

Bill No. 35 of 1951.

A BILL TO AMEND THE PUBLIC HIGHWAYS ACT.

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NOTE.

This Bill amends *The Public Highways Act*, being chapter 74 of the Revised Statutes of Alberta, 1942.

The amendments contained in this Bill result from the formation of the new Highways Department. Most of the amendments to the interpretation section are simply changing references to the Department of Public Works so that they will refer to the new Highways Department. As a result of the division of the Public Works Department *The Public Works Department Act*, being chapter 16 of the Revised Statutes of Alberta, 1942, and *The Public Works Act*, being chapter 73 of the Revised Statutes of Alberta, 1942, are both being repealed. The provisions contained in those two Acts which dealt with highways, bridges and ferries are being re-enacted in this Act which will henceforth be under the jurisdiction of the new Minister of Highways.

Several new sections are added immediately after section 18. These sections deal with public ferries and are similar to sections that are now contained in *The Public Works Act*.

More sections are added after section 19 under the heading of "Miscellaneous Provisions" dealing with accommodation roads, surveys of roads, the vesting of title to roads upon the registration of road plans or plans of subdivision, the closing of roads and the erection of snow fences to keep roads from drifting. These sections are all similar to existing sections that are presently scattered throughout *The Public Works Act*.

The heading "Penalties" and several sections prescribing the penalties for offences relating to highways and bridges are added immediately after section 22. These penalty provisions were formerly sections 41, 42, 43, 42a and 42b of *The Public Works Act*.

This Bill is to come into force upon a date to be fixed by proclamation. The amendments can be proclaimed accordingly on the same date that *The Public Works Act* and *The Public Works Department Act* are repealed and the two new Departments come into being.

KENNETH A. MCKENZIE,  
*Legislative Counsel.*

*(This note does not form any part of the Bill but is offered in explanation of its provisions.)*

# BILL

No. 35 of 1951.

An Act to amend The Public Highways Act.

(Assented to \_\_\_\_\_, 1951.)

**HIS MAJESTY**, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

**1.** *The Public Highways Act*, being chapter 74 of the Revised Statutes of Alberta, 1942, is hereby amended.

**2.** Section 2 is amended,—

Section 2  
amended

- (a) by striking out the words “Department of Public Works”, where they occur in clause (f), and by substituting the words “Highways Department”;
- (b) by striking out the words “Public Works”, where they occur in clause (g), and by substituting the word “Highways”;
- (c) by adding immediately after clause (g) the following new clause:
  - “(gg) ‘ferry’ means any scow, barge or boat used for the purpose of carrying passengers, freight, vehicles or animals across any river, stream or other body of water, and the cable and appliances connected therewith;”
- (d) by striking out the words “under *The Public Works Act*”, where they occur in clause (h);
- (e) by striking out clause (i) and by substituting the following:
  - “(i) ‘local authority’ includes the body corporate controlling any area and in the case of an improvement district or special area the Minister of Municipal Affairs;”
- (f) by striking out the words “Public Works”, where they occur in clause (k), and by substituting the word “Highways”.

“ferry”

“local authority”

**3.** The following new heading and sections are added immediately after section 18:

New sections  
18a, 18b, 18c  
18d and 18e

## “Public Ferries.

“18a. (1) The Minister, when he deems it expedient to do so, may establish and operate a ferry on any river, stream or any other body of water in the Province and may

Establishment of  
ferry service

construct and maintain the immediate approaches thereto, together with such other works as, in the opinion of the Minister, may be necessary.

“(2) The cost thereof may be paid from moneys voted by the Legislative Assembly.

Regulation  
of ferries

“**18b.** (1) The Minister, with the approval of the Lieutenant Governor in Council, may make regulations governing the establishment, control and operation of ferries.

“(2) The regulations shall be effective upon publication in *The Alberta Gazette* or on such later date as may be designated in the regulations.

Use of boat  
or canoe  
when ferry  
unable to  
operate

“**18c.** (1) Where the water in any stream, river or other body of water becomes too shallow to permit the operation of the ferry, the Minister may supply the operator with a small boat or canoe with which he shall ferry foot passengers and their baggage.

“(2) A person ferried under this section shall pay the same toll for himself and his baggage as would be collected if the ferry were in operation.

Ferry tolls

“**18d.** (1) The Minister may provide for the operation of the ferry and for the collection of such tolls as he may fix.

No toll for  
school  
children

“(2) No toll shall be charged on any ferry for children going to or returning from school.

Toll for  
carrying  
His  
Majesty's  
mail

“(3) No higher toll shall be charged for the conveyance of His Majesty's mail than the ordinary toll chargeable for passage on the ferry between the hours of six o'clock in the morning and nine o'clock in the evening.

