

# *The Public Works Act*

*Repealed*

by [Chapter P-46.1 of the \*Statutes of Saskatchewan, 2004\*](#)  
(effective April 1, 2005).

*Formerly*

[Chapter P-46 of \*The Revised Statutes of Saskatchewan, 1978\*](#)  
(effective February 26, 1979) as amended by the [Statutes of  
\*Saskatchewan, 1979-80, c.50; 1983, c.7 and 11; 1983-84,  
c.54 and 63; 1986, c.33; 1986-87-88, c.57; 1988-89, c.55; 1989-90,  
c.54; 2002, c.S-35.02; and 2004, c.10 and 65.\*](#)

## **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 P-46

### An Act respecting Public Works

#### SHORT TITLE

##### Short title

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

#### INTERPRETATION

##### Interpretation

- 2(1) In this Act:

- (a) **“construction”** means the original work of constructing a public work or the work of renovating a public work;
- (b) **“department”** means the department over which the minister presides;
- (c) **“deputy minister”** means the deputy minister of the department over which the minister presides;
- (d) **“land”** or **“lands”** means lands, messuages, tenements and hereditaments, corporeal or incorporeal of every nature and description and includes every estate or interest therein whether the estate or interest is legal or equitable, together with all paths, passages, ways, water courses, liberties, privileges and easements appertaining thereto, and trees and timber thereon, and mines, minerals and quarries thereon or thereunder lying or being;
- (e) **“maintenance”** means the preservation and keeping in repair of a public work and includes heating, cooling, caretaking and otherwise providing for the efficiency, health and comfort of those occupying a public work;
- (f) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (g) **“owner”** includes every person having an estate or interest in land, at law or in equity, in possession, futurity or expectancy;
- (h) **“public agency”** means a department, agency, board, commission, bureau, office or other branch of the public service of Saskatchewan and includes any Crown corporation or institution that the minister designates as a public agency for the purposes of this Act;
- (i) **“public work”** means:
  - (i) any building or part of a building acquired, constructed or renovated for use by a public agency;
  - (ii) any building or complex of buildings acquired or constructed by the province for use in whole or in part by a public agency; and

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(iii) any building or complex of buildings designated under clause 15(1)(o) as a public work;

and that is not owned or under the administration of the Saskatchewan Property Management Corporation.

(2) The powers conferred and the duties imposed by this Act may, subject to the approval of the Lieutenant Governor in Council, be performed with respect to any matter within the jurisdiction of the Department of Health or within the jurisdiction of the Department of Community Resources and Employment under *The Department of Social Services Act*.

R.S.S. 1978, c.P-46, s.2; 1979-80, c.50, s.3; 1983, c.11, s.71; 1986-87-88, c.57, s.3; 2004, c.65, s.27.

**Power of minister to acquire land**

**3(1)** The minister may acquire, by purchase, lease or otherwise, any property for the use and purposes of the government or as a public work and may dispose of, or make available to any persons any part of, that property.

(2) The minister may, on behalf of the Government of Saskatchewan, without consent of the owner, expropriate any land that he considers necessary for the use or purposes of the government or as a public work in accordance with the procedure provided in *The Expropriation Procedure Act*.

R.S.S. 1978, c.P-46, s.3; 1979-80, c.50, s.4.

**Grants to public bodies and individuals**

**4** Subject to the approval of the Lieutenant Governor in Council the minister may, for the benefit of the people of Saskatchewan:

- (a) make grants to public bodies and individuals;
- (b) provide other assistance of any nature and kind whatsoever to public bodies and individuals for the planning, designing, constructing, servicing, maintaining, furnishing, equipping and managing of any property, real or personal.

R.S.S. 1978, c.P-46, s.4.

**Government buildings**

**5(1)** The minister shall have the management, charge and direction of the construction and maintenance of all public works, and the superintendence of such public institutions as may be assigned to him by the Lieutenant Governor in Council.

(2) The Department of Finance may advance to the minister such sums of money, required for the purchase of supplies necessary for the management and superintendence of public institutions as may be authorized by the Lieutenant Governor in Council, and the minister shall account for the purchases in such manner as may be determined by the Lieutenant Governor in Council.

R.S.S. 1978, c.P-46, s.5.

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**Additional powers and duties of minister**

**6** The minister shall have and exercise such other powers and duties as may be assigned to him by the Lieutenant Governor in Council.

R.S.S. 1978, c.P-46, s.6.

**Duties of deputy minister**

**7(1)** The deputy minister shall, as directed by the minister, prepare or cause to be prepared maps, plans, specifications and estimates for all public works that are about to be constructed, altered or repaired; he shall report for the information of the minister on any question relating to a public work that is submitted to him; he or such person as he may in writing authorize for the purpose shall examine, revise and approve the plans, specifications and estimates of engineers, architects and officers with respect to any public work, and, generally, he shall advise the minister on all engineering and architectural questions affecting any public work.

