



Province of Alberta

# **PUBLIC HIGHWAYS DEVELOPMENT ACT**

Revised Statutes of Alberta 2000  
Chapter P-38

Current as of November 1, 2010

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer  
7<sup>th</sup> Floor, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.alberta.ca)

## Copyright and Permission Statement

Alberta Queen's Printer holds copyright on behalf of the Government of Alberta in right of Her Majesty the Queen for all Government of Alberta legislation. Alberta Queen's Printer permits any person to reproduce Alberta's statutes and regulations without seeking permission and without charge, provided due diligence is exercised to ensure the accuracy of the materials produced, and Crown copyright is acknowledged in the following format:

© Alberta Queen's Printer, 20\_\_.\*

\*The year of first publication of the legal materials is to be completed.

### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

Repealed and superseded by 2004 cH-8.5 s78.

### Regulations

The following is a list of the regulations made under the *Public Highways Development Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Public Highways Development Act</b>		
Exploration.....	284/2006 .....	35/2007, 68/2008
Highway Development Control.....	242/90 .....	206/2001, 22/2003, 105/2005, 63/2006, 58/2007, 36/2008, 68/2008
Irrigation Districts Bridge Structures and Culverts .....	245/90 .....	206/2001, 105/2005, 68/2008
Leasing of Closed Highways.....	36/86 .....	105/2005, 68/2008

# **PUBLIC HIGHWAYS DEVELOPMENT ACT**

## Chapter P-38

### *Table of Contents*

- 1 Definitions
- 1.1 Agreement power not limiting
- Part 1**
- Construction and Maintenance of Highways**
- 2 Responsibility of highway authority
- Primary Highways System**
- 3 Designation of primary highway
- 4 Control of primary highway
- 5 Primary highway in town or village
- 6 Traffic control
- Secondary Roads System**
- 7 Designation of secondary road
- 8 Regulations
- 9 Plan for secondary roads system
- 10 Consideration of plan by Minister
- 11 Report re plan
- 12 Cost-sharing agreements
- 13 Secondary roads through Indian reserves
- Forestry Roads**
- 14 Forestry roads
- 15 Cost-sharing agreements
- 16 Security deposit for repair of damage
- 17 Assessment of damage and maintenance charge
- 18 Offence and fine

**Other Highways**

- 19 Other highways under Minister
- 20 Traffic interchanges
- 21 Cost-sharing agreements
- 22 Title to city streets

**Part 2****Control of Access and Adjacent Development**

- 23 Abrogation of common law rights

**Controlled Highways**

- 24 Designation of controlled highways
- 25 Regulations
- 26 Buildings dangerous or unsightly
- 27 Commercial sites
- 28 Closing of access to highways
- 29 Compensation for loss from closure of access
- 30 Removal of signs, etc., wrongly placed
- 31 Permits
- 32 Penalties for non-compliance
- 33 Offence

**Controlled Streets**

- 34 Definitions
- 35 Designation of controlled street
- 36 Bylaws regulating controlled streets
- 37 Agreements re controlled streets

**Part 3****General****Crown Liability for Damages**

- 38 Repair of highways
- 39 Drainage of highways

**Protection of Highways**

- 40 Agreements re fences
- 41 Roadside improvements
- 42 Removal of roadside improvements
- 43 Obstruction of or injury to highway
- 44 Injury by vehicle without tires
- 45 Damage to highway by water

- 46 Temporary closure of highway
- 47 Closure of highway
- 47.1 Access and travel restrictions
- 48 Injury to traffic signs, etc.
- 49 Snow fences
- 50 Remedying dangerous conditions
- 51 General penalty

#### **Bridges**

- 52 Bridges

#### **Ferries and Cable Cars**

- 53 Ferries and cable cars
- 54 Regulations

#### **Trans-Canada Highways**

- 55 Trans-Canada highways

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

#### **Definitions**

**1** In this Act,

- (a) “centre point of the intersection” means the point where the centre line of the through part of the highway meets the centre line of, or the centre line of the prolongation of, another highway that intersects or meets the highway;
- (b) “construction” means the construction or reconstruction of a highway and the doing of whatever other work is necessary to put a highway in a condition for use by vehicles, but does not include maintenance;
- (c) “controlled highway” means a primary highway or any other highway designated as a controlled highway by the Minister;
- (d) “controlled street” means a highway designated by the council of an urban municipality as a controlled street;
- (e) “council”, with reference to a special area, means the Minister responsible for the *Special Areas Act*;
- (f) “Department” means the Department of Infrastructure;

- (g) “forestry road” means a road designated as a forestry road by the Minister;
- (h) “former Act” means *The Public Highways Act*, SA 1929 c53, RSA 1942 c74 and RSA 1955 c257;
- (i) “highway” or “road”
  - (i) means land used or surveyed for use as a public highway or road, and
  - (ii) includes a bridge forming part of a public highway or road and any structure incidental to the public highway or road or bridge;
- (j) “highway authority” means
  - (i) the Minister, as to highways subject to the Minister’s direction, control and management,
  - (ii) an urban municipality, as to highways subject to its direction, control and management, or
  - (iii) a rural municipality, as to highways subject to its direction, control and management;
- (k) “maintenance” means the preservation and repair of a highway and any other work necessary to keep the highway in serviceable condition;
- (l) “Minister” means the Minister of Infrastructure;
- (m) “owner” means
  - (i) a person registered in a land titles office as the owner of an estate in fee simple or a life estate in land,
  - (ii) a purchaser of land whose interest as purchaser is recorded on the certificate of title for that land or in a registered caveat relating to that land,
  - (iii) a person registered in the Metis Settlements Land Registry as the owner of Metis title in land,
  - (iv) a purchaser of Metis title in land whose interest as purchaser is recorded on the Metis title register for that land,
  - (v) a tenant or a person who is in possession or occupation of land, and

