

The Highways and Transportation Act

being

Chapter 22 of *The Revised Statutes of Saskatchewan, 1940*
(effective February 1, 1941).

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 22

An Act respecting the Department of Highways and Transportation

SHORT TITLE

Short title

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

1934-35, c.8, s.3; R.S.S. 1940, c.22, s.1.

INTERPRETATION

Interpretation

- 2 In this Act, unless the context otherwise requires, the expression:

“Construction”

1. “**Construction**” means the original work of constructing a public improvement or opening or making a public highway;

“Ditch” or “drain”

2. “**Ditch**” or “**drain**” means a ditch or drain opened 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;

“Engineer”

3. “**Engineer**” means an engineer registered and licensed as a professional engineer under the provisions of *The Engineering Profession Act*, or a surveyor duly qualified to practise in the Province of Saskatchewan;

“Ferry”

4. “**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;

“Land”

5. “**Land**” includes any estate, term, easement, right or interest in, to, over, or affecting land;

“Maintenance”

6. “**Maintenance**” means the preservation and keeping in repair of a public improvement;

“Municipality”

7. “**Municipality**” means a city, town, village or rural municipality or a local improvement district;

“Owner”

8. “**Owner**” means a person having an estate or interest in land, at law or in equity, in, possession, futurity or expectancy;

“Public highway”

9. “**Public highway**” means a road allowance or a road, street or lane, vested in His Majesty or set aside for such purpose under the provisions of *The North-West Territories Act* or any Act of Saskatchewan, and includes any bridge, culvert, drain or other public improvement erected upon or in connection with such public highway;

“Public improvement”

10. **“Public improvement”** means public highways, culverts, bridges, ditches, drains, ferries, wells and public fireguards, dams, reservoirs or other works constructed for the storage of water, water powers and works connected therewith; lands, streams, watercourses 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 the provisions of this Act;

“Road allowance”

11. **“Road allowance”** means a road allowance laid out under the authority of any Act of Canada or Saskatchewan;

“Surveyor”

12. **“Surveyor”** means a person qualified under *The Saskatchewan Land Surveyors Act* to practise as a surveyor in Saskatchewan.

R.S.S. 1930, c.26, s.2; 1933, c.5, s.2; R.S.S.
1940, c.22, s.2.

ORGANIZATION AND DUTIES OF THE DEPARTMENT

Organization

3(1) There shall be a department of the Government of Saskatchewan which shall be called the Department of Highways and Transportation, over which the Minister of Highways and Transportation shall preside.

(2) The staff of the department shall consist of a deputy minister to be called the Deputy Minister of Highways and Transportation, and such other employees as are required for the proper conduct of the business of the department and for the purposes of this Act.

R.S.S. 1930, c.26, s.3; 1934-35, c.8, s.4; R.S.S.
1940, c.22, s.3.

Administration

4 The minister shall have the administration, management and control of the department and of the general business thereof and shall oversee and direct the employees of the department.

R.S.S. 1930, c.26, s.4; R.S.S. 1940, c.22, s.4.

Powers and duties of minister**5** The minister shall:

- (a) have the control and management of all work to be undertaken by the department in connection with any public improvement; of the surveys and surveying of all lands required in connection with all public improvements; and of the government warehouse used for the handling and storing of materials and supplies required for public improvements;
- (b) lay out, plan and determine upon a system of public highways for the province, which system may from time to time be altered or modified as he may determine;
- (c) determine upon the most feasible and economic methods for constructing, improving and maintaining public highways;
- (d) furnish the officers of municipalities with information respecting the construction, improvement and maintenance of public highways;
- (e) have the control and regulation of all matters pertaining to the construction, by any person, across or along any public highway of irrigation ditches, drains, canals, telegraph, telephone or power transmission lines, pipe lines, steam or electric railways or other works;
- (f) determine the conditions of employment for foremen, subforemen, mechanics, workmen, day labourers and teams;
- (g) generally possess and exercise such other powers and duties, not inconsistent with the provisions of this Act, as may be from time to time assigned to him by the Lieutenant Governor in Council.

R.S.S. 1930, c.26, s.5; 1931, c.9, s.1; R.S.S.
1940, c.22, s.5.