**(2)** The deputy minister shall cause reports to be prepared, shall 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 shall generally, under the direction of the minister, administer the affairs of the department.

R.S.S. 1978, c.P-46, s.7.

**Survey for public work**

**8** The minister may cause to be made by a duly qualified surveyor, the survey of any area required for a public building or other public work.

R.S.S. 1978, c.P-46, s.8.

## WITNESSES

**Examination**

**9(1)** The minister may, by notice in writing signed by him, require the attendance before him or before any person designated by him in the 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 minister; 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)** When the circumstances of the case warrant the minister may, with the approval of the Lieutenant Governor in Council, pay such remuneration to witnesses for time lost and expenses incurred as is deemed just and reasonable.

**(3)** A person wilfully neglecting or refusing to comply with the notice of the minister, or to be examined under subsection (1), is 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. 1978, c.P-46, s.9.

## PUBLIC PROPERTY

**Ownership and control**

**10** Subject to *The Saskatchewan Watershed Authority Act*, all lands, streams, water courses and property, real or personal, heretofore or hereafter acquired for the use of public works, 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 or agent of Her Majesty in right of Saskatchewan shall be under the control of the department.

R.S.S. 1978, c.P-46, s.10; 1983-84, c.63, s.11;  
1986-87-88, c.57, s.3; 2002, c.S-35.02, s.143.

**Other works may be declared public works**

**11(1)** The Lieutenant Governor in Council may declare any other property, real or personal, and other works, buildings or things specified in section 10 and purchased, acquired or constructed at the public expense, to be public works subject to this Act, and they shall thenceforth be vested in Her Majesty in right of Saskatchewan, and under the control of the department.

(2) Subsection (1) does not apply to any property, works, buildings or things mentioned in section 10 that are owned or operated by:

- (a) the Saskatchewan Watershed Authority;
- (b) the Saskatchewan Water Corporation; or
- (c) the Saskatchewan Property Management Corporation.

R.S.S. 1978, c.P-46, s.11; 1983-84, c.63, s.11;  
1986-87-88, c.57, s.3; 2002, c.S-35.02, s.144.

**Maps, etc. to be furnished when required by department**

**12** Any person having possession of any map, plan, specification, estimate, report or other paper, book, drawing instrument, model, contract, document or record relating to any public work who neglects or refuses, upon demand of the minister or any other person authorized to require it, forthwith to deliver it to the department is guilty of an offence and liable on summary conviction to a fine of \$25.

R.S.S. 1978, c.P-46, s.12.

**13 Repealed.** 1979-80, c.50, s.5.

**14 Repealed.** 1979-80, c.50, s.5.

**Regulations**

**15(1)** The minister may make regulations with respect to any lands and other property real or personal, including public works, belonging to Her Majesty in right of Saskatchewan and administered or controlled by the department, and in particular, but without restricting the generality of the foregoing, may make regulations:

- (a) for the preservation and management of any such lands or property;

- (b) governing the use of roads, streets, sidewalks, lanes, trails, paths and other ways upon any such lands, including the control of traffic and the speed and parking of vehicles on any such ways, providing for the seizing and removal of any vehicle parked in contravention of the regulations and for its retention until the expenses of seizure, removal and storage, if any, are paid, and prescribing the circumstances under and times during which such ways shall be open or may be closed to public traffic or use;
  - (c) for the protection of animal and vegetable life;
  - (d) subject to *The Fire Prevention Act*, and any regulations thereunder, respecting the fire protection, including the prevention and extinguishment of fires;
  - (e) governing the operation and use of public works, services and utility services, including natural or artificial gas service water supply, sewerage works, electric power and garbage removal;
  - (f) regulating, restricting or prohibiting trades, commercial enterprises, amusements, occupations and other activities or undertakings, prescribing the places where any such activities or undertakings may or may not be carried on, providing for the licensing of persons carrying on any such activities or undertakings and prescribing licence fees with respect thereto;
  - (g) regulating, restricting or prohibiting sports, games, swimming, picnicking, camping or other recreational activities;
  - (h) for the preservation of the public health and the prevention of the spread of disease;
  - (i) prohibiting the making of unnecessary noise in the vicinity of buildings;
  - (j) prohibiting the keeping of, or for controlling the use of or the manner of keeping, horses, dogs and other animals;
  - (k) subject to *The Environmental Management and Protection Act, 2002* and *The Saskatchewan Watershed Authority Act*, for controlling the use of, and for preventing the pollution or contamination of, or other injury to, the waters of any well, lake, stream, river, pond or other body of water;
  - (l) for the protection, care and preservation of buildings, structures, fixtures, fences, signs, statutes and equipment;
  - (m) for preventing and compelling the abatement of nuisances;
  - (n) providing for the enforcement of the regulations by persons authorized in writing by the minister;
  - (o) with the approval of the Lieutenant Governor in Council, designating any building or complex of buildings as a public work for the development of government facilities or for joint venture projects involving the province.
- (2) Where a regulation made under clause (b) of subsection (1) is at variance with the traffic regulations contained in *The Highway Traffic Act*, or with any order or regulation made under that Act, the regulation made under the said clause (b) shall supersede the said traffic regulations or the order or regulation made under the said Act.