- (vi) in the case of Crown land, a person shown in the records of the department of the Government administering the land as having an estate or interest in the land;
- (n) “permit” means a permit issued under this Act or pursuant to the regulations under the former Act;
- (o) “primary highway” means a highway or proposed highway designated as a primary highway under this Act;
- (p) “roadside improvement” means
  - (i) any building, structure or fixture or road,
  - (ii) any tree, shrub or hedge, or
  - (iii) any sign, notice, advertising device or flashing or rotating light;
- (q) “roadway” means that part of a highway designed or intended for use by vehicular traffic;
- (r) “rural municipality” means a municipal district or special area and includes a Metis settlement;
- (s) “rural road” means a road subject to the direction, control and management of a rural municipality or a road, other than a primary highway, in an improvement district and subject to the direction, control and management of the Minister;
- (t) “secondary road” means a highway designated by the Minister as a secondary road pursuant to this Act;
- (u) “street” means a highway subject to the direction, control and management of an urban municipality;
- (v) “traffic control device” means any sign, signal, marking or device placed or erected for the purpose of regulating, warning or guiding traffic;
- (w) “urban municipality” means a city, town or village.  
RSA 1980 cP-28 s1;1986 c15 s9;1990 cM-14.3 s284;  
1995 c24 s99(37);1998 c22 s33

**Agreement power not limiting**

**1.1** No provision in this Act respecting the Minister's power to enter into an agreement shall be construed as limiting the Minister's general power under the *Government Organization Act* to enter into agreements.

2004 cH-8.5 s72

## **Part 1 Construction and Maintenance of Highways**

**Responsibility of highway authority**

**2** Except as otherwise provided in an agreement made pursuant to this Act, each highway authority is responsible for the costs of construction and maintenance of all highways subject to its direction, control and management.

RSA 1980 cP-28 s2

### **Primary Highways System**

**Designation of primary highway**

**3(1)** The Minister may by order designate as a primary highway

- (a) any existing highway, or
- (b) any proposed highway,

and may prescribe a route number for the primary highway so designated.

**(2)** In an order under this section, the existing highway or the land to be used for the proposed highway is sufficiently described if its location is indicated on a map attached to the order showing the route of the primary highway.

**(3)** No order shall be made under this section in respect of a highway or proposed highway within a city unless the title to the highway or the land to be used for the proposed highway is vested in the Crown in right of Alberta pursuant to an agreement made under section 22.

RSA 1980 cP-28 s3

**Control of primary highway**

**4** All primary highways are subject to the direction, control and management of the Minister.

RSA 1980 cP-28 s4



**Primary highway in town or village**

**5(1)** The Minister may enter into an agreement with a town or village with respect to a primary highway within its boundaries.

**(2)** An agreement under this section may provide for any matter with respect to the construction and maintenance of the primary highway by the Minister, including, without limitation,

- (a) the construction, maintenance or abandonment of any works or undertakings of the town or village that may directly or indirectly affect the primary highway or the control of traffic on it, and
- (b) the contribution by the town or village to the Minister of a portion of the cost of construction or maintenance of the primary highway.

RSA 1980 cP-28 s5

**Traffic control**

**6(1)** An agreement under section 5 may provide that, as of a specified effective date, the bylaws of the town or village under sections 13, 14, 108, 110 and 152 of the *Traffic Safety Act* are, in relation to the primary highway, to be in accordance with the agreement.

**(2)** When an agreement under section 5 provides for any matters mentioned in subsection (1), any bylaw under sections 13, 14, 108, 110 and 152 of the *Traffic Safety Act* that is, on or after the specified effective date in the agreement, not in accordance with the agreement, is inoperative with respect to the primary highway.

RSA 2000 cP-38 s6; RSA 2000 cT-6 s209

**Secondary Roads System****Designation of secondary road**

**7** The Minister may by order designate as a secondary road

- (a) an existing or proposed rural road, town street or village street, following the Minister's approval of a plan submitted by a rural municipality under section 9,
- (b) a highway in an improvement district, or
- (c) a highway, title to which is vested in the Crown in right of Alberta, passing through an Indian reserve.

RSA 1980 cP-28 s7

**Regulations**

- 8** The Minister may make regulations providing for
- (a) the design and standards of construction for secondary roads;
  - (b) the standards of maintenance for secondary roads;
  - (c) the numbering of routes within the secondary roads system;
  - (d) the placing and erecting of traffic control devices for secondary roads;
  - (e) limiting or restricting the weight and load to be carried by any vehicle or class of vehicles on any secondary road or portion of it;
  - (f) the terms and conditions on which an electric transmission line, a pipeline other than a pipeline to which the *Pipeline Act* applies, a drainage ditch or an irrigation canal or ditch, may be constructed on, across, over or under a secondary road;
  - (g) any other matters pertaining to the establishment and operation of the secondary roads system.

RSA 1980 cP-28 s8

**Plan for secondary roads system**

- 9(1)** A rural municipality may submit to the Minister a plan for a secondary roads system for the municipality.
- (2)** The plan shall show the roads that are to form the secondary roads system for the municipality and may include
- (a) a street within a town or village that borders on or is contained within the boundaries of the rural municipality, and
  - (b) boundary line roads.
- (3)** When a system of secondary roads in the plan includes a street within a town or village, the rural municipality shall supply the town or village with a copy of the plan.

RSA 1980 cP-28 s9

**Consideration of plan by Minister**

- 10** The Minister shall consider the plan and may
- (a) disapprove it, or

- (b) approve it in whole or in part,

and the plan or part approved by the Minister is the approved plan.