Duties of Deputy Minister**6** The deputy minister shall:

- (a) prepare or cause to be prepared, maps, plans, specifications and estimates for public improvements which are to be constructed, altered or repaired by the department;
- (b) examine, revise and approve the plans, specifications and estimates of other surveyors, engineers, and officers in respect to any public improvement to be undertaken by the department, and, generally, advise the minister on all surveying and engineering questions affecting such public improvements;
- (c) conduct, under the direction of the minister, the correspondence of the department, and see that all contracts entered into by the minister are properly drawn and executed, and that all letters, reports and other documents are properly copied or filed, and generally, do and perform all acts and things necessary for the carrying out of the provisions of this Act;
- (d) inquire into and report for the information of the minister upon such matters as he may direct.

R.S.S. 1930, c.26, s.6; R.S.S. 1940, c.22, s.6.

ANNUAL EXPENDITURES

Expenditure determined by Lieutenant Governor in Council

7(1) There shall be expended annually under the provisions of this Act for public improvements, such sums as may be determined from time to time by the Lieutenant Governor in Council, not exceeding in the aggregate the amount voted by the Legislative Assembly for the purpose.

(2) For the purpose of better carrying out the provisions of this Act the Lieutenant Governor in Council may from time to time make such general regulations as may be deemed advisable regarding the expenditures to be made by the department on public improvements.

R.S.S. 1930, c.26, s.7; R.S.S. 1940, c.22, s.7.

Classes of public highways

8(1) For the better administration of this Act and of more effectively carrying out its provisions, all public highways in the province shall be classified, by the minister under the following headings:

- (a) provincial highways;
- (b) main market roads.;
- (c) colonization roads;
- (d) local roads.

(2) **“Provincial highway”** means a public highway designated as provincial highway by the Lieutenant Governor in Council.

(3) **“Main market road”** means a public highway which, in the opinion of the minister is, or should be or is likely to be the main thoroughfare connecting two populous districts or parts of one district, or forms the principal means of approach to a city, town, village, or other marketing point.

(4) **“Colonization road”** means a public highway which, in the opinion of the minister, is required either temporarily or permanently for the development of newly settled districts or for the development of the natural resources of the province.

(5) **“Local road”** includes any public highway which is not a provincial highway, a main market road, or a colonization road.

R.S.S. 1930, c.26, s.8; R.S.S. 1940, c.22, s.8.

CONTRACTS

Power to make contracts

9 The department may enter into any contract that may be necessary or advisable in carrying out the provisions of this Act.

R.S.S. 1930, c.26, s.9; R.S.S. 1940, c.22, s.9.

Contracts with rural municipalities

10(1) When in the opinion of the minister it is desirable that a rural municipality should undertake the expenditure of moneys under the control of the department and available for public improvements, the department may, under such regulations as are approved in that behalf by the minister, enter into a contract or contracts with such rural municipality for the purpose.

(2) When the council of a rural municipality desires the department to undertake the expenditure of moneys under the control of the council of the municipality 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 such council for the purpose.

R.S.S. 1930, c.26, s.10; R.S.S. 1940, c.22, s.10.

Contracts signed by minister

11 All contracts entered into under the provisions of this Act shall be in writing and shall be signed by the minister.

R.S.S. 1930, c.26, s.11; R.S.S. 1940, c.22, s.11.

Tenders invited

12 The minister shall invite tenders by public advertisement or other public notice for the construction and repair of all public improvements, except in cases where from the nature of the work it can be more expeditiously and economically executed by order or commission or under the direction of the officers of the department.

R.S.S. 1930, c.26, s.12; R.S.S. 1940, c.22, s.12.

Security for performance of contract; Authority for awarding contract to other than lowest bidder

13 The minister, when any public improvement is being carried out by contract, may require that security be given to and in the name of His Majesty, for the due performance of the work within the time specified for its completion; and, where it seems to the minister to be inexpedient to let the work to the lowest bidder, he shall report the same to and obtain the authority of the Lieutenant Governor in Council before awarding the contract to any other than such lowest bidder.

R.S.S. 1930, c.26, s.13; R.S.S. 1940, c.22, 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 the parties named therein and any security required been given.

R.S.S. 1930, c.26, s.14; R.S.S. 1940, c.22, s.14.

Contract to inure to His 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 of His Majesty and may be enforced as if they had been entered into with His Majesty under the authority of this Act.

