

# *The Municipal Expropriation Act*

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Chapter M-27 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979) as amended by the *Statutes of Saskatchewan, 1979, c.42 and 69; 1979-80, c.M-32.01 and 92; 1983, c.77; 1992, c.A-24.1; 2000, c.L-5.1; 2001, c.20; 2005, c.M-36.1; 2007, c.P-13.2; and 2015, c.21.*

## **NOTE:**

This consolidation is not official and is subject to House amendments and Law Clerk and Parliamentary Counsel changes to Separate Chapters that may be incorporated up until the publication of the annual bound volume. 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 M-27

### An Act respecting the Expropriation of Land by Municipalities

#### Short title

1 This Act may be cited as *The Municipal Expropriation Act*.

#### Interpretation

2 In this Act:

- (a) “**council**” means the council of a municipality;
- (b) “**judge**” means a judge of Her Majesty’s Court of Queen’s Bench for Saskatchewan sitting at the judicial centre nearest to which a municipality is wholly or mainly situated, and “**court**” means Her Majesty’s Court of Queen’s Bench for Saskatchewan at that judicial centre;
- (c) “**land**” includes a right or interest in, and an easement over, land;
- (d) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (e) **Repealed.** 2005, c.M-36.1, s.442.
- (f) “**owner**” means a person who has any right, title, estate or interest in land;
- (g) **Repealed.** 2000, c.L-5.1, s.349.

R.S.S. 1978, c.M-27, s.2; 1979-80, c.M-32.01, s.31; 1979-80, c.92, s.63; 1983, c.77, s.47; 2000, c.L-5.1, s.349; 2005, c.M-36.1, s.442.

#### Expropriation bylaw

3(1) If the council desires to acquire land for any purpose authorized by the appropriate municipal Act, and cannot acquire the land by agreement with the owner, the council may pass a bylaw to expropriate the land in the name and on behalf of the municipality.

(2) The bylaw shall specify the land and state the purpose for which it is required.

R.S.S. 1978, c.M-27, s.3.

#### Deposit of plan

4 The council shall cause to be deposited with the clerk or secretary treasurer a plan of the land to be taken, specifications showing the work, if any, to be done thereon and the names of the owners thereof according to the last revised assessment roll and the records of the Land Titles Registry.

R.S.S. 1978, c.M-27, s.4; 2000, c.L-5.1, s.350.

**Notice to owners**

5(1) Upon deposit of the plan the clerk or secretary treasurer shall cause to be served upon every owner of the land to be taken a notice of the intention of the council to proceed with the work, if any, and to expropriate the land stating the date of the deposit and that any claim for compensation for the land to be taken, with particulars of the amount claimed, must be filed with him within thirty days, or, if the person served resides outside Saskatchewan, within sixty days, from the date of service of the notice. The notice may be served by mail and, if so served, shall be by registered letter, postage prepaid, addressed to the person to be served. A notice served by registered mail shall be deemed to have been served on the day of the date of the receipt of the notice by the addressee as shown by the post office receipt form for the envelope containing the notice, purporting to be signed by him.

(2) If a claimant does not file his claim within the period limited, it may be barred and extinguished on an application to a judge upon such terms as to notice, compensation, costs and otherwise as the judge may direct.

R.S.S. 1978, c.M-27, s.5.

**Entry before vesting**

6(1) After serving the notice mentioned in subsection (1) of section 5 the municipality, by leave of the judge and upon payment into court of a sum sufficient, in the opinion of the judge, to satisfy the compensation, may enter upon, take possession of and use the land; and, if any resistance or forcible opposition is made to its so doing, the judge may issue his warrant to a sheriff to put the municipality in possession, and to put down the resistance or opposition, which the sheriff, taking with him sufficient assistance, shall accordingly do.

(2) Leave of the judge and payment into court shall not be necessary where the land is being expropriated for or in connection with the opening, widening, altering or diverting of a road, street, lane or other public highway unless, upon application by the owner, a judge otherwise directs.

R.S.S. 1978, c.M-27, s.6.

**Compensation determined by judge, failing agreement**

7(1) Where the amount of compensation is not agreed upon and the claim has not been barred under subsection (2) of section 5, the compensation shall, subject to section 8, be determined by a judge, upon application to him by either party.

(2) Upon such application the judge shall appoint a time and place for a hearing, and notice thereof shall be given by the applicant to the other party at such time and in such manner as the judge directs.

(3) Either party may, with leave of a judge of the Court of Appeal, appeal to the Court of Appeal from the decision of a judge.

R.S.S. 1978, c.M-27, s.7; 1979, c.42, s.2; 1979, c.69, s.18.

**Arbitration in case of small claims**

8(1) Where the amount claimed by a claimant is less than \$500, the amount of compensation payable may by agreement be determined by the award of three arbitrators, of whom one shall be appointed by the council, one by the claimant and the third by these two.

(2) The award may be filed with the local registrar of the Court of Queen's Bench and when so filed shall be final and binding on all parties, and without appeal.