(3) A person who violates any provision of a regulation made under subsection (1) 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 term not exceeding one month, or to both fine and imprisonment.

R.S.S. 1978, c.P-46, s.15; 1979-80, c.50, s.6;  
1983-84, c.63, s.11; 1986, c.33, s.20; 1989-90,  
c.54, s.6; 2002, c.S-35.02, s.145.

## LANDS REQUIRED FOR PUBLIC WORKS

### Expropriation

**16** 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 work;
- (b) enter into and upon any lands to whomsoever belonging and survey and take levels thereof, and take such borings or sink such trial pits as he deems necessary for any purpose relative to a public work;
- (c) enter upon and take possession of any lands the expropriation of which is in his judgment necessary for the use, construction, maintenance or repair of a public work 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 work or for the purpose of digging up or quarrying or carrying away earth, stones, gravel or other material, and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom for making, constructing, maintaining or repairing the public work;
- (e) make and use all such temporary roads to and from such timber, stones, clay, gravel, sand or gravel pits as are required by him for conveniently passing to and from the works during construction and repair;
- (f) enter upon any lands for the purpose of making proper drains to carry off water from public works or for keeping such drains in repair;
- (g) divert or alter, temporarily or permanently, the course of any brook, rivulet, road, street or way, or raise or sink the level thereof, in order to carry it over or under, on the level of or by the side of, a public work as he thinks proper, but before discontinuing or altering a public road, another convenient road in lieu thereof shall be substituted, and the land theretofore used for a road or part of a road 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, sewer, drain or any telephone, electric light or other wire or pole.

R.S.S. 1978, c.P-46, s.16; 1988-89, c.55, s.25.



**Removing fences; constructing ditches**

**17** When it is necessary in building, maintaining or repairing a public work to take down or remove the wall or fence of an owner or occupier of land or premises adjoining it, or to construct a drain or back ditch for carrying off water, such 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 such 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 he 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.P-46, s.17.

**Siding, conduits or tracks**

**18(1)** When, pursuant to section 16, gravel, stone, earth, sand or water is taken at a distance from the public work the minister may cause to be laid down the necessary siding, water pipes or conduits or tracks over or through any land intervening between the public work and the land on which the 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 work to the land on which materials are situated.

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

R.S.S. 1978, c.P-46, s.18.

**Survey and plan**

**19(1)** Lands taken for a public work shall be surveyed and marked on the ground by a duly qualified surveyor who shall prepare a proper plan thereof, but nothing in this Act shall be taken to require that the plan be prepared before or at the time of the entry upon or taking possession of the lands under section 16.

(2) Every person who interrupts, hinders or molests any person while engaged under the authority of the minister in removing an obstruction, making an examination for or in constructing, maintaining or repairing a public work or any works connected therewith on land either before or 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.

R.S.S. 1978, c.P-46, s.19.

**Plans approved by minister**

**20** The plan of any land required for a public work shall be examined and approved by the minister and one copy thereof shall thereupon be filed in the department.

R.S.S. 1978, c.P-46, s.20.

## REPAIRS AND SERVICES

**Provision of construction services, etc., “construction services”**

**21(1)** In this section and in sections 22 and 23, **“construction services”** means the provision of:

- (a) any labour, equipment, materials and supplies; and
- (b) any engineering, architectural and administrative services;

that are, in the opinion of the minister, required for the construction, maintenance, repair, alteration, extension or improvement of a public work and includes the provision and operation of housing accommodation, office and retail space, parking facilities and services and facilities related to housing or parking.

(2) The minister may:

- (a) operate trade shops;
- (b) provide accommodation services;
- (c) carry out construction services; and
- (d) where he considers it to be in the public interest or where, in his opinion, there is no alternative means available to obtain the service, provide custom work in the nature of construction services to persons who request, including persons other than public agencies.

1983, c.7, s.2; 1983-84, c.54, s.16.

## REVOLVING FUND

**Public works revolving fund**

**22(1)** In this section and in section 23:

- (a) **“Public Works Advance Account”** means the Public Works Advance Account mentioned in section 22, as that section existed before the coming into force of this section;
- (b) **“revolving fund”** means the Public Works Revolving Fund established in subsection (2).

(2) A revolving fund, to be known as the Public Works Revolving Fund, is established and the minister shall administer the revolving fund.