R.S.S. 1930, c.26, s.15; R.S.S. 1940, c.22, 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 any right in respect of property, real or personal, under the control of the department, shall be instituted in the name of His Majesty by the Attorney General.

R.S.S. 1930, c.26, s.16; R.S.S. 1940, c.22, 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, or other persons who perform labour on such 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 be no current rate in such district, then a fair and reasonable rate; and in the event of a dispute arising 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. 1930, c.26, s.17; R.S.S. 1940, c.22, s.17.

ACCOUNTS**Vouchers**

18 All accounts for expenditures under the provisions of this Act shall be paid by the Provincial Treasurer upon the production of proper vouchers by the department.

R.S.S. 1930, c.26, s.18; R.S.S. 1940, c.22, s.18.

SUPPLIES AND MATERIALS**Procuring supplies**

19 The department may procure all such supplies as may be requisite for use in connection with public improvements carried on under its direction. Such supplies may be charged directly against the particular service for which they are required or placed in stock to be subsequently distributed.

R.S.S. 1930, c.26, s.19; R.S.S. 1940, c.22, s.19.

Advances

20(1) The Provincial Treasurer may, from time to time and upon the requisition of the minister, advance out of the consolidated fund such sums of money as are required to pay for supplies which are to be placed in stock as provided in section 19.

(2) The net amount of such advances shall not at any time exceed the sum of \$500,000.

R.S.S. 1930, c.26, s.20; R.S.S. 1940, c.22, s.20.

Distribution of supplies

21 The department shall distribute as may be required supplies purchased in the manner provided by section 20, under such regulations as may be prescribed by the Lieutenant Governor in Council in that behalf.

R.S.S. 1930, c.26, s.21; R.S.S. 1940, c.22, s.21.

Charging of supplies

22 The quantity of such supplies so distributed and the value thereof shall be charged by the Provincial Treasurer to the particular service in connection with which such supplies are used on an account thereof being rendered by the department, the amount of such charge being at the same time credited to the account of the advance made by the Provincial Treasurer on the requisition of the minister as hereinbefore provided.

R.S.S. 1930, c.26, s.22; R.S.S. 1940, c.22, s.22.

Accounting for cost

23 In computing the value of any supplies distributed to a particular service, the minister shall take into account the cost of maintaining the department's warehouse and its staff as well as the cost of any mechanical or other assistance that may have been given by any person in connection with the handling, storage, assembling, distributing or auditing of such supplies between the times of their being first ordered and finally distributed, the Provincial Treasurer being hereby authorized to advance the cost of such assistance or other expenditure in the same manner as though the payment were for the original purchase of such supplies.

R.S.S. 1930, c.26, s.23; R.S.S. 1940, c.22, s.23.

Statement of standing

24 The Provincial Treasurer shall publish annually with the public accounts a statement showing the standing at the close of each fiscal year of the account of such advances, taking cognizance of the value of all supplies on hand at the beginning of the fiscal year, the names of all persons or firms to whom payments have been made for such supplies, with the gross amount of payments so made, together with a statement showing details regarding the taking in of stock at a fair valuation of such material as may have been previously distributed or otherwise charged against any particular service, the gross amount charged against any particular service, and credited in reimbursement of the advances made, with the value of the supplies on hand at the close of the fiscal year, any profit or loss that may be found to result from the year's operation being shown clearly but neglected in the consideration of the following year's transactions.

R.S.S. 1930, c.26, s.24; R.S.S. 1940, c.22, s.24.

Redistribution of supplies

25 When supplies have once been distributed for any particular service and it is found desirable to discard, transfer or otherwise dispose of them they may be ordered by the minister to be taken into stock, at their fair value, and redistributed or otherwise dealt with in such manner as may be approved by regulations made by the Lieutenant Governor in Council.

R.S.S. 1930; c.26, s.25; R.S.S. 1940, c.22, s.25.

Checking of stock

26 The minister shall make such arrangements as shall give to the Provincial Auditor all needed facility and assistance to check the stock on hand at the close of each year, and shall furnish the Provincial Treasurer with any information necessary to complete the statement required to be published in the public accounts with respect to the value of the stock on hand and the value placed upon any supplies discarded and taken into stock, or any other information material to the above purposes.

R.S.S. 1930, c.26, s.26; R.S.S. 1940, c.22, s.26.