RSA 1980 cP-28 s10

#### **Report re plan**

**11** When a plan has been approved by the Minister, the rural municipality shall submit to the Minister, at the times fixed by the Minister and in the form prescribed by the Minister, the following information regarding secondary roads in the municipality:

- (a) the estimated expenditures for the cost of construction for the ensuing year;
- (b) detailed statements of receipt and expenditures made in respect of construction and maintenance for the current year;
- (c) a statement showing the road length in the system, the distance completely constructed and the stage of construction of the distance that is not yet completely constructed.

RSA 1980 cP-28 s11

#### **Cost-sharing agreements**

**12(1)** The Minister may enter into an agreement with a rural municipality, town or village with respect to the sharing of costs of construction and maintenance of secondary roads within its boundaries.

**(2)** An agreement under this section shall provide for

- (a) the cost or estimated cost of construction,
- (b) the period of construction,
- (c) the proportion of the cost to be borne by the Crown, and
- (d) the terms on which and the time or times when the payments are to be made to the municipality for the Crown's share of the cost,

and may provide for any other matter relating to construction or maintenance of the secondary roads.

**(3)** An agreement under this section may also

- (a) provide for any matter relating to
  - (i) the control of traffic on the secondary road,

- (ii) the construction, maintenance or abandonment of any works or undertakings of the rural municipality, town or village that may directly or indirectly affect the secondary road or the control of traffic on it, and
- (iii) limiting or restricting the weight and load to be carried by any vehicle or class of vehicles on the secondary road or any portion of it,

and

- (b) provide that, as of a specified effective date, the bylaws of a rural municipality, town or village under sections 13, 14, 108, 110 and 152 of the *Traffic Safety Act* are, in relation to the secondary road, to be in accordance with the agreement.

**(4)** When an agreement under this section provides for any matters mentioned in subsection (3)(b), any bylaw under the sections referred to in subsection (3)(b) that is, on or after the specified effective date, not in accordance with the agreement, is inoperative with respect to the secondary road.

**(5)** If a rural municipality, town or village does or omits to do any thing in breach of an agreement under this section or purports to do any act with respect to a secondary road under a bylaw that is inoperative as to that road by virtue of subsection (4), the Court of Queen's Bench, on application by the Crown, may grant an order to restrain the rural municipality, town or village from doing that act or to compel it to do any act that will remedy the breach of the agreement.

RSA 2000 cP-38 s12;RSA 2000 cT-6 s209

### **Secondary roads through Indian reserves**

**13** If the Minister designates a road passing through an Indian reserve as a secondary road, the Minister may enter into an agreement with a rural municipality

- (a) providing that the secondary road is made subject to the direction, control and management of the rural municipality, and
- (b) providing for the construction and maintenance of the secondary road by the rural municipality and the proportion of its cost to be borne by the Crown.

RSA 1980 cP-28 s13

## Forestry Roads

### Forestry roads

**14(1)** The Minister may

- (a) by order designate any road or proposed road as a forestry road;
- (b) purchase land for a forestry road or proposed forestry road.

**(2)** Forestry roads are subject to the direction, control and management of the Minister.

**(3)** Every road that was designated as a forestry road by the Minister of Lands and Forests prior to June 25, 1975 is for all purposes deemed to have been designated as a forestry road by the Minister of Infrastructure under this section.

RSA 1980 cP-28 s14;1986 c15 s9

### Cost-sharing agreements

**15(1)** The Minister may enter into a cost-sharing agreement with any person for the construction of a forestry road on public land.

**(2)** The Minister may require any person desiring to use a forestry road for commercial or industrial purposes to enter into an agreement with the Minister relating to the sharing of the costs of improvements and maintenance of the forestry road.

RSA 1980 cP-28 s15

### Security deposit for repair of damage

**16(1)** The Minister may require the owner or operator of a commercial or industrial enterprise that requires the use of a forestry road to deposit with the Minister security in an amount prescribed by the regulations for the repair of damage that may result to the road.

**(2)** If a vehicle engaged in a commercial or industrial enterprise in passing over a forestry road damages the road, the Minister may

- (a) order the owner or operator of the enterprise or the owner or operator of the vehicle to restore the forestry road to a condition acceptable to the Minister,
- (b) in default of restoration, order payment of the cost of restoration and may declare all of the security or the part of the security that is equivalent to the cost of restoration to be forfeited to the Crown, and

- (c) if the security is insufficient, recover the balance of the amount from the owner or operator of the enterprise or the owner or operator of the vehicle as a debt owing to the Crown.

1980 cP-28 s16

**Assessment of damage and maintenance charge**

**17** If a forestry road is utilized by vehicles serving more than one commercial or industrial enterprise,

- (a) the Minister may assess the owner or operator of each enterprise a damage and maintenance charge in any amount that to the Minister, after hearing and considering any representation of the owner or operator, appears just, and
- (b) the amount assessed shall be paid to the Minister on demand and may be recovered as a debt owing to the Crown.

1980 cP-28 s17

**Offence and fine**

**18** A person using a forestry road in contravention of a regulation or an order of the Minister

- (a) shall pay to the Minister on demand an amount equivalent to the cost of restoration if damage has been caused to the road by that use, which amount is recoverable as a debt owing to the Crown, and
- (b) is guilty of an offence and liable to a fine of not more than \$500 and in default of payment to imprisonment for not more than 6 months.

1980 cP-28 s18

**Other Highways****Other highways under Minister**

**19** The Minister has the direction, control and management of

- (a) roads within improvement districts, other than roads under the administration of another member of the Executive Council,
- (b) highways within Metis settlements where the right of management of the highway is retained by the Crown in right of Alberta under letters patent ratified and confirmed by the *Metis Settlements Land Protection Act*,

- (c) highways through Indian reserves, the title to which is vested in the Crown in right of Alberta and that are not the subject of an agreement with a rural municipality under section 13,
- (d) highways in cities if the title to the highway is vested in the Crown in right of Alberta pursuant to section 22,
- (e) forestry roads, and
- (f) secondary roads numbered in the 900 series that the Minister by order designates as being under the Minister's direction, control and management.

