

The Environmental Assessment Act

being

Chapter E-10.1 of the *Statutes of Saskatchewan 1979-80* (effective August 25, 1980) as amended by the *Statutes of Saskatchewan*, 1983 c.77; 1988-89 c.42 and c.55; 1996 c.F-19.1; 2002, c.C-11.1; 2010, c.11; 2013, c.27; and 2018, c.42.

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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CHAPTER E-10.1

An Act respecting the Assessment of the Impact on the Environment of New Developments

PART I Preliminary Matters

Short title

1 This Act may be cited as *The Environmental Assessment Act*.

Interpretation

2 In this Act:

(a) **“assessment”** means an environmental impact assessment required under section 9;

(a.1) **“business day”** means a day other than a Saturday, Sunday or holiday;

(b) **“contaminant”** means any substance, whether gaseous, liquid or solid, that:

(i) is foreign to or in excess of the natural constituents of the environment; or

(ii) affects the natural, physical, chemical or biological quality of the environment;

and that is or may be injurious to the health or safety of persons or injurious or damaging to property or to plant or animal life;

(c) **“Crown”** means the Crown in right of Saskatchewan;

(d) **“development”** means any project, operation or activity or any alteration or expansion of any project, operation or activity which is likely to:

(i) have an effect on any unique, rare or endangered feature of the environment;

(ii) substantially utilize any provincial resource and in so doing pre-empt the use, or potential use, of that resource for any other purpose;

(iii) cause the emission of any pollutants or create by-products, residual or waste products which require handling and disposal in a manner that is not regulated by any other Act or regulation;

(iv) cause widespread public concern because of potential environmental changes;

- (v) involve a new technology that is concerned with resource utilization and that may induce significant environmental change; or
- (vi) have a significant impact on the environment or necessitate a further development which is likely to have a significant impact on the environment;
- (e) **“environment”** means:
 - (i) air, land and water;
 - (ii) plant and animal life, including man; and
 - (iii) the social, economic and cultural conditions that influence the life of man or a community insofar as they are related to the matters described in subclauses (i) and (ii);
- (f) **“environment officer”** means an environment officer appointed pursuant to section 5.1, and includes a member of the Royal Canadian Mounted Police or a member of a police service as defined in *The Police Act, 1990*;
- (g) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (h) **“ministerial approval”** means the written approval of the minister given pursuant to subsection 15(1) or 16(2);
- (h.1) **“ministry”** means the ministry over which the minister presides;
- (i) **Repealed.** 2002, c.C-11.1, s.382.
- (j) **“person”** includes a body corporate or other legal entity, an unincorporated association, partnership or other organization, a municipality and the Crown, a Crown corporation or an agency of the Crown;
- (k) **“pollutant”** means a substance, including a contaminant, which results, or is likely to result, in pollution of the environment;
- (l) **“pollution”** means alteration of the physical, chemical, biological or aesthetic properties of the environment, including the addition or removal of any contaminant, that:
 - (i) will render the environment harmful to public health;
 - (ii) is unsafe for or harmful to domestic, municipal, industrial, agricultural, recreational or other lawful uses of the environment; or
 - (iii) is harmful to wild animals, birds or aquatic life;
- (m) **“proponent”** means a person who proposes or desires to undertake a development;
- (n) **“statement”** means an environmental impact statement required under section 9.

1979-80, c.E-10.1, s.2; 1983, c.77, s.25; 1988-89, c.42, s.37; 1988-89, c.55, s.9; 2002, c.C-11.1, s.382; 2010, c.11, s.5; 2018, c.42, s.65.

Act binds Crown

3 This Act binds the Crown.

1979-80, c.E-10.1, s.3.

Exemption from Act

4 Where in the opinion of the Lieutenant Governor in Council there is an emergency, he may exempt any development, any class of developments or any proponent from the application of all, or any part, of this Act or the regulations.

1979-80, c.E-10.1, s.4.

Non-derogation of existing rights

4.1 Nothing in this Act shall be construed or interpreted so as to abrogate or derogate, directly or indirectly, any treaty or aboriginal rights recognized and affirmed by subsection 35(1) of the *Constitution Act, 1982*.

2010, c.11, s.7.