DIRECTOR OF SURVEYS

Director of surveys

27 There may be an officer of the department, to be called the Director of Surveys, who shall be a duly qualified Saskatchewan land surveyor and also a Dominion land surveyor. The Lieutenant Governor in Council may define the duties of such officer.

R.S.S. 1930, c.26, s.27; R.S.S. 1940, c.22, s.27.

SURVEYS OF PUBLIC HIGHWAYS

Surveys of trails. etc.

28(1) The minister may from time to time cause to be surveyed and marked out on the ground by a duly qualified surveyor, any old trail which existed as such prior to the subdivision of the land which it crosses into sections, or any land required for a public highway; and one copy of the plans of such surveys approved by the minister shall be filed with the department and a second copy shall be forwarded to the land titles office for the land registration district within which such old trail or public highway is situated.

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

Provided that the right and title to all mines and minerals which may be found under such land 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 never to have included, rock, shale, gravel, sand, clay or other material used in the construction, maintenance or repair of a public improvement.

(3) The minister may approve of 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 contained shall be taken to require the plan of such survey to be prepared or deposited in the land titles office before or at the time of such approval.

(4) Such old trails or public highways shall be laid out not less than one chain, or sixty-six feet, in width; and in making the survey of any old trail the surveyor may make such changes in the location thereof as he deems necessary without however altering its main direction.

R.S.S; 1930. c.26, s.28; 1932, c.5, s.2; R.S.S.
1940, c.22, s.28.

CLOSING OF HIGHWAYS

Power to close highways

29(1) The minister may close up the whole or portion of a public highway and may deal with the land in such public highway as may seem expedient.

(2) All documents necessary to transfer the title to the portion of a public highway, which has been closed as herein provided, shall be signed by the minister.

(3) The minister 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 up or fence off any specified part of a public highway, where lands held under grazing lease or used for grazing purposes are on both sides thereof.

(4) Where an old trail crosses any land so closed up or fenced off, the holder of such permit shall place a gate and two tie posts at the point of intersection of such 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 such trail shall in no wise be affected.

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

(6) While road construction, repair or improvement or any other work authorized by the minister in accordance with this Act is in progress on any public highway, the minister or any person so authorized by him may close the highway or any portion thereof to traffic for such time as he deems necessary, and any person using a highway so closed shall do so at his own risk, and shall have no right to recover damages in case of accident or injury.

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

(8) The Lieutenant Governor in Council may from time to time make regulations:

(a) fixing the maximum weight both gross and tare of any vehicle or of any object which may be moved upon wheels, rollers or otherwise which may be operated on any public highway;

(b) prohibiting the operation of any class or classes of vehicles or the movement of any object upon wheels, rollers or otherwise upon any public highway.

(9) The minister may by order, 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 or weight of vehicles which may be operated over or upon the highway or any section of the highway. The minister shall cause notice to be given of any order made under this subsection or of any amendment or cancellation thereof, in such manner as he deems advisable.

(10) Every person who is guilty of a violation of the provisions of any regulation made under authority of subsection (8) or of any order of the minister made pursuant to subsection (9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$30, and shall also be liable for any damage or injury done to the highway through such violation.

R.S.S. 1930, c.26; s.29; 1939, c.7, s.2; R.S.S. 1940, c.22, s.29.

LANDS REQUIRED FOR PUBLIC IMPROVEMENTS

Expropriation, etc.

30 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 same 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 any public improvement or for obtaining better access thereto;
- (d) enter with workmen, cars, carts, carriages and horses 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 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 by it for the convenient passing to and from the 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 for keeping such drains in repair;
- (g) divert or alter, as well temporarily as permanently, the course of any brook, rivulet, or public highway, or raise or sink the level of the same 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 any public highway, another convenient road in lieu thereof shall be substituted; and the land theretofore used for any 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, drain or telephone or electric light wire or pole.

R.S.S. 1930, c.26, s.30; R.S.S. 1940, c.22, s.30.

Removing fences: constructing ditches

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

R.S.S. 1930, c.26, s.31; R.S.S. 1940, c.22, s.31.

Sidings, conduits or track

32(1) Whenever any gravel, stone, earth, sand or water is taken as aforesaid 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 such material or water is found, whatever the distance may be; and all the provisions of this Act shall apply and may be used and exercised to obtain the right of way from the public improvement to the land on which such materials are situate.

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

R.S.S. 1930, c.26, s.32; R.S.S. 1940, c.22, s.32.

