

# Regulations governing the administration of Provincial Water Powers and *The Water Power Act*

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Saskatchewan Regulations 906/68 (effective December 6, 1943) as amended by Saskatchewan Regulations 45/67, 159/74, 94/82, 3/88 and 105/2006.

## **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.

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**WATER POWER REGULATIONS**

**DEFINITION OF TERMS**

**Definition**

**1** In these regulations unless the context otherwise requires:

“**Act**” means The Water Power Act;

“**Actual construction**” means and shall include any necessary and authorized work carried on in pursuance of these regulations, and shall ordinarily include:

- (i) engineering investigations and reports,
- (ii) the clearing of lands,
- (iii) the construction of roads or railways,
- (iv) stream improvements,
- (v) other essential work undertaken solely in the construction of works authorized and not used independently as a source of profit;

but shall exclude:

- (i) promotion work,
- (ii) the underwriting, sale or disposal of stocks and bonds,
- (iii) the general administrative or directive functions are exercised by officers of the company or other persons at some distance from the actual scene of operations;

“**Actual cost**” of any development or works means the actual legitimate cost of such development or works in use and useful for the purposes of the undertaking at the time that any particular inquiry is being made; and shall ordinarily include:

- (i) the cost of engineering services appertaining to the construction of such development and works,
- (ii) interest during construction,
- (iii) taxes and insurance during construction,
- (iv) contractor’s profit,
- (v) the purchase of equipment,
- (vi) the cost of roads, railways, clearings, or other essential works undertaken and carried on solely in the construction of such development or works and not independently profitable,

(vii) such other expenditures as are necessary and inherent items of construction;

but shall in no case include:

- (i) promotion expenses,
- (ii) the cost of underwriting, selling, or disposing of stocks and bonds\*,
- (iii) head office and other expenditures relating to general administration exercised at some distance from the development or works which are not necessary and inherent parts of the construction expenditures;

**“Applicant”** means any person who or body corporate which has filed an application for a license under these regulations and shall include any permitted or interim licensee;

**“Approved”** – See **“Directed”**;

**“Chief Engineer”** means the chief engineer of the Water Rights Branch of the Department of Natural Resources;

**“Department”** means the Department of Natural Resources;

**“Development”** – See under **“Works”**;

**“Directed”, “required”, etc.** The words **“directed”, “required”, “permitted”, “ordered”,** or words of like import, mean respectively the direction, requirement, permission or order of the Minister or of the Chief Engineer as the case may be, and similarly, the words **“approved”, “acceptable”, “satisfactory”,** or words of the like import, mean respectively “approved by or acceptable or satisfactory to the Minister or Chief Engineer”;

**“Final license”** – See **“License”**;

**“Final licensee”** – See **“Licensee”**;

**“Initial power development”** or **“initial development”** – See under **“Works”**;

**“Inter-connected system”** – See under **“Works”**;

**“Interim license”** – See **“License”**;

**“Interim licensee”** – See **“Licensee”**;

**“License”** – Two kinds of licenses are referred to, namely: **“Interim license”** means a license authorizing the preparation of general construction plans and the construction of works in pursuance of such plans, as more particularly set out in sections 18 and 19;

**“Final license”** means a license authorizing the diversion, use, or storage of water for power purposes, or the transmission and distribution of water-power, as more particularly set out in sections 43 and 44;

\* It is to be understood that the necessary costs of promoting and organizing the enterprise and of providing capital otherwise than as included in the above are to be met by amortization during the term of the license.

**“Licensee”** – Two classes of licensees are referred to, namely: **“Interim licensee”** means the lawful holder of an interim license;

**“Final licensee”** means the lawful holder of a final license;

**“Minister”** means the Minister of Natural Resources;

**“Notice”** means a written notice;

**“Permittee”** means the holder of a priority permit under these regulations;

**“Plans”** – Four terms, representing four kinds of plans, are used, namely:

**“Preliminary sketch plan”** means the preliminary plan or sketch filed by the applicant with his initial application. (See para. “1” of section 3.)

**“General layout plans”** means the plans which must be filed by the applicant before an interim license may be issued, and which are to aid the Department in determining whether the proposed undertaking is feasible and practicable and in the public interest. (See sections 12 and 13.)

**“General construction plans”** means the plans of the works which must be approved by the Department before the interim licensee is permitted to commence the construction of the power development. (Sections 21 to 23.)

**“Final construction plans”** means the plans of the power development or power system as actually constructed, and shall in every case include plans of the lands as finally occupied to conform with the requirements of section 24. (Section 35);

**“Priority permit”** means a permit granting certain priority in the consideration of an application as provided in sections 14 to 16;

**“Provincial lands”** means provincial lands as defined in The Provincial Lands Act;

**“Provincial water-powers”** means any water-powers on provincial lands or any other water-powers which are the property of Saskatchewan and which have been or may be placed under the control and management of the Minister;

**“Regulations”** means the regulations herein set out, and shall include any regulations in force for the granting and administering of the Provincial water-powers and of the lands required in connection with the development and use thereof;

**“Required”** – See **“Directed”**;

**“Severance line”** means the line within which, in the event that the license should ever be terminated either by the failure to renew it upon the expiry of the term, or by voidance, cancellation, or any other legal process, the lands, works, and properties used or useful in connection with the undertaking should be considered as essentially tributary to the power or storage development, and outside of which such lands, works, and properties should be subject to be taken over on a different basis;

**“Stream” or “Water”** means and includes any river, brook, lake, pond, creek and any other flowing or standing water;

**“Survey permit”** means a permit to make surveys as provided in sections 7 and 8 of these regulations;

**“System”** – See under **“Works”**;

**“Undertaking”** means the undertaking required or proposed to be established or carried on in pursuance of this Act or the regulations by the Crown or by any applicant, licensee or person in the development of any Provincial water-power or in the transmission, distribution or utilization of the force or energy produced from such water-power, and includes, insofar as authorized or required in any case:

- (i) the storage, pondage, penning back, regulation, augmentation, carriage, diversion and use of water or of the flow thereof;
- (ii) the generation of energy at any plant which is used as an auxiliary to the water-power plant;
- (iii) the surveying, laying out, construction, maintenance and operation of works, including dams, flumes, penstocks, power stations, transmission lines, terminal stations and sub-stations;
- (iv) the surveying of provincial or other lands, the carrying on of investigations, and the collection of data;
- (v) the acquisition and use of lands and properties or any interest therein;
- (vi) the administration and management of the required lands, works and properties, and the business connected therewith;
- (vii) matters incidental to any of the foregoing;

**“Water-power”** includes any force or energy of whatever form or nature contained in or capable of being produced or generated from any flowing or falling water in such quantity as to make it of commercial value;

**“Works”** with reference to any power-development, power-system, undertaking, etc., means all the physical structures, devices, equipment, appliances, appurtenances and things whatsoever, authorized or required to be constructed, maintained, or operated by the applicant or licensee in respect of such power-development, power-system, undertaking, etc.

Six terms, representing six stages of development in the works are used, namely:

**“Power development” or “development”** means the physical structures within the severance line required for the storage or use of the stream-waters, for the production of power therefrom, and for the transmission thereof, and shall ordinarily include the dams or other diversion works, the power-house, the conduits conducting water thereto, the transmission lines within the severance line, and all hydraulic or electrical machinery, appliances, fixtures, equipment, appurtenances and lands and rights of way required in connection therewith, also clearings, roads, trails and railways insofar as required to be constructed and still used and useful in connection therewith and not independently profitable;

**“Storage development”** or **“development”** means the physical structures within the severance line required for the storage of the stream-waters for the production of power, and shall ordinarily include the dams, intakes or other storage works, water conduits within the severance line, all hydraulic or electrical machinery, appliances, fixtures, equipment and appurtenances, and lands and rights of way required in connection therewith, also clearings; roads, trails, and railways insofar as required to be constructed and still used and useful in connection therewith and not independently profitable;

**“Initial development”** or **“initial power or storage development”** means such portion of the “power or storage development” as is specified in the interim license as being required to be constructed before a final license may be issued;

**“System”** or **“power system”** means all lands, structures and appurtenances required to complete the undertaking authorized, including the power development, works, reservoirs, transmission lines, distribution works, auxiliary steam or other fuel plants, the lands required to be occupied, clearings, roads and railways insofar as required in connection with the power development, and all mills, buildings, machines, appliances, fixtures, equipment and appurtenances required in connection with the foregoing;

**“Inter-connected systems”** or **“inter-connected power systems”** means the power system and all plants and works connected therewith, related thereto and inter-dependent upon it, and similarly used in the generation, transmission, and distribution of electrical energy;

**“Independent works”** means all works and plants outside of the power system which may be classed as more tributary to independent undertakings of the licensee than to the undertaking authorized.

7 Dec 43 SR 906/68 s1; 17 Nov 2006 SR 105/2006 s3.

## SMALL WATER-POWERS

### Application to develop water-powers

**2** Applications for the development of water-powers, the capacity of which, under average usable flow conditions, does not exceed, in the opinion of the Chief Engineer, five hundred horse-power, and which are not deemed to be of primary importance for commercial or public utility purposes, may be dealt with under the provisions of section 92 hereof.

7 Dec 43 SR 906/68 s2.



## THE APPLICATION

**Application for license, information**

**3** Every applicant for a license to divert, use or store water for power purposes shall file with the Chief Engineer a statement giving or accompanied by the following information:

- (a) The name of the applicant;
- (b) His post office address and occupation;
- (c) The name or a clear description of the river, lake or other water-course from which the water is to be diverted or used;
- (d) The place where the water is to be diverted from or in the said water-course, referred if possible to an established survey monument of the Dominion or Provincial lands system of surveys; also the place where the water is to be returned or released;
- (e) The maximum quantity of water, expressed in cubic feet per second, which it is estimated will be ultimately diverted or used under the license applied for;
- (f) The estimated average head in feet which will be available for the production of power according to the plan of development now proposed;
- (g) The estimated minimum amount of energy expressed in horse-power which will be developed on the turbine shaft within five years from the date of the application or within such other period as the applicant may state to be required for the completion of his initial development;
- (h) The estimated maximum amount of energy expressed in horse-power which it is estimated will ultimately be developed on the turbine shaft from the waters applied for;
- (i) Briefly the character and extent of all principal works which it is proposed to construct for diverting, conveying, or using the water or water-power, including dams, raceways, canals, tunnels, pipe lines and other water conduits, power-houses, mills and transmission lines; (In reference to every dam give its approximate maximum length and height, also its proposed type, and the material to be used in its construction.)
- (j) If storage is involved, the location of each lake, basin or other place in which it is desired to store water; also, with reference to each such place the approximate number of acres of land which it is proposed to flood, the approximate area in acres of the surface of the reservoir when filled, the estimated vertical storage range in feet, and the total capacity of storage contemplated in acre-feet;
- (k) A reasonably accurate description and the area in acres of the lands which require to be occupied or used in the construction, maintenance or operation of the proposed works, noting separately lands required for rights of way and lands which are to be flooded:—
  - (i) within provincial lands;
  - (ii) within other lands of the Crown in the right of Saskatchewan;

- (iii) within lands of the Crown in right of Canada;
- (iv) within privately owned lands;

(It is desirable that the lands should be described as far as possible so as to satisfy the note accompanying item (h) of section 12.)

- (l) A preliminary plan or sketch, preferably on tracing linen and cut to a uniform size of 20 x 17 or 30 x 26 inches with scale so selected as to show upon a single sheet the entire project applied for, with the approximate location of all the principal works and lands referred to in the last three preceding items;
- (m) The nearest neighbouring works or structures completed or in course of construction, both above and below the place of the proposed diversion, for diverting or using water for any purpose from the same source of supply and the approximate distance and direction of each such works from the proposed works; also the names and location of any other works or structures whatever (including bridges, railways and canals) which might affect or be affected by the construction, maintenance or operation of the proposed works;
- (n) The approximate discharge in cubic feet per second, at or near the place of diversion of the river, lake or other source from which the water is to be diverted at high, medium and low water stages respectively, also copies of any existing measurements of the flow of the stream in the applicant's possession and a reference to all other such measurements of which the applicant has knowledge.
- (o) Briefly an outline of the undertaking in respect of which the license is desired, including the use to which the power is to be applied, any sale, delivery or transfer thereof to other than the applicant which is contemplated, the territory, if any, within which such sale, delivery or transfer is to be exercised, the probable demand for power within such territory and an estimate of the capital cost of the entire undertaking;
- (p) The financial standing of the applicant with reference to his ability to carry out the proposed undertaking. (The applicant, when requested so to do by the Minister, shall file an affidavit setting forth such facts with respect to this item as the Minister may require, which affidavit will be treated as confidential.)
- (q) If the applicant be an incorporated company, the statement shall, in addition to the foregoing information, set forth:
  - (i) The names of the directors and officers of the company, and their places of residence;
  - (ii) The head office of the company in Canada;
  - (iii) The amount of capital authorized, also the amounts of subscribed, and of paid-up capital, specifying in regard to the latter, (a) how much has been paid in cash, and (b) in what manner the balance has been paid for, also the proposed method of raising further funds, if required, for the construction and operation of the proposed works;

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- (iv) Copy of the special act of incorporation or the memorandum of association and a statement setting out the particular sections or parts thereof which authorize the company to make the application and to carry out the proposed undertaking;
- (r) If the applicant be a municipality, then the following special information shall be given in addition to that required in items (a) to (p) above, namely:
  - (i) The location, area and boundaries of the municipality;
  - (ii) The approximate number of its inhabitants;
  - (iii) The present indebtedness of the municipality and its borrowing limit;
  - (iv) A certified copy of any by-law or resolution passed by the municipality respecting the application or the undertaking to which the application relates, also a certified copy of any enabling Act or other statutory provision authorizing the municipality to engage in the proposed undertaking.

