

2001 BILL 201

First Session, 25th Legislature, 50 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 201

**PUBLIC HIGHWAYS DEVELOPMENT
AMENDMENT ACT, 2001**

MR. TANNAS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 201
Mr. Tannas

BILL 201

2001

PUBLIC HIGHWAYS DEVELOPMENT AMENDMENT ACT, 2001

(Assented to _____, 2001)

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

Amends RSA
1980 cP-28

**1 The *Public Highways Development Act* is amended by
this Act.**

2 Section 30 is amended

**(a) by repealing subsection (1) and substituting the
following:**

(1) The Minister may, by notice, require an owner of land
to move, remove or alter

(a) any thing placed, erected, enlarged, extended, re-
erected, constructed or displayed on the land within
the distance from a controlled highway prescribed
in the regulations made under section 25, within 7
days of receipt of the notice or any longer period
allowed by the Minister, or

(b) any means of access constructed or maintained on
the land providing direct access to a controlled
highway as specified in the notice within the time
prescribed in the notice or any extension of that
time allowed by the Minister.

**(b) in subsection (2) by striking out “within the time
prescribed in the notice” and substituting “within 7 days
of receipt of the notice or any longer period allowed by the**

Explanatory Notes

1 Amends chapter P-28 of the Revised Statutes of Alberta, 1980.

2 Section 30 presently reads:

30(1) The Minister may, by notice, require an owner of land to move, remove or alter

(a) any thing placed, erected, enlarged, extended, re-erected, constructed or displayed on the land within the distance from a controlled highway prescribed in the regulations made under section 25, or

(b) any means of access constructed or maintained on the land providing direct access to a controlled highway,

as specified in the notice within the time prescribed in the notice or any extension of that time allowed by the Minister.

(2) If there is any property, equipment, materials or other thing within the distance from a controlled highway prescribed in the regulations under section 25, the Minister may require the owner thereof to remove the property, equipment, materials or other thing beyond the distance prescribed in the regulations within the time prescribed in the notice.

(3) A notice under subsection (1) or (2) must be in writing and must be served on the owner either personally or by mail.

(4) An owner who complies with a notice given under this section is entitled to due compensation from the Crown for his reasonable expense in moving, removing or altering any thing as required by the notice

Minister”;

(c) by repealing subsection (7) and substituting the following:

(7) When a person on whom a notice has been served under this section fails to comply with the notice within the prescribed time, the Minister shall cause any action to be done that is necessary to achieve compliance with the notice including directing any person to enter on the land for that purpose.

(7.1) A direction by the Minister to any person to enter on land under subsection (7) must be in writing and a copy of the direction must be sent to the person on whom the notice was served.

(d) by adding the following after subsection (9):

(10) When property, equipment, material or any other thing that was already subject to a notice is again placed on land contrary to subsection (9) within 12 months from the date of that notice, the Minister shall take any action necessary to remove the offending property, equipment, material or other thing including directing, in writing, any person to enter on the land for that purpose.

(11) When any property, equipment, material or other thing is removed under subsection (10), the Minister shall notify, in writing, the person on whom the original notice was served of the action that was taken and the reasons for doing so within 72 hours of the removal.

3 Section 32 is amended by adding the following after subsection (6):

(7) Any person who wilfully obstructs, interferes with or hinders a person acting under section 30(7) or (10) is guilty of an offence and liable to a fine of \$1000.

unless it is or was

(a) placed, erected, enlarged, extended, re-erected, constructed or displayed in contravention of the regulations under section 25, or

(b) constructed or maintained in contravention of section 28.

(5) A claim for compensation under this section must be made by filing the claim and particulars in the office of the Minister not later than one year from the date of service of the notice.

(6) If compensation cannot be agreed on, the claim shall be dealt with under the same procedure as that applicable to claims for damages for injurious affection under the Expropriation Act.

(7) When notice has been served pursuant to this section and the person fails to comply with the notice within the time specified in the notice, or any extension of that time, the Minister may, in writing, direct any person to enter on the land and do or cause to be done any acts that were required to be done by the notice.

(8) The expenses incurred by the Minister under this section may be recovered as a debt due to the Crown from the person who failed to comply with the notice and if 2 or more persons failed to comply with the notice, they are jointly and severally liable under this subsection.

(9) If a notice has been issued under this section for the removal of any property, equipment, material or other thing from land,

(a) the owner of the land, or

(b) the person to whom the notice was directed,

is guilty of an offence if he again places or causes to be placed any property, equipment, material or other thing on the land within the distance from the controlled highway prescribed by the regulations.

3 Section 32 presently reads:

32(1) Any person who fails to comply with a notice given to him under section 30 is guilty of an offence.

(2) On conviction for an offence the convicting judge shall

(a) order the person convicted to move, remove or alter, within the period specified in the order, any property, equipment, material or other thing in respect of which he was convicted, and

(b) order that no owner of the land shall place or suffer to be placed any property, equipment, material or other thing on the part of the land on which the offence was committed without the written permission of the Minister.

(3) A person who fails to comply with an order made under subsection (2) is guilty of an offence and liable to a further fine of not more than \$25 for each day during which the breach of the order continues.

(4) A prosecution for an offence of failure to comply with an order under subsection (2) may be commenced at any time within 2 years from the date of service of the notice under section 30, but not thereafter.

(5) In a prosecution for the offence of failure to comply with a notice given under section 30, a copy of a notice purporting to be made under that section and to be signed by the Minister shall be admitted in evidence as prima facie proof of the contents of the notice and the signature of the Minister on it.

(6) In a prosecution for the offence of failure to comply with an order made under subsection (2), a certificate purporting to be signed by the Minister and stating whether and to what extent and to whom permission was or was not given to place any thing on the described land shall be admitted in evidence as prima facie proof of the statements in the certificate without proof of the signature or appointment of the person signing.