Survey and plan

33(1) Lands taken for any public improvement shall be surveyed and marked on the ground by a surveyor who shall prepare a proper plan of the same. The minister may approve of the survey as marked out on the ground and his approval shall operate as a dedication of the land as a public improvement, and nothing herein contained shall be taken to require a plan of such survey to be prepared before or at the time of such approval.

(2) Every person who interrupts, hinders or molests any person while engaged under authority of the minister in removing any 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, shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$50 and costs or to imprisonment for a period not exceeding thirty days, or to both.

R.S.S. 1930, c.26, s.33; R.S.S. 1940, c.22, s.33.

Plans filed

34 One copy of the plans of any lands required for a public improvement approved by the minister shall be filed with the department and a second copy shall be forwarded to the land titles office for the land registration district within which such public improvement is situated.

R.S.S. 1930, c.26, s.34; R.S.S. 1940, c.22, s.34.

Land vests in His Majesty

35 The effect of the forwarding and receipt in a land titles office of such copy of plans shall be to vest the lands shown on such plans in His Majesty for the public use of the province, without prejudice however to the legal rights of the owner to compensation therefor:

Provided that the right and title to all mines and minerals which may be found to exist under such 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 never to have included, rock, shale, gravel, sand, clay or other material used in the construction, maintenance or repair of a public improvement.

R.S.S. 1930, c.26, s.35; 1932, c.5, s.3; R.S.S. 1940, c.22, s.35.

Suppression of resistance

36(1) If resistance or opposition is made by any person to the taking, by the minister or any person authorized by him, of lands for public improvements, a judge of the Court of King’s Bench may, on proof of the proper taking of such lands as herein provided, issue his warrant to the sheriff of the judicial district within which the lands are situated, directing him to put down such resistance or opposition, and to put the minister or some person acting for him in possession.

(2) The sheriff shall take with him sufficient assistance for that purpose, and shall put down such resistance or opposition and put the minister or the person acting for him in possession of the land; and shall forthwith make a return to the Court of King’s Bench of the warrant and of the manner in which he executed the same.

R.S.S. 1930, c.26, s.36; R.S.S. 1940, c.22, s.36.

Opening of road on petition and payment of expenses

37 If any person petitions the minister for the opening of a road through land, and the minister is of the 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 Provincial Treasurer such sum as he considers sufficient to cover the cost of opening the road and paying compensation in connection therewith, and if the road, or any road which 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 which remains shall be repaid to the applicant.

R.S.S. 1930, c.26, s.37; R.S.S. 1940, c.22, s.37.

COMPENSATION FOR LANDS TAKEN

Notice of compensation

38(1) Upon the plan of any land required for a public improvement being 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 which 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.

(2) When the plan has been registered the minister shall, except in cases where compensation has been mutually agreed upon, cause to be served by registered letter 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 which the minister is prepared to pay for the land.

(3) When compensation is claimed by two or more persons who are unable to agree as to the division thereof, the minister may pay the same into the office of the district court of the judicial district in 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.

1933, c.5, s.3; R.S.S. 1940, c.22, s.38.

Claim for increased compensation

39(1) If any person entitled to compensation is dissatisfied with the amount offered, he shall, within one month from the date of the notice provided in subsection (2) of section 38, 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.

(2) In the event of no such notification being 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 mentioned in the notice referred to in section 38.

R.S.S. 1930, c.26, s.39; 1933, c.5, s.4; R.S.S. 1940, c.22, s.39.

Minister's decision

40 In case a claim is made for increased compensation as above provided, the minister shall consider such 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. 1930, c.26, s.40; R.S.S. 1940, c.22, s.40.

Notice of arbitration

41(1) Such 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) Such arbitration shall be by one arbitrator, who shall be the judge of the district court of the judicial district in which the public improvement or any part thereof is or is to be situated, and all the provisions of *The Arbitration Act* shall apply thereto. If for any reason such judge is unable to act, the Attorney General shall name any other district court judge to act as arbitrator.

R.S.S. 1930, c.26, s.41; R.S.S. 1940, c.22, s.41.

Failure of claimant to give notice

42 If the claimant does not so notify the minister, and make the deposit as in section 43 required within sixty days from the registration of the notice in section 41, he shall be deemed to have accepted the minister's decision, and shall not thereafter question it.