7 Dec 43 SR 906/68 s3.

**Elevations**

- 4** All elevations given in connection with the plans or other information filed by any applicant should be referred, if possible, to mean sea-level datum.

7 Dec 43 SR 906/68 s4.

**Chief Engineer empowered**

- 5** The Chief Engineer may, at any time while an application is pending, irrespective of any other requirement of these regulations, call for such additional plans, descriptions, measurements, specifications, or other data (whether related directly or indirectly to the proposed works and undertakings) as he considers necessary, and the same shall be furnished by and at the expense of the applicant.

7 Dec 43 SR 906/68 s5.

## PUBLICATION AND HEARINGS

**Publication and hearings**

- 6(1)** Forthwith upon the filing by the applicant of such data as in the opinion of the Chief Engineer is necessary to a clear understanding of the proposed undertaking, and in every case before the issue of an interim license in favour of the applicant, the Chief Engineer shall cause the publication, at the expense of the applicant, of a notice of the application, in at least one issue of The Saskatchewan Gazette, also once in each week during two consecutive weeks in some newspaper of general circulation published within the general neighbourhood of the proposed works and approved by the Chief Engineer, and in one or more issues of such other publications as the Chief Engineer considers advisable.

(2) Such notice shall be marked at the top in plain letters "Water-Power Application," and shall be in a form approved by the Chief Engineer, and shall give substantially the following information:

- (a) Name and address of applicant;
  - (b) Date of application;
  - (c) Name or clear description of source of supply;
  - (d) Place of diversion clearly described;
  - (e) Maximum horse-power capacity of proposed plant;
  - (f) Nature of the undertaking and utilization of the power;
  - (g) A statement that the application has been filed with the Chief Engineer and that protests or objections may be filed by any interested party with the Chief Engineer, or, at certain local points to be designated;
  - (h) If storage or pondage of water is contemplated, the place of storage, the capacity of the intended reservoir, and a general description of the lands which will be flooded;
  - (i) Such other information as the Chief Engineer may require.
- (3) Forthwith, after the said publication of notices has been completed, the applicant shall file proof of the said publication, such proof to be in the form of an affidavit satisfactory to the Chief Engineer, to be accompanied, in every case, by a copy of the notice as published and posted.
- (4) If, because of protests or objections being filed, or for other reasons the Minister considers that a local or other hearing should take place before action is taken, he shall designate a time and place for such hearing and shall name a person to preside over and conduct the same.

Such hearing may be adjourned from time to time, and the applicant may be permitted for the time being to continue the preparation of his plans and the carrying on of investigations, as may be deemed advisable.

(5) The person conducting the hearing shall report his findings and recommendations in writing, after which the Chief Engineer may make his recommendations to the Minister, and the Minister shall take such action in virtue of these regulations as he may deem advisable. The Minister shall have power to dismiss the application if such action is required in the public interest.

## SURVEY PERMIT

### **Survey permit**

**7** The Chief Engineer may issue to any applicant a survey permit which shall empower the applicant to enter upon any Crown lands without other license therefor, and upon the lands of any person whomsoever for the purpose of making such surveys and investigations as may be necessary for the preparation of his general layout plans, but for no other purpose whatsoever, and the applicant shall, in making such surveys and investigations, do as little damage as possible, and shall make full compensation therefor to all persons sustaining the same.

7 Dec 43 SR 906/68 s7.

### **No special claim**

**8** The issuance of a survey permit shall not give the applicant any priority over other applicants for the development of any water-power, nor any special claim or right whatsoever in respect of the said water-power.

7 Dec 43 SR 906/68 s8.

### **Security deposit, re: damages**

**9** The applicant shall furnish such security as the Department may require for the payment of any sums which may be subsequently awarded for the damage caused by the applicant in making any surveys and investigations authorized under these regulations.

7 Dec 43 SR 906/68 s9.

### **Arbitration**

**10** In case the applicant and the person whose lands are damaged by the making of any such surveys and investigations cannot agree on the amount of compensation for the damage done either party may apply to the Court of King's Bench to have the question settled by arbitration, and thereupon the procedure supplied in the Railway Act for determining compensation for the use of lands by a railway company and for awarding the costs of the said arbitration shall be followed.

7 Dec 43 SR 906/68 s10.

## GENERAL LAYOUT PLANS

### **Filing of general layout plans and data**

**11** Forthwith after the issuance to the applicant of the survey permit he shall proceed with the preparation of his general layout plans and data, and shall file the same within such time as the Chief Engineer shall specify.

7 Dec 43 SR 906/68 s11.

**Plans to conform to requirements of Chief Engineer**

12(1) The general layout plans and data shall be such as in conjunction with the data already available in the Department will enable the Chief Engineer to determine whether the proposed works are of suitable design to accomplish the purpose intended, whether the proposed development is in general accord with the most beneficial utilization of the resources of the stream, and whether the proposed undertaking is feasible and practicable and in the public interest, and such plans shall further conform to any requirements of the Chief Engineer not inconsistent with these regulations.

(2) The said plans and specifications must be carefully prepared, being based upon actual and thorough surveys and investigations on the ground. They must be in sufficient detail to enable the department engineers to determine exactly what is proposed to be done by the applicant, and must show the position of the proposed works with reference to surrounding objects, so that the exact scope of what is desired may be readily located and ascertained. They shall show what provision is made for navigation, logging, and other interests, as required by section 88. They should ordinarily include the following items but in certain cases the applicant may be excused by the Chief Engineer in writing from supplying some part or parts of the information called for by this section:

- (a) A general map with scale so selected as to clearly define the location of all dams, reservoirs, conduits, power-houses and other works, except transmission lines;
- (b) A cross-section of each dam-site along the centre line of the proposed dam with graphical log of each boring, test-pit, or other exploration, and a brief statement of the character and dip of the underlying material;
- (c) Plans, elevations and cross-sections of the dams, showing spillways, sluiceways or sluice-pipes and other outlet of control works, also of the other principal structures which may be required;
- (d) A satisfactory contour plan showing the proposed power-house and other works;
- (e) A satisfactory contour plan of the entire water conduit location and also plans, elevations and cross-section of each type of water conduit;
- (f) A satisfactory contour plan of each reservoir site showing the amount of flooding involved, the location and character of each proposed dam and of other contingent works;
- (g) A map or plan of the survey of the proposed final location of the centre line of all main transmission lines to and including the receiving stations;
- (h) Said plans or maps shall in every case show the location and area of the lands which are required to be occupied, used, or flooded in connection with the proposed works;

(Describe by section, township and range or by lot number, if in surveyed territory; and if other than Crown lands, give the name of the registered owner in fee of any registered mortgagee or lessee, and of any claimant in actual possession other than a registered owner, mortgagee or lessee.)

(i) A general report outlining and describing the plan by which the applicant proposes to develop the water privilege. Such report shall set out:

- (i) The dams, weirs, tunnels, races, flumes, sluices, pits and other structures or works which it is proposed to build or make in connection therewith;
- (ii) The form in which the power developed is to be used, i.e., whether for direct mechanical connection, generation of electricity or otherwise, and for what purpose it is to be used;
- (iii) Any contemplated sale, delivery or transfer of the power to other than the licensee;
- (iv) If the power is to be transmitted, the territory within which such sale, delivery or transfer is to be exercised;
- (v) The estimated demand for power within such territory;
- (vi) Any other data necessary to a full understanding of the nature and objects of the undertaking;
- (vii) The natural height of the fall or rapid;
- (viii) The extreme high and low water levels at the power dam site and the power station site, and of all bodies of water proposed to be used as storage reservoirs;
- (ix) The flow of water in cubic feet per second at the high, low, and average stages of same;
- (x) The estimated capacity in horsepower of the fall or rapid in its natural condition at the average low stage of water;
- (xi) The area and available capacity of each proposed storage reservoir;
- (xii) The estimated percentage of stream-flow to be made available from storage;
- (xiii) All other data necessary to a full consideration of the natural features of the site or sites of the proposed works;
- (xiv) The estimated total average effective head it is proposed to develop;
- (xv) The height and full description of any dams or weirs, which it is proposed to construct;
- (xvi) The increase in the level of the water to be brought about, and the area and character of lands to be flooded by such dams or weirs;
- (xvii) The effective discharging capacity of such dams or weirs and the type of the proposed control works;
- (xviii) The length and full description of the proposed water conduits;
- (xix) A full description of the power station including the type, number and rated capacity of the water-wheels and generators proposed to be used, both in the initial and in the final development;
- (xx) The probable load factor of the power system;

(xxi) The length in miles and a full description of all main transmission lines;

(xxii) All other data necessary to a full consideration of the proposed works;

(j) The report mentioned in the last preceding paragraph shall in all cases be accompanied by preliminary estimates of cost;

(k) Copies of field notes of the entire survey of water conduits, transmission lines, exterior boundaries, power-house and reservoir sites, or of such parts thereof as the Chief Engineer may require, tied in wherever possible to an established survey monument of the Dominion or Provincial lands system of surveys;

(l) If there are other works already constructed or in course of construction in the neighbourhood of the proposed works, for diverting or using water from the same or tributary stream, the said plans shall indicate the location and give the distance from the proposed works, of the nearest of such other existing works both above and below the proposed works, and, if a power development, the normal elevation of the head-water and tail-water thereof, or if other than a power development, the elevation of the sill of the head-gate or head-gates, such elevations in every case to be referred to the same system of elevation as are used to designate elevations at the site of the proposed works; and if there are any other works of structure, such as bridges, railways, highways and canals, or any other public or private works whatsoever which might affect or be affected by the construction, maintenance or operation of the proposed works, the said plans shall indicate the location and set out the governing elevations of such other works or structures.

7 Dec 43 SR 906/68 s12.

#### **Plan specifications to satisfaction of Chief Engineer**

**13** The said plans shall be on tracing linen and cut to a uniform size of 20 x 17 or 30 x 26 inches; the said specifications shall be either printed or typed; and both plans and specifications shall be signed by a Professional Engineer of recognized standing in Saskatchewan, satisfactory to the Chief Engineer, and shall be filed with the Chief Engineer. Elevations wherever possible should be tied in to mean sea-level datum.

7 Dec 43 SR 906/68 s13.

### **PRIORITY PERMIT**

#### **Priority permit**

**14** Upon the satisfactory submission by an applicant of such of the information called for by section 3, and also such of the plans and specifications required in the preceding sections as will satisfy the Chief Engineer that the proposed development is in general accord with the most beneficial utilization of the stream waters, and that the proposed undertaking, as far as the preliminary consideration possible at this time enables the Chief Engineer to judge, is feasible and practicable and in the public interest, and that the applicant has the requisite financial ability to carry the project to a successful consummation, the Minister may issue to the applicant a priority permit which shall give the applicant priority over other applicants in the consideration of his general layout plans if filed within a specified time, to be mentioned in the permit.



In granting a priority permit the Minister may give preference to an application by a municipality if he considers such preference to be in the public interest.

7 Dec 43 SR 906/68 s14.

**Minister not bound by permit**

**15** Such permit shall in no case be construed as binding the Minister to enter into an interim license nor as giving the applicant any exclusive claim or right in respect of the development of the water-power site, nor as relieving the Minister from considering other possible schemes for the development of the site, if there is reason to believe they may result in a more beneficial utilization of the natural resources or be otherwise more in the public interest.

7 Dec 43 SR 906/68 s15.

**Priority permit effective for one year**

**16** A priority permit shall be effective for a period not to exceed one year unless renewed. Extensions of the time fixed may not be granted unless it is shown to the satisfaction of the Chief Engineer by statutory declaration by the applicant, and otherwise, that the applicant has promptly and diligently continued the surveys and preparation of the said plans in good faith, and has been prevented by causes beyond his control (other than the want of funds) from completing the same within the time fixed, and in no case shall the applicant be given extension totalling more than one year from the expiry of the time originally fixed. If the plans and information required are not completed and filed before the expiration of the said initial period or any such extension which is granted, the applicant's priority shall lapse.

7 Dec 43 SR 906/68 s16.

**Additional information, re: interim license**

**17** If the Chief Engineer is of the opinion that further information than that set out in section 12 is necessary before an interim license is entered into, he shall defer making the report mentioned in the next section and request the applicant to furnish such additional information.

7 Dec 43 SR 906/68 s17.

## THE INTERIM LICENSE

**Interim license**

**18** Upon a report being made by the Chief Engineer that the proposed works are of suitable design to accomplish the purpose intended, that the proposed development is feasible and practicable and will accord with the most beneficial utilization of the resources of the stream and that it is the best possible development, in the public interest, of which the site in question is capable, bearing in mind both present conditions and future requirements, the Minister may, if he deems advisable, issue an interim license in favour of the applicant for the carrying out of the said development.

