

The Public Utilities Easements Act

being

Chapter P-45 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979) as amended by the *Statutes of Saskatchewan, 1979-80, c.92; 1989-90, c.13; 1992, c.A-24.1; 1998, c.13; 2000, c.L-5.1; 2001, c.20; 2002, c.C-11.1; 2005, c.M-36.1; and 2015, c.21.*

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-45

An Act to provide for the Acquisition of Certain Easements for Public Utilities

Short title

1 This Act may be cited as *The Public Utilities Easements Act*.

Interpretation

1.1 In this Act:

- (a) **Repealed.** 2005, c.M-36.1, s.460.
- (b) **“prescribed company”** means a company or other legal entity prescribed in the regulations as a company or other legal entity that may receive a grant pursuant to this Act;
- (c) **“prescribed right”** means a right or interest prescribed in the regulations as a right or interest that may be the subject of an easement pursuant to this Act.

1998, c.13, s.3; 2002, c.C-11.1, s.404; 2005,
c.M-36.1, s.460.

Easements for public works and public utilities

2(1) The registered owner of a parcel of land may grant to the Crown in right of Canada or of the province or to a public utility company, railway company, telegraph company, gas or oil pipeline company or prescribed company, whether incorporated under the laws of the province or otherwise:

- (a) the right to carry its wires, cables, conductors, telegraph lines, telephone lines or electric power transmission or distribution lines upon, over, under or across the land;
- (b) the right to construct its spur tracks, snow fences, drainage ditches or sewage disposal plant upon or to construct its drain pipes, sewer pipes, water pipes, gas or petroleum pipes or other conduits through, under or across the land;
- (c) the right of access to and egress from any of its wires, cables, conductors, telegraph lines, telephone lines, electric power transmission or distribution lines, spur tracks, snow fences, drainage ditches, sewage disposal plant, drain pipes, sewer pipes, water pipes, gas or petroleum pipes or other conduits;
- (d) the right to remove from the land any building, structure, tree, shrub, bush, hedge, fence or object that might interfere with flying, including the taking off or landing of aircraft;
- (e) the right to prevent the placing or bringing on the land of any vehicle, wire, apparatus, appliance or thing that is capable of causing interference with radio transmission or reception; or

- (e.1) a prescribed right; or
- (f) such other rights with respect to the land as may be required by the Crown, the company or the prescribed company.

(1.1) Where the registered owner of a parcel of land is a municipality, the registered owner may grant to itself any of the rights mentioned in subsection (1) that, in the opinion of the registered owner, it requires to exercise its powers and fulfill its duties.

(2) Such owner may grant to a municipality or to a company operating aircraft such of the rights mentioned in subsection (1) as the corporation or company may require in the exercise of its corporate powers and functions.

(3) Rights created under the preceding subsections are in this Act termed easements.

(4) On registration in the Land Titles Registry of an interest based on an agreement containing the grant of an easement in accordance with section 10, the rights and privileges thereby created and the covenants relating thereto shall inure to the benefit of the Crown, of the municipality, of the company or of the prescribed company, its successors and assigns, owners of the utility, railway, telegraph system, gas or oil pipeline, air training school, airfield or airport for the purposes of which the easement is granted and shall run with the land and be binding upon the grantor, his heirs, executors, administrators and assigns, and, subject to the provisions hereinafter contained, upon all other persons interested in the land.

R.S.S. 1978, c.P-45, s.2; 1989-90, c.13, s.4; 1998, c.13, s.4; 2000, c.L-5.1, s.453; 2005, c.M-36.1, s.460; 2015, c.21, s.40.

Where others interested in the land

3(1) Where the records of the Land Titles Registry show that a person other than the registered owner is interested in the land, that person's consent must be obtained in accordance with subsection (2) in order to register an interest.

(2) The person mentioned in subsection (1) consents to the registration if that person executes a consent, verified by the affidavit of an attesting witness, to the amount proposed to be paid as compensation and to the payment of that amount to:

- (a) the registered owner; or
- (b) with the approval of the registered owner, verified by the affidavit of an attesting witness, to some other specified person.

2000, c.L-5.1, s.454.

Notice to such persons

4(1) In lieu of proceeding under section 3 the grantee of the proposed easement may give to each person so interested a notice by registered mail requiring him within thirty days after the date of mailing the notice to state in writing to the grantee at a specified address in Saskatchewan whether or not he consents to the amount of the compensation and the payment thereof to the registered owner.

(2) The notice shall be directed to such person at his address as shown by the records of the Land Titles Registry and shall:

- (a) describe the land affected;
- (b) state the nature of the easement to be granted; and
- (c) state the amount proposed to be paid as compensation therefor.