PART II

Minister's Responsibilities and Powers**Responsibilities and powers of minister**

5(1) The minister is responsible for all matters not by law assigned to any other minister or government agency respecting environmental planning, assessments, statements and the quality of the environment.

(2) For the purposes of carrying out the minister's responsibilities, the minister may:

- (a) conduct or commission research with respect to the environment, environmental planning, assessments or statements;
- (b) conduct or commission studies respecting environmental planning, assessments, statements or the quality of the environment, including but not limited to baseline studies, spatial or regional studies, sectoral studies, issue-based studies or follow-up studies;
- (c) gather, publish and disseminate information with respect to the environment, environmental planning, assessments or statements;
- (d) make any examinations, tests and other arrangements that the minister considers necessary;
- (e) subject to the regulations, determine:
 - (i) the scope of assessments and content of statements for developments and for classes of developments; and
 - (ii) the procedures and methods for conducting assessments and preparing statements for developments and for classes of developments;

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- (f) subject to the regulations, develop or establish guidelines and standards respecting any matter governed by this Act;
 - (g) consult with any person, any government agency or any other government about any matter governed by this Act;
 - (h) do any other thing that the minister considers appropriate to carrying out the minister's responsibilities or to exercising the minister's powers pursuant to this Act and the regulations.
- (3) Subject to the approval of the Lieutenant Governor in Council, for the purposes of furthering, undertaking and enforcing the minister's activities and responsibilities pursuant to this Act, the minister may enter into agreements on behalf of the Government of Saskatchewan with:
- (a) the Government of Canada;
 - (b) a government agency;
 - (c) the government of any other province or territory of Canada;
 - (d) the government of any other country, any state or division of that country or any minister, agent or official of that government; or
 - (e) any person, agency, board, commission, organization, institution or body.

2010, c.11, s.9.

Appointment of environment officers

5.1(1) The minister may appoint any persons or class of persons as environment officers for the purpose of enforcing or overseeing the enforcement of this Act and the regulations.

(2) The minister may set any limit or condition on any appointment pursuant to subsection (1) that the minister considers reasonable.

2010, c.11, s.9.

General powers of environment officers

5.2 All environment officers have the powers of peace officers to enforce this Act and the regulations and are entitled, while performing their duties, to all the protection to which peace officers are entitled pursuant to the *Criminal Code*.

2010, c.11, s.9.

6 Repealed. 1988-89, c.42, s.37.

Power to limit disclosure

7 Where, in the opinion of the minister, it is in the public interest or in the interest of any person, the minister may, subject to the regulations, withhold or limit production, public inspection or discovery of any information or document that relates to a development, other than any information or document that relates to pollutants, public health or human safety.

1979-80, c.E-10.1, s.7.

PART III
Ministerial Determination respecting Proposed Undertaking

Interpretation of Part**7.1** In this Part:

- (a) **“applicant”** means a person who makes an application;
- (b) **“application”** means an application made pursuant to subsection 7.2(1);
- (c) **“undertaking”** means a project, operation or activity or any alteration or expansion of a project, operation or activity.

2010, c.11, s.10.

Application for determination respecting proposed undertaking

7.2(1) A person who proposes or desires to engage in an undertaking may apply to the minister for a determination as to whether the proposed undertaking is a development.

- (2) Every applicant shall:
 - (a) apply in the form provided by the minister;
 - (b) provide the minister with any information or material that the minister may reasonably require; and
 - (c) comply with any other requirements prescribed in the regulations.
- (3) The minister may require an applicant to verify, by affidavit or otherwise, any information or material submitted to the minister pursuant to this section.

2010, c.11, s.10.

Determination respecting nature of proposed undertaking

7.3(1) On receipt of an application and after considering the information or material submitted and any other factors that the minister considers appropriate, the minister shall make a determination that:

- (a) the proposed undertaking is a development; or
 - (b) the proposed undertaking is not a development.
- (2) Subject to the regulations, the process and procedures to be followed in making a determination pursuant to subsection (1) are those that the minister considers advisable and may include any public notification, consultation or involvement in the process.
 - (3) On making a determination pursuant to subsection (1), the minister may impose on the applicant any terms and conditions that the minister considers necessary or advisable.
 - (4) No applicant shall fail to comply with any terms or conditions imposed on the applicant pursuant to subsection (3).