RSA 1980 cP-28 s19;1990 cM-14.3 s284

#### **Traffic interchanges**

**20** The Minister may enter into an agreement with any person under which that person agrees to contribute the whole or part of the costs of construction of a traffic interchange, underpass, overpass or any other addition or improvement with respect to a primary highway or a road subject to the direction, control and management of the Minister.

RSA 1980 cP-28 s20

#### **Cost-sharing agreements**

**21(1)** The Minister may enter into an agreement with any urban or rural municipality under which the Crown may contribute to the cost of construction and maintenance of any street or road, other than a secondary road, that is subject to its direction, control and management.

**(2)** An agreement under this section shall provide for

- (a) the cost or estimated cost of construction,
- (b) the period of construction,
- (c) the proportion of the cost to be borne by the Crown, and
- (d) the terms on which and the time or times when payments are to be made to the highway authority for the Crown's share of the cost,

and may provide for any other matter pertaining to construction or maintenance of the street or road.

RSA 1980 cP-28 s21

**Title to city streets**

**22(1)** The Minister and a city may enter into an agreement for the transfer by the city to the Crown in right of Alberta of title to any city street or for the purchase of land from the city for the purposes of a highway to be constructed and maintained by the Minister.

**(2)** Notwithstanding anything in the *Municipal Government Act*, the Minister may, with the consent of a city, purchase or expropriate land within the city for the purposes of a highway.

**(3)** If the title to a street or any land is vested in the Crown in right of Alberta pursuant to this section, the highway constructed on it is subject to the direction, control and management of the Minister and not the city.

RSA 1980 cP-28 s22

## **Part 2 Control of Access and Adjacent Development**

**Abrogation of common law rights**

**23(1)** A person

- (a) is not, of right, entitled to any direct access to or from a controlled highway or controlled street from or to any land adjacent to it,
- (b) does not have any right of easement, light or air to, from or over a controlled highway or controlled street, and
- (c) unless otherwise expressly provided in a conservation directive as defined by the *Alberta Land Stewardship Act*, does not have any right of view to, from or over a controlled highway or controlled street.

**(2)** No person is entitled as of right to any compensation solely by reason of the designation of a highway as a controlled highway or the designation of a street as a controlled street.

RSA 2000 cP-38 s23;2009 cA-26.8 s90

## **Controlled Highways**

**Designation of controlled highways**

**24(1)** All primary highways are controlled highways.

**(2)** The Minister may designate any road subject to the Minister's direction, control and management as a controlled highway.

RSA 1980 cP-28 s24



**Regulations****25(1)** The Minister may make regulations

- (a) classifying controlled highways as freeways, expressways, arterial highways, collector highways and any other class the Minister may prescribe;
- (b) prescribing terms and conditions applicable to the granting of permits under this Part;
- (c) exempting any class or classes of means of access to or from a controlled highway from the requirement for a permit under this Part;
- (d) prohibiting, except under the authority of a permit,
  - (i) the developing, placing, constructing, enlarging, extending or erecting or re-erecting of a building, structure, fixture, road, airstrip, excavation or other development, whether on, above or below ground, and
  - (ii) the display of machinery, motor vehicles or other articles, whether placed for storage or wrecking or for the purposes of advertising or sale,within any distance from a controlled highway that the regulations prescribe;
- (e) prohibiting, except under the authority of a permit, the placing of a tree, hedge or shrub within any distance from a controlled highway that the regulations prescribe;
- (f) prohibiting, except under the authority of a permit, the construction of an electric transmission line, a pipeline other than a pipeline to which the *Pipeline Act* applies, a drainage ditch or irrigation canal or ditch, within any distance from a controlled highway that the regulations prescribe;
- (g) prohibiting, except under the authority of a permit, the display of a sign, notice or advertising device within any distance from a controlled highway that the regulations prescribe;
- (h) prohibiting the display of a flashing or rotating light within any distance from a controlled highway that the regulations prescribe;
- (i) providing for the exemption from a requirement for a permit under any regulations under clauses (d) to (g).

**(2)** Regulations under subsection (1)(d) to (h) may prescribe different distances with respect to any class of controlled highways but no distance prescribed under those regulations shall exceed

- (a) in the case of regulations under subsection (1)(d), (g) or (h),
  - (i) 300 metres from any limit of the controlled highway, or
  - (ii) 800 metres from the centre point of the intersection of the controlled highway and another highway,
- or
- (b) in the case of regulations under subsection (1)(e) or (f),
  - (i) 30 metres from any limit of the controlled highway, or
  - (ii) 60 metres from the centre line of the roadway of the controlled highway,

whichever distance is the greater.

RSA 1980 cP-28 s25

#### **Buildings dangerous or unsightly**

**26(1)** If, in the opinion of the Minister, an unoccupied building, structure, fixture or excavation within the distance of a controlled highway prescribed by the regulations under section 25

- (a) is, by reason of its ruinous, dilapidated, unsafe or unprotected condition, dangerous to the public safety or health, or
- (b) is, because of its unsightly condition, detrimental to the surrounding area,

the Minister may make an order under this section with respect to the building, structure, fixture or excavation.

**(2)** The order may require the owner within a period of time that shall not be less than 60 days from the date of the making of the order,

- (a) to remedy the condition in the manner and to the extent directed in the order, or
- (b) to demolish or remove the building, structure or fixture or fill the excavation and level the site of it.