7 Dec 43 SR 906/68 s18.

**Particulars**

**19** Every interim license for the development of a water-power or storage undertaking under these regulations shall set out particulars and lay down requirements, insofar as applicable to the case, with respect to the following matters:

- (a) recital or recitals giving:
  - (i) The name and address of the interim licensee and date of his application;
  - (ii) The name and location of the power or storage site, the statement that Provincial lands or waters are required to be used or occupied in carrying out the undertaking, and briefly the nature of the works and undertaking proposed for the development of the said site; also a reference to any plans or data on file and where filed in which the said works and undertaking are more fully shown or described;
  - (iii) The date of each permit and extension thereof which may have been issued in favour of the interim licensee and a statement whether the requirements thereof and of the regulations have been fully complied with by such interim licensee;
- (b) The date on or before which the interim licensee must file his general construction plans and specifications with the Chief Engineer for approval, which date may in no case be extended for more than one year;
- (c) The minimum amounts of expenditure which shall be made on the works within stated periods after the interim licensee has been notified by the Chief Engineer of the approval of the general construction plans and specifications;
- (d) The time within which an initial development of the site capable of producing and having available for beneficial use a stated minimum amount of horse-power measured on the turbine shaft, or in the case of a storage undertaking, capable of storing a specified quantity of water, shall be completed, such initial development in every case to represent substantial progress towards the completion of the entire development of the site as outlined in the plans approved by the Department;
- (e) A general statement with respect to the Provincial lands which the interim licensee may, for the time being and subject to the provisions hereinafter set out, enter upon, use or occupy for making surveys and investigations and constructing works;
- (f) The amounts of stream-flow, if any, which may be temporarily diverted, used or stored under the interim license, pending the issue of a final license;
- (g) The sum or sums to be paid as rentals or royalties for the lands occupied or the waters used during the life of the interim license, also the times and the manner of the payment thereof;
- (h) The giving up of the possession and the transfer of any lands, works, and properties which may be required under the terms of sections 47 or 81, and the execution of the acceptance of the license and of the undertaking required in conjunction therewith, as set out in section 82.

- (i) The amount of the bond or cheque, if any, required to be deposited by the interim licensee as security for the performance of the terms and conditions of the interim license;
- (j) The issue in favour of the interim licensee upon the completion of his initial development and observance and fulfilment by him of all the terms and conditions required by the said interim license and under these regulations to be by him observed or fulfilled of a final license for the use or storage of water, for the development of energy therefrom for the utilization of such energy, and (or) for the use or occupation of Provincial lands, which, in the Minister's opinion, are required for the proper maintenance and operation of the works; and a statement of the principal terms, which, subject always to these regulations, will be embodied in such final license when issued, including:
  - (i) The maximum flow or quantity of water which may be diverted from time to time at the place of diversion, and used from time to time at the place of use, respectively, under such final license; and if storage is involved, the maximum capacity of storage permissible from time to time at each storage site; subject in either case to the control and regulation of the stream-flow and of users on the stream as hereinafter provided;
  - (ii) A brief description of the undertaking in respect of which such final license is to be issued, including the use which may be made of the power or storage, whether power may be sold or delivered to or used by other than the applicant, and if so, the territory within which such sale, delivery, or transfer of the right of use may be exercised;
  - (iii) The term of the final license;
  - (iv) The annual rental payable during the initial period of the final license for waters used or stored and for the lands occupied, respectively, or for any other privilege granted;
  - (v) The severance line agreed upon;
- (k) Any other special terms and conditions which, subject always to these regulations, may be imposed by the Minister.

7 Dec 43 SR 906/68 s19.

**Same**

**20** Every interim or final license shall be deemed to incorporate and shall be subject to the provisions of the regulations in force at the time of the issue of such interim or final license insofar as applicable to the said interim or final license without restatement of the said provisions in such interim or final license, and shall also be subject to such other stipulations, provisos and conditions, not inconsistent with these regulations, as the Minister may impose. Every interim or final license shall also be subject to amendments and additions to these regulations made during the term of such license which are not inconsistent with the rights and privileges granted under the license.

7 Dec 43 SR 906/68 s20.

## GENERAL CONSTRUCTION PLANS

### General construction plans

**21** Forthwith after the execution of any interim license, the interim licensee shall commence and carry forward the preparation of the general construction plans and specifications of all the proposed works for the development of power or storage at the site in question, and for the utilization of the said power or for its transmission and distribution as the case may be, and he shall complete and file the said plans with the Chief Engineer within the time specified in the interim license.

7 Dec 43 SR 906/68 s21.

### Plans, re: contractors, tenders

**22** The said plans and specifications shall be such as would ordinarily be prepared for submission to construction contractors for the purpose of receiving tenders, and shall be such as would enable such contractors to proceed with construction preparations and the design of final detail construction plans. They shall be in sufficient detail to satisfy the Chief Engineer.

7 Dec 43 SR 906/68 s22.

### Plan specifications filed with Chief Engineer

**23** The said plans shall be on tracing linen, and cut to a uniform size of 20 x 17 or 30 x 26 inches; and the said specifications shall be either printed or typed; and both plans and specifications shall be signed by a Professional Engineer of recognized standing in Saskatchewan satisfactory to the Chief Engineer, and shall be filed with the Chief Engineer.

7 Dec 43 SR 906/68 s23.

## PLAN OF LANDS

### Plan of lands

**24(1)** The interim licensee shall, at such time as shall be fixed by the Chief Engineer, supplement the general construction plans of the works by a plan of lands from an actual survey by a Saskatchewan Land Surveyor. Such plan of lands shall be certified by such surveyor and shall show and describe by section, township and range or lot number, if in surveyed territory, or by other accurate description if in unsurveyed territory, the lands which are required to be occupied or used in the construction, maintenance and operation of the proposed works, noting separately:

- (a) Provincial Lands not covered by water required for main diverting works, power-houses, etc.;
- (b) Provincial Lands covered by water required for the said purpose;
- (c) Provincial Lands required only to be flooded in connection with the storage or pondage of water;
- (d) Provincial Lands required only for rights of way for water conduits, transmission lines, etc.;

- (e) Provincial Lands, if any, required for sub-stations, distributing stations, terminal stations, etc.;
  - (f) Other lands of the Crown in the right of Saskatchewan;
  - (g) Lands of the Crown in the right of Canada;
  - (h) Privately owned lands;
- (2) The said plan shall be accompanied by a statement giving with respect to each parcel of privately owned lands:
- (a) The registered owner in fee thereof;
  - (b) Any registered mortgagee or lessee;
  - (c) Any claimant in actual possession other than a registered owner, mortgagee or lessee.
- (3) If so required by the Chief Engineer, the surveys and investigations called for by this section shall be made by a surveyor of the Department and in such case the interim licensee shall reimburse His Majesty for all salaries and expenses paid for such surveys upon the presentation to the interim licensee of accounts for the same certified by the Department.

7 Dec 43 SR 906/68 s24.

## APPROVAL OF PLANS

### Approval

- 25(1)** The Chief Engineer shall examine the said general construction plans and specifications of the works, and the said plan of lands as soon as possible after the same have been filed, and shall report thereon to the Minister, and shall notify the interim licensee in writing in any case not later than six months after the latest date permitted for the filing of the said plans and specifications whether the Department has approved the same, or subject to what conditions they have been approved, or whether the plans have been rejected, and the interim license cancelled.
- (2) In case the interim licensee shall have filed the plans required in complete form and shall not have been notified in regard thereto within six months as provided in the preceding subsection, such plans shall be considered as approved upon the expiry of the said six months' period and the licensee shall be permitted to proceed with the works provided he previously advises the Chief Engineer.
- (3) Departmental approval or non-approval of any plans shall neither incur the responsibility of the Crown nor relieve the interim licensee from the consequences which may result from the construction of the works, from imperfections in departmental requirements or from the operation of the works.

7 Dec 43 SR 906/68 s25.

## COMMENCEMENT OF CONSTRUCTION

### Commencement of actual construction

**26(1)** The interim licensee shall not commence the actual construction of the proposed works until after being notified as provided in subsection (1) of the preceding section that his general construction plans and specifications of such works have been approved either with or without conditions by the Department, except as he is authorized to do under subsection (2) of the preceding section:

Provided that if considered necessary by the Chief Engineer to facilitate preliminary construction operations such as the clearing of site for structures, or the clearing of land that will be flooded, or any other work other than the actual construction of the permanent works, permission may be extended an interim licensee for such operations prior to the approval of the general construction plans. Authority granted the interim licensee under this clause, shall be without prejudice to the action of the Department on the general construction plans or otherwise.

(2) Within six months after receiving such notification, or within six months after approval obtained as described in subsection (2) of the preceding section, the interim licensee shall commence the construction of the said works and shall thereafter without interruption, except such as may be occasioned by act of God or other major cause beyond the control of the interim licensee (other than want of funds), carry on and complete the construction of the said works according to the plans and specifications as so approved, and subject to the terms of the interim license and of these regulations.

7 Dec 43 SR 906/68 s26.

## ANNUAL DEPOSIT BY INTERIM LICENSEE

### Annual deposit

**27(1)** In the period commencing with the date of the interim license and extending to the date of the construction guarantee fund hereinafter required the interim licensee shall, in the case of a power undertaking make an annual deposit with the Department computed on the horse-power capacity of the site as determined by the Chief Engineer, according to the following scale:

Each H. P. up to 1,000 H. P. ....	\$0.40
The next 9,000 H. P. ....	\$0.20 each
All over 10,000 H. P. ....	\$0.10 each

(2) In the case of a storage undertaking the annual deposit shall be computed on the estimated cost of the storage development as determined by the Chief Engineer, according to the following scale:

- 1 per cent on the first \$100,000 of estimated cost.
- 1/2 per cent on the next \$900,000 of estimated cost.
- 1/5 per cent on the amount above \$1,000,000 of estimated cost.

## WATER POWER

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(3) The annual deposit required under this section shall in no case exceed ten thousand dollars; and may be in the form of one or more cheques upon a chartered bank or banks approved by the Department.\*

(4) The first such annual deposit shall be payable on or before the execution of the interim license and shall be prorated to cover the then unexpired portion of the calendar year; subsequent annual deposits shall be made on the first day of January of each year in advance.

(5) The said deposits shall be credited to the interim licensee as a part of the construction guarantee fund hereinafter specified in the event that the conditions required to be performed by him up to the time of the approval of his general construction plans, are satisfactorily performed and shall be refunded to him in the event that, having satisfactorily performed the said conditions, he is notified by the Chief Engineer that his plans have been rejected and his interim license cancelled; but the said deposits, or such part thereof as the Minister directs, shall be forfeited to the Crown in the event that the interim licensee fails to prepare and file satisfactory working plans or otherwise fails to carry out the terms of his interim license.

7 Dec 43 SR 906/68 s27.

\*Table showing, in the case of power developments, the annual deposit and the guarantee deposit required for developments of varying horse-power.

Horse-power	Annual Deposits	Guarantee Deposits
1,000	\$ 400	\$ 2,000
5,000	1,200	6,000
10,000	2,200	11,000
20,000	3,200	16,000
50,000	6,200	31,000
88,000 and up	10,000	50,000

## GUARANTEE DEPOSIT

**Guarantee deposit**

**28(1)** Within sixty days after being notified in writing by the Chief Engineer of the approval of his general construction plans and specifications by the Department, the interim licensee shall deposit with the Department such sum as, together with the annual sums previously required to be deposited as hereinbefore specified, shall make up the amount required by this section as a guarantee deposit fund for the purpose of guaranteeing the performance and fulfilment by the interim licensee of the terms and conditions of his interim license.

(2) The amount of said guarantee deposit fund shall in the case of a power undertaking be computed according to the horse-power capacity of the site as determined by the Chief Engineer, according to the following scale:

Each H. P. up to 1,000 H. P. ....	\$2.00
The next 9,000 H. P. ....	\$1.00 each
All over 10,000 H. P. ....	\$0.50 each

(3) In the case of a storage undertaking the amount of the guarantee deposit fund shall be computed on the estimated cost of the storage development as determined by the Chief Engineer, according to the following scale:

5 per cent on the first \$100,000 of estimated cost.

2-1/2 per cent on the next \$900,000 of estimated cost.

1 per cent on the amount above \$1,000,000 of estimated cost.

(4) The guarantee deposit required under this section shall in no case exceed fifty thousand dollars; and may be in the form of one or more cheques upon a chartered bank or banks approved by the Department.\*

(5) The Minister may refund the said deposit to the interim licensee as the actual construction work progresses, the first, second, and third quarters thereof to be refunded when one-fourth, two-fourths, and three-fourths, respectively, of the initial development have been satisfactorily completed, the fourth quarter to be refunded when the final license is issued.

(6) The interim licensee shall present to the Department such evidence of the satisfactory progress in works to the stage required in compliance with the terms of his interim license, in the form of a statutory declaration or otherwise as may be required.

(7) The Minister is to be the final arbiter on the question of the satisfactory completion of the first one-fourth of the said initial development, but if any dispute arises respecting the satisfactory completion of any subsequent fourth, the matter shall be referred to the Court of King's Bench.

(8) If the general construction plans submitted by the interim licensee are finally rejected and his interim license cancelled, while the said interim licensee has nevertheless complied with all requirements in filing the said plans, his guarantee deposit shall be refunded, and the Minister, upon a report by the Chief Engineer, may make such provision as he deems just for compensating the interim licensee for the said plans should they prove to be valuable in connection with the disposition which is eventually made of the power site.

(9) If the interim licensee has failed to comply satisfactorily with the terms of his interim license, the guarantee deposit fund or such part thereof as the Minister or the Court of King's Bench, as the case may be, may determine shall be forfeited to the Crown.

7 Dec 43 SR 906/68 s28.

\*Table showing, in the case of storage developments, the amount of annual deposit and guarantee deposit required for varying costs of development.

