

# *The Public Works and Services Act*

*being*

Chapter P-46.1 of the *Statutes of Saskatchewan, 2004* (effective April 1, 2005) as amended by the *Statutes of Saskatchewan, 2005, c.L-11.2* and *S-35.03*; *2013, c.32*; *2014, c.E-13.1*; *2015, c.29*; and *2017, c.P-30.3*.

**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-46.1

### An Act respecting Public Works and the Provision of Supplies and Services

#### Short title

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

#### Interpretation

2 In this Act:

- (a) **Repealed.** 2014, c.E-13.1, s.56.
- (b) **“land”** includes any estate, term, easement, right or interest in, to, over or affecting land;
- (c) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (c.1) **“ministry”** means a ministry as defined in *The Executive Government Administration Act*;
- (d) **“prescribed”** means prescribed in the regulations;
- (e) **“property”** includes any right, title, estate or interest in real or personal property;
- (f) **“public agency”** means:
  - (i) a ministry, agency, board or commission of the Government of Saskatchewan;
  - (ii) the Legislative Assembly Office, the Office of the Law Clerk and Parliamentary Counsel, the Legislative Library and the office of any officer of the Legislature;
  - (iii) a Crown corporation or other agent of the Government of Saskatchewan; or
  - (iv) any other entity designated by the minister as a public agency for the purposes of this Act;
- (g) **“public institution”** means:
  - (i) the provincial health authority or an affiliate, as defined in *The Provincial Health Authority Act*;
  - (ii) a university, college, institute, board of education, the conseil scolaire or any other educational institution or body in Saskatchewan;
  - (iii) a municipality, including the City of Lloydminster;
  - (iv) any other local governing body in Saskatchewan;

(v) an institution or body that derives its funds in whole or in part from the Government of Saskatchewan; or

(vi) any other institution or body designated by the Lieutenant Governor in Council as a public institution for the purposes of this Act;

(h) **“public work”** means:

(i) any land, building or complex of buildings, or any part of them, acquired, developed, constructed or provided by the Government of Saskatchewan for use in whole or in part by a public agency; and

(ii) any land, building or complex of buildings, or any part of them, designated by the Lieutenant Governor in Council as a public work.

2004, c.P-46.1, s.2; 2005, c.L-11.2, s.97; 2014, c.E-13.1, s.56; 2017, cP-30.3, s.11-1.

#### Responsibilities of minister

**3** The minister is responsible for all matters not by law assigned to any other minister, ministry, Crown corporation or agency of the Government of Saskatchewan relating to:

(a) the acquisition, disposition, construction, alteration, repair, maintenance, management and operation of public works; and

(b) the provision of supplies and services to public agencies, and the related acquisition, alteration, repair, maintenance, management, operation and disposal of property.

2004, c.P-46.1, s.3; 2014, c.E-13.1, s.56.

#### General powers of minister

4(1) In this section:

(a) **“participating jurisdiction”** means any of the following:

(i) the Government of Canada or an agency of it;

(ii) the government of any other province or any territory of Canada or an agency of it;

(iii) a First Nation organization or Métis organization;

(b) **“purchase”** includes acquiring property by means of an agreement for sale, capital lease or other similar means of paying the acquisition cost over time.

(2) The minister may:

(a) acquire, by purchase, lease or otherwise, property for the use or purposes of the Government of Saskatchewan, public agencies or public institutions, and may dispose of, or make available to any persons any part of, that property;

- (b) develop, construct, alter, maintain, manage and operate property for the Government of Saskatchewan, public agencies, public institutions or participating jurisdictions;
  - (c) provide services, accommodation and facilities to the Government of Saskatchewan, public agencies, public institutions or participating jurisdictions;
  - (d) develop, service or otherwise improve any lands;
  - (e) erect, construct, alter, equip or improve buildings, structures or other improvements;
  - (f) manage, operate and maintain services, accommodation and facilities;
  - (g) act as a general contractor or project manager;
  - (h) conduct and co-ordinate research, studies, investigations, surveys and programs;
  - (i) enter into and participate in partnerships, syndicates or joint undertakings;
  - (j) enter into agreements or arrangements related to the exercise or performance of any of the minister's responsibilities, powers, functions or activities;
  - (k) for the purpose of purchasing any property, grant a charge or give a security interest in the property to the person from whom the property is being purchased;
  - (l) acquire and hold existing mortgages, leases, charges or other security interests in any property resulting from the purchase of the property, and sell or otherwise dispose of them;
  - (m) subject to subsection (3), provide grants in lieu of real property taxes and grants or other assistance to bodies providing services or facilities for public agencies;
  - (n) fix, levy and collect fees, rates, interest or charges on account of providing any services, facilities, accommodation or property;
  - (o) exercise any powers necessary or incidental to the efficient performance of the minister's other powers, functions or duties; and
  - (p) carry out or engage in any other prescribed function or activity.
- (3) The minister shall obtain the approval of the Lieutenant Governor in Council before making any grant pursuant to clause (2)(m) that exceeds \$50,000 in any fiscal year.