(3) If within thirty days of agreement to arbitrate the arbitrators have not been appointed, or if, upon appointment, within sixty days thereafter, an award has not been made, section 7 shall govern.

(4) *The Arbitration Act, 1992* shall apply so far as applicable.

R.S.S. 1978, c.M-27, s.8; 1979-80, c.92, s.63;  
1992, c.A-24.1, s.61.

**Basis of award**

9 In estimating the amount to which the claimant is entitled, the judge or the arbitrators shall consider and find:

(a) the value of the land and all improvements thereon as of the date of the deposit of the plan under section 4; and

(b) the damage, if any, to the remaining land of the claimant;

and from the amount so found the judge or the arbitrators shall deduct any increased value to the remaining land of the claimant by virtue of work done or to be done on the land taken.

R.S.S. 1978, c.M-27, s.9.

**Tender**

10(1) The council may tender to a person claiming compensation such amount as it considers proper compensation for the land taken or injuriously affected.

(2) If the amount so tendered is not accepted by the claimant and if the amount of compensation determined by the judge or arbitrators, as the case may be, is not greater than the amount so tendered, the costs of proceedings before the judge or arbitrators shall be awarded to the municipality and set off against any amount awarded against it; otherwise the division of costs shall be in the discretion of the judge or arbitrators.

R.S.S. 1978, c.M-27, s.10.

**Payment into court on refusal to execute transfer**

11(1) If a person to whom compensation or damages are payable refuses to execute the proper transfer, discharge or other instrument, or if it is made to appear to the judge that for any other reason it is proper that the compensation or damages should be paid into court, the judge may give leave to the municipality to make such payment into court.

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(2) Upon such payment into court the municipality may enter into possession of and use the land for any purpose in the exercise of its powers.

(3) The payment into court shall discharge the municipality from all liability in respect of the compensation and damages so paid and shall forever bar all claims to and discharge all liens and encumbrances on the land.

R.S.S. 1978, c.M-27, s.11.

**Compensation appurtenant to land**

**12** A claim for compensation for land taken or damages in respect of land injuriously affected shall be deemed appurtenant to the land, and shall pass by a transfer or conveyance thereof.

R.S.S. 1978, c.M-27, s.12.

**Compensation and damages stand in lieu of land**

**13** The compensation or damages that may be agreed upon or awarded for land taken or injuriously affected shall stand in the stead of the land and shall be subject to the limitations and charges, if any, to which the land was subject; and any claim to or encumbrance upon the land or to or upon any portion thereof, shall, as against the municipality, be converted into a claim to the money so agreed upon or awarded, or to a like proportion thereof.

R.S.S. 1978, c.M-27, s.13.

**Survey**

**14(1)** The land required shall be surveyed and marked on the ground by a duly qualified surveyor and, if entry is authorized under section 6, the survey shall be made within six months after the date of entering upon the land.

(2) The surveyor shall forthwith after the survey prepare a plan thereof.

(3) This section does not apply where:

- (a) the land required is shown as a parcel on a plan; and
- (b) title has issued for that parcel.

R.S.S. 1978, c.M-27, s.14; 2000, c.L-5.1, s.351.

**Inclusion of other land in plan**

**15** A plan prepared under section 14 may include, in addition to the land specified in the expropriation bylaw, any other land that is included in the purpose stated in the bylaw and title to which is in the name of the municipality.

R.S.S. 1978, c.M-27, s.15.

**Plan of survey**

**16(1)** The plan of survey is subject to and must be prepared in accordance with *The Land Surveys Act, 2000* and the regulations made pursuant to that Act.

(2) The plan must be approved by the mayor, overseer or reeve and clerk or secretary treasurer of the municipality.

2000, c.L-5.1, s.352.

**Deposit of plan of survey**

**17(1)** The plan of survey, approved by the minister and as otherwise required pursuant to *The Land Surveys Act, 2000*, must be forwarded to the Controller of Surveys for approval.

(2) On receipt by the minister of a certified copy of the expropriation bylaw, the minister may approve the plan mentioned in subsection (1) if the minister is satisfied that the plan meets the requirements of *The Planning and Development Act, 2007* with respect to the subdivision of land.

2000, c.L-5.1, s.352; 2007, c.P-13.2, s.258.

**Approval of plan and issuance of titles**

**18(1)** After a plan forwarded to the Controller pursuant to subsection 17(1) is approved by the Controller of Surveys pursuant to *The Land Surveys Act, 2000*, notwithstanding anything in any Act:

- (a) the parcels of land shown on the plan vest in the municipality, other than:
  - (i) the parcels of land the title to which is in the name of the municipality; and
  - (ii) roads, streets, lanes or other public highways;
- (b) the parcels of land shown on the plan as roads, streets, lanes and other public highways vest in Her Majesty in right of Saskatchewan; and
- (c) the clerk or secretary treasurer shall apply to the Registrar of Titles to issue title respecting the parcels of land that vested in the municipality pursuant to clause (a).

(2) In accordance with *The Land Titles Act, 2000*, on receipt of an application pursuant to clause (1)(c), the Registrar of Titles shall issue the titles requested in the application in the name of the municipality, clear of all encumbrances.

