, and of the regulations, applicable with respect to public highways or provincial highways, or both, apply with respect to that controlled access highway and to that special controlled area insofar as they are not inconsistent with sections 78 to 82 or any regulations made under section 78.

R.S.S. 1978, c.H-3, s.84.

**MAINTENANCE OF PROVINCIAL HIGHWAYS AND TRAFFIC PROTECTION**

**Liability of minister**

**85(1)** The minister shall maintain the roadway of all provincial highways in a state of repair commensurate with the type and amount of traffic that the particular roadway may reasonably be expected to accommodate and commensurate with the maintenance that is reasonably possible for the type of roadway and extent of improvement existing upon the roadway.

(2) In case of default under subsection (1), and where a vehicle or vehicles involved in an accident have been operated in a careful and prudent manner having regard to the state of repair to be expected under subsection (1), the minister shall be liable for all damages sustained by any person by reason of the default, and the amount recoverable by any person by reason of the default may be agreed upon with the minister before or after the commencement of an action in court for the recovery of the damages.

(3) Notwithstanding clause (b) of subsection (2) of section 3 of *The Proceedings against the Crown Act*, no action shall be brought for the recovery of damages which were occasioned by such default and which have been sustained in an accident, whether the alleged lack of repair or alleged condition existing upon the roadway was the result of nonfeasance or misfeasance, after the expiration of twelve months from the time when the accident occurred and unless notice in writing of the claim or injury complained of has been served upon or sent by registered post to the minister within thirty days after the date of the accident.

(4) No action shall be brought under subsection (2) for the recovery of damages caused by the presence or absence or insufficiency of a wall, fence, guard rail, railing or barrier, or caused by or on account of any construction, obstruction or erection, or any situation, arrangement or disposition of any earth, rock, tree or other material or thing, adjacent to or in, along or upon the highway lands or any part thereof not within the roadway.

(5) No action shall be brought for the recovery of the damages mentioned in subsection (2) where the highway is under construction, reconstruction or repair and official signs are erected giving warning of the existence of such conditions on the highway.

(6) No action shall be brought for the recovery of the damages mentioned in subsection (2) where the damages are sustained as a direct result of a condition created, an action taken, or anything done, by a person other than the minister or his employees.

(7) The presence on the roadway of an object or thing that has fallen from a vehicle or been placed upon the roadway by any person or animal shall not be imputable to any fault in the maintenance or repair of the roadway except in the case of fault or negligence on the part of employees of the minister charged with the maintenance of the roadway in accordance with subsection (1).

(8) No action shall be brought against the minister for any loss or lessening of trade, any depreciation in value of property, loss due to noise or vibration, any inconvenience of access to the highway or any other inconvenience, resulting from the normal operation of traffic upon the highway, or from the construction, reconstruction, repair or maintenance of the highway to provide for the safety, convenience and accommodation of public traffic thereon, or from the closing of the highway for construction, reconstruction or repairs.

(9) No action shall be brought against the minister for the recovery of the damages mentioned in subsection (2) where the highway is not a provincial highway.

R.S.S. 1978, c.H-3, s.85.

**Minister may pay for damage in certain cases**

**86(1)** Notwithstanding anything in this or any other Act, where:

(a) a vehicle is involved in an accident caused by the state of repair of a roadway that is situated in the district as defined in *The Northern Municipalities Act* but outside a northern hamlet, and the roadway has not been designated as a resource or industrial road by the minister; and

(b) a notice of the damages sustained by a person as a result of the accident is served on or sent by registered post to the minister within thirty days after the date of the accident;

the minister may, without accepting any liability in respect of the damages sustained by the person as a result of the accident, pay the person such sum of money in respect of the damages as the minister deems advisable.

(2) The decision of the minister whether to pay a person money under subsection (1) and in respect of the amount of money payable to a person is final and not open to question in any court.

R.S.S. 1978, c.H-3, s.86; 1983, c.77, s.31.

**Erection of official signs and effect thereof**

**87(1)** The minister or an officer or employee of the department with the written authority of the minister may authorize the erection, placing or painting and maintenance of official signs.

(2) Unless authorized by the minister or an officer or employee of the department with the written authority of the minister no official sign shall be erected, placed, painted or maintained upon a provincial highway.

R.S.S. 1978, c.H-3, s.87; 1983, c.82, s.4.

**Power of minister to establish speed zones**

**88(1)** The minister may establish speed zones upon any provincial highway and upon any authorized detour from a provincial highway by the erection of official signs indicating the maximum speed applying to the speed zone established; provided that the speed so indicated does not exceed the maximum speed prescribed under *The Highway Traffic Act*.