Cost	Annual Deposit	Guarantee Deposit
\$ 100,000	\$ 1,000	\$ 5,000
500,000	3,000	5,000
1,000,000	5,500	27,500
2,000,000	7,500	37,500
3,000,000	9,500	47,500
3,250,000 and up	10,000	50,000



## RIGHTS IN LANDS UNDER INTERIM LICENSE

**Interim rights of entry, use or occupation of Provincial lands**

**29** Only such interim rights of entry upon or of the use or occupation of any Provincial lands shall be acquired in virtue of any interim license executed under these regulations as may, in the opinion of the Minister, be necessary for the purpose of making surveys, preparing plans, constructing works and otherwise carrying out the terms of the interim license and in no case shall the rights granted by any interim license be construed to interfere in any way with any interest in Provincial lands previously disposed of by the Crown. The Minister may, from time to time, as plans and information are filed showing the extent and scope of the works and undertaking of the interim licensee with greater precision than was possible when the interim license was executed, designate, allot, amend and limit the areas of the said lands which the interim licensee is permitted to enter upon, use or occupy for the purpose aforesaid, and the Minister's decision on the above matter shall be final.

7 Dec 43 SR 906/68 s29.

**Expropriation**

**30** The Minister shall also, at the time of approving the said plans, or as nearly thereafter as is found feasible, designate in writing the lands with respect to which the powers of expropriation conferred by The Water Power Act may be exercised; and the interim licensee shall in no case exercise such powers of expropriation until the lands are so designated nor with respect to other lands than those specified.

7 Dec 43 SR 906/68 s30.

## CHANGE IN PLANS

**Change in plans**

**31** The interim licensee, before making any material change in the general construction plans as approved, or in the works constructed or under construction in pursuance of his license or in the location thereof authorized, shall submit a complete and satisfactory statement and plans of such proposed change to the Chief Engineer, and shall not proceed to carry out the same until such proposed change has been authorized.

7 Dec 43 SR 906/68 s31.

## INSPECTION AND REPORTS

**Free access**

**32** The Minister, the Chief Engineer, or any engineer or person authorized by either for that purpose shall have free access at all times to all parts of the lands being occupied or of the works being constructed by any interim licensee for the purpose of ascertaining whether the terms and conditions of the interim license are being satisfactorily carried out by the interim licensee, and in particular whether the construction of the works is in accordance with the plans and specifications approved as hereinbefore provided; also for the purpose of checking and taking note of construction-cost data; for which purposes the contractor or any sub-contractor shall give the person so authorized for the purpose access to figures in the possession of such contractor or sub-contractor at all reasonable times.

7 Dec 43 SR 906/68 s32.

**Inspecting, consulting engineer**

**33(1)** The Chief Engineer, if he considers the undertaking of sufficient importance, may place a qualified inspecting engineer on the work during construction and may also, if he considers it necessary, retain a consulting engineer for advice in connection with the plans or works of the interim licensee. The licensee shall reimburse His Majesty on or before the first day of January in each year for all sums paid for salaries and expenses in respect of the said undertaking on behalf of the said inspecting engineer, on statements of the sums so paid being submitted by the Department from time to time. In like manner, the licensee may also be called upon, at the discretion of the Minister, to reimburse His Majesty for all or part of sums paid for fees and expenses of the said consulting engineer.

(2) The interim licensee shall abide by, conform to and carry out all reasonable written instructions of the inspecting engineer regarding the construction of all works in accordance with the plans and specifications approved as hereinbefore provided, and in case of dispute, regarding the reasonableness of such written instructions, or regarding the requirements of the plans and specifications, the Minister's decision shall be final and conclusive; and in case the interim licensee does not abide by or conform to and carry out the said written instructions of the inspecting engineer the Minister may cause the interim licensee to suspend all operations with respect to works herein mentioned until the Minister gives instructions to resume the same, and in the case of continued refusal by the interim licensee the Minister may cancel the interim license.

7 Dec 43 SR 906/68 s33.

**Progress reports**

**34** The interim licensee shall submit such reports of progress during construction of the said works as the Chief Engineer may from time to time require.

7 Dec 43 SR 906/68 s34.

## FINAL CONSTRUCTION PLANS

**Final construction plans**

**35(1)** Within ninety days after the completion of the initial development in accordance with the general construction plans or with any authorized changes therein, and within ninety days after the completion of any additional unit of the power development or of the power system, the interim or final licensee, as the case may be, shall file with the Chief Engineer copies of his final construction plans.

(2) The final construction plans, together with drawings and specifications accompanying the same, shall show the works as actually constructed in such detail as would be required to be given to construction contractors for the purpose of constructing the works. They shall also show the precise areas of lands occupied so as to satisfy the requirements of section 24.

(3) The said plans shall be on tracing linen, and shall conform to the sizes specified in item "I" of section 3; the said specification shall be either printed or typed; and both plans and specifications shall be signed by a Professional Engineer of recognized standing in Saskatchewan satisfactory to the Chief Engineer, and shall in other respects satisfy the requirements of the Chief Engineer.

(4) In no case shall the interim licensee be entitled to the issue of his final license until he has fully complied with the requirements of this section insofar as they relate to the initial development.

7 Dec 43 SR 906/68 s35.

## FIXATION OF CONSTRUCTION COSTS

**Actual cost**

**36(1)** Upon completion of the initial development and upon the completion of any substantial addition thereto, a sum shall be fixed which, in conformity with the provisions and principles of these regulations, shall represent the actual cost of such development and (or) of such addition. In the event that the Minister and the interim or final licensee, as the case may be, cannot agree upon the said sum within ninety days after the completion of the said development and (or) of such addition, or within ninety days after the purchase of any lands or rights of way within the severance line, the Minister shall refer the matter to the Court of King's Bench for determination.

(2) In no case shall a final license be issued to the interim licensee until such licensee has fully complied with the provisions of this section insofar as they relate to the completion of the initial development.

(3) For the purpose of determining whether the interim licensee's progress in constructing works has been sufficient to comply with the terms of his interim license and of these regulations, or for determining whether any part of the interim licensee's guarantee deposit is repayable as provided in section 28, or for any other purpose, the Minister may require that the actual cost of such part of the initial development as has been constructed up to a certain date shall be established, and in such case the interim licensee shall promptly submit all figures and data in his possession, and a sum shall be fixed to represent the cost of such part in the same manner as hereinbefore provided for fixing the cost of the entire initial development; and no part of the interim licensee's guarantee deposit then claimed to be repayable shall be refunded until the requirements of this section shall have been fully satisfied, provided that the Minister shall not require any such determination of the cost of construction oftener than once in each calendar year.

(4) The licensee shall forthwith after having been requested by the Minister to do so pay to the Department the amount of the fees and expenses incurred in determining any actual cost as in this section provided.

7 Dec 43 SR 906/68 s36.

### OPERATION UNDER INTERIM LICENSE

#### Operation

**37(1)** In the event that the said works are put into operation before the issuance of the final license, the interim licensee shall, pending the issuance of such final license and until otherwise agreed upon, maintain and operate the same to the satisfaction of the Chief Engineer and shall at no time raise the level of the waters of any river, lake or other body of water or permit such level to be raised higher than the elevation which shall be fixed from time to time by the Chief Engineer and shall abide by all reasonable regulations which may from time to time be promulgated by the Minister for the control of the flowage of any waters for general conservation purposes.

(2) The interim licensee shall in such case pay for any water used in the development of power prior to the issuance of the said final license, such sum or such rate per horse-power as the Minister may determine.

7 Dec 43 SR 906/68 s37.

#### Observance and compliance

**38** In addition to any obligations specifically imposed upon interim licensees in this part of these regulations, every interim licensee shall, insofar as his position with respect to the use and occupancy of Provincial lands and waters, or the maintenance and operation of his works or the carrying on of his undertaking for the time being is similar to that of a final licensee, and subject to the provisions of the last preceding section, observe and comply with all the provisions of these regulations applicable to final licensees.

7 Dec 43 SR 906/68 s38.

## AMENDING INTERIM LICENSE

**Amending interim license**

**39** Subject to these regulations the terms of any interim license may be amended by a supplementary license entered into between the Minister and the interim licensee; and plans and specifications previously approved may be amended with the consent in writing of the Minister, but any such amendment shall affect only the portion specifically covered in such supplementary license or writing, and shall in no case operate to alter or amend or in any way whatsoever be a waiver of any other part, condition or provision of the original interim license.

7 Dec 43 SR 906/68 s39.

## EXTENSION OF TIME

**Extension**

**40(1)** Notwithstanding the foregoing section, no extension of the time fixed in any interim license for the filing of the general construction plans, or for the commencement of construction, or for the expenditure of the sums required to be expended within any stated period, or for the completion of the initial development, may be granted to any interim licensee unless the Minister is satisfied, after report in writing from the Chief Engineer, that the interim licensee has been prevented by engineering difficulties that could not reasonably have been foreseen or by other peculiar and special causes beyond his control other than the want of funds, from completing the said requirement within the time stated, and then only upon the passage of an order by the Lieutenant Governor in Council approving of the said extension.

(2) The maximum extension which may be granted in any case for the filing of the general construction plans, or for the commencement of construction work, or for the expenditure of the sums required under the interim license within the first and second years respectively of the construction period (or within such other stated times as are specified in the interim license), shall be twelve months. On the expiry of the said twelve months, or upon the expiry of the time originally allowed if no extension has been granted, the Chief Engineer shall report in writing to the Minister whether the interim licensee has satisfactorily performed the specified requirement, or whether he has failed to perform the same. In the event that the Minister after considering the said report is satisfied that the interim licensee has failed to perform satisfactorily the said requirement, he shall thereupon cancel the interim license.

(3) The time required by the interim license for the completion of the initial development shall in no case be extended by the Lieutenant Governor in Council unless it is shown by report in writing signed by the Chief Engineer that the interim licensee has satisfactorily completed the construction of a substantial part of the said initial development within such time, and no extension of time shall be granted for a longer period than one year, and no second or subsequent extension of time shall be granted unless it is shown by report of the Chief Engineer in writing that the interim licensee has completed within the extension period previously granted a further substantial part of the said initial development.

(4) If by reason of any of the special causes referred to in subsection (1) above, the interim licensee desires an extension of time to complete the said requirements within the time stated, he shall make application to the Chief Engineer in writing, giving his reasons for the desired extension, and if no Order in Council authorizing an extension of time has been passed within three months after making such application, he shall be allowed thirty days in which to bring the matter to the attention of the Minister, and the Minister may thereupon institute an inquiry by the Chief Engineer or by such other officer, board, or person as he may designate or appoint, and take such action after hearing his or their report in conformity with the provisions of this section as he deems just. In the event that the Chief Engineer has not submitted the said report and the interim licensee fails to bring the matter to the notice of the Minister within the said thirty days, the interim license shall automatically become null and void.

7 Dec 43 SR 906/68 s40.

#### PENALTIES FOR DEFAULT BY INTERIM LICENSEE

##### Penalty

41(1) If the interim licensee fails to file satisfactory general construction plans within the time required, or fails to commence the actual construction of the initial development in good faith within the time required under his interim license or fails to make substantial and satisfactory progress in the first year of the period allowed for the construction of the said initial development, the Minister shall cancel the interim license.

(2) If the interim licensee fails to expend on the initial development within any of the stated periods set out in his interim license, the amount required by such license to be so expended, or fails to complete the said development within the time specified or fails to comply with any other term or condition of his interim license or of these regulations, his interim license shall be subject to cancellation by the Minister after a full report has been made on the matter by the Chief Engineer and after sixty days' notice has been given to the interim licensee and an opportunity to be heard before such Board or Commission whether departmental or otherwise, as the Minister may appoint or designate, or the Minister may after such report and hearing take such other action or make such other order in the premises as shall in his opinion and subject to these regulations, be suitable.

(3) If such failure occurs subsequently to the time when the licensee has expended on the initial development one-fourth of the total amount that the license requires shall be expended, the interim licensee may appeal from the decision of the Minister to the Court of King's Bench.

(4) One or more of the following different courses of action may be taken by the Minister, or the Court of King's Bench, as the case may be, after such report has been considered and such hearing has been held, namely:

- (a) The interim licensee may be ordered to perform specifically one or more of the conditions imposed by his interim license;
- (b) The interim licensee may be ordered to pay to the Crown a sum by way of liquidated damages for his past failure to perform the terms imposed by his interim license;

- (c) The interim license may be cancelled, and
- (i) The interim licensee may be granted priority over all other applicants for entering into a new interim license with His Majesty for the development of the site in question but in every case such new license and any further concessions made in favour of the interim licensee shall date from the date of the original interim license and shall in all other respects be made subject to and shall be deemed to incorporate, insofar as applicable, the provisions of the water-power regulations in force at the time of the execution of such new license, or which may thereafter be put into force and are not inconsistent with the terms of his original interim license;
  - (ii) If an interim license is cancelled for default on the part of the interim licensee by the Minister under the terms of this section, and if in the opinion of the Minister the interim licensee is entitled to compensation for any works constructed on Provincial lands or for any plans filed by him in pursuance of his interim license, the Minister may make any provision which he deems proper for arriving at or securing the payment of such compensation; and if such interim license is cancelled by the Court of King's Bench pursuant to this section, the Court may make any order in regard to compensation of the interim licensee for the said plans or works on Provincial lands as it deems just;
  - (iii) In arriving at such compensation the Minister or the Court, as the case may be, shall in every case consider the detriment occasioned to the public interest by reason of the default or failure of the interim licensee, and the said compensation if any, shall in no case exceed the actual cost of such works or plans determined in accordance with section 36, nor shall the compensation exceed that which would be determined by applying the principles set out in subsection (3) of section 47 to the case in hand.
- (5) In the event that the interim license is cancelled pursuant to the above, and the interim licensee is not granted a new interim license as referred to in item (i) of subsection (4) above, the Minister may make any disposition of the Provincial lands and works thereon and formerly occupied or constructed by the interim licensee pursuant to the terms of his interim license as the Minister may deem suitable.
- (6) If any interim license is cancelled under the terms of this section, the rights of His Majesty with respect to the possession, occupation and use of any lands, works, structures, equipment or properties other than Provincial lands and works located thereon, then owned or held by the interim licensee and used or occupied in connection with the undertaking to which his interim license relates, and the compensation to be paid for any such other lands, works, structures, equipment and properties shall be as set out in section 47.