R.S.S. 1930, c.26, s. 42; R.S.S. 1940, c.22, s.42.

Security for costs

43 The claimant shall, with the notice of submission to arbitration, deposit with the minister, as security for the costs of the arbitration, a sum equal to ten per cent. of the amount claimed by him but in any event not less than \$25.

R.S.S. 1930, c.26, s.43; R.S.S. 1940, c.22, s.43.

Payment of costs

44(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. If, however, 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 the costs and expenses of the arbitration.

(2) In case the costs and expenses are to be paid by the claimant, the minister may deduct such costs and expenses from the moneys deposited, and the surplus, if any, shall be returned to the claimant.

(3) Should the claimant not be required to pay the minister's costs of the arbitration, the full amount deposited by him shall be returned to him.

(4) The only costs allowable upon an arbitration under this section shall be arbitrator's and witness' fees.

R.S.S. 1930, c.26, s.44; R.S.S. 1940, c.22, s.44.

Basis of award

45(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 any extra fencing which may be necessary by reason of the taking of the land, such cost to be computed at the rate of \$150 per mile.
- (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 of the same 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. 1930, c.26, s.45; R.S.S. 1940, c.22, s.45.

PUBLIC PROPERTY**Public improvements the property of His Majesty controlled by minister**

46 All lands, streams, watercourses and property, real or personal, heretofore or hereafter acquired for the use of public improvement; all dams, reservoirs or other works erected for the storage of water; all hydraulic powers created by the construction of any 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 North-West Territories or of the province and not under the control of the Dominion Government, shall be and remain vested in His Majesty in the 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. 1930, c.26, s.46; R.S.S. 1940, c.22, s.46.

Other works may be declared public improvements

47 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 46 and purchased or constructed at the public expense to be public improvements subject to the provisions of this Act, and they shall thenceforth be vested in His Majesty in the right of Saskatchewan and under the control of the department.

R.S.S. 1930, c.26, s.47; R.S.S. 1940, c.22, s.47.

Power to dispose of public property

48(1) Any lands, and any property, real or personal, taken for public improvements, when no longer required for the use of a public improvement, may be sold, leased or otherwise disposed of under the authority of the minister; and the proceeds of the sales, leases and dispositions 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 so sold, leased or otherwise disposed of under the hand of the minister or deputy minister:

Provided that such lands or property shall whenever practicable be sold, leased or disposed of by tender or public auction.

R.S.S. 1930, c.26, s.48; R.S.S. 1940, c.22, s.48.

Public reserves

49 All public reserves now vested or which may hereafter become vested in His Majesty in the right of Saskatchewan by reason of the registration in the land titles office of the plan of the subdivision into lots or blocks of any land, shall be under the control of the minister, and such lands may be sold, leased or otherwise disposed of or placed under the control of any municipality under regulations to be prescribed by the Lieutenant Governor in Council.

R.S.S. 1930, c.26, s.49; R.S.S. 1940, c.22, s.49.

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

50 Any 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 refuses or neglects, upon demand of the minister or other person authorized to require it, forthwith to deliver the same to the department, shall be guilty of an offence and liable on summary conviction to a fine of \$25 and in default of payment forthwith after conviction, to imprisonment for one month.

R.S.S. 1930, c.26, s.50; R.S.S. 1940, c.22, s.50.

PROTECTION OF PUBLIC IMPROVEMENTS**Penalty for obstructing public highway**

51 Any person who obstructs or interferes in any manner with a public highway shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$50 or to imprisonment for thirty days, or to both.

R.S.S. 1930, c.26, s.59; R.S.S. 1940, c.22, s.51.

Penalty for injuring public improvements

52(1) Any person who unlawfully breaks, cuts, fills up or otherwise injures a public improvement shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$100 and costs, and, in default of payment forthwith after conviction, to imprisonment for a period not exceeding sixty days.

(2) The justice of the peace before whom the case is tried may also order the offender to repair the damage or remove the obstruction within a limited time, and, in case of his failure to do so, the offender shall be guilty of a further offence and liable on summary conviction to a fine not exceeding \$100 and costs, and, in default of payment forthwith after conviction, to imprisonment for a period not exceeding sixty days.

R.S.S. 1930, c.26, s.60; R.S.S. 1940, c.22, s.52.

