

# B I L L

No.

## **An Act to Assert Saskatchewan's Exclusive Legislative Jurisdiction and to Confirm the Autonomy of Saskatchewan**

(Assented to )

### **Preamble**

WHEREAS the Province of Saskatchewan entered Confederation in 1905;

WHEREAS the Government of Canada retained jurisdiction over all Crown lands and natural resources within Saskatchewan until 1930;

WHEREAS the Government of Canada's control of Crown lands and natural resources in Saskatchewan did not enable Saskatchewan to be a full partner in Confederation;

WHEREAS Saskatchewan successfully attained full status within Confederation and gained autonomy over its Crown lands and natural resources through the *Natural Resources Transfer Agreement, 1930*;

WHEREAS Saskatchewan's exclusive legislative jurisdiction in relation to natural resources was confirmed and strengthened through the introduction in 1982 of section 92A of the *Constitution Act, 1867*;

WHEREAS the Constitution of Canada grants to Saskatchewan exclusive legislative jurisdiction over several aspects of Saskatchewan's economy, including exclusive legislative jurisdiction over non-renewable natural resources, forestry resources and the generation and production of electrical energy;

WHEREAS the Government of Canada has unilaterally intruded into core areas of Saskatchewan's exclusive legislative jurisdiction;

WHEREAS this intrusion causes economic harm and uncertainty to Saskatchewan residents and enterprises;

WHEREAS it is in Saskatchewan's interest to establish an independent tribunal to identify and assess the nature and extent of economic harm and uncertainty to Saskatchewan residents and enterprises caused by such intrusions;

WHEREAS it is in Saskatchewan's interest to amend the Constitution of the Province of Saskatchewan in order to affirm Saskatchewan's exclusive legislative jurisdiction;

AND WHEREAS Saskatchewan resolves to never be less than an equal partner within Confederation again;

NOW THEREFORE HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART 1

**Preliminary Matters and Constitutional Assertion**

**Short title**

1 This Act may be cited as *The Saskatchewan First Act*.

**Purpose**

2 The purpose of this Act is to assert and confirm Saskatchewan's jurisdiction over matters exclusively assigned to Saskatchewan by the *Constitution Act, 1867* and to provide certainty with respect to the inapplicability of federal initiatives that would otherwise presume, by their unconstitutional interference, to bring uncertainty, disruption and economic harm to Saskatchewan's economy and enterprises and to the lives of Saskatchewan's residents.

**Saskatchewan's exclusive legislative jurisdiction asserted**

3(1) Saskatchewan asserts its exclusive legislative jurisdiction under the Constitution of Canada, and in particular, those matters listed in sections 92 and 92A of the *Constitution Act, 1867*.

(2) Saskatchewan asserts that the doctrine of interjurisdictional immunity applies to exclusive provincial legislative jurisdiction to the same extent that it applies to exclusive federal legislative jurisdiction.

(3) Without limiting the generality of subsections (1) and (2), Saskatchewan asserts its exclusive legislative jurisdiction under the Constitution of Canada in relation to the following matters, and asserts that these matters fall within the core of exclusive provincial legislative jurisdiction for the purposes of the doctrine of interjurisdictional immunity:

(a) the exploration for non-renewable natural resources in Saskatchewan, including:

- (i) who may be licensed;
- (ii) where and when the exploration may take place; and
- (iii) any terms or conditions applicable to the exploration;

(b) the development, conservation and management of non-renewable natural resources in Saskatchewan, including:

- (i) who may be licensed;
- (ii) where and when the development, conservation and management may take place; and
- (iii) any terms or conditions applicable to the development, conservation and management, including the regulation of environmental standards and the regulation of greenhouse gas emissions and other emissions;

(c) the development, conservation and management of forestry resources in Saskatchewan, including:

- (i) who may be licensed;

- (ii) where and when the development, conservation and management may take place; and
  - (iii) any terms or conditions applicable to the development, conservation and management, including the regulation of environmental standards and the regulation of greenhouse gas emissions and other emissions;
- (d) the operation of sites and facilities in Saskatchewan for the generation and production of electrical energy, including:
- (i) who may be licensed;
  - (ii) where and when the operation may take place;
  - (iii) any terms or conditions applicable to the operation, including the regulation of environmental standards and the regulation of greenhouse gas emissions and other emissions; and
  - (iv) the source of fuel for electrical generation, including renewable and non-renewable resources;
- (e) the regulation of all industries and businesses falling within the exclusive jurisdiction of Saskatchewan, including any regulations, terms or conditions applicable to the licensing of industries and businesses, including the regulation of environmental standards and the regulation of greenhouse gas emissions and other emissions;
- (f) the regulation of fertilizer use in Saskatchewan, including application, production, quantities and emissions; and
- (g) any other prescribed matter.

## PART 2

### Amendment to Saskatchewan's Constitution

#### *Saskatchewan Act* amended

**4 The Constitution of Saskatchewan is amended by adding the following section after section 3 of the *Saskatchewan Act*:**

#### **“Autonomy of Saskatchewan**

**3.1(1)** Saskatchewan has autonomy with respect to all of the matters falling under its exclusive legislative jurisdiction pursuant to the *Constitution Act, 1867*.

(2) Saskatchewan is and always has been dependent on agriculture, and on the development of its non-renewable natural resources, forestry resources and electrical energy generation and production.

(3) Saskatchewan's ability to control the development of its non-renewable natural resources, its forestry resources and its electrical energy generation and production is critical to the future well-being and prosperity of Saskatchewan and its people”.