## COMPLETION BY INTERIM LICENSEE

**Completion**

42(1) As soon as the interim licensee has completed his initial development and otherwise fulfilled the terms of his interim license he shall file in the office of the Chief Engineer written notice of such completion and fulfilment. Blank forms for giving this notice will be supplied by the Chief Engineer on request.

(2) The Chief Engineer shall thereupon, except in the cases provided for in the next following subsection, cause an inspection, and if necessary a survey, of the works constructed or used and of the lands and waters used or occupied in connection with the undertaking to be made.

(3) In those cases where the Chief Engineer deems inspection unnecessary he may require the interim licensee to file not later than sixty days after the expiry of the time fixed for such completion, proof of the said completion and fulfilment by a statutory declaration in an approved form. Blank forms for making the said declaration shall be supplied by the Chief Engineer on request.

(4) Upon compliance on the part of the licensee with the requirements of the foregoing subsections, the Chief Engineer shall determine a date which, for the purposes of these regulations, shall be the date of completion of the initial development.

7 Dec 43 SR 906/68 s42.

## ISSUANCE OF FINAL LICENSE

**Issuance**

43(1) Upon the completion of the initial development according to the plans previously approved and upon fulfilment and compliance otherwise with all the terms and conditions of his interim license and of such of the provisions of these regulations as are applicable to his case, the interim licensee shall be entitled to the issue in his favour by the Minister of a final license authorizing the diversion, use, or storage of water at the site in question, for the development of energy therefrom for the utilization of such energy, and (or) for the occupation or use of the Provincial lands which, in the Minister's opinion, are required for the proper maintenance and operation of the works.

(2) It shall be optional with the Minister to issue the license covering the rights granted with respect to the diversion and use of the waters and with respect to the occupation and use of the lands which are to be granted in the form of two or more separate indentures, but if such separate indentures are issued, they shall be executed concurrently, and the terms and conditions of each such indenture shall be deemed to be incorporated in all, and non-compliance with any term or condition in any such indenture shall be taken to be non-compliance with the terms and conditions of all.

(3) Upon the issuance of any final license all rights held and obligations assumed under the interim license shall cease and determine.

7 Dec 43 SR 906/68 s43.



Same

44 The final license shall embody the terms which were set out in the interim license for incorporation into such final license, and such other terms and conditions, not inconsistent with the regulations in force at the time of the issue of such final license, as the Minister may impose, including insofar as applicable, the following particulars:

- (a) A recital clause or clauses, giving,
  - (i) The name and address of the licensee;
  - (ii) The name and location of the power-site, with particular reference to the waters whose use is required in its development;
  - (iii) A reference to the interim license which authorized the construction of the works and any amending license issued, and a statement whether or not the conditions thereof have been fully complied with;
- (b) The maximum flow or quantity of water which may be diverted from time to time at the place of diversion, and used from time to time at the place of use, respectively, under the license; and, if storage is involved, the maximum capacity of storage permissible from time to time at each storage site, subject in either case to the control and regulation of the stream-flow and of storage in the interests of all the users on the stream as hereinafter provided;
- (c) A statement setting forth clearly the position and extent of the works authorized to be maintained and operated under the license and a reference to the final construction plans (copies of which may be attached to the license, but the originals of which shall remain on file in the Department) in which sketches, maps or plans the position and extent of the said works are more particularly shown, including:
  - (i) The place of diversion or use in the stream and the course of the stream at the said place;
  - (ii) All principal works for diverting, conveying, storing or using the water or the power developed therefrom;
- (d) An accurate description of the Provincial lands which may be entered upon, used or occupied for the maintenance and operation of the said works, setting out separately lands in any of the following classes:
  - (i) Provincial lands not covered by water required for main diverting works, power-houses, etc.;
  - (ii) Provincial lands covered by water required for the said purposes;
  - (iii) Provincial lands required only to be flooded in connection with the storage or pondage of water;
  - (iv) Provincial lands required only for rights of way for water conduits, transmission lines, etc.;
  - (v) Provincial lands, if any, required for sub-stations, distributing stations, terminal stations, etc.;

- (e) A brief description of the undertaking in respect of which the license is issued, including the use which may be made of the power, whether the power may be sold or delivered to or used by other than the licensee, and if so the territory within which such sale, delivery or transfer of the right of use may be exercised;
- (f) The term of the final license;
- (g) The annual rental payable during the initial period of the license for waters used or stored and for the lands occupied respectively; or for any other privileges granted, and the times when payable;
- (h) The severance line agreed upon.

7 Dec 43 SR 906/68 s44.

### TERM OF LICENSE

#### Term

**45(1)** Every license shall be limited to such term not exceeding fifty years from the time fixed in the original interim license for the completion of the initial development, as may be agreed upon between the Minister and the licensee.

(2) At any time after thirty years from the time fixed for the completion of the initial development, upon twelve months' notice to that effect having been given by the Minister to the licensee, His Majesty may repossess himself of the works, lands, and properties of the licensee, paying therefor compensation in accordance with the principles set out in section 47; except that the Minister or the Court of King's Bench, as the case may be, may, in valuing the power development, add to the amount determined in accordance with subsection (3) of the said section 47 a bonus equal to three-quarters of one per cent of such amount for each and every full year of the unexpired term of the license; provided that in no case shall such bonus be less than five per cent of such amount; and in valuing works and lands outside the severance line the Minister or the Court of King's Bench may increase the bonus as provided in subsections (8) and (9) of the said section 47 to an amount not exceeding twenty per centum of the physical value of the works nor exceeding twenty per centum of the actual cost of the lands.

7 Dec 43 SR 906/68 s45.

### RENEWAL OR TERMINATION

#### Renewal or termination

**46(1)** Not less than four nor more than six years prior to the termination of any license, the licensee may apply in writing for an extension of rights held under such license, and applications may also be filed with the Chief Engineer by any persons looking to the future utilization of the site to which the license applies. Any application for this purpose including the application for renewal of the license shall be in such form and contain such statements and information as will satisfy the laws and regulations then in force, and such application for renewal by the licensee shall in every case be accompanied by a suitable undertaking on the part of the licensee that he will comply with all the said laws and regulations.

Upon the filing of such application for renewal and undertaking the licensee will be given preference over other applicants for a license to use and occupy the waters and lands in question during a further term.

Provided always that the licensee has complied with all the requirements of his license and of the regulations from time to time in force to the satisfaction of the Minister and that his proposed use and development of the site is at least as desirable in the public interest as that of any other pending applicant.

(2) After the termination of the two-year period mentioned in the last preceding subsection, and after such public hearing as the Minister may deem necessary, but subject always to the laws and regulations then in force the Minister shall determine, in view of all applications then pending for the future occupation and use of the waters and lands in question (including the application for renewal, if any, of the licensee), what future disposition shall be made of the said waters and lands.

(3) If some disposition of the said waters and lands other than a license to the licensee for a further term is decided upon, the Minister shall give the licensee not less than three years' notice in writing, hereinafter called "notice of termination," that from and after the expiry of his license or from and after such subsequent date as is fixed by the Minister, all further rights of the licensee with respect to the occupancy and use of the said waters and lands shall determine; and thereupon from and after such expiry, or from and after such subsequent date, as the case may be, all the said rights shall absolutely cease and determine without further proceeding.

7 Dec 43 SR 906/68 s46.

## COMPENSATION FOR WORKS AND LANDS IF LICENSE TERMINATED

### I. WORKS AND LANDS WITHIN THE SEVERANCE LINE

#### **Expiry and compensation**

47(1) Upon the expiry of the final license or upon the expiry of the time fixed in the said notice of termination, as the case may be, the power development shall become the property of the Crown, and the Minister, or such person as he may designate in that behalf, may immediately and without further proceeding enter upon, possess, occupy, operate and control the same.

(2) In the event that the Minister and the licensee are unable to agree upon the compensation to be paid for the said power development within one year after notice of termination has been given, either party may refer the matter to the Court of King's Bench.

(3) Compensation for the said power development shall be arrived at by first taking as a basis the figure previously fixed in accordance with section 36 as the actual cost of the said development, then adjusting this figure so as to make allowance for any variation in the purchasing power of a dollar as shown by the official trade index or other official Dominion statistics most applicable to the case in hand, and finally deducting an amount equivalent to the actual loss in value of the said works due to their physical or functional depreciation or to other causes.

## II. WORKS AND LANDS OUTSIDE THE SEVERANCE LINE

(4) If the Minister desires to take over further works and lands in addition to the power development (i.e. outside of the severance line), but within the power system, and cannot come to an agreement with the licensee concerning the extent thereof within one year after the notice of termination has been given by the Minister, the Minister may refer the matter to the Court of King's Bench.

(5) The Minister or the Court, as the case may be, in determining the extent of such further works and lands within the system which may be taken over, shall take into consideration whether or not such works and lands or any part of them are more tributary to the water-power development than to the licensee's remaining undertaking or undertakings, as well as the severance losses which would be suffered by both parties, the public interest, and such other factors as the Minister or the Court considers relevant, and shall make the most equitable determination possible in all the circumstances. The Court may require that the whole or none of any specified unit of such works and lands must be taken over.

(6) Upon the judgment of the Court being given but not before the expiry of the time mentioned in the said notice of termination, His Majesty may assume immediate possession and control of all the lands and works which the Court has designated as being permissible of being taken over, but compensation shall be paid for the same as hereinafter provided.

(7) In the event that the extent of works and lands to be taken over outside the severance line has been definitely determined as provided in the preceding subsections but the Minister and the licensee are unable to agree upon the compensation to be paid for the same within one year after the determination of the said extent either party may refer the matter to the Court of King's Bench.

(8) The Minister or the Court, as the case may be, in determining the compensation to be paid for the said works shall first fix a sum which represents, in their opinion, their then physical value, considering either first cost, replacement cost, or any other similar criteria which will enable them to arrive at the said physical value, but excluding good will, going concern, franchise value, severance damages and other intangible elements of a like nature; and the Minister or the Court may then add to the said sum so determined an amount not exceeding ten per centum thereof for the purpose of covering such severance damages as is deemed just.

(9) The Minister or the Court, as the case may be, in determining the compensation to be paid for the said lands shall first take as the basis of such compensation the amount previously established as their actual cost in accordance with section 36, shall next make an allowance for the variation in the purchasing power of a dollar as provided in subsection (3) of this section, and may, in his or its discretion, add to the result so determined a bonus not exceeding ten per centum to cover such severance and other intangible values as is deemed proper to allow under the circumstances.

## RENTALS FOR THE USE OF WATER

**48 Repealed.** 17 Nov 2006 SR 105/2006 s4.

**48.1 Repealed.** 22 Jan 88 SR 3/88 s4.

## REGULATION OF PUBLIC UTILITIES

**Schedule of rates and prices**

**49(1)** When, under the authority of The Water Power Act, the Local Government Board has been appointed or designated to regulate the rates of licensees engaged in the sale, barter or exchange of hydro-electric energy, every such licensee shall immediately submit the schedule of rates under which he is then operating to the board for adjustment and approval and shall thereafter before putting into effect any new schedule of rates and prices to be charged to consumers for power, submit the same for adjustment and approval, and no rates or prices for power shall thereafter be legal or enforceable until so submitted. The board may, on the complaint of any affected party or on its own initiative, require the submission or the resubmission at any time of existing schedules of rates and prices for adjustment and approval.

Provided that rates and prices, when once adjusted or approved in accordance with this section, shall thereafter not be again revised within a period of five years, except by mutual consent of the revising authority and the licensee.

Provided further that the rates charged by any licensee shall never be reduced by regulation under the authority of this section so as to make it impossible for such licensee to earn a cumulative fair net rate of return.

(2) Every such licensee shall abide by and comply with such reasonable regulation and control of the service rendered and to be rendered by him to consumers of power furnished or transmitted in virtue of his license as may be prescribed from time to time by the Local Government Board and shall also abide by and comply with any orders of the board with respect to stock and bond issues.

(3) The board may from time to time ascertain and determine and by order fix the proper and adequate rates of depreciation on the several classes of property used or useful in connection with the undertaking of any such licensee; and the said licensee shall set aside out of earnings and place in separately invested depreciation reserves such amounts as will conform to the rates so ascertained, determined and fixed.

The board may also specify the purpose for which and the manner in which such reserves and the income arising from the investment thereof are to be expended.

## LIMITED RIGHTS IN LANDS

**Limited rights**

**50(1)** Every license shall be valid or effective to authorize the entry upon or use or occupation of any Provincial lands only in such manner and to such extent and for such length of time as may be necessary for the purpose of constructing, maintaining and operating the works authorized to be constructed, maintained and operated under such license.

(2) If, because of a change in the location of the said works, or because of their non-use or abandonment, or for any other reason, continued or further entry upon or the use or occupation of such lands in whole or in part for the said purposes becomes, in the opinion of the Minister, unnecessary, he shall give the licensee written notice of the contemplated withdrawal of such lands and his reasons therefor, and such lands may thereupon be withdrawn in whole or in part from the operation of the license, by agreement of the parties.

If the Minister and the licensee cannot reach a satisfactory agreement as regards the contemplated withdrawal within sixty days after the giving of the said notice the Minister may refer the matter to the Court of King's Bench for determination.

(3) The Court after hearing the matter may make an order withdrawing the said lands in whole or in part from the operation of the license.