2010, c.11, s.10.

Notification by minister

7.4 The minister shall, within 10 business days after making a determination pursuant to section 7.3:

- (a) notify the applicant, in writing, of the minister's determination;
- (b) provide the applicant with written reasons for that determination; and
- (c) notify any other persons that the minister considers advisable of the minister's determination.

2010, c.11, s.10.

Approval required to proceed with development

7.5 If the minister makes a determination pursuant to clause 7.3(1)(a) that the proposed undertaking is a development, the applicant shall not proceed with the development until the applicant has received ministerial approval to proceed with the development pursuant to section 15.

2010, c.11, s.10.

Approval not required to proceed with undertaking

7.6 If the minister makes a determination pursuant to clause 7.3(1)(b) that the proposed undertaking is not a development, ministerial approval to proceed pursuant to section 15 is not required.

2010, c.11, s.10.

PART IV Ministerial Approval

Ministerial approval required

8(1) Notwithstanding the requirements of any other Act, regulation or bylaw relating to any licence, permit, approval, permission or consent, a proponent shall obtain ministerial approval to proceed with a development, and no person shall proceed with a development until he has received ministerial approval.

(2) Where a conflict exists between any condition of any licence, permit, approval, permission or consent granted under any other Act, regulation or bylaw and a condition of the ministerial approval, the condition of the ministerial approval prevails.

(3) Notwithstanding subsection (1) , a proponent may, subject to the regulations, conduct a feasibility study, including research and exploration, and may take any other necessary action to comply with this Act before obtaining ministerial approval to proceed.

1979-80, c.E-10.1, s.8.

Assessment and statement required

9(1) Subject to the regulations and in accordance with any determination made by the minister pursuant to clause 5(2)(e), the proponent of a development shall:

- (a) conduct an assessment of the development; and
- (b) prepare and submit to the minister a statement relating to the development.

(1.1) For the purposes of clause (1)(b), if the proponent of a development satisfies the minister that the development falls within a class of developments, the statement relating to the development must contain the contents prescribed in the regulations, or in a minister's determination pursuant to clause 5(2)(e), for the statements relating to that class of developments.

(2) The proponent shall bear all costs incurred in carrying out an assessment and in the preparation and submission of a statement.

1979-80, c.E-10.1, s.9; 2010, c.11, s.13.

9.1 Repealed. 2010, c.11, s.14.**Minister to give notice of assessment**

10 When the minister becomes aware that an assessment is about to be conducted, he shall immediately give notice of the assessment in any manner that may be prescribed in the regulations.

1979-80, c.E-10.1, s.10.

Review of statement

11(1) The minister shall cause a review to be prepared of each statement that he receives.

(2) When the review mentioned in subsection (1) is completed, the minister shall:

- (a) make the statement and review available for public inspection;
- (b) give notice, in any manner prescribed in the regulations, of the locations at which the statement and review may be inspected; and
- (c) impose any conditions relating to the inspection that the minister considers appropriate.

1979-80, c.E-10.1, s.11; 2010, c.11, s.15.

Inspection of statement

12 Any person may:

- (a) inspect a statement and review that is available for public inspection pursuant to subsection 11(2);
- (b) make a written submission to the minister within 30 days from the date when the minister first gives notice pursuant to subsection 11(2), or, if the minister considers it appropriate, within an additional period of 30 days.

1979-80, c.E-10.1, s.12.

Public information meeting

13 At any time prior to making his decision whether to approve a development, the minister may:

- (a) cause an information meeting to be conducted relating to the development; and
- (b) direct the proponent to make experts available to attend the meeting.

1979-80, c.E-10.1, s.13.

Inquiries

14(1) At any time prior to making his decision whether to approve a development, the minister may appoint persons to conduct an inquiry or inquiries with respect to all, or any aspect of, the development, and shall set the terms of reference for the inquiry.

(2) The persons appointed under subsection (1) have all the powers conferred on a commission by sections 11, 15 and 25 of *The Public Inquiries Act, 2013* and may engage the services of any professional or other advisors, experts, assistants or employees that they consider necessary.

