

The Water Appeal Board Act

being

Chapter W-4.01 of the *Statutes of Saskatchewan 1983-84* (effective July 1, 1984) as amended by the *Statutes of Saskatchewan*, [1998, c.P-42.1](#); [2002, c.S-35.02](#); [2005, c.S-35.03](#); [2013, c.27](#) and [c.32](#); [2014, c.E-13.1](#); 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.

Table of Contents

1	Short title	15	Quorum
2	Interpretation	16	Decisions
	WATER APPEAL BOARD	17	Stay of proceedings
3	Board continued	18	Powers under <i>The Public Inquiries Act, 2013</i>
4	First board	19	Hearings, inquiries and investigations
5	Employees	20	Place of hearings
6	Rules	21	Material to be provided to board
7	Appropriation	22	Notice of decision
8	Audit	23	Decision enforceable as court judgment
9	Fiscal year	24	Proceedings not invalid by technical objections
10	Annual report	25	Non-liability of board
	APPEAL TO WATER APPEAL BOARD	26	Appeal to court
11	Appeals	27	Offence
12	Notice of appeal	28	Service
13	Deposits	29	Regulations
14	Powers of board	30	Coming into force

CHAPTER W-4.01

An Act to establish the Water Appeal Board

Short title

1 This Act may be cited as *The Water Appeal Board Act*.

Interpretation

2 In this Act:

- (a) “**board**” means the Water Appeal Board continued pursuant to section 3;
- (b) “**corporation**” means the Water Security Agency continued pursuant to *The Water Security Agency Act*;
- (c) “**court**” means Her Majesty’s Court of Queen’s Bench for Saskatchewan;
- (d) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (e) “**Saskatchewan Drainage Appeal Board**” means the Saskatchewan Drainage Appeal Board as that board existed on the day before the coming into force of this Act.

1983-84, c.W-4.01, s.2; 2002, c.S-35.02, s.157;
2005, c.S-35.03, s.120; 2013, c.32, s.13.

WATER APPEAL BOARD

Board continued

- 3(1) The Saskatchewan Drainage Appeal Board is continued under the name of the Water Appeal Board.
- (2) The board is hereby constituted as a body corporate.
 - (3) Subject to subsection (5) and to section 4, the board is to consist of not more than eight members appointed by the Lieutenant Governor in Council on the recommendation of the minister.
 - (4) The Lieutenant Governor in Council shall appoint one of the members as chairperson of the board and another member as vice-chairperson.
 - (5) No member, employee or officer of the corporation is eligible to be appointed as a member of the board.
 - (6) Unless he sooner dies or resigns or his appointment is terminated, each member of the board holds office for a term of not more than three years and until his successor is appointed and is eligible for re-appointment, but no member of the board shall hold office for more than six consecutive years.

1983-84, c.W-4.01, s.3; 2015, c.21, s.64.

c. W-4.01**WATER APPEAL BOARD****First board**

4(1) Those persons who held office as members of the Saskatchewan Drainage Appeal Board on the day before this Act comes into force constitute the first members of the board.

(2) Each member of the first board holds office for the remainder of the term that he was appointed to hold on the Saskatchewan Drainage Appeal Board and, for the purposes of determining his eligibility for re-appointment to the board pursuant to subsection 3(6), his service with the Saskatchewan Drainage Appeal Board is to be included in the determination.

1983-84, c.W-4.01, s.4.

Employees

5(1) The board may engage any staff that is required for the proper administration of the board and the exercise of its functions and duties.

(2) *The Public Service Act, 1998, The Public Service Superannuation Act and The Superannuation (Supplementary Provisions) Act* apply to the staff of the board.

(3) The board, in exercising or performing its powers, functions and duties, may:

- (a) request the corporation to provide professional or technical advisors or experts;
- (b) utilize the services of those advisors or experts that the corporation makes available pursuant to clause (a); and
- (c) engage the services of any other professional or technical advisors or experts or clerical or administrative personnel that it considers necessary.

1983-84, c.W-4.01, s.5; 1998, c.P-42.1, s.42.

Rules

6 Subject to the approval of the Lieutenant Governor in Council, and to the other provisions of this Act, the board may make its own rules of practice and procedure for the purpose of carrying out any of its functions, duties or powers.

1983-84, c.W-4.01, s.6.

Appropriation

7 Out of the moneys appropriated by the Legislature for the purpose, the Minister of Finance may make grants to the board:

- (a) for the payment of the administration costs of the board; and
- (b) subject to any terms and conditions that may be prescribed in the regulations, for any other purposes that may be determined by the minister.