(2) The minister may, by the erection of official signs that state a prohibition or limitation with respect to parking, establish, upon any provincial highway, zones within which parking on that portion of the roadway situated to the right of the solid white line and commonly referred to as the shoulder is prohibited or limited.

(3) Any person who violates a prohibition or limitation imposed pursuant to subsection (2) is guilty of an offence and liable on summary conviction to a fine of not more than \$100.

R.S.S. 1978, c.H-3, s.88; 1983, c.82, s.4; 1986, c.33, s.12.

**Destruction or defacement of signs, etc.**

**89** A person who destroys, damages, defaces or removes a sign, signboard or notice, erected or placed upon or adjacent to a public highway pursuant to this or any other Act, is guilty of an offence and liable on summary conviction to a fine of not less than \$10 or more than \$100 in addition to the value of the property destroyed or removed or the cost of repairing the damage done, and in default of payment to imprisonment for a period not exceeding thirty days.

R.S.S. 1978, c.H-3, s.89; 1983-84, c.54, s.8.

**Prohibition respecting throwing stones or rubbish, etc. on highway**

**90(1)** No person shall throw or place or cause to be thrown or placed upon a public highway:

- (a) any stones, rocks or debris from property adjacent to the public highway or from a vehicle; or
- (b) any rubbish or litter, unless the rubbish or litter is thrown or placed in a receptacle provided for that purpose.

(2) A person who violates subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$100.

R.S.S. 1978, c.H-3, s.90; 1983, c.31, s.14.

**Prohibition respecting animals on highways,  
removal of animals and lien for expenses**

**91(1)** No animal shall be allowed to be on a provincial highway unless it is in direct and continuous charge of a person who is competent to control it and who is controlling it in such manner that it does not obstruct or cause any injury to the highway or create any hazard to traffic on the highway.

(2) Any officer of the department or peace officer as defined in *The Highway Traffic Act* may take into his custody an animal that is on a provincial highway contrary to subsection (1) and cause it to be taken to, fed and kept in a suitable place, and he shall have a lien upon the animal for the expenses of the removal, care, feeding and keeping of the animal.

(3) *The Stable Keepers Lien Act* applies *mutatis mutandis* for the purpose of recovering such expenses and disposing of any surplus moneys.

(4) The owner of an animal that is on a provincial highway contrary to subsection (1) is guilty of an offence and liable on summary conviction to a fine of not less than \$25 nor more than \$50 notwithstanding any action that may have been taken under subsection (2).

(5) Nothing in subsection (1) or (4) imposes any civil liability for damages on the owner of an animal that is on a provincial highway contrary to subsection (1) and any question of liability for damages arising in a civil action shall be determined as if those subsections had not been enacted.

R.S.S. 1978, c.H-3, s.91; 1983, c.82, s.4; 1986,  
c.33, s.12.

**Removal of abandoned vehicles and lien for expenses**

**92(1)** Where a vehicle is apparently abandoned on a part of the right of way of a provincial highway other than the roadway and:

- (a) the owner of the vehicle cannot after reasonable inquiry be found; or
- (b) the owner fails to remove the vehicle from the right of way within five days after the day on which a notice requiring him to remove the vehicle has been served on him or sent to him by registered mail;

the minister may cause the vehicle to be removed and stored at the nearest warehouse of the department or at any other suitable place, and he shall have a lien upon the vehicle for the expenses of the removal and storage and may sell the vehicle for the purpose of recovering those expenses.

(2) Notwithstanding subsection (1), where the minister has reasonable grounds to believe that the value of the vehicle is less than \$350 he may order that the vehicle be destroyed or otherwise disposed of.

(3) For the purpose of this section, evidence of the last certificate of registration of the motor vehicle issued under *The Vehicle Administration Act* in the name of a person is *prima facie* evidence that the person is the owner of the vehicle.

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(4) Sections 13 to 15 of *The Garage Keepers Act* apply *mutatis mutandis* to the sale, the application of the proceeds of the sale and the disposition of any surplus moneys.

R.S.S. 1978, c.H-3, s.92; 1983, c.31, s.15; 1983, c.82, s.4; 1986, c.33, s.12.

**FERRIES****Power to establish**

**93(1)** The minister may, when deemed expedient to do so, establish one or more public ferries on any river, stream or other body of water in the province; and he shall maintain and operate such ferries as public improvements, and collect all tolls payable under regulations made pursuant to subsection (2).

(2) The Lieutenant Governor in Council may make such regulations as may be deemed expedient governing the operation of public ferries and fixing the tolls to be charged thereon.