(3) The minister may:

- (a) pay to persons appointed pursuant to subsection (1) any remuneration for their services and allowances for expenses incurred by them that the minister may determine; and
- (b) enter into agreements with those persons, and impose any conditions that he considers appropriate, to provide for the manner of payment, including payment by way of accountable advance.

1979-80, c.E-10.1, s.14; 2013, c.27, s.13.

Ministerial approval

15(1) Where the minister is satisfied that a proponent has met all the requirements of this Act, he shall, within a reasonable time after making his decision:

- (a) give ministerial approval to proceed with the development and may impose any terms and conditions that he considers necessary or advisable; or
- (b) refuse to approve the development.

(2) The minister shall give notice of his decision, together with written reasons for the decision, to:

- (a) the proponent;
- (b) any person who has made a written submission to the minister pursuant to section 12; and
- (c) any other persons that the minister considers advisable.

1979-80, c.E-10.1, s.15.

Changes in approved development

16(1) Where a proponent:

- (a) has received ministerial approval to proceed; and
- (b) intends to make a change in the development that does not conform to the terms or conditions contained in the ministerial approval;

he shall inform the minister of the proposed change before proceeding with it.

(2) Where the minister has received notice of a proposed change, he shall:

- (a) give ministerial approval of the proposed change and may impose any terms and conditions that he considers advisable;
- (b) refuse to approve the change in the development; or
- (c) direct the proponent to seek approval for the proposed change in the manner prescribed in sections 9 to 15.

(3) No person shall proceed with a change in a development until he has been given ministerial approval to proceed.

1979-80, c.E-10.1, s.16.

Development to proceed in accordance with ministerial approval

17 No person shall proceed with a development for which he has received ministerial approval, except in accordance with the terms and conditions of the ministerial approval.

1979-80, c.E-10.1, s.17.

PART V

Orders, Investigations and Offences**Order enjoining development**

18 The minister may apply to the Court of Queen's Bench for an order enjoining any person from proceeding with a development contrary to this Act or to the terms and conditions of any ministerial approval, and the court may make an order on any terms and conditions that it considers appropriate.

1979-80, c.E-10.1, s.18; 2018, c42, s.65.

Power to conduct investigation

19 Where, in the opinion of the minister, the terms and conditions of a ministerial approval are not being complied with, he may:

- (a) cause any investigation, inspection or inquiry to be conducted; and
- (b) require any information or document to be submitted to him;

that he considers necessary to determine whether the ministerial approval is being complied with.

1979-80, c.E-10.1, s.19.

Offences

20(1) No person shall:

- (a) make a false statement or provide false information to the minister, an environment officer, the ministry or any person acting on behalf of the minister;
 - (b) omit to state a fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made to the minister, an environment officer, the ministry or any person acting on behalf of the minister;
 - (c) fail to comply with a ministerial approval issued pursuant to this Act or the regulations;
 - (d) obstruct or interfere with an environment officer carrying out the environment officer's duties pursuant to this Act; or
 - (e) fail to comply with any provision of this Act or the regulations.
- (2) Subject to subsection (3), every person who contravenes a provision of this Act or the regulations is guilty of an offence and liable on summary conviction to:
- (a) a fine not exceeding \$500,000, to imprisonment not exceeding six months or to both that fine and imprisonment; and
 - (b) in the case of a continuing offence, a further fine of \$250,000 for each day or part of a day during which the offence continues.
- (3) If a person is convicted of an offence pursuant to this Act and the court is satisfied that as a result of the commission of the offence monetary benefits accrued to the offender, the court may order the offender to pay, in addition to a fine pursuant to subsection (2), a fine in an amount equal to the court's estimation of the amount of those monetary benefits.
- (4) Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence and is liable on summary conviction to the penalties provided for that offence whether or not the corporation has been prosecuted or convicted.
- (5) In addition to or instead of any penalty imposed pursuant to this Act, the convicting court, having regard to the nature of the offence and the circumstances surrounding its commission, may make an order doing one or more of the following:
- (a) prohibiting the convicted person from doing any act or engaging in any activity that, in the opinion of the court, may result in the continuation of the offence;
 - (b) directing the convicted person to repair any damage to the environment that resulted from the commission of the offence in a manner and within the period specified by the order;
 - (c) requiring the convicted person to take steps to prevent any damage to the environment that may result from the commission of the offence in a manner and within the period specified by the order;

(d) directing the convicted person to pay to the minister an amount of money as compensation, in whole or in part, for the cost of any remedial or preventative action taken by or at the direction of the minister as a result of the commission of the offence;

(e) requiring the convicted person to do any other thing that, in the opinion of the court, is necessary in the circumstances.