1983-84, c.W-4.01, s.7.

WATER APPEAL BOARD

c. W-4.01

Audit

8 The Provincial Auditor, or any other auditor that may be designated by the Lieutenant Governor in Council, shall annually audit the accounts of the board.

1983-84, c.W-4.01, s.8.

Fiscal year

9 The fiscal year of the board is the period commencing on April 1 in one year and ending on March 31 in the following year.

1983-84, c.W-4.01, s.9.

Annual report

10(1) The board shall, in each fiscal year, in accordance with section 13 of *The Executive Government Administration Act*, prepare and submit to the minister:

(a) a report of the board on its business for its immediately preceding fiscal year; and

(b) a financial statement showing the business of the board for its immediately preceding fiscal year, in any form that may be required by Treasury Board.

(2) The minister shall, in accordance with section 13 of *The Executive Government Administration Act*, lay before the Legislative Assembly each report and statement received by him pursuant to subsection (1).

1983-84, c.W-4.01, s.10; 2014, c.E-13.1, s.62.

APPEAL TO WATER APPEAL BOARD

Appeals

11 The board shall hear and determine, in accordance with this Act, appeals made to it pursuant to *The Water Security Agency Act*.

1983-84, c.W-4.01, s.11; 2002, c.S-35.02, s.158;
2005, c.S-35.03, s.120; 2013, c.32, s.8.

Notice of appeal

12(1) Where a person desires to appeal to the board, he shall serve a notice of appeal:

(a) on the board within 30 days after the day on which the action, order or decision appealed from is taken or made; and

(b) on any other person that the board may direct.

(2) The notice of appeal shall identify the action, order or decision being appealed and the grounds for the appeal.

(3) On receipt of a notice of appeal pursuant to subsection (1), the board shall forward a copy of the notice of appeal to the corporation.

1983-84, c.W-4.01, s.12.

c. W-4.01**WATER APPEAL BOARD****Deposits**

13(1) At the time a person serves notice of appeal pursuant to section 12, he shall deposit with the board that sum of money that the board may determine.

(2) The board:

(a) shall return the deposit to the appellant where he is successful in his appeal;

(b) in any other case, may retain the deposit or make any other disposition of the whole or any part of the deposit that it considers appropriate.

1983-84, c.W-4.01, s.13.

Powers of board

14(1) The board shall hear and determine appeals to it.

(2) In rendering its decision on any appeal, the board may:

(a) affirm the action, order or decision appealed from;

(b) vary the action, order or decision appealed from;

(c) substitute its own decision for the decision appealed from; or

(d) make any order that it considers appropriate:

(i) requiring the closure or alteration of, or changes or additions to, the waterworks, sewage works or drainage works to which the action, order or decision appealed from relates; or

(ii) directing or discontinuing any operation, use, maintenance or repair of the waterworks, sewage works or drainage works described in clause (i), either permanently or for a specified period, by the person to whom the order is directed;

and shall specify in an order made pursuant to this clause a period of time within which the order is to be complied with.

1983-84, c.W-4.01, s.14.

Quorum

15 Three members of the board, one of whom is required to be the chairperson or vice-chairperson, constitute a quorum for the hearing of any appeal.

1983-84, c.W-4.01, s.15; 2015, c.21, s.64.

Decisions

16(1) Subject to subsection (3), all members of the board present at a hearing shall vote on all decisions, and a decision of the majority is the decision of the board.

(2) Where an equality of votes results from a vote on a decision, the appeal is to be dismissed.

(3) Any member of the board who has an interest in any question or matter that comes before the board shall immediately disclose his interest in that question or matter and is not eligible to vote with respect to that question or matter.

1983-84, c.W-4.01, s.16.

Stay of proceedings

17 The board may, on any terms and conditions that it considers appropriate, stay any action, order or decision of the corporation appealed to it pending the disposition of the appeal.

1983-84, c.W-4.01, s.17.

Powers under *The Public Inquiries Act, 2013*

18 The members of the board, in addition to any powers granted to them by this Act, have all the powers conferred on a commission by sections 11, 15 and 25 of *The Public Inquiries Act, 2013*.

1983-84, c.W-4.01, s.18; 2013, c.27, s.44.