7 Dec 43 SR 906/68 s50.

**Flooding of Provincial lands**

**51(1)** Provincial lands required only for the purpose of flooding the same, whether in connection with a storage reservoir or for regulating the flow of a stream or otherwise, shall be set out in the interim or final license separately from the lands required for other purposes and no license shall be valid to convey any further use of such lands than the right of flooding the same in such manner and to such extent and at such times as may be required for the purposes of the undertaking.

(2) Every grant of a right to flood Provincial lands in connection with any undertaking shall be subject to the right of His Majesty to grant additional liberty or privilege to any person for any purpose or in any manner to enter upon, use or occupy the said lands, provided always that the rights of the interim or final licensee, as the case may be, shall not, in the opinion of the Minister, be prejudicially interfered with by any such grant.

(3) Every licensee shall, to the satisfaction of the Minister, clear and keep clear, from timber, brush and other material, all lands which are to be flooded.

(4) Such flooded lands shall not be fenced or otherwise enclosed except the Minister's consent in writing be first obtained.

7 Dec 43 SR 906/68 s51.

**Provincial lands, re: stream beds**

**52(1)** Lands forming part of the bed of any stream, the use or occupation of which is required for the site of works authorized, or for the construction or the operation thereof, shall be set out in the interim or final license separately from lands required for other purposes, and no interim or final license shall convey any exclusive right in or to the use or occupancy of such land, or any further right than may be required from time to time for the actual construction and operation of the said works.

(2) Every grant of a right to use or occupy any Provincial lands forming part of the bed of any stream shall be subject to the right of His Majesty to grant additional liberty or privilege to any person for any purpose or in any manner to enter upon, use or occupy the said lands provided always that:

- (a) The rights of the licensee shall not be prejudicially interfered with by any such grant;
- (b) The Minister shall give the licensee notice of his intention to grant such additional liberty or privilege, and an opportunity of being heard.

7 Dec 43 SR 906/68 s52.

**Rights of way, re: transmission lines, water conduits, etc.**

**53** Provincial lands required only for rights of way for transmission lines, for water conduits, or for any other purpose necessitating the use of only a narrow strip of the said lands:

- (a) If inside the severance line agreed upon, shall be set out in the interim or final license separately from lands required for other purposes, and the interim or final licensee as the case may be, shall not acquire under any such interim or final license any rights to the use or occupation of any such lands further than as may be required from time to time for the purpose of constructing, maintaining and operating such transmission lines or water conduits or for otherwise carrying out the purposes specified in the interim or final license, and the Minister shall be the sole judge of the extent of the said requirements. Every such right shall be subject to the right of His Majesty to grant additional liberty or privilege to any person for any purpose or in any manner to enter upon, use or occupy the said lands; provided always that the right of the interim or final licensee shall not be prejudicially interfered with by any such subsequent grant, and that the Minister shall give the said licensee notice of his intention to make such grant and an opportunity of being heard.
- (b) If outside the severance line agreed upon, may be granted to the interim or final licensee by license of occupation or in fee as the Minister, with the approval of the Lieutenant Governor in Council, may determine, provided that, in the event of the taking over of the undertaking or works of the interim or final licensee in pursuance of these regulations or of The Water Power Act, the interim or final licensee shall not be entitled to receive an amount of compensation for the rights of way greater than the amount which would be established in accordance with the provisions of subsection (9) of section 47.

7 Dec 43 SR 906/68 s53.

## CARE OF LANDS

**Licensee shall maintain lands**

**54(1)** The interim or final licensee shall, at all times, maintain the lands, works and property held or used by him in respect of his license in a manner satisfactory to the Minister including the maintaining of all flooded or other areas in a sanitary condition, and including the improvement of the lands occupied from the point of view of landscape architecture; and shall do all in his power to protect the said lands and the interest of the Crown therein against injury by any one engaged on or about his works, or by any person whomsoever.

(2) Every interim or final licensee shall do everything reasonable within his power, both independently and on request of the Minister, to prevent and suppress fires on or near the lands to be occupied under his license.

(3) For the purpose of limiting the spread of fires or for other reasonable purposes, every interim or final licensee shall clear and keep clear the Provincial lands along his transmission lines for such width and in such manner as the Minister may direct.

(4) Every interim or final licensee shall, to the satisfaction of the Minister, dispose of all brush, refuse or unused timber on Provincial lands resulting from the construction and maintenance of the works, and shall keep the lands covered by his license at all times clear of unnecessary combustible material.

7 Dec 43 SR 906/68 s54.

**Examination of lands by Minister, Chief Engineer, etc.**

**55** It shall be lawful for the Minister, the Chief Engineer, or any person thereunto authorized by either at all reasonable times to enter upon the Provincial lands covered by any license to examine the condition thereof.

7 Dec 43 SR 906/68 s55.

**Protection of existing telephone, telegraph and power lines**

**56** Every interim or final licensee shall protect all telephone, telegraph and power transmission lines in existence prior to the construction of his own lines where crossed by or in close proximity thereto to the satisfaction of the Chief Engineer, and shall operate, maintain and render safe to the public his own transmission, telephone and other lines to the satisfaction of the Chief Engineer.

7 Dec 43 SR 906/68 s56.

**Erection of structures prohibited without approval**

**57(1)** Except as hereinafter provided, the interim or final licensee shall not erect any buildings or structures whatever upon any Provincial lands without first submitting plans thereof to the Chief Engineer and securing his approval for such building or structure and the site thereof.

(2) Any temporary buildings or structures required in cases of emergency to facilitate the work of construction and erected without permission shall be entirely removed to the satisfaction of the Chief Engineer as soon as the necessity ceases or within one month of receiving written notice.

7 Dec 43 SR 906/68 s57.



**Existing infrastructure shall not be removed, altered, etc.**

**58** No roads, trails, telephone lines, buildings or other improvements, property of the Crown, shall be removed, altered or in any way affected by any interim or final licensee in the construction or operation of his works without the Minister's consent in writing having been first obtained, and except upon such conditions as the Minister by such writing may impose. The Minister, if he deems it necessary, may require the licensee to furnish a bond for the satisfactory carrying out of the provisions of this section.

7 Dec 43 SR 906/68 s58.

**Subdivisions or townsites**

**59** Any lands desired by an interim or final licensee for subdivision for townsite or other purposes shall be set out in the application, interim or final license separately from lands required for other purposes connected with the undertaking, and the promotion of any such townsite shall be subject to the approval of the Minister and to such conditions with respect to town-planning, landscape architecture and sanitation as the Minister may impose.

7 Dec 43 SR 906/68 s59.

**Stumpage and royalty, re: timber cuts**

**60** Every interim or final licensee shall pay such sums by way of stumpage and royalty for any merchantable timber cut or removed from any Provincial Forest or Provincial land as may from time to time be fixed by the regulations governing the administration of Provincial Forests and Crown timber; provided that the Minister may remit the fees in respect of timber required to be removed from any water-power site or lands to be flooded.

7 Dec 43 SR 906/68 s60.

**Provincial forests, parks**

**61** Any authority granted in pursuance of these regulations for entry upon, or for the use or occupation of lands situated within any Provincial Forest or Provincial Park shall, notwithstanding any provisions of these regulations, be subject to the careful observance by the interim or final licensee of the provisions of any regulations established under The Forest Act or under The Provincial Parks and Protected Areas Act, and also of any conditions which the Minister may, from time to time, impose with respect to the care, upkeep and management of such forest or park.

7 Dec 43 SR 906/68 s61.

## WORKS, MAINTENANCE, AND OPERATION

**Safe, modern, efficient, etc. works**

**62** The licensee shall at all times install and use first-class, modern, standard works, plant, and equipment, giving consideration to their requisite suitability of design, safety, strength, durability, efficiency, and all other relevant factors whatsoever, and shall maintain the same in good repair and condition, and shall exercise all due skill and diligence so as to secure satisfactory operation thereof. The Minister may give the licensee written instructions concerning the carrying out of this section, but the matter of the reasonableness of such written instructions shall be subject to appeal to the Court of King's Bench.

7 Dec 43 SR 906/68 s62.

**Free access**

**63(1)** The Minister, the Chief Engineer, or any person appointed by either for the purpose shall have free access to all parts of the works, lands and properties of the licensee and to all books, plans, records or accounts used in connection with or affecting any interim or final license or undertaking, and may from time to time make measurements and observations and take such other steps for carrying out any inquiry as may be considered necessary or expedient in the administration of these regulations.

(2) The findings of the Chief Engineer with respect to the quantity of water diverted, used, or stored, or capable of being diverted, used, or stored, or the amount of power developed or capable of being developed under the authority of any license shall be conclusive and binding upon the licensee.

7 Dec 43 SR 906/68 s63.

**Proposed changes to existing works: authorization**

**64** The licensee, before making any material change in any existing works or in their location, shall submit a complete and satisfactory statement and plans of such proposed change to the Chief Engineer, and shall not proceed to carry out the same until such proposed change has been authorized.

7 Dec 43 SR 906/68 s64.

**Installation of accurate measuring devices, re: meters, weirs, gauges, etc.**

**65** The Chief Engineer may require any licensee to install and maintain in good operating condition at such places and in such manner as the Chief Engineer shall approve, accurate meters, measuring weirs, gauges or other approved devices which shall be adequate for determining the amount of water used or power developed in the operation of the works, for determining the flow of the stream or streams from which water is or will be diverted, and for determining the amount of water held in or drawn from storage. The said licensee shall keep accurate and satisfactory records of the foregoing determinations and shall from time to time make such returns, supported if necessary by statutory declaration, as the Chief Engineer may require.

7 Dec 43 SR 906/68 s65.

## OUTPUT OF POWER

**Public demand, re: higher output**

**66** Upon a report being made by the Chief Engineer that a licensee has not developed the amount of power for which there is a public demand and which could be reasonably developed from the flow of water granted under his license or controlled by him, the Minister may order such licensee to develop and render available for public use the additional amount of power for which there is, in the opinion of the Minister, a public demand, up to the full extent possible from the amount of water granted under such license or controlled by such licensee and within a period to be fixed by the Minister, which period shall not be less than two years after such licensee or the person in charge of the existing works shall have been notified of such order; and in default of compliance with such order the provisions of section 81 may be applied.

7 Dec 43 SR 906/68 s66.

## SECURING ENLARGED DEVELOPMENT

**Enlarged development**

**67(1)** Upon a report being made by the Chief Engineer that it appears desirable to investigate the possibility of establishing an enlarged or more comprehensive development of the water-power in any stream at or near the site occupied by any licensee to take the place of the licensee's existing development, the Minister may instruct the Chief Engineer to investigate the matter and to hold a hearing thereon.

(2) The licensee and all other parties who, in the opinion of the Chief Engineer, appear to be interested shall be given not less than sixty days' notice of such hearing, and an opportunity of being heard.

(3) The Minister, upon receiving a report thereon in writing from the Chief Engineer, if the former considers such enlarged or more comprehensive development in the public interest, may make a recommendation in the matter to the Lieutenant Governor in Council who may, thereupon, by an order passed in that behalf, authorize the Minister to offer such licensee a new interim license for the carrying out of such enlarged or more comprehensive development.

(4) Such license shall in every case be subject to the regulations then in force, but in granting the same due consideration shall be given to the existing net earnings of the licensee and to the net earnings likely to be derived from the enlarged or more comprehensive development.

(5) If the licensee fails, within twelve months after such offer of a license is made, to accept the same, and in good faith to begin and carry on to completion such new development, then in such case, the Lieutenant Governor in Council may order the existing license terminated.

(6) Upon such order of termination being given, the respective rights of His Majesty and the licensee in the lands, works, and properties connected with the undertaking shall be the same as in the case where the works and properties of the licensee are taken over upon the expiry of the term as set out in section 47; except that the Minister or the Court of King's Bench, as the case may be, in determining the compensation to be paid to the licensee may add such bonus or additional bonus to the amount payable according to the said section 47, as will in the opinion of the Minister or of the Court be proper under the particular circumstances of the case, not to exceed, however, three-fourths of one per cent of the amount payable as aforesaid for each full year of the unexpired term of the license, nor to be less than five per cent of such amount.

(7) Where more than one existing plant or site is affected by the enlarged or more comprehensive development the Lieutenant Governor in Council may authorize the Minister to receive proposals from all the licensees or occupants of the said sites for carrying out the proposed new development, and to offer to each in turn (selecting first that one whose proposal is reported by the Chief Engineer, for stated reasons, to appear most in the public interest), or to all conjointly, an interim license, subject to the regulations then in force for the carrying out of the proposed new development.

(8) If such new license is granted, the existing licenses shall be terminated in the same manner and having the same effect, and providing for compensation to the same extent as in the case where the rights of only one existing licensee are affected as set out in subsections (1) to (6) hereof.

(9) If each of the licensees mentioned in the last two preceding subsections in turn fails, within the time specified, to accept the offer of a new license and to begin and to carry on to completion the proposed new works, then, in such case, the Lieutenant Governor in Council may order all the said licenses terminated in the same manner and having the same effect, and providing for compensation to the same extent as set out in subsection (6) hereof.

## CHANGE IN UNDERTAKING

**Change**

**68** If a licensee desires to develop, sell, use or dispose of any greater quantity of power than authorized by his license whether such increased disposal of power does or does not necessitate any addition to or alteration in the works, or desires to use or dispose of any power in connection with his undertaking in a manner or for a purpose other than as provided in such license, he must first apply to the Minister under The Water Power Regulations for the time being in force for an interim license authorizing the construction of the works or for a final license authorizing such additional development, sale, use or disposal or authorizing such use or disposal in such other manner or for such other purpose, as the case may be, and the granting of the said license and the use or disposal of such additional water-power shall in every case be subject to all the provisions of the said Water Power Regulations.