Refusal to  
pay toll

“**18e.** (1) If any person using the ferry refuses to pay the toll chargeable for ferrying him or his property, the operator of the ferry may forthwith seize any property in possession of the offender that is then being ferried and may hold the same.

Penalty for  
refusal to  
pay toll

“(2) Any person who refuses to pay the toll to the operator of the ferry shall be guilty of an offence and liable upon summary conviction to a penalty not exceeding fifty dollars and in default of payment to imprisonment for a period not exceeding two months.

Sale of  
seized goods  
to satisfy  
toll fine  
and costs

“(3) The justice or justices trying a complaint under this section may order that any property seized and held by the ferryman shall be sold and the proceeds applied to satisfy the fine, toll and costs of the prosecution.”.

New sections  
19a to 19f  
inclusive

**4.** The following new sections are added immediately after section 19:

Deposit to  
accompany  
petition for  
road not  
required  
for public  
generally

“**19a.** (1) If one or more persons petition the Minister for the provision of a road through any land, and the Minister is of the opinion that a road may reasonably be provided for the convenience and benefit of such person or persons, but that a road is not required in the interests of the public generally, the Minister may require the person or persons to deposit with the Provincial Treasurer such

sum as the Minister considers sufficient to cover the cost of providing the road and paying compensation in connection therewith.

“(2) For the purpose of acquiring the land necessary for the provision of such a road the Minister shall have the same powers of expropriation of land as are conferred upon him by *The Surveys and Expropriation Act* and the provisions of that Act are applicable thereto.

“(3) Where the road asked for in the petition is provided, or where another road is provided which, in the opinion of the Minister, is substantially of equal convenience and benefit to the petitioners, the sum deposited by the petitioners shall be applied on account of the expenses incurred by the Minister in providing the road and paying compensation in connection therewith and the surplus, if any, shall be repaid proportionately to the persons depositing the same.

Disposition  
of surplus  
deposit

**19b.** (1) The Minister, from time to time, may cause to be surveyed and marked on the ground by a duly qualified surveyor or by an engineer,—

Surveying  
and marking  
of old  
trail, road  
allowance,  
diversion or  
new road

“(a) any old trail which existed as such prior to the subdivision into sections of the land which it crosses; and

“(b) any road allowance, diversion or new road.

“(2) In making a survey of an old trail the surveyor or engineer may make such changes in the location thereof as he deems advisable without, however, altering its main direction.

“(3) The old trails, road allowances, diversions or new roads shall be laid out not less than sixty-six feet in width.

“(4) After such a survey has been made one copy of the plans of the same, certified by the duly authorized surveyor or engineer and approved by the Director of Surveys, shall be deposited in the Land Titles Office for the land registration district within which the old trail, road allowance, diversion or new road is situated.

Filing of  
plans of old  
trail, road  
allowance,  
diversion or  
new road

“(5) A copy of the plans bearing the Land Titles Office registration number shall be filed with the Director of Surveys.

**19c** (1) The registration in the Land Titles Office of a road plan or of a plan of subdivision into lots or blocks of any land not within the limits of a city shall vest the title to the roads and to all streets, lanes, parks or other reserves for public purposes shown on the plan of subdivision in His Majesty in the right of the Province.

Title to land  
not within  
city vests in  
Province  
upon registra-  
tion of  
road plan

“(2) After the filing of the plan of subdivision no change or alterations in the boundaries of any road, street, lane, park or public reserve shown on the plan shall be made without the consent of the Minister first having been obtained.

Consent of  
Minister re-  
quired to  
change  
boundaries  
after plan  
filed

**19d.** All highways including,—

“(a) all road allowances in townships now or hereafter surveyed and subdivided; and

Common  
and public  
highways

“(b) all road allowances set out on block lines now or hereafter surveyed; and

“(c) all public travelled roads or trails; and

“(d) all roads and road allowance diversions heretofore or hereafter laid out by virtue of any statute either of the Province or of Canada or by virtue of an ordinance of the North-West Territories; and

“(e) all roads in the Province upon which public money has been expended for opening or repairing the same; and

“(f) all roads in the Province passing through Indian lands;

shall be common and public highways unless such roads have been closed or altered or are hereafter closed or altered according to law.

“(2) Except as otherwise provided, title to the lands included in any highway referred to in subsection (1) shall be vested in His Majesty in the right of the Province.

Minister  
may close  
highway

“**19e.** (1) The Minister may close up the whole or any portion of a highway and may deal with the land included in the highway as to him may seem expedient.

“(2) Any document necessary to transfer or otherwise dispose of the title to any portion of a highway which has been closed shall be signed by the Minister.