R.S.S. 1978, c.P-45, s.4; 2000, c.L-5.1, s.455.

Consents

5 A person so notified may execute a consent as provided for in section 3, and, if all the persons so notified execute such consents, the provisions of section 3 regarding registration shall apply.

R.S.S. 1978, c.P-45, s.5.

Failure to comply

6 If any person so notified does not reply within the time limited, he shall be deemed to consent to the grant of the easement on the proposed terms.

R.S.S. 1978, c.P-45, s.6.

When objection made

7 If any such person objects within the time limited to the amount of compensation to be paid or to the disposition to be made thereof, the grantee of the proposed easement may submit the matter to arbitration.

R.S.S. 1978, c.P-45, s.7.

Arbitrator

8(1) There shall be one arbitrator who is a judge of Her Majesty's Court of Queen's Bench for Saskatchewan, and *The Arbitration Act, 1992* applies to the arbitration.

(2) The arbitration shall proceed only upon reasonable notice to all persons appearing by the records of the Land Titles Registry to be interested.

1979-80, c.92, s.80; 1992, c.A-24.1, s.61; 2000, c.L-5.1, s.456.

Scope of award

9 The arbitrator shall decide the amount to be paid as compensation for the proposed easement, and to whom it is to be paid. There shall be no appeal from his award.

R.S.S. 1978, c.P-45, s.9.

Registration

10(1) An interest based on an easement created pursuant to this Act may be registered in the Land Titles Registry.

(2) Where the consents required by this Act are not obtained and the matter has been submitted to arbitration, an application to register the interest mentioned in subsection (1) must be accompanied by:

- (a) a sworn or notarial copy of the arbitrator's award; and
- (b) proof of payment of the amount awarded in accordance with the terms of the arbitrator's award.

(3) The registration of an interest pursuant to this section is invalid if:

- (a) subject to subsection (2), the required consents were not obtained; or
- (b) the application for registration of the interest was not accompanied by the documents mentioned in subsection (2).

2000, c.L-5.1, s.457.

Filing in Abstract Directory

11 Where an interest based on the easement cannot be registered pursuant to section 10 because no title has been issued, the easement may be protected by filing it in the Abstract Directory established pursuant to *The Land Titles Act, 2000*.

2000, c.L-5.1, s.457.

Plan respecting easement

12 If the easement is designated pursuant to section 151 of *The Land Titles Act, 2000*, a plan respecting that easement must be approved by the Controller of Surveys pursuant to *The Land Surveys Act, 2000* in order for:

- (a) the registration of an interest based on the easement in the Land Titles Registry to be valid; or
- (b) the filing of the easement in the Abstract Directory to be valid.

2000, c.L-5.1, s.457.

Registration of an interest against an interest

13(1) An assignment or interest based on a mortgage or charge of an easement acquired pursuant to this Act may be registered in the Land Titles Registry against the affected interests.

(2) The registration of an interest pursuant to subsection (1) is only valid where the instrument purporting to assign, mortgage, or charge the easement was executed:

- (a) on behalf of the Crown, a municipality or a prescribed company; or
- (b) by the owner of the public utility, railway, telegraph system, gas or oil pipeline, air training school, airfield or airport.

2000, c.L-5.1, s.457; 2001, c.20, s.39; 2005, c.M-36.1, s.460; 2015, c.21, s.40.

Discharge of interest registered pursuant to section 10

13.1(1) An interest registered pursuant to section 10 may be discharged by applying to the Registrar of Titles to discharge the interest.

(2) A discharge mentioned in subsection (1) must be executed on behalf of the Crown or municipality or by the owner of the public utility, railway, telegraph system, gas or oil pipeline, air training school, airfield or airport, as the case may be.

(3) On the registration of a discharge pursuant to this section, the rights and privileges arising under the easement cease.

2000, c.L-5.1, s.457; 2005, c.M-36.1, s.460; 2015, c.21, s.40.

Instruments filed in the Abstract Directory

13.2 Where an easement has been filed in the Abstract Directory pursuant to section 11, any instrument purporting to assign, mortgage, charge, release or discharge the easement must also be filed in the Abstract Directory.

2000, c.L-5.1, s.457.

Regulations

14 For the purposes of carrying out this Act according to its intent, the Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or phrase used in this Act but not defined in this Act;
- (b) prescribing companies, categories of companies or other legal entities that may receive a grant pursuant to this Act;
- (c) prescribing rights or interests that may be the subject of an easement pursuant to this Act;
- (d) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (e) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

1998, c.13, s.6.

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