2010, c.11, s.18.

21 Repealed. 2010, c.11, s.19.

Limitation on prosecutions

22 No prosecution for a contravention of this Act or the regulations is to be commenced more than two years after the facts on which the alleged contravention is based first came to the knowledge of the minister.

2010, c.11, s.20.

Liability for damages

23(1) Where any person proceeds with a development for which ministerial approval is required without:

- (a) being given ministerial approval; or
- (b) being exempted pursuant to section 4;

he is liable to any other person who suffers loss, damage or injury as a result of the development, and that other person is not required to prove negligence or intention to inflict loss, damage or injury.

(2) The burden of proving that any loss, damage or injury was not caused by a development is on the person who proceeds with the development.

1979-80, c.E-10.1, s.23.

PART VI
General

Service of notice or documents

24(1) Unless otherwise provided for in this Act, any notice, order or decision required by this Act or the regulations to be given or served is to be served personally or mailed by ordinary or registered mail to the last known address of the person being served or by any other means prescribed in the regulations.

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

(3) Irregularity in the service of a notice, order or decision does not affect the validity of an otherwise valid notice, order or decision.

2010, c.11, s.23.

Immunity

24.1 No action or other proceeding lies or shall be commenced against the minister, the ministry, the minister's designate, any environment officer, the Crown or officers and employees of the Crown for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any one or more of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any function or duty imposed by this Act or the regulations.

2010, c.11, s.23.

Order authorizing entry and seizure

25(1) Where a judge of the Provincial Court of Saskatchewan is satisfied by information on oath that there are reasonable grounds to require an order to enable an environment officer to carry out the duties assigned to him, the judge may issue an order on any terms and conditions he considers appropriate, authorizing an environment officer to:

- (a) enter and search any land, building or chattel; and
- (b) seize any chattels, documents or samples;

described in the order.

(2) Every environment officer, while exercising his authority pursuant to an order issued under this section, shall produce a copy of the order upon the request of any person who has the custody, possession or control of any land, building, chattel or document described in the order.

(3) No person shall obstruct or impede an environment officer acting pursuant to an order issued under this section.

1979-80, c.E-10.1, s.25.

Environment office to preserve confidentiality

26(1) Every environment officer shall preserve confidentiality in respect of any matter that comes to his knowledge in the course of any investigation, inspection, test or inquiry under this Act and no environment officer shall communicate any such matter to any person except:

- (a) as may be required in connection with the administration of, or in any proceeding under, this Act and the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information refers.

(2) Except in a proceeding under this Act or the regulations, no environment officer is required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of any investigation, inspection, test or inquiry under this Act or the regulations.

1979-80, c.E-10.1, s.26.

Regulations

27 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) establishing classes of developments;
- (c) respecting:
 - (i) the scope of assessments and content of statements for developments and for classes of developments; and
 - (ii) the procedures and methods for conducting assessments and preparing statements for developments and for classes of developments;
- (d) specifying the grounds on which the minister may withhold or limit disclosure of any information, matter or document relating to a development;
- (e) for the purposes of clause 7.2(2)(c), prescribing any other requirements that an applicant must comply with;
- (f) respecting the process and procedures that are to be followed in making a determination pursuant to section 7.3;
- (g) prohibiting or regulating, in all or any part of Saskatchewan, any feasibility study or any other action permitted pursuant to subsection 8(3);
- (h) for the purposes of section 10, prescribing the manner of giving notice of an assessment;
- (i) for the purposes of clause 11(2)(b), prescribing the manner of giving notice;
- (j) respecting any guidelines or standards applicable to the approval of any development;
- (k) for the purposes of subsection 24(1), prescribing other means of service;
- (l) prescribing any other matter or thing that is required or authorized by this Act to be prescribed in the regulations;
- (m) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