(3) The minister may use the revolving fund to provide the services described in subsection 21(2).

(4) Subject to subsection (11), the Minister of Finance shall pay out of the general revenue fund on behalf of the revolving fund any sum of money the minister may require:

- (a) to carry out the activities described in subsection (3); and
- (b) to pay for labour, supervisory and administrative costs associated with the administration of the revolving fund.

- (5) The minister shall pay to the general revenue fund all or any part of any surplus in the revolving fund that Treasurer Board may direct.
- (6) Where the minister provides a service through the revolving fund, he may charge a fee to recover amounts incurred by the revolving fund to provide that service.
- (7) Where the minister charges a fee pursuant to subsection (6), he shall include any additional amounts that Treasury Board directs.
- (8) Subject to any terms and conditions that Treasury Board may impose, the minister may sell, rent, lease or otherwise dispose of property and assets acquired by him through the revolving fund.
- (9) Subject to subsection (10), all amounts received pursuant to this section are to be paid to the Minister of Finance and credited to the revolving fund.
- (10) Any amounts received pursuant to subsection (7) are to be paid to the Minister of Finance and credited to the general revenue fund.
- (11) The sum of:
  - (a) all liabilities due to the Minister of Finance from the revolving fund on the day this section comes into force; and
  - (b) any payments made by the Minister of Finance on behalf of the revolving fund;

less any amounts credited to the revolving fund is not to exceed an amount that may be set by order of the Lieutenant Governor in Council.

1983, c.7, s.2; 2004, c.10, s.17.

#### **Transitional**

**23** On the day this section comes into force:

- (a) the assets and liabilities of the Public Works Advance Account, at their book value as at March 31, 1982, are deemed to be transferred to and to become the assets and liabilities of the revolving fund;
- (b) all advances made to the Public Works Advance Account after March 31, 1982 are deemed to be payments from the general revenue fund on behalf of the revolving fund on the date each advance was made;
- (c) all deposits made to the general revenue fund to reduce advances to the Public Works Advance Account after March 31, 1982 are deemed to have been made to the credit of the revolving fund on the date each deposit was made; and
- (d) all changes in the assets and liabilities of the Public Works Advance Account other than those mentioned in clauses (a) to (c) occurring after March 31, 1982 are deemed to be changes in the assets and liabilities of the revolving fund on the date each change occurred.

1983, c.7, s.2; 2004, c.10, s.17.

**24 to 26 Repealed.** 1983, c.7, s.2.

## CONTRACTS

### Powers of minister

**27** The minister may enter into any contract or agreement that may be deemed necessary or advisable for the purpose of carrying out the provisions of this Act, but no deed, contract, document or writing in respect of any matter under the control or direction of the minister shall be binding on the department, unless signed by the minister or by an official of the department who has been authorized in writing by the minister to act in his behalf.

R.S.S. 1978, c.P-46, s.27.

### Minister acting as agent only

**28** Where power is conferred upon the minister under any other Act to do any act or thing, the minister shall be deemed to do that act or thing as an agent; and the exercise by the minister of any such power does not incur any liability on the Crown.

R.S.S. 1978, c.P-46, s.28.

### Tenders invited

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

R.S.S. 1978, c.P-46, s.29.

### Security for performance of contract

**30** The minister may, when a public work is being carried out by contract, 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.P-46, s.30.

### Letting to other than lowest bidder

**31** Where it seems to the minister to be 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.P-46, s.31.

### Non-application

**31.1** Sections 29 to 31 do not apply where the work is to be done by or the contract entered into with the Saskatchewan Property Management Corporation.

1986-87-88, c.57, s.3.

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**Conditions of payment**

**32** No sum of money shall be paid to a contractor until the contract has been signed by all the parties named therein and any security required has been given.

R.S.S. 1978, c.P-46, s.32.

**Contracts to inure to Her Majesty**

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

R.S.S. 1978, c.P-46, s.33.

**Actions instituted by Attorney General**

**34** 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.P-46, s.34.

**Fair wages paid**

**35** 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 that district then they shall be paid wages at 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.P-46, s.35.

## ACCOUNTS

**Vouchers**

**36** 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.P-46, s.36.

**Accounts verified**

**37** The minister may require accounts sent in by a person employed by the department to be verified by oath, affirmation or statutory declaration which, as well as those to be taken by witnesses, may be administered or taken by the minister or by any person authorized by him to do so.

R.S.S. 1978, c.P-46, s.37.

## EVIDENCE OF RECORDS

**Copies of records as evidence**

**38** A copy of any record, document, plan, book or paper belonging to or deposited in the department, attested under the signature of the minister or of the deputy minister, is *prima facie* evidence of the same and has the same legal effect as the original in any court or elsewhere.

R.S.S. 1978, c.P-46, s.38.