2000, c.L-5.1, s.352.

**Transfer of title re subsection 14(3)**

**18.1(1)** In the case of the land mentioned in subsection 14(3), the clerk or secretary treasurer shall apply to the Registrar of Titles to issue title to the parcels shown on the plan.

- (2) An application pursuant to subsection (1) must be accompanied by:
  - (a) a notice under the seal of the municipality that the land is required by the municipality; and
  - (b) a certified copy of a resolution of the council of the municipality, approved by the minister.
- (3) On receipt by the minister of a certified copy of the expropriation bylaw, the minister may approve the resolution mentioned in clause (2)(b).
- (4) In accordance with *The Land Titles Act, 2000*, on receipt of an application pursuant to this section, the Registrar of Titles shall issue the title to the land in the name of the municipality, clear of all encumbrances.
- (5) Where the land that is the subject of an application pursuant to this section is required for a road, street, lane or other public highway, the clerk or secretary treasurer shall forward to the member of the Executive Council to whom responsibility for *The Highways and Transportation Act, 1997* has been assigned certified copies of the notice and resolution mentioned in subsection (2).
- (6) On receipt of the certified copies mentioned in subsection (5), the member of the Executive Council to whom responsibility for *The Highways and Transportation Act, 1997* has been assigned may petition the Controller of Surveys to amend the approved plan to indicate that the land in question is required for a road, street, lane or other public highway.

2000, c.L-5.1, s.352; 2001, c.20, s.33.

**Publication of completion of work**

- 19(1) The council may authorize the clerk or secretary treasurer to give notice in a newspaper of the completion of any work forthwith after the person in charge thereof has given his final certificate.
- (2) The notice shall state the last day, which shall be not sooner than three months from the first publication of the notice, on which a claim for damages in respect of land not taken but injuriously affected by the works may be filed with the clerk or secretary treasurer.
- (3) The notice shall also state that the owner of the land must file with the clerk or secretary treasurer within three months after publication of the notice his claim for damages, stating the amount and particulars of the claim.
- (4) The notice shall be inserted in three successive issues of a daily newspaper, if any, published in the municipality, otherwise in three successive issues of a weekly newspaper there published, or, if there is none, of a newspaper circulating in the municipality, and the date of the first publication of the notice shall be the date in respect of which damages are to be ascertained.

(5) Subject to subsection (6), any claim not made within the period limited shall be forever barred, unless upon application to a judge made not later than one year from the publication of the notice, and after seven days' notice to the municipality, the judge allows the claim to be made.

(6) In the case of an infant or a person who lacks capacity, the claim shall be made within one year, or within one year after he ceased to be under the disability, whichever is the longer, or in case of his death while under disability within one year after his death, and if not so made, the right to compensation shall be forever barred.

(7) Where the amount of compensation is not agreed upon, section 7, 8 and 10 shall apply *mutatis mutandis*.

(8) This section does not apply where an expropriating bylaw provides for the acquirement of an easement or right in the nature of an easement and damages arising from the exercise of the easement or right.

R.S.S. 1978, c.M-27, s.19; 2015, c.21, s.29.

**Procedure where owner unknown, etc.**

**20(1)** If the owner of land taken or to be taken pursuant to this Act is absent from Saskatchewan, or is unknown, or cannot be found, or if there is no person competent to contract with the municipality for the sale and conveyance of the land, the judge may on the application of the municipality appoint a person to act for the owner; and all acts done, contracts made and conveyances executed by that person shall be as valid and effectual as if they were done, made or executed by the owner, and he were of full age and competent to do the act, make the contract and execute the conveyance.

(2) If a person so acting has not the absolute estate in the land, the municipality shall pay the amount to be paid in respect thereof, as the judge shall direct, into court, and the municipality shall not be bound to see to the application of any sum so paid.

R.S.S. 1978, c.M-27, s.20.

**Discontinuance of proceedings**

**21** Notwithstanding anything in this Act the municipality may, before entering upon the land other than for the purpose of survey, discontinue proceedings and in that case an award made by the judge or the arbitrators shall not be binding on the municipality but the municipality shall pay the costs including costs incurred by the owner, and shall also pay to the owner the damages, if any, sustained by him in consequence of the passing of the bylaw; and those damages, if not mutually agreed upon, shall be determined by the judge or the arbitrators, as the case may be.

R.S.S. 1978, c.M-27, s.21.

**Acquisition of land for the opening, widening, etc., of streets, etc.**

**22(1)** Where the council desires to acquire land only for the purpose of opening, widening, altering or diverting a road, street, lane or other public highway and can acquire the land by agreement with the owner, or where the title to land to be used for such purpose is in the name of the municipality, the council may submit a plan of survey of the land to the Controller of Surveys, and sections 14 to 18.1 apply, with any necessary modification.

(2) The approval of the minister to the plan may issue when the minister is satisfied that the council can acquire the land by agreement with the owner or that the title to the land is in the name of the municipality.

R.S.S. 1978, c.M-27, s.22; 2000, c.L-5.1, s.353.