**Constitution Act, 1867 amended**

**5 The Constitution of Saskatchewan is amended by adding the following section after section 90Q.2 of the *Constitution Act, 1867*:**

**“7. - SASKATCHEWAN**

**90S.1(1)** Saskatchewan has autonomy with respect to all of the matters falling under its exclusive legislative jurisdiction pursuant to this Act.

(2) Saskatchewan is and always has been dependent on agriculture, and on the development of its non-renewable natural resources, forestry resources and electrical energy generation and production.

(3) Saskatchewan’s ability to control the development of its non-renewable natural resources, its forestry resources and its electrical energy generation and production is critical to the future well-being and prosperity of Saskatchewan and its people”.

**PART 3**

**Economic Impact Assessment Tribunal**

**Definitions for Part**

**6** In this Part and in sections 2, 3 and 13:

**“economic impact assessment”** means an assessment meeting the prescribed requirements;

**“federal initiative”** means a federal law or policy that may have an economic impact on a project, operation, activity, industry, business or resident in Saskatchewan;

**“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

**“prescribed”** means prescribed in the regulations;

**“tribunal”** means the Economic Impact Assessment Tribunal established pursuant to section 7.

**Economic Impact Assessment Tribunal established**

**7** The Economic Impact Assessment Tribunal is established for the purpose of conducting economic impact assessments in relation to federal initiatives.

**Referral**

**8(1)** The Lieutenant Governor in Council may refer a federal initiative to the tribunal for an economic impact assessment if, in the opinion of the Lieutenant Governor in Council, a federal initiative will cause economic harm to Saskatchewan.

(2) The tribunal shall ensure that any referral made pursuant to this Act is served on the federal government within 7 days after receipt of the referral.

(3) A referral shall be considered by the tribunal as soon as is practicable, and, unless the deadline is waived by the minister, no later than 90 days after the referral is received by the tribunal.

(4) The tribunal shall conduct the assessment and report its findings and recommendations to the minister.

### **Report and recommendations**

9(1) In its report, the tribunal may make recommendations relating to:

(a) the nature of the economic impact of the federal initiative on projects, operations, activities, industries, businesses or residents in Saskatchewan;

(b) the steps that may be taken to minimize the economic impact of the federal initiative in Saskatchewan;

(c) any other matter that should be brought to the attention of the Government of Saskatchewan as having unintended consequences on projects, operations, activities, industries, businesses or residents in Saskatchewan; and

(d) any other prescribed matter.

(2) A report of the tribunal:

(a) is admissible as evidence in a legal proceeding;

(b) may form the basis of an application pursuant to Rule 3-49 of *The King's Bench Rules*; and

(c) may be submitted for the purpose of clause (a) or (b) without proof of the appointment or signature of the chairperson or other tribunal member.

### **Tribunal membership**

10(1) The tribunal consists of members appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council shall appoint one member as chairperson and may appoint another member as vice-chairperson of the tribunal.

(3) The chairperson:

(a) shall preside over all meetings of the tribunal;

(b) shall appoint members of the tribunal to form a panel for the purposes of section 8; and

(c) shall perform all the duties that may be imposed on, and may exercise all the powers that may be assigned to, the chairperson by this Act or the regulations.

(4) If the chairperson is absent or unable to act or the office of chairperson is vacant, the vice-chairperson shall perform all the duties and may exercise all the powers of the chairperson.

(5) The tribunal members:

- (a) hold office for a term not exceeding 3 years; and
  - (b) may be reappointed for additional terms.
- (6) Notwithstanding the expiry of a tribunal member's term, the tribunal member continues to hold office until a successor is appointed.
- (7) Members of the tribunal are to be paid remuneration and reimbursement for expenses at rates that are approved by the Lieutenant Governor in Council.

### **Procedure and powers**

**11(1)** Subject to this Act and the regulations, the tribunal shall determine its own process and may make rules to supplement its own process and procedures, and without limiting the generality of this subsection, the tribunal may decide whether to consider the referral with written or oral submissions or both written and oral submissions.

(2) In addition to the powers conferred on it by this Act, the tribunal has all the powers conferred on a commission by sections 11 and 15 of *The Public Inquiries Act, 2013*.

(3) The minister may provide the tribunal with any supplies and the service of any employees under the minister's administration that the minister considers necessary for the tribunal to exercise its powers and perform its duties pursuant to this Act.

(4) The tribunal may, with the approval of the minister:

- (a) engage the services of any legal counsel, consultants or technical advisers that it considers appropriate to assist the tribunal in carrying out its functions; and
- (b) pay the reasonable fees and expenses of the legal counsel, consultants or technical advisers.

### **Immunity**

**12** No action or proceeding lies or shall be commenced against the Crown in right of Saskatchewan, the minister, an officer, employee or agent of the Crown in right of Saskatchewan, the tribunal, a member of the tribunal or an officer, employee or agent of the tribunal if that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done, by that person or by any of those persons 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 order made pursuant to this Act or any duty imposed by this Act or the regulations.

## **PART 4**

### **Regulations and Coming into Force**

#### **Regulations**

**13** 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) prescribing matters that fall within the core of exclusive provincial legislative jurisdiction;
- (c) for the purposes of the definition of “economic impact assessment”, prescribing requirements for an economic impact assessment;
- (d) prescribing additional matters with respect to which the tribunal may make recommendations;
- (e) prescribing rule-making powers of the tribunal for the purposes of its process and procedures;
- (f) prescribing any matter or thing that is authorized or required by this Act to be prescribed in the regulations;
- (g) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

**Coming into force**

**14** This Act comes into force by order of the Lieutenant Governor in Council.