(3) If the owner does not remedy the condition within the period specified within the order, or the building, structure or fixture has not been demolished or removed at the expiration of the period specified in the order, the Minister may cause the condition to be remedied to the extent directed in the order or cause the unoccupied building, structure or fixture to be demolished or removed or the excavation to be filled and the site levelled.

(4) The removal may be done by way of selling the building, structure or fixture, in which case the net proceeds realized from the sale shall be paid to the owner, mortgagee or other person entitled to them.

(5) If the proceeds from the sale of the building, structure or fixture are insufficient to meet the costs of the demolition or levelling of the site or if no proceeds are realized from the demolition and removal of the building, structure or fixture, or the condition is remedied by the Minister, the Minister may charge the costs of the work done against the owner of the land on which the building, structure or fixture was located and recover the costs as a debt due to the Crown.

(6) A person who thinks himself or herself aggrieved by an order of the Minister made under this section may apply to the Court of Queen's Bench within 30 days from the date of the making of the order and if the Court is satisfied that

- (a) the proper procedure as set out in this section has not been followed, or
- (b) the Minister has acted in a manner contrary to the intent and meaning of this section,

the Court may set aside or vary the order of the Minister as it considers just.

RSA 1980 cP-28 s26

### **Commercial sites**

#### **27** When a site

- (a) used for commercial purposes, and
- (b) within the distance of a controlled highway prescribed by the regulations under section 25,

ceases to be used for commercial purposes for a period of one year, the site shall not again be used for commercial purposes unless a permit is issued by the Minister for that purpose.

RSA 1980 cP-28 s27

**Closing of access to highways**

**28(1)** The Minister may at any time close

- (a) any highway providing access to or from a controlled highway, or
- (b) any means of access between a controlled highway and land adjacent to a controlled highway.

**(2)** No person shall enter on or leave a controlled highway except by way of

- (a) a highway connecting with the controlled highway,
- (b) a means of access existing pursuant to a permit,
- (c) a means of access in existence prior to
  - (i) the designation of the controlled highway by or pursuant to the regulations under the former Act or pursuant to this Act, or
  - (ii) the designation of a highway as a primary highway under section 3,

and not subsequently closed by the Minister pursuant to the former Act or subsection (1), or

- (d) a means of access exempted under the regulations from the requirement for a permit.

**(3)** No person shall construct or maintain a means of access to or from a controlled highway unless

- (a) a permit authorizes the construction or maintenance,
- (b) the regulations exempt the construction and maintenance from the requirement for a permit, or
- (c) the means of access was in existence prior to
  - (i) the designation of the controlled highway by or pursuant to the regulations under the former Act or pursuant to this Act, or
  - (ii) the designation of the highway as a primary highway under section 3,

and has not been subsequently closed by the Minister pursuant to the former Act or subsection (1).

RSA 1980 cP-28 s28

**Compensation for loss from closure of access**

**29(1)** Subject to subsections (2) to (4), when a means of access was maintained in accordance with this Part and the regulations at the time it is closed pursuant to section 28, the Minister shall compensate each person owning an estate or interest in the adjacent land as registered owner, life tenant or purchaser for the loss resulting to that person from the closing of the means of access.

**(2)** The aggregate amount of compensation payable in an individual case shall not exceed the difference between

- (a) the appraised value of the adjacent land prior to the closing of the means of access, and
- (b) the appraised value of that land after the closing of the means of access.

**(3)** If, prior to its closing, the means of access was maintained pursuant to a permit, the payment of compensation is subject to the terms of the permit.

**(4)** If a direct means of access is closed and a service or frontage road is provided, no compensation shall be paid under this section.

**(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 the closing of the means of access by the Minister and the compensation shall be determined as of that date.

**(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*.

RSA 1980 cP-28 s29

**Removal of signs, etc., wrongly placed**

**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, material or other thing within the distance from a controlled highway prescribed in the regulations under section 25, the Minister may, by notice, require its owner 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 the owner's reasonable expense in moving, removing or altering any thing as required by the notice 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 the owner or person 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.

RSA 1980 cP-28 s30

### Permits

**31(1)** The Minister may issue any permit on any terms and conditions the Minister considers proper, and may, in the Minister's discretion, cancel a permit at any time.

**(2)** A permit may be issued on behalf of the Minister by any employee of the Minister's Department authorized by the Minister to do so.

RSA 1980 cP-28 s31

### Penalties for non-compliance

**32(1)** Any person who fails to comply with a notice given to the person 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 the person 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 made 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 afterwards.

**(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 proof, in the absence of evidence to the contrary, 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 proof, in the absence of evidence to the contrary, of the statements in the certificate without proof of the signature or appointment of the person signing.

RSA 1980 cP-28 s32

**Offence**

**33** A person who contravenes this Part or the regulations is guilty of an offence.

RSA 1980 cP-28 s33

**Controlled Streets****Definitions**

**34** In this section and sections 35 to 37,

- (a) “hamlet” means a hamlet designated or continued under the *Municipal Government Act* but in which there are more than 10 buildings used in whole or in part as dwelling places;
- (b) “street” includes a road in a hamlet;
- (c) “urban municipality” includes a rural municipality in respect of a hamlet.

RSA 1980 cP-28 s34;1994 cM-26.1 s642(57)

**Designation of controlled street**

**35** A council of an urban municipality may by bylaw designate any of its streets as a controlled street.

RSA 1980 cP-28 s35

**Bylaws regulating controlled streets**

**36(1)** A council of an urban municipality may make bylaws regulating

- (a) the placing, erecting, re-erecting, enlarging or extending of buildings, structures or fixtures or roads,
- (b) the placing of trees, hedges or shrubs, and
- (c) the display of signs, notices, advertising devices or flashing or rotating lights,

within any distances from controlled streets that the bylaws prescribe.