7 Dec 43 SR 906/68 s68.

## SALE OF POWER

**Sale**

**69** In districts where there is no existing authority of competent jurisdiction to regulate and control transmission or distribution companies, no sale or delivery of power shall be made by any licensee to any such company except in case of emergency and then not for more than sixty days without the written consent of the Chief Engineer, unless such company has undertaken, to the satisfaction of the Minister, to comply with the terms of these regulations and of the license to the same extent as the licensee would have been obliged to comply therewith, insofar as the use or disposal of such power is concerned.

7 Dec 43 SR 906/68 s69.

**Sale of power to Crown**

**70** Every licensee whose undertaking involves the sale, barter, or exchange of the power authorized to be developed under his license shall sell power to the Crown when so requested by the Minister at as low a price as is given to any other consumer for a like use at the same time and under similar conditions; provided always that such request is within the capacity of the said site and that the rights of any other consumer then holding a binding contract for the delivery of power are not thereby prejudiced.

7 Dec 43 SR 906/68 s70.

**Hydro-electricity, re: authorization to export**

**71** No hydro-electric energy developed under the authority of these regulations shall be exported from Canada without the consent of the Minister and subject to such conditions as the Lieutenant Governor in Council may impose.

7 Dec 43 SR 906/68 s71.

**Contracts for sale and delivery of power or energy**

**72** A licensee whose undertaking embraces the sale of energy or power may, with the approval of the Minister, which approval may be given when the public interest so requires, enter into contracts for the sale and delivery of such energy or power for periods extending beyond the term of the license, but for not more than ten years thereafter, and in such case, the license shall not be terminated at the end of the term as hereinbefore set out unless the new licensee or some competent authority acting for or at the request of the Government of Saskatchewan has assumed to fulfil all such contracts so approved.

7 Dec 43 SR 906/68 s72.

**STREAM REGULATION AND CONTROL****Streams: water flow, levels, diversion, storage, etc.**

**73** Every license shall be deemed to have been executed on the express condition that the licensee shall:

- (a) Divert, use, or store the water authorized to be diverted, used, or stored by him in such a manner as not to interfere, in the opinion of the Minister, with the maximum advantageous development of the power and other resources of the river or stream upon which his works are located;
- (b) Conform to and comply with any orders in respect of the control or regulation of the flow of the waters of such river or stream as may be made from time to time by the Minister or any person authorized by the Minister in that behalf;
- (c) At no time cause or permit the surface-level of the waters of such river or stream or of any storage reservoir operated by him to be raised or lowered beyond the limits which shall be fixed from time to time by the Minister or by a person authorized by the Minister in that behalf.

7 Dec 43 SR 906/68 s73.

**Capital cost, Annual outlay**

**74(1)** In this and the next two succeeding sections:

**“Capital cost”** of any regulation or storage works undertaken under this section shall mean “actual cost” thereof as defined in section 1.

**“Annual outlay”** shall mean and include all yearly maintenance, operation, and depreciation costs, and necessary amortization costs other than instalments of said capital cost, incurred in respect of such regulation or storage works together with interest on the said capital cost.

- (2) If any regulation or storage works are undertaken upon any stream by the Government of Saskatchewan or by any commission, board, company or person upon the authority of the said Government for the control or augmentation of the flow of such stream for water-power or other purposes, the capital cost of such works or any part thereof may be assessed by the Minister upon the owners or licensees of all the water-power sites in the stream whether such sites are fully developed, partially developed or entirely undeveloped.

Such assessments shall be determined according to the relative benefits which, in the opinion of the Minister, are or will be derived by such respective owners or licensees from the regulated or increased flow.

(3) Any person who believes himself to have been wrongfully assessed under the foregoing subsection may appeal the matter to such board or commission as the Lieutenant Governor in Council may designate for the purpose, and the decision of such board or commission shall be final.

(4) The capital cost, so assessed, may be made payable in annual instalments, extending over such period of years, and in such respective amounts for any stated years, as the Minister may determine; and the Minister may provide, if any such water-power sites are undeveloped or have not yet commenced to be operated at the time when the said regulation or storage works are undertaken, that the commencement of payment of the annual instalments may in such cases be deferred until development and operation take place, or until such time has elapsed thereafter as the Minister may deem suitable.

(5) The total annual outlay in respect of works undertaken under this section shall be a charge upon such of the water-power developments on the stream as are in a position to utilize the regulated or increased flow in whole or in part, and shall be apportioned among them in proportion to the respective benefits estimated as accruing from time to time to the said developments from such regulated or increased flow.

(6) A schedule of the proportion of such annual outlay to be debited against the respective water-power developments shall be prepared, from time to time, at the direction of the Minister, and shall remain in effect for such period of years, not less however, than three, as the Minister may determine. In fixing the respective proportions, for any period of years, the use made by the licensee for the period immediately preceding may be taken into consideration.

Provided that such schedule of proportions may be revised at any time with the consent of all the licensees affected;

and provided further that a water-power development which has come into operation or whose utilization of the stream-flow has been substantially increased within the period during which such schedule is effective, may, at the discretion of the Minister, be debited with its proportionate share of the annual outlay from the time of the commencement of such operation, in which case the proportion charged upon each of the existing developments shall be correspondingly reduced.

(7) Any owner of a water-power site, who deems that the proportionate share of annual outlay debited to his water-power development in virtue of the last two preceding subsections is unjust, may appeal the matter of apportionment to the Board provided for in subsection (3) hereof, but the Minister's determination of the total amount of outlay chargeable against all the water-power developments shall in no case be subject to appeal.

(8) In addition to paying the assessments of capital cost and the annual charges as provided for in the foregoing subsections, every licensee may be required to pay such rental for the additional flowage created by any such works and used by such licensee as the Minister may determine, under the provisions of these regulations, applicable to rentals for the development and use of water-power.

**Shared costs and changes**

**75** The Lieutenant Governor in Council may provide the conditions under which owners of irrigation, logging, navigation, or other interests upon the stream who are benefited by such regulation or storage works shall be required to share with the water-power interests the cost and charges arising under this section.

7 Dec 43 SR 906/68 s75.

**APPRAISALS****Appraisals**

**76** To afford a ready basis upon which any valuation which may be required of the lands, works and properties held by a licensee in respect of his undertaking may be made, such as, for instance, valuation for the purpose of ascertaining the proper rentals to be paid by the licensee under *The Water Power Rental Regulations*, or for determining the compensation to be paid if the properties are taken over under section 47 or to arrive at the rates properly chargeable to consumers under these regulations or otherwise, the Minister may whenever he deems it advisable to do so cause a re-appraisal of the value of the said lands, works and properties, taking as a basis for the said re-appraisal the actual cost of the said properties determined as set out in section 36, and then giving consideration to any extensions or permanent improvements made in the properties in the period that may have elapsed subsequent to the time of such original construction or subsequent to the last previous appraisal under this section, as the case may be, and also to the loss in value, if any, in the said properties due to physical or functional depreciation or otherwise as well as to the variation in the purchasing power of a dollar as provided in subsection (3) of section 47. The licensee shall forthwith after having been requested by the Minister to do so pay to the Department the amount of fees and expenses incurred in having any such re-appraisal made.

7 Dec 43 SR 906/68 s76; 17 Nov 2006 SR 105/2006 s6.

**Same**

**77** In any valuation of the lands, works and properties held by the licensee in connection with his license, whether for the purpose of fixing the tolls or rates which may be charged for power, or for the purpose of appraising the property upon which the licensee is entitled to earn or receive any return, income, price or compensation or for any other purpose, no value shall be given or claimed for the rights and privileges granted by his license over and above the sums, if any, actually paid to the government for such rights and privileges, but not including in any case annual or guarantee deposits paid during the interim license period nor any rentals or annual charges accruing during the final license period.

7 Dec 43 SR 906/68 s77.



## ACCOUNTING

**Annual return**

**78(1)** Every licensee, unless excused in writing from compliance with this section by the Minister, shall keep a true and detailed account of all expenditures made in respect of the said works, lands and properties and shall file annually with the Chief Engineer on or before the first day of March a return for the year ending the 31<sup>st</sup> day of December preceding, based on the said account and being an accurate summary thereof, such return to be attested by the oath of the licensee or in the case of a company by its president and secretary. In such annual return the following items shall be separately shown, namely:

- (a) Respecting the works:
  - (i) The actual cost thereof, giving separately each class of expenditures as indicated in the definition of “actual cost” in section 1;
  - (ii) Amounts expended in that year for enlargements and permanent improvements authorized by the Minister;
  - (iii) Depreciation in value from any and all causes for that year;
- (b) Respecting lands, tenements and appurtenances not included in the above item:

A statement setting out, in each case, the actual cost thereof in accordance with the provisions of section 36;
- (c) Respecting capital stock:
  - (i) Amount authorized and the number of shares into which it is divided;
  - (ii) Number of shares subscribed for and allotted, number of shares forfeited to date, and the owners, for the time being, of all outstanding shares;
  - (iii) The amount of calls made on each share, and the total amount received from share-holders in cash on account of stock;

- (iv) Number of shares, if any, issued as fully paid-up shares as consideration for any service rendered or otherwise, specifying in each case for what consideration such shares were issued;
  - (v) Amounts of dividends declared and paid;
  - (d) Respecting bonds or debentures:
    - (i) Amount authorized, and period of redemption;
    - (ii) Amount sold (face value) and rate of interest;
    - (iii) Amount realized from sales;
    - (iv) Annual amount set aside as sinking fund to meet bonded indebtedness, and date of commencement;
  - (e) The indebtedness other than stock and bonds, specifying nature and amounts, and the rate of interest such indebtedness is bearing;
  - (f) A statement showing the total revenues of the undertaking, specifying the amount received from each and every source;
  - (g) Maintenance and operation expenditures, separating those expenditures which are incurred at or near the works from head-office and other expenditures relating to general administration;
  - (h) The names of officers and the classification of employees with salaries, expenses, or other remuneration paid or allowed;
  - (i) The proposed extensions during ensuing years;
  - (j) If a company, such annual return shall have attached thereto a copy of the by-laws of the company, showing all amendments thereto during the year covered by the said return;
  - (k) Such other data as the Minister may require.
- (2) The Minister's decision in regard to classifying items under one or another of the above heads, in regard to methods of allowing for depreciation and in regard to the form in which the said accounts shall be kept shall be final.

7 Dec 43 SR 906/68 s78.

## TRANSFERS

### Transfer of license

- 79(1)** Before any assignment or transfer of any license or of the rights and privileges thereby granted or of the undertaking connected therewith or of any part thereof becomes valid or effective, the Minister's approval in writing must be secured, and such assignment or transfer shall be subject to such terms and conditions as the Minister may impose in such writing.
- (2) The licensee shall in every case when applying for such approval file with the Minister a satisfactory full and detailed statement of the compensation which it is proposed shall be paid to him for the rights, privileges and properties transferred in respect of the undertaking.

- (3) The Minister shall not grant such approval unless:
- (a) It can be shown to his satisfaction that such assignment or transfer is expedient in the public interest;
  - (b) No remuneration is to be allowed to the assignor or transferor for the rights and privileges conferred under the license over and above the sums, if any, actually paid to the Crown for such rights and privileges, but not including in any case annual or guarantee deposits paid during the interim license period nor any rentals nor annual charges accruing during the final license period;
  - (c) The assignee or transferee has undertaken in a manner satisfactory to the Minister to assume all the obligations of the assignor or transferor and also such additional obligations as may have been prescribed by the Minister in the said written approval.
- (4) No lien shall be created by mortgage or trust deed upon any power undertaking established in respect of any license issued under these regulations unless approved by the Minister and for the bona fide purpose of financing the undertaking. Any successor or assign of the rights held in respect of such license, whether by judicial sale, foreclosure sale or otherwise shall be subject to all the conditions of any such license, and also subject to all the provisions and conditions of these regulations to the same extent as though such successor or assign were the original licensee.

7 Dec 43 SR 906/68 s79.

**Same**

- 80(1)** Lands inside the severance line used or occupied for the purposes of the undertaking shall not be alienated, sold, or disposed of by the licensee without either:
- (a) The consent of the Minister, or
  - (b) Failing the obtaining of such consent, without a reference to and an order of the Court of King's Bench, and subject to such terms as the Minister or the Court, in either case, may lay down for the protection of the said undertaking.
- (2) Whenever notice of termination or cancellation has been given to a licensee in pursuance of these regulations, no lands whatsoever, whether inside or outside of the severance line, used or occupied for the purposes of the undertaking shall thereafter be alienated, sold, or disposed of without such consent or reference and subject to the terms so laid down.

7 Dec 43 SR 906/68 s80.

## PENALTIES FOR DEFAULT BY LICENSEE

**Penalty**

**81(1)** If a licensee, in the opinion of the Minister, has failed to observe or perform any term or condition, which under his license or the regulations, he is required to observe or perform, the Minister may, upon giving such licensee not less than sixty days' notice, refer the matter of such non-observance or non-performance to the Court of King's Bench and if the Court finds that the licensee has failed in his obligations, it may:

- (a) Order specific performance by the licensee of the terms of the license;
  - (b) Order the payment of a sum by way of liquidated damages for the licensee's failure to perform the said terms.
- (2) If after any such order is given under the two preceding paragraphs, the non-observance or non-performance on the part of the licensee should be continued, or if the licensee should refuse or fail to comply satisfactorily with any such order, or if the Court should deem that the non-compliance of the licensee is of such a nature that the foregoing remedies are inapplicable, the Court may:
- (a) Authorize any person immediately and without further proceedings to take possession of all works, lands, and properties, whether real or personal, owned or held by the licensee within the power system whether within or without the severance line and used or useful in respect of the undertaking, including books, statements, accounts, papers and records appertaining to such undertaking and to operate, manage and control the said undertaking, and to do all other things required to be done in the conducting or carrying on of the said undertaking, until:
    - (i) A sufficient sum shall have been accumulated exclusive of all operating expenses and all costs of taking possession to liquidate the sums payable by the licensee and interest thereon and the cost of any proceeding connected therewith, or
    - (ii) Such other conditions are carried out as may, in the opinion of the Court, have been required to satisfy the terms of the license or regulations;
  - (b) Give notice that upon a certain date not earlier than twelve months after the time of such notice the license shall be cancelled, and that not earlier than six months from the date of the said notice, and not later than the termination of the period fixed for cancellation, the lands, works, and properties, whether real or personal, owned or held by the licensee, and used or useful in respect of the power development, and located within the severance line set out in the interim or final license, shall be sold at execution sale.