Traffic on bridges

53 Any person who rides or drives a horse or a mule or cattle, or who drives a portable engine, upon or across a bridge, the property of His Majesty, at a pace faster than a walk or who drives a motor vehicle across such bridge at a speed exceeding fifteen miles an hour, shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$25.

R.S.S. 1930, c.26, s.61; R.S.S. 1940, c.22, s.53.

Obstructing bridges

54 Any person who wilfully and without lawful excuse, places an obstruction on a bridge the property of His Majesty, or who prevents, hinders or causes delay to any person desiring to travel across such bridge, shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$50.

R.S.S. 1930, c.26, s.62; R.S.S. 1940, c.22, s.54.

Use of bridges by engines

55(1) Every person who uses a bridge or culvert, the property of His Majesty, in connection with the movement of a portable or traction engine, by whatsoever power drawn or propelled, shall provide sufficient planks or timbers of an aggregate width equal to the full width of the two rear wheels.

(2) Such planks or timbers shall be not less than three inches in thickness, not less than ten inches in width, and not less than twelve feet in length, and shall be laid across such bridge or culvert, upon the floor thereof, in the direction of the course of the engine and under the wheels to the extent of the full width thereof, and shall be kept thereunder continuously during the passage of the engine over the bridge or culvert.

(3) Any person who violates the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine of not less than \$50 nor more than \$500.

R.S.S. 1930, c.26, s.63; R.S.S. 1940, c.22, s.55.

Penalty for obstructing district surveyors and engineers

56 Any 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, shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$50 or to imprisonment for a term not exceeding two months, or to both.

R.S.S. 1930, c.26, s.64; R.S.S. 1940, c.22, s.56.

Erection of snow fences and removal of drifted soil

57 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 the same;
- (b) make snow ridges thereon;
- (c) remove drifted soil which 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.

1940, c.7, s.1; R.S.S. 1940, c.22, s.57.

SIGN BOARDS**Power to regulate erection**

58(1) The Lieutenant Governor in Council may from time to time make regulations:

- (a) prohibiting or regulating the erection of signs and sign boards and the pasting or painting of signs or notices and the exposing of any advertising device upon or within one-quarter of a mile from any public highway outside the corporate limits of any city, town or village;
- (b) for licensing and fixing the fees for licences to be granted to any person for erecting any such sign or sign board or pasting or painting any such sign or notice or exposing any such advertising device on any public highway or within one-quarter of a mile thereof.

(2) Any person contravening any such regulations or destroying or defacing any sign, sign board, notice or advertising device lawfully authorized under this Act or any sign, sign board or notice the property of His Majesty, shall be guilty of an offence and liable on summary conviction to a fine of not less than \$5 nor more than \$100 in addition to the value of the property injured or destroyed, and in default of payment to imprisonment for a period not exceeding one month unless the fine and costs are sooner paid.

R.S.S. 1930, c.26, s.65; R.S.S. 1940, c.22, s.58.

DANGEROUS RAILWAY CROSSINGS**Erection of signs**

59(1) The minister may by order declare any level crossing of a public highway over a railway, outside the corporate limits of a city or town, to be a dangerous railway crossing, and he shall, in such case, if the crossing is on a provincial highway, cause suitable signs indicating danger, or stop signs, to be erected or placed on the approaches thereto.

(2) On the application of the council of any city or town, the department shall supply the municipality with such signs, and it shall be the duty of the municipality to cause them to be erected or placed forthwith on the approaches to crossings which the council has by resolution declared to be dangerous.

R.S.S. 1930, c.26, s.66; R.S.S. 1940, c.22, s.59.

PUBLIC FERRIES

Power to establish

60(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 which may be determined on.

(2) The Lieutenant Governor in Council may from time to time 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. 1930, c.26, s.67; R.S.S. 1940, c.22, s.60.

PRIVATE FERRIES

Licence

61 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. 1930, c.26, s.68; R.S.S. 1940, c.22, s.61.

Licence specifies tolls

62 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 such ferry shall be operated.

R.S.S. 1930, c.26, s.69; R.S.S. 1940, c.22, s.62.

Regulations

63 The Lieutenant Governor in Council may from time to time make regulations fixing the licence fees which shall be collected by the minister for the issue of licences under this Act, the amount of bonus which 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. 1930, c.26, s.70; R.S.S. 1940, c.22, s.63.