(2) A council of an urban municipality may make bylaws regulating and controlling the means of access to controlled streets.

(3) A bylaw under this section may,

- (a) subject to subsection (4), provide for any matter provided for in sections 25 to 33, and
- (b) empower the council to do any thing that the Minister is empowered to do by those sections.

(4) A bylaw providing for any matter provided for in section 29 or 30(3) to (5) shall not purport to confer jurisdiction on a court or judge but may confer jurisdiction on the Alberta Utilities Commission and for that purpose make any procedure under the *Expropriation Act* apply in respect of claims for compensation.

RSA 2000 cP-38 s36;2007 cA-37.2 s82(24)

#### **Agreements re controlled streets**

**37(1)** Subject to the approval of the Lieutenant Governor in Council, the Minister and an urban municipality may enter into an agreement

- (a) providing for any matters in respect of which the council may make bylaws pursuant to section 36, and
- (b) providing that any bylaw made under section 36 shall, as of a specified effective date, be in accordance with the agreement.

(2) An agreement providing for any matters mentioned in subsection (1) may be incorporated as part of an agreement made under section 12 or 21.

(3) When an agreement provides for any matters referred to in subsection (1)(b), any bylaw that is, on or after the specified effective date, not in accordance with the agreement, is inoperative with respect to the controlled street concerned.

(4) If the urban municipality

- (a) does or omits to do any thing in breach of an agreement providing for any of the matters referred to in subsection (1), or
- (b) purports to do any act with respect to a controlled street under a bylaw that is inoperative as to that street by virtue of subsection (3),

the Court of Queen's Bench, on application by the Crown, may grant an order to restrain the urban municipality from doing any act

in breach of the agreement or to compel the doing of any act that will remedy its breach of the agreement or its unlawful act, as the case may be.

RSA 1980 cP-28 s37

## **Part 3 General**

### **Crown Liability for Damages**

#### **Repair of highways**

**38(1)** Highways subject to the direction, control and management of the Minister shall be kept in a reasonable state of repair having regard to the character of the highway and the locality in which it is situated or through which it passes.

**(2)** The Crown is liable for damages sustained by any person by reason of the default of the Minister under subsection (1).

**(3)** The Crown is not liable for damages under this section unless the claimant has suffered by reason of the default of the Crown a particular loss or damage beyond what is suffered by the claimant in common with all persons affected by the want of repair.

**(4)** Nothing in this section casts on the Crown any obligation or liability in respect of acts done or omitted to be done by a person exercising powers or authorities conferred on the person by law, and over which the Minister has no control, if the Minister is not a party to the act or omission.

**(5)** Default under this section shall not be imputed to the Crown in any action if the Crown proves that it did not have actual or constructive notice of the disrepair of the highway or that it took reasonable means to prevent the disrepair.

**(6)** When a traffic control device has been defaced, removed or destroyed

(a) by someone other than a Crown employee, or

(b) as a result of an act of vandalism,

default under this section shall not be imputed to the Crown in any action without proof by the plaintiff that the Crown knew of the defacement, removal or destruction and failed to restore, repair or replace the traffic control device in a reasonable period of time.

**(7)** No action shall be brought against the Crown for the recovery of damages caused

- (a) by the presence or absence or insufficiency of any wall, fence, guardrail, railing, curb, pavement markings, traffic control device, illumination device or barrier adjacent to or in, along or on the highway, or
- (b) by or on account of any construction, obstruction or erection or any situation, arrangement or disposition of any earth, rock, tree or other material or thing adjacent to or in, along or on the highway that is not on the roadway.

**(8)** No action shall be brought for the recovery of damages under this section unless notice in writing of the claim and of the injuries complained of has been served on or sent by registered letter to the Minister within one month after the happening of the injury, but the failure to give or the insufficiency of the notice is not a bar to the action if the judge before whom the action is tried is of the opinion that there is reasonable excuse for the want or insufficiency of the notice and that the Crown is not prejudiced in its defence by reason of the want or insufficiency of the notice.

RSA 1980 cP-25 s38

#### **Drainage of highways**

**39(1)** The Minister shall make adequate provision for

- (a) the drainage of all highways subject to the Minister's direction, control and management, and
- (b) the disposition of any water collected in a drainage ditch or other artificial depression created by the Minister on or contiguous to a highway subject to the Minister's direction, control and management.

**(2)** A person who is the owner of land in the vicinity of a highway subject to the direction, control and management of the Minister and who claims that the person has suffered damage by reason of the default of the Minister under subsection (1) may recover damages from the Crown.

**(3)** No action shall be brought for the recovery of damages under this section unless notice in writing of the claim and of the injuries complained of has been served on or sent by registered letter to the Minister within one month after the happening of the injury, but the failure to give or the insufficiency of the notice is not a bar to the action if the judge before whom the action is tried is of the opinion that there is reasonable excuse for the want or insufficiency of the notice and that the Crown is not prejudiced in its defence by reason of the want or insufficiency of the notice.

RSA 1980 cP-28 s39

## Protection of Highways

### Agreements re fences

**40(1)** A highway authority may enter into an agreement with the owner of land adjoining a highway with respect to the moving, removal or construction of a fence along the highway and may pay compensation to the owner for the moving, removal or construction.

**(2)** When the highway authority considers it necessary that a fence on land adjoining a highway be moved, removed or constructed but is unable to make an agreement under subsection (1), the highway authority

- (a) may enter on the adjoining land for the purpose of moving, removing or constructing the fence, and
- (b) if the fence was removed but not replaced, shall compensate the owner of the fence for it.

**(3)** Unless otherwise provided in an agreement under subsection (1), the repair and maintenance of a fence moved or constructed pursuant to this section is afterwards the responsibility of the owner.