R.S.S. 1978, c.H-3, s.93.

**Licences**

**94** The minister may issue annual licences for the establishment and operation of private ferries on any river, stream or other body of water in the province, granting an exclusive right to maintain and operate such private ferries within the limits specified in the licences.

R.S.S. 1978, c.H-3, s.94.

**Licence specifies tolls**

**95** Every ferry licence granted shall specify the maximum rate of tolls to be charged, the kind and size of the scow, barge or boat to be used, the limits of the river, stream or other body of water within which and the hours during which the ferry shall be operated.

R.S.S. 1978, c.H-3, s.95.

**Regulations**

**96** The Lieutenant Governor in Council may make regulations fixing the licence fees that shall be collected by the minister for the issue of licences, the amount of bonus that the minister may pay to the holder of a licence, and the conditions under which the licensee shall operate a private ferry.

R.S.S. 1978, c.H-3, s.96.

**Inspection**

**97** The minister may appoint such person as he may see fit to inspect and report on the condition of any ferry, or with reference to the complaint of a person using or desiring to use any ferry.

R.S.S. 1978, c.H-3, s.97.



**Persons refusing to pay tolls**

**98(1)** If a person using a licensed ferry refuses to pay the toll or rates chargeable for ferrying him or his property the licensee of the ferry may forthwith seize and hold any property in possession of the offender then being ferried.

(2) A person so refusing is guilty of an offence and liable on summary conviction to a fine not exceeding \$50 and in default of payment to imprisonment for a period not exceeding two months; and the property seized shall be liable for payment of the fine, the toll and the costs of the prosecution, and may be sold under distress warrant to satisfy those charges.

R.S.S. 1978, c.H-3, s.98.

**Interference with rights of licensed ferryman**

**99** A person who unlawfully interferes with the rights of a licensed ferryman by taking, carrying or conveying for hire or reward, within the limits of his ferry licence, across the stream, river or other body of water on which the ferry is situated, any person or personal property or any vehicle or animal in a scow, barge, boat, raft or other contrivance, or hinders or interferes with the licensee in any way, is guilty of an offence and liable on summary conviction to a fine not exceeding \$100, and in default of payment to imprisonment for a period not exceeding three months.

R.S.S. 1978, c.H-3, s.99.

**Violation of licence or Act**

**100** A licensee or permittee who violates any of the terms or conditions of his licence or permit or any provision of this Act, for violation of which no penalty is herein provided, is guilty of an offence and liable on summary conviction to a fine not exceeding \$50, and in default of payment to imprisonment for a period not exceeding thirty days; and is further liable to forfeit his licence or permit under the direction of the minister.

R.S.S. 1978, c.H-3, s.100.

**Operation of ferry without licence**

**101** A person who operates a private ferry, without having first obtained a licence therefor as provided by this Act, is guilty of an offence and liable on summary conviction to a fine of \$10 for every day upon which the ferry is operated without a licence.

R.S.S. 1978, c.H-3, s.101.

## RAILWAYS

**Minister exercises powers under *The Railway Act***

**102** All matters connected with railways over which the Government of Saskatchewan by any Act, agreement or otherwise may have any control shall be administered by the department; and, in addition to the powers exercisable by him under this Act, the minister shall have and exercise all the powers, authorities and duties conferred upon, vested in or directed to be performed by him under *The Railway Act*.

R.S.S. 1978, c.H-3, s.102; 1989-90, c.53, s.4.

**Penalty for refusal to deliver up plans, etc.**

**103** The minister may require a person having the possession of any papers, plans, maps, drawings, reports, books, accounts, records, documents or other things relating to a railway system, not being the private property of that person, to deliver them without delay to the department under a penalty of \$20 for each day's delay.

R.S.S. 1978, c.H-3, s.103.

## MISCELLANEOUS

**Evidence of records**

**104** Copies of records, documents, plans, books or papers belonging to or deposited with the department, attested under the signature of the minister or of the deputy minister, shall be *prima facie* evidence thereof and shall have the same legal effect as the original in any court or elsewhere.

R.S.S. 1978, c.H-3, s.104.

**Penalty for obstructing surveyor or engineer**

**105** A person who interrupts, hinders or molests a surveyor or an engineer engaged in making any examination, exploration or survey in connection with a work authorized by this Act is guilty of an offence and liable on summary conviction to a fine not exceeding \$50 or to imprisonment for a period not exceeding sixty days, or to both.

R.S.S. 1978, c.H-3, s.105.

**106 Repealed.** 1983-84, c.5, s.18.