INSPECTION OF FERRIES

Inspection

64 The minister may from time to time 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 any person using or desiring to use such ferry.

R.S.S. 1930, c.26, s.71; R.S.S. 1940, c.22, s.64.

PENALTIES FOR OFFENCES

Persons refusing to pay tolls

65(1) If any 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 any property in possession of the offender then being ferried and hold the same.

(2) The person so refusing shall be 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. 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 such charges.

R.S.S. 1930, c.26, s.72; R.S.S. 1940, c.22, s.65.

Interference with rights of licensed ferryman

66 Any person unlawfully interfering with the rights of a licensed ferryman by taking, carrying or conveying, within the limits of his ferry licence, across the stream, river or other body of water on which the same is situate, any person or personal property or any vehicle or animal in a scow, barge, boat, raft or other contrivance, for hire or reward, or hindering or interfering with such licensee in any way, shall be 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. 1930, c.26, s.73; R.S.S. 1940, c.22, s.66.

Violation of licence or Act

67 A licensee who violates any of the terms or conditions of his licence or of this Act shall be 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 one month unless the fine and costs are sooner paid; and shall be further liable to forfeit his licence under the direction of the minister.

R.S.S. 1930, c.26, s.74; R.S.S. 1940, c.22, s.67.

Unlicensed persons

68 Any person operating a private ferry, without having first obtained a licence therefor as provided by this Act, shall be guilty of an offence and liable on summary conviction to a fine of \$10 for every day upon which such ferry is operated without licence.

R.S.S. 1930, c.26, s.75; R.S.S. 1940, c.22, s.68.

Deposit of moneys

69 All moneys collected by the department from tolls on public ferries, or from the issue of licences for the operation of private ferries shall be deposited by the minister to the credit of the consolidated fund.

R.S.S. 1930, c.26, s.76; R.S.S. 1940, c.22, s.69.

RAILWAYS

Minister exercises powers under *The Saskatchewan Railway Act*

70 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 provisions of *The Saskatchewan Railway Act*.

1934-35, c.8, s.5 in part, redrawn; R.S.S. 1940, c.22, s.70.

Penalty for refusal to deliver up plans, etc.

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

1934-35, c.8, s.5; R.S.S. 1940, c.22, s.71.

EXAMINATION OF WITNESSES

Examination

72(1) The minister may, by notice in writing signed by him, require the attendance before him or before any person designated by him in such notice, at a time and place to be named in the notice, of any person whose attendance is deemed necessary in connection with any matter under the jurisdiction of the department; and may, by the notice, require such person to bring with him all papers, plans, books, documents and things in his possession or under his control, bearing in any way upon the matter before him; and the minister or such person designated by him may, at the time and place appointed by the notice, examine the person so notified to be present, on oath, touching such matter.

(2) Whenever the circumstances of the case warrant, the minister may with the approval of the Lieutenant Governor in Council, pay such remuneration to a witness for time lost and expenses incurred as is deemed just and reasonable.

(3) Any person wilfully neglecting or refusing to comply with the notice of the minister, or to be examined as aforesaid, shall be guilty of an offence and liable on summary conviction to a fine of \$25 and, in default of payment forthwith after conviction, to imprisonment for one month.

R.S.S. 1930, c.26, s.77; R.S.S. 1940, c.22, s.72.

EVIDENCE OF RECORDS

Copies of records as evidence

73 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 of the same and shall have the same legal effect as the original in any court or elsewhere.

R.S.S. 1930, c.26, s.78; R.S.S. 1940, c.22, s.73.

MANUAL OF INSTRUCTIONS

Manual of instructions

74 The minister may from time to time prescribe a manual of instructions for the guidance of surveyors employed in making surveys authorized by this Act, and may therein direct the manner in which such surveys shall be marked on the ground, and the plans and field notes of the same prepared.

R.S.S. 1930, c.26, s.79; R.S.S. 1940, c.22, s.74.

ANNUAL REPORT

Annual report

75 The minister shall make and submit to the Lieutenant Governor an annual report on all the works under the control of the department, to be laid before the Legislative Assembly within fifteen days from the commencement of the session next following the end of the year for which such report is made, with such further information as may be requisite to enable the Legislative Assembly to judge of the working of the department.

R.S.S. 1930, c.26, s.80; R.S.S. 1940, c.22, s.75.