RSA 1980 cP-28 s40;1983 c37 s58

### Roadside improvements

**41(1)** A highway authority may by order or bylaw, as the case may be, determine and fix the distance up to a maximum of 90 metres from the centre line of a highway subject to its direction, control and management within which the owner of any land shall not, without approval of the Minister or the council, place, erect or plant any roadside improvement that may

- (a) cause a drifting or accumulation of snow on a highway,
- (b) injure the highway,
- (c) obstruct the vision of pedestrians or drivers of vehicles on the highway, or
- (d) create a hazard to traffic on the highway.

**(2)** This section does not apply to a primary highway.

RSA 1980 cP-28 s41

### Removal of roadside improvements

**42** When a highway authority is of the opinion that a roadside improvement on or over land adjacent to a highway

- (a) is causing or will cause a drifting or accumulation of snow on the highway,
- (b) is injuring or will injure the highway,
- (c) is obstructing or will obstruct the vision of pedestrians or drivers of vehicles on the highway,
- (d) is or is likely to create a hazard to traffic on the highway, or
- (e) is placed, erected or planted in contravention of a bylaw under section 41,

and the highway authority is unable to agree with the owner for its removal or as to the amount of compensation to be paid for it, the highway authority may apply to the Court of Queen's Bench for an order authorizing it to enter on the land affected to remove any roadside improvement with respect to which the application is made, and the judge, on whatever notice to the owner the judge considers proper, may make an order and may fix the amount of compensation to be paid to the owner and give any directions as to costs that in the judge's opinion are just.

RSA 2000 cP-38 s42;2009 c53 s150

#### **Obstruction of or injury to highway**

**43(1)** A person who, without justification or excuse,

- (a) obstructs or deposits any material on a highway, or
- (b) interferes with, breaks, cuts or otherwise injures a highway,

is guilty of an offence.

**(2)** The court that convicts a person of an offence under subsection (1)(a) may also order the convicted person to forthwith remove any obstruction or material deposited on the highway.

**(3)** When any person contravenes subsection (1), the highway authority concerned may remove the obstruction or material deposited on the highway or repair the highway, as the case may be, and recover its expenses incurred in doing so from that person in an action in debt.

**(4)** Subsection (3) applies whether or not a conviction is made under subsection (1) or an order is made under subsection (2).

RSA 1980 cP-28 s43

**Injury by vehicle without tires**

**44** A person who moves an engine, tracked vehicle, traction engine or other machine not equipped with rubber tires on a highway without taking proper steps to prevent injury to the highway is guilty of an offence.

RSA 1980 cP-28 s44

**Damage to highway by water**

**45(1)** No person shall cause or permit water used or intended to be used for irrigation purposes to escape from irrigated land into a highway ditch or into or on a highway.

**(2)** A person who contravenes subsection (1) is guilty of an offence.

**(3)** A person convicted of an offence under this section who

- (a) continues to cause or permit any water used or intended to be used for irrigation purposes to escape from the land into a highway ditch or into or on a highway, or
- (b) does not, within 2 days from the day of the conviction, take action to the satisfaction of the highway authority to prevent the water used or to be used for irrigation purposes from escaping from the land into a highway ditch or into or on a highway,

is guilty of an offence and liable to a fine of not more than \$25 for each day during which the person neglects to take any action to prevent the water from escaping, and in default of payment of the fine to imprisonment for a term of not more than 90 days.

**(4)** In fixing a fine under this section, the court shall

- (a) take into account any damage that has been done to the highway through the escape of the water, and
- (b) include in the fine a sum that appears to the court to be the amount of the damage caused.

**(5)** Nothing in this section derogates from the right of the highway authority to claim by way of civil action for any damage caused to the highway by the escape of the water into a highway ditch or into or on a highway.

RSA 1980 cP-28 s45

**Temporary closure of highway**

**46(1)** While any construction or maintenance of a highway is in progress, the highway authority may close to traffic any part of the

highway in which construction or maintenance is being carried out, for the time it considers necessary.

(2) Every person using a highway closed to traffic in accordance with this section does so at the person's own risk and the highway authority is not liable in any action for damages resulting from the use by a person of a highway so closed to traffic.

(3) If a highway is closed pursuant to this section, no person shall enter on or travel on the highway unless the person is authorized to do so by the highway authority or unless the person enters on or travels on the highway in the course of the person's duties in connection with the construction or maintenance being done on that highway.

RSA 1980 cP-28 s46

#### **Closure of highway**

**47(1)** The Minister may by order close the whole or any portion of a highway the title to which is vested in the Crown in right of Alberta and may reopen any highway or portion so closed.

(2) When a highway closed under this section is within a town, village or rural municipality, the highway is no longer subject to the direction, control and management of that town, village or rural municipality.

RSA 1980 cP-28 s47

#### **Access and travel restrictions**

**47.1(1)** The Minister may by order close, or prohibit or restrict access to, a highway or a portion of a highway for safety or security reasons, regardless of which highway authority has the direction, control and management of the highway.

(2) Where the Minister proposes to close, or to prohibit or restrict access to, a highway or a portion of a highway that is under the direction, control and management of a highway authority other than the Minister, the Minister shall first consult with that highway authority unless, in the Minister's opinion, prior consultation is impractical due to urgent safety or security reasons.

(3) In the case of restrictions under subsection (1), the Minister shall specify in the order what the restrictions are.

(4) A person who contravenes an order made under this section contravenes this Act.

(5) The *Regulations Act* does not apply to an order made under this section.

2002 c32 s13

**Injury to traffic signs, etc.**

**48(1)** A person who wilfully defaces, knocks down, moves, injures or renders illegible a traffic control device or illumination device placed or erected by a highway authority is guilty of an offence.