Hearings, inquiries and investigations

19(1) When considering an appeal, the board may:

- (a) hold any hearings; and
 - (b) by itself or by its officers, employees or other persons authorized by it, make any inquiries and investigations that it considers appropriate.
- (2) For those purposes described in subsection (1), the board or any persons authorized by it may:
- (a) from time to time enter at any reasonable time any building, structure, machinery, vehicle, land or water;
 - (b) make or require to be made any survey, examination, investigation, test or inquiry that it considers necessary; and
 - (c) make, take or remove any sample, copy or extract.
- (3) The board is liable for any damage or actual costs occasioned by any action taken by it or a person authorized by it pursuant to subsection (2).
- (4) No person shall obstruct a person authorized pursuant to this section from exercising his powers pursuant to this section.
- (5) Where entry pursuant to subsection (2) is refused, the board may apply *ex parte* to a judge of the court and the judge may issue an order authorizing the board or a person authorized by it to enter and inspect any land, premises or other place.

1983-84, c.W-4.01, s.19.

Place of hearings

20 The board may hold hearings at any place in Saskatchewan that it decides.

1983-84, c.W-4.01, s.20.

Material to be provided to board

21 The corporation shall provide the board with any information, material or documents requested by the board relating to any appeal filed with it.

1983-84, c.W-4.01, s.21.

Notice of decision

22 The board shall cause a copy of its decision or order, together with the reasons for it, to be served on:

- (a) the appellant;
- (b) each person on whom notice of the appeal was served; and
- (c) the corporation.

1983-84, c.W-4.01, s.22.

Decision enforceable as court judgment

23 Where an order has been made by the board and has not been appealed from pursuant to section 26 and the time for appeal has expired or any appeal has been determined, a copy of the order, certified by the chairperson or vice-chairperson of the board to be a true copy, may be filed with the court and is thereupon enforceable as a judgment of the court.

1983-84, c.W-4.01, s.23; 2015, c.21, s.64.

Proceedings not invalid by technical objections

24(1) No proceedings before or by the board are invalid by reason of any irregularity or technical objection, but the board may, at any stage in its proceedings, allow a party to alter or amend his appeal or other process in any manner and on any terms that it considers appropriate, and all necessary amendments are to be made for the purpose of determining the real questions in controversy in the proceedings.

(2) The board may, at any time and on any terms that it considers appropriate, amend any defect or error in any proceedings, and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceeding.

(3) The board may at any time correct any clerical error in any order or decision made by it.

1983-84, c.W-4.01, s.24.

Non-liability of board

25 No proceedings lie against:

- (a) the board;
- (b) any member, officer or employee of the board; or
- (c) any person authorized by the board;

for anything it or he may do in the course of the exercise or performance, or intended exercise or performance, of its or his powers, duties or functions pursuant to this Act, unless it is shown that it or he acted in bad faith.

1983-84, c.W-4.01, s.25.

Appeal to court

26(1) The corporation or any person aggrieved by a decision or order of the board may appeal to a judge of the court on a question of law by filing a notice of appeal with the local registrar of the court within 30 days after the day on which the decision or order appealed from was made, or within any further time that the judge may allow.

(2) There is no appeal from the decision of a judge pursuant to this section.

1983-84, c.W-4.01, s.26.

Offence

27(1) Every person who:

(a) wilfully obstructs, hinders or resists the board, any member, officer or employee of the board or any other person authorized by the board in the exercise or performance of its or his powers, duties or functions; or

(b) wilfully makes any false statement to or misleads or attempts to mislead the board, any member, officer or employee of the board or any other person authorized by the board in the exercise or performance of its or his powers, duties or functions;

is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000.

(2) No prosecution for an offence under this Act is to be commenced after the expiration of two years from the date of the commission of the alleged offence.

1983-84, c.W-4.01, s.27.

Service

28(1) Any notice, order, decision or other document required by this Act or the regulations to be given or served is to be served:

(a) personally or mailed by registered mail to the last known address of the person being served; or

(b) where the whereabouts of the person to be served is unknown, by publishing it at least once a week for two consecutive weeks in a newspaper in Saskatchewan having circulation in the area where the subject-matter of the application, permit, complaint or order is located.

(2) A document served by registered mail is deemed to have been received on the fifth day following the date of its mailing, unless the person to whom it was mailed establishes that, through no fault of his own, he did not receive the document or that he received it at a later date.

1983-84, c.W-4.01, s.28; 2015, c.21, s.64.

Regulations

29 The Lieutenant Governor in Council may make regulations:

- (a) prescribing terms and conditions with respect to grants to be made by the Minister of Finance to the board;
- (b) prescribing any other matter or thing that is incidental and ancillary to this Act.

1983-84, c.W-4.01, s.29.

Coming into force

30 This act comes into force on the day that *The Water Corporation Act* comes into force.

1983-84, c.W-4.01, s.30.