**Expropriation**

- 5(1)** The minister may, without the consent of the owner or of any interested person:
- (a) expropriate any land the minister considers necessary:
    - (i) for the use or purposes of the Government of Saskatchewan or for a public work;
    - (ii) for storing or removing earth, clay, stones, gravel, sand or any other material, object or obstruction for any purpose relating to a public work; or
    - (iii) for obtaining better access to a public work;
  - (b) before title is vested in the minister or compensation is determined, enter on, take possession of and use any land that the minister has determined is to be expropriated pursuant to clause (a); or
  - (c) enter on any land and survey and take levels of the land and take any samples and borings and sink any trial pits that the minister considers to be required for the purposes mentioned in clause (a).
- (2) No person shall obstruct or interfere with the exercise of any powers mentioned in subsection (1).

2004, c.P-46.1, s.5.

**Entry on land**

- 6(1)** The minister may, without the consent of the owner or of any interested person:
- (a) enter on any land to make and use temporary roads that are required during construction, development or alteration of a public work;
  - (b) enter on any land to make or repair ditches or drains required in relation to a public work; or
  - (c) enter on any land to divert or alter the position of any utility required in relation to a public work.
- (2) Before entering on any land pursuant to clauses (1)(a) to (c), if the owner or occupant is present at the time of entry, the minister shall notify the owner or occupant of the purpose of the entry.
- (3) No person shall obstruct or interfere with the exercise of any powers mentioned in subsection (1).

2004, c.P-46.1, s.6.

**Ownership and control**

**7** Subject to *The Water Security Agency Act*, all lands, streams, watercourses and real or personal property acquired for the use of public works, and all property within Saskatchewan acquired, constructed, repaired, maintained or improved at the expense of the Northwest Territories or of Saskatchewan, and not under the control of the Government of Canada, are and remain vested in the Government of Saskatchewan, and so far as not by law assigned to any other minister, ministry, Crown corporation or agency of the Government of Saskatchewan are under the control of the minister.

2004, c.P-46.1, s.7; 2005, c.S-35.03, s.113; 2013, c.32, s.8; 2014, c.E-13.1, s.56.

**Provision of services, property, etc.**

- 8** Notwithstanding any other Act or law, a public agency or public institution may:
- (a) enter into arrangements or agreements with the minister for the acquisition of services or for the acquisition, disposition, construction, alteration, repair, management, maintenance and operation of any property, accommodation or facilities relating to the carrying out of its functions and purposes; and
  - (b) make any reimbursements or payments required by the arrangement or agreement.

2004, c.P-46.1, s.8.

**Tenders**

- 9(1)** Subject to subsection (2), the minister shall call for tenders by public advertisement or other public notice for the construction or alteration of all public works to be contracted by the minister.
- (2) The minister is not required to call for public tenders if, having regard to the nature of the work, the size of the undertaking, the urgency with which the work is required or any other prescribed circumstance, the minister is of the opinion that the work can be carried out more expeditiously or economically without calling for public tenders.
- (3) Subject to subsection (4), the minister shall:
- (a) obtain competitive prices for the construction or alteration of all public works through the public tender process mentioned in subsection (1); and
  - (b) award the contract to the bidder whose bid, in the opinion of the minister, offers the best value taking into consideration all or any of the factors described in the tender documents.
- (4) The minister is not required to accept any tender.

2004, c.P-46.1, s.9; 2015, c.29, s.3.

**Security for performance of contract**

- 10** The minister may require that security be given to the Government of Saskatchewan for the performance of any work contracted by the minister within the time specified for its completion.

2004, c.P-46.1, s.10.

**Copies of records as evidence**

- 11** A copy or extract of any record, document or plan that is held by the minister and that is certified by the minister or any person authorized by the minister for the purpose is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original record, document or plan and its contents without proof of the signature or capacity of the person purporting to have certified the copy or extract.

2004, c.P-46.1, s.11.

**Regulations**

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

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing additional functions or activities to be carried out or engaged in by the minister;
- (c) prescribing circumstances in which the minister is not required to call for public tenders for the construction or alteration of public works;
- (d) prescribing any other 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.

2004, c.P-46.1, s.12.

**References**

**13** A reference in any Act, regulation or order to the Saskatchewan Property Management Corporation is deemed to be a reference to the Government of Saskatchewan as represented by the minister.

2004, c.P-46.1, s.13.

**R.S.S. 1978, c.P-46 repealed**

**14** *The Public Works Act* is repealed.

2004, c.P-46.1, s.14.

**Coming into force**

**15** This Act comes into force on proclamation.

2004, c.P-46.1, s.15.