Snow fences

“**19f.** (1) The Minister, by his engineers, surveyors, agents, workmen or servants, at any time and from time to time, may enter into and upon and occupy any land which is contiguous to a highway, and may erect upon such land snow fences for the purpose of preventing the highway from becoming blocked by snowdrifts, and may from time to time enter upon the land for the purpose of maintaining, repairing, removing or replacing a snow fence.

“(2) No person shall be entitled to any rent or other compensation whatsoever in respect of any entry or occupation effected under this section.

“(3) A snow fence erected pursuant to this section shall be deemed to be a public work.”.

New sections  
22a to 22g  
inclusive

**5.** The following new heading and sections are added immediately after section 22:

“**Penalties.**

Penalty for  
obstructing  
or inter-  
fering with  
highway

“**22a.** Any person who obstructs or interferes in any manner with a highway shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars and costs or imprisonment for sixty days or to both.

Penalty for  
injuring  
highway

“**22b.** Any person who carelessly or wilfully breaks, cuts or fills up or otherwise injures a highway shall be guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars and costs and in default of payment to imprisonment for a period not exceeding ninety days.

**“22c.** The court that convicts any person of an offence under section 22a or section 22b may also order the offender to forthwith repair any damage or remove any obstruction.

Order to repair damage or remove obstruction

**“22d.** Any person who rides or drives a horse, mule or horned cattle upon or across a bridge, the property of His Majesty, at a pace faster than a walk shall be guilty of an offence and liable upon summary conviction to a fine not exceeding twenty-five dollars.

Penalty for driving animals across bridge at fast pace

**“22e.** (1) Any person who wilfully and without lawful excuse places an obstruction on a bridge, the property of His Majesty, or who in any way prevents, hinders or causes delay to a person desiring to travel across a bridge shall be guilty of an offence and liable upon summary conviction to a fine not exceeding one hundred dollars or to imprisonment for sixty days or to both.

Penalty for placing obstruction on bridge

**“(2)** A person who moves an engine, tracked vehicle, traction engine or other machine not equipped with rubber tires across a bridge or culvert, the property of His Majesty, shall provide sufficient plank or timbers of not less than three inches in thickness, ten inches in width and twelve feet or more in length to be laid longitudinally upon the floor of the bridge or culvert under the wheels or tracks of the engine or machine.

Requirements before moving machine not equipped with rubber tires across bridge

**“(3)** Any person who neglects or refuses to provide and use such planks as are required by subsection (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars and costs or imprisonment for sixty days or to both.

Penalty for moving machine not equipped with rubber tires across bridge

**“22f.** (1) No person who is the owner or occupant of irrigated land abutting on a highway shall cause or permit any water used or intended to be used for irrigation purposes to escape from such land into a highway ditch or into or upon the highway.

Allowing water from irrigated land on highway prohibited

**“(2)** Any person who violates the provisions of subsection (1) shall be guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred dollars.

Penalty for allowing water from irrigated land on highway

**“(3)** In fixing the penalty the court shall take into account any damage that may have been done to the highway through the escape of the water and shall include in the penalty such sum as appears to the court to be a reasonable compensation for the damage caused, subject, however, to the maximum penalty already provided for.

**“22g.** (1) No person who is the owner or occupant of land abutting on a highway shall construct or cause to be constructed a ditch or drain upon his land for any purpose whatsoever within one hundred feet at right angles from the nearest boundary of the highway unless he has first obtained the written approval of the Minister to the construction of the ditch or drain.

Permission required to construct ditch or drain

**“(2)** Any person who violates the provisions of subsection (1) shall be guilty of an offence and liable on summary conviction to a penalty of not less than fifty dollars nor more than two hundred dollars, or in default of

Penalty for constructing ditch or drain without consent of Minister

payment to imprisonment for a term of not less than ten days nor more than thirty days.

Penalty for failure to fill ditch or drain

“(3) If such person, after conviction under this section, continues to maintain the ditch or drain or does not fill it to the satisfaction of the Minister within fourteen days after the conviction, he shall be guilty of an offence and liable on summary conviction to a further penalty of not less than ten dollars nor more than twenty-five dollars for each day after the expiration of the said period of fourteen days during which he neglects or fails to fill up the ditch or drain, and in default of payment of the penalty to imprisonment for a term of not less than thirty days nor more than ninety days.”.

Coming into force

**6.** This Act shall come into force on a date to be fixed by Proclamation of the Lieutenant Governor in Council.

No. 35.

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FOURTH SESSION  
ELEVENTH LEGISLATURE

15 GEORGE VI

1951

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**BILL**

An Act to amend The Public  
Highways Act.

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Received and read the

First time .....

Second time .....

Third time .....

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HON MR. MACMILLAN.

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