(3) If an execution sale is ordered as set out in paragraph (b) above, the Minister shall fix an upset price below which the properties may not be sold. The Minister shall also prepare a stipulation relative to the rights to be acquired and the obligations to be assumed by the successful bidder, and no one shall be permitted to bid at such sale who has not previously agreed in writing to sign and abide by the terms of such stipulation and who has not been accepted by the Minister as a bidder, and who has not deposited, by way of a guarantee, a sum equivalent to one-half of that required of interim licensees under section 28 hereof.

(4) The guarantee deposit mentioned in the last preceding subsection shall be returned to unsuccessful bidders immediately upon termination of the sale; and the successful bidder's deposit may be returned as soon as in the opinion of the court the transfer has been satisfactorily consummated and operation of the works and undertaking is being satisfactorily conducted.

(5) If there is not a satisfactory buyer at the first execution sale, a second sale shall be held after a lapse of four months, under the same conditions as the first sale, except that the upset price of the sale shall not exceed the sum which represents the obligations of the licensee to the Crown as fixed by the Court of King's Bench and if no bids are received in excess of this sum by accepted bidders, the licensee shall forfeit all his rights, and the works and undertaking shall become the property of the Crown without compensation to the licensee, provided, however, that then existing contracts made by the licensee lawfully and in good faith for the sale or delivery of power at rates which have been properly approved shall be carried out.

(6) Any surplus arising out of a sale under this section, above the sum which in the opinion of the Court will satisfy the obligations of the licensee shall be paid to the licensee, not exceeding in any case, however, the amount which would be payable if the provisions of section 47 were applicable to the case.

(7) If any execution sale under the provisions of this section is contemplated, the Court of King's Bench, before giving notice of such sale, shall request the Minister to advise whether in his opinion any lands, works, and properties outside of the severance line, but within the power system, are more tributary or essential to the water-power development in question than to the licensee's remaining undertaking or undertakings, and whether it will be desirable for His Majesty to take over any such lands, works, or properties at the time of such sale.

If the Minister advises in the affirmative, the Court shall grant a hearing upon the matter, giving the Minister and the licensee each not less than sixty days' notice of such hearing, and in deciding the question, shall give due consideration to the severance losses to be suffered by both parties, the public interest, equity, and such other factors as the Court deems relevant.

If the Court decides that any of the said lands, works, and properties outside of the severance line are more tributary or essential to the water-power development in question than the licensee's remaining undertaking or undertakings, His Majesty may, upon an execution sale being carried out under this section, assume immediate possession of the said lands, works, and properties, but compensation shall in such case be paid for the same upon the basis set out in subsections (8) and (9) of section 47 hereof.

(8) If the license has been cancelled under the provisions of paragraph (b) of subsection (2) hereof, and if, for any reason, the procedure provided in subsections (3) to (7) has not been completed, the Court of King's Bench may make any orders with respect to taking over and operating the works and undertaking of the licensee for the time being as it may deem equitable under all the circumstances.

7 Dec 43 SR 906/68 s81.

### MISCELLANEOUS PROVISIONS

#### **Draft of proposed license**

**82** Before executing any license the Minister shall submit to the prospective licensee a draft of the proposed license and shall secure from such licensee an acceptance thereof and an undertaking to observe and fulfil all the terms and conditions which under such license and under these regulations such licensee is required to observe or fulfil, with particular reference to the right of His Majesty to take over the works, lands and properties held by the licensee in connection with his license in certain contingencies as in these regulations provided. Such acceptance and undertaking shall be made to bind the executors, administrators and assigns, or in the case of a corporation the successors and assigns of the prospective licensee.

7 Dec 43 SR 906/68 s82.

#### **Rates and wages for labour, maintenance, operation, etc.**

**83(1)** Every license shall be deemed to be executed on the express condition that all mechanics, labourers, or other persons who perform labour in the construction, alteration, extension, maintenance and operation of the works authorized by such license, shall be paid not less than such rates of wages as are generally accepted as current from time to time during the continuance of the license for competent workmen in the district in which the work is being performed for the character or class of work in which they are respectively engaged, and if there be no current rates in such district, then fair and reasonable rates, and shall work such hours as are customary in the trade in the district where the work is carried on, or if there be no custom of the trade as respects hours in the district, then fair and reasonable hours, unless for the protection of life and property, or for some other cause shown to the satisfaction of the Minister, longer hours of service are required. The Minister may at any time and from time to time determine for the purposes of the license, what are the current or fair and reasonable rates of wages, and the current or fair and reasonable hours, and may from time to time rescind, revoke, amend or

vary any such decision, provided that his determination and any amendment or variation shall not be operative prior to the period of three months immediately preceding the date thereof. Where there are special circumstances which in the judgment of the Minister make it expedient that he should do so, he may, in the manner and subject to the provisions herein set forth, decide what are the current or fair and reasonable rates of wages for overtime, and what is the proper classification of any work for the purposes of wages and hours. Immediately upon receipt of notice of any decision of the Minister hereunder the licensee shall adjust the wages and hours and classification of work so as to give effect to such decision.

(2) The foregoing Fair Wages Clause, also any decision of the Minister made thereunder, shall be posted and kept posted in a conspicuous place on the premises where the works authorized by such license are being executed, occupied or frequented by the workmen.

(3) Proper books and records shall be kept showing the names, trades, and addresses of all workmen employed, and the wages paid to and time worked by such workmen, and the books or documents containing such record shall be open for inspection by the Minister or the Chief Engineer or by any person authorized by either for that purpose at any time it may be expedient to the Minister to have the same inspected.

(4) With a view to the avoidance of any abuses which might arise from the sub-letting of contracts it shall be understood that contractors and sub-contractors shall be bound in all cases to conform to the conditions of the license, and the licensee shall be held responsible for strict adherence to all contract conditions on the part of contractors and sub-contractors.

(5) All workmen employed upon the work comprehended in and to be executed pursuant to the said license, shall be residents of Saskatchewan, unless the Minister is of opinion that Saskatchewan labour is not available or that other special circumstances exist which render it contrary to the public interest to enforce this provision.

7 Dec 43 SR 906/68 s83.

#### **Indemnity**

**84** The licensee shall indemnify the Crown against all actions, claims or demands arising against it by reason of anything done by such licensee in the exercise or purported exercise of the rights and privileges granted under the license.

7 Dec 43 SR 906/68 s84.

#### **Minister may readjust payment**

**85** If the Minister considers it advisable in order to systematize the accounting work of the Department to change the times of payment of rentals or other sums payable under any existing license or other concession, he may, by giving the licensee sixty days' notice in writing, readjust such times of payment, provided always that the aggregate payment to be made under the said license or other concession is not increased in virtue of the authority hereby conferred.

7 Dec 43 SR 906/68 s85.

**Report**

**86** Upon a report being made by the Minister that the rights which exist or may be created under The Water Rights Act are in conflict with and more in the public interest than the rights held in respect of any license issued under the authority of these regulations, then, in such case, and subject to twelve months' notice of intention to terminate being given by the Minister to the licensee, the Lieutenant Governor in Council may order such license terminated and thereupon the rights of the licensee with respect to the control and operation of the power or storage development shall absolutely cease and determine without further proceeding, and the respective rights of His Majesty and the licensee in the lands, works and properties connected with the undertaking shall be as set out in section 47; except that the Minister or the Court of King's Bench, as the case may be, in determining the compensation to be paid to the licensee may add such bonus or additional bonus to the amount payable according to the said section 47, as will in the opinion of the Minister or of the Court be proper under the particular circumstances of the case, not to exceed, however, three-fourths of one per cent of the amount payable as aforesaid for each full year of the unexpired terms of the license nor to be less than five per cent of such amount.

7 Dec 43 SR 906/68 s86.

**Temporary or conditional leases, licenses for other purposes**

**87** Where lands which have been reserved as being valuable for the development of any water-power to be dealt with only under these regulations, cannot, in the opinion of the Minister, be utilized in connection with such water-power development for a number of years, and where, in the opinion of the Minister, the granting of temporary leases or licenses of occupation for other purposes will not interfere with the purposes of such reservation, applications for the temporary use and occupation of such lands for such other purposes may be considered by the Minister and conditional leases or licenses granted by him; provided always that it shall be stipulated in every such conditional lease or license that when, in the opinion of the Minister, such lands are required in connection with such water-power development it shall be lawful for the Minister on giving the conditional lessee or licensee not less than six months' notice of such cancellation, by writing under his hand to cancel such lease or license and determine the rights thereby conferred, and repossess himself on behalf of His Majesty of the said lands and all improvements thereon without any compensation whatever being paid to such conditional licensee or lessee.

7 Dec 43 SR 906/68 s87.

**Compliance with provisions of *Navigable Waters Protection Act (Canada)*, etc.**

**88** Notwithstanding any rights granted or approval given by any license, every licensee shall comply fully with the provisions of the Navigable Waters Protection Act (Canada) and any rules and regulations promulgated thereunder; and shall also comply fully with the provisions of any Provincial or Dominion statutes or regulations governing the preservation of the purity of waters or governing logging, forestry, fishing, or other interests present or future which might be affected by any operations conducted under his license and shall also observe and carry out any instructions of the Minister in respect of any of the foregoing matters not inconsistent with the said statutes and regulations.

7 Dec 43 SR 906/68 s88.



**Supplemental rules**

**89** The Minister may from time to time make such supplemental rules regarding such matters as the nature of plans and specifications to be filed, the prescribing of forms to be used, the procedure to be followed in connection with various inquiries and matters arising under these regulations as may, in his opinion, be desirable.

7 Dec 43 SR 906/68 s89.

**Removal of works, etc. in contravention of *The Water Power Act***

**90** Any machinery, plant, structure, or works constructed, installed, or placed on any Provincial lands for the development of any water-power or for the transmission, distribution, or utilization of the energy produced from such water-power in contravention of these regulations or of *The Water Power Act* shall be removed if and when required by the Minister.

7 Dec 43 SR 906/68 s90.

**Notice**

**91** Any notice which is required to be given or served, or which the Minister may desire to give or serve upon any person in respect of these regulations, shall be considered to have been validly given or served if mailed by registered mail to such person addressed to his last known address or, if left at the said address. A notice sent by post shall be deemed to be given when in due course of post it would be delivered at the address to which it was sent.

7 Dec 43 SR 906/68 s91.

**SMALL WATER-POWERS**

The following conditions for small water-powers are permissible as an alternative to proceeding under the foregoing regulations:

**Application**

**92(1)** Applications for the development of water-powers, the capacity of which, under average usable flow conditions, does not exceed, in the opinion of the Chief Engineer, five hundred horse-power, and which are not deemed to be of primary importance for commercial or public utility purposes, may be dealt with under such special regulations as the Minister may from time to time promulgate, subject, however, to the following provisions:

- (a) The license-terms shall not exceed twenty years; and renewals shall not exceed five years each;
- (b) Applications for renewal shall in every case follow the procedure in force at the time such application is made, and the renewal license shall in every case be subject to the laws and regulations in force at the time such license is issued;

- (c) Upon the expiry of any term or any renewal, if the licensee either has not applied for or has failed to secure a renewal license, the water-power development and all works and structures connected therewith and located on Provincial lands shall become the property of the Crown without compensation to the licensee; but with the privilege on the licensee's part of removing from the Provincial lands within such period after the said expiry as may be approved, all works and structures erected or installed by the licensee in connection with such power development, which can, with the consent of the Chief Engineer, be removed without damage to the said lands;
- (d) The Lieutenant Governor in Council may at any time, upon giving the licensee one year's notice, cancel any license granted under this section, and resume full possession and control of the water-power development and all works, lands, and structures connected therewith, or, at the option of the Minister, of such part of such works and structures as are situate upon Provincial lands;
- (e) Compensation, in such case, shall be paid to the licensee for the works, lands, and structures taken over, to the amount of the actual cost thereof, determined in accordance with the principle of section 36 and subsection (3) of section 47, together with such percentage added to such amount by way of bonus, not greater than fifteen per cent nor less than three per cent of such amount, as may be determined either by agreement of the parties, or in case of non-agreement, by the Court of King's Bench.
- (2) The Chief Engineer may receive applications for the development and use of any water-powers, the capacity of which, under average usable flow conditions, does not exceed, in his opinion, one hundred horse-power, and which are not of primary importance for public utility or commercial purposes; and may issue licenses for the development and use of any such water-powers, subject, however, to the provisions of paragraphs (a), (b), (c), (d) and (e) of the preceding subsection.
- Provided that the compensation to be paid to the licensee under the said paragraphs (d) and (e) for any works taken over if the license should be terminated before the expiry of the term shall, in cases arising under this subsection, be arrived at by agreement of the parties, or in the case of non-agreement, by such tribunal, person or persons, and in such manner as the Minister may, at the time, determine and direct.

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