**(2)** In fixing a fine under this section, the court may

- (a) take into account any damage that has been done to the sign, signal or traffic control device, and
- (b) include in the fine a sum that appears to the court to be the amount of the damage caused.

RSA 1980 cP-28 s48

**Snow fences**

**49(1)** A highway authority

- (a) may enter into and on and occupy any land that is contiguous to a highway and erect on that land snow fences for the purpose of preventing the highway from becoming blocked by snowdrifts, and
- (b) may from time to time enter on the land for the purpose of maintaining, repairing, removing or replacing a snow fence.

**(2)** No person is entitled to rent or other compensation in respect of an entry or occupation effected under this section.

**(3)** A snow fence erected pursuant to this section continues to be the property of the highway authority that erected it.

**(4)** Unless the person is authorized to do so by the highway authority that erected it, a person who knocks down, moves, removes, injures or interferes with a snow fence erected pursuant to this section is guilty of an offence.

RSA 1980 cP-28 s49

**Remedying dangerous conditions**

**50(1)** When a peace officer finds on any land conditions existing that may cause danger to life or to property of any person travelling on a highway, the peace officer may enter on the land with any equipment and persons the peace officer considers necessary and do any acts necessary to remedy the conditions.

**(2)** No person is entitled to compensation in respect of damage resulting from any acts done pursuant to this section.

RSA 1980 cP-28 s50



**General penalty**

**51** Any person contravening any provision of this Act or the regulations for which no penalty is specifically provided is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$200 and in default of payment of the fine to a term of imprisonment of not more than 15 days, and
- (b) for a 2nd or subsequent offence, to a fine of not less than \$50 and not more than \$500 and in default of payment of the fine to a term of imprisonment of not more than 30 days.

RSA 1980 cP-28 s51

**Bridges****Bridges**

**52(1)** Notwithstanding anything in this Act, the Minister may direct the construction or maintenance of a bridge on a highway or may enter into an agreement with any person for the construction or maintenance of a bridge.

**(2)** The costs of construction or maintenance of the bridge shall be

- (a) paid by the Crown,
- (b) paid by the urban municipality, rural municipality, irrigation district, drainage district or other person concerned, or
- (c) apportioned between the Crown and the urban municipality, rural municipality, irrigation district, drainage district or other person concerned on the basis prescribed in the regulations,

whichever the Minister directs.

**(3)** When the cost of construction is to be apportioned, the total cost of the construction may in the first instance be defrayed by the Crown out of money voted by the Legislature for that purpose.

**(4)** The Crown is entitled to recover as a debt due to the Crown the part of the cost of the construction or reconstruction apportioned to any urban municipality, rural municipality, irrigation district or drainage district or to deduct it from payments to be made in future from the Crown to it under an agreement made under this Act or any other Act.

(5) Notwithstanding any other Act, the regulations may transfer or provide for the transfer of the direction, control and management of a bridge from a highway authority to an irrigation district or drainage district subject to any terms and conditions prescribed in the regulations.

RSA 1980 cP-28 s52

### Ferries and Cable Cars

#### Ferries and cable cars

**53(1)** The Minister, when the Minister considers it expedient to do so, may

- (a) establish and operate a ferry, or
- (b) establish and operate a cable car,

over or on a river, stream, lake or other body of water, and may do any other works that are necessary for the operation of the ferry or cable car.

(2) The Minister may provide for the collection of tolls in an amount set by the Minister.

(3) Children going to or returning from school must not be charged a toll on a ferry or a cable car.

(4) A person who uses a ferry or a cable car and refuses to pay the toll to the operator of the ferry or cable car is guilty of an offence.

(5) A person who wilfully damages a ferry or a cable car operated under this section is guilty of an offence.

RSA 1980 cP-28 s53

#### Regulations

**54** The Lieutenant Governor in Council may make regulations necessary to carry out the provisions of this Act according to their intent or to meet cases that arise and for which no provision is made by this Act, and without restricting the generality of the foregoing, may make orders or regulations

- (a) governing the operation of ferries and cable cars;
- (b) governing the basis for apportionment of the costs of construction of bridges, in cases where the Minister directs the costs to be apportioned pursuant to section 52;
- (c) prescribing the terms and conditions on which any persons may use highways for the purpose of exploration as defined in Part 8 of the *Mines and Minerals Act* and

- governing the conduct of the exploration in relation to the use of highways;
- (d) governing the leasing of highways closed by the Minister pursuant to section 47.

RSA 1980 cP-28 s54

### **Trans-Canada Highways**

#### **Trans-Canada highways**

**55(1)** The Lieutenant Governor in Council may from time to time

- (a) authorize the entering into of agreements with the Government of Canada
- (i) providing for the construction, reconstruction and maintenance of trans-Canada highways, and
- (ii) providing for the payment by the Government of Alberta of a portion of the costs incurred in constructing, reconstructing and maintaining trans-Canada highways within Alberta,
- (b) do all things necessary or expedient to carry out any agreement referred to in clause (a) in conjunction with the Government of Canada and in particular may institute and carry out measures from time to time considered practicable and necessary for the construction, reconstruction and maintenance of trans-Canada highways within Alberta,
- (c) expend money under any agreement referred to in clause (a) for the construction, reconstruction and maintenance of trans-Canada highways within Alberta, and
- (d) make regulations considered necessary to carry out this Act according to its true intent.

**(2)** All money expended under this section shall be paid out of money voted by the Legislature for that purpose and in default of that vote may be paid out of the General Revenue Fund.

**(3)** The Lieutenant Governor in Council may raise by way of loan any sum of money necessary to discharge the obligation of the Government of Alberta under this section.

RSA 1980 cP-28 s55



Printed on Recycled Paper 