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UNDERGROUND INFRASTRUCTURE SAFETY Enhancement Act Bill S-229

Overview

Professional Surveyors Canada (PSC) propose the following amendments to Bill S-229 to better enhance the safety of the public and workers. PSC's proposed amendments focus on two primary concerns. First, it is imperative for the safety of the public and workers that common standards for buried utilities are used and that these standards are well known and adhered to. To this end, PSC has proposed amendments to the Bill that establish objective standards for both the placement and mapping of new underground infrastructure.

PSC's second concern relates to the rights of private land owners to know, participate in, and refuse underground infrastructure development on their lands or on adjacent lands. Accordingly, PSC has proposed amendments that increase access to information for private landowners regarding buried infrastructure that may affect their lands.

PSC's proposed amendments increase public safety and enhance access to quality information while imposing minimal additional burden on installers and information centres. PSC sees these proposed amendments as crucial for achieving PSC's goal of moving toward an active underground infrastructure management system that improves efficiency, minimizes strikes and increases public safety.

Table of Amendments

Section 2 – Definitions is amended by adding the following:

> ***Buried Depth*** *means the vertical distance from the general surface of the ground to the top of any underground infrastructure.*
>
> ***Land Registry Office*** *includes the land titles office or other office where title to land is registered within a province*
>
> ***Survey*** *means the resulting document produced through surveying by a licenced*

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professional land surveyor to establish the horizontal and vertical position of an underground infrastructure as specified in the prescribed standard.

Section 7.1 is added after section 7 and reads as follows:

An operator who installs new underground infrastructure must:

(1) do so at the prescribed minimum buried depth, and

(2) survey the new underground infrastructure and register the survey in accordance with section 7.

Section 8.1 is added after section 8 and reads as follows:

Registration of plans, etc.

8.1 (1) Every land registry office shall receive and preserve all documents, required by this Act to be deposited with that office.

Copies

(2) Any person may inspect the documents deposited under subsection (1) and may make extracts therefrom and copies thereof as occasion requires, subject to any reasonable conditions or fees imposed by the land registry office.

Deposit of Information

8.2 Operators installing new underground infrastructure on private lands or where adjacent private lands may be affected by either the installation or maintenance of that infrastructure shall deposit with the land registry office in the province where the lands are located the information provided to the notification centre under section 8.

Section 18 is amended by adding section 7.1 and 8.2 to the list of sections which it is an offence to contravene.

Additions to the Regulations

For the purposes of section 2, the prescribed standard for a survey is CSA Standard S250, *Mapping of Underground Utilities*

For the purposes of section x, the prescribed minimum buried depth is 1 metre in all areas other than bedrock areas and 0.61 metres in bedrock areas, where “bedrock areas” means land with solid rock underlying loose deposits such as soil or alluvium within one metre of the ground surface.

Notes on Amendments

Buried Depth

At a minimum, the installation standard for new underground infrastructure should be more than the ground disturbance level. This is just common sense. In PSC's proposal, the actual number for minimum buried depth is set by regulation to allow more flexibility to adapt to various circumstances. For example, if sufficient location and burial depth are known, then this can offset a lower minimum buried depth standard for installation. In the case of Bill S-229 as drafted, the Bill sets out a ground disturbance depth, but not a minimum buried depth. Public safety will be jeopardized unless both are set out in the legislation. Thus, PSC's proposal adds a minimum buried depth for new underground infrastructure. Failure to install to this minimum depth would be an offence.

Survey

As it is currently drafted, the mandatory location information set out in Bill S-229 lacks precision and consistency. Paragraphs 8(1)(a) and (b) only require an operator to register geospatial data and the name of the municipality in which the infrastructure is located. Paragraph 8(1)(c) requires the operator to provide "other" information but leaves this requirement up to the particular notification centre that serves the jurisdiction where the infrastructure is located. This is inefficient.

In PSC's view, all new underground infrastructure should be surveyed and mapped by licenced professional surveyors in a standard format during installation when the unit cost it at its lowest. Since Bill S-229 creates registration obligations on operators of underground infrastructure, it only makes sense to ensure that the registered information is of the highest available quality. Thus, the data is captured, and notification systems and property rights systems can be continually improved with almost no cost. This is the best way to avoid strikes.

To avoid an overly burdensome requirement on operators, PSC has only proposed surveying new infrastructure, but ideally all underground infrastructure – both new and existing – would be surveyed and registered in a central information repository.

Private Lands

Currently pipelines and other underground infrastructure is being installed on private lands without notification. Similarly, pipelines and other underground infrastructure is placed very near property lines where in order to service the infrastructure, private property must be damaged/disturbed to facilitate this service. At a minimum, easement plans warning purchasers of these lands should exist so that all information about a property can be known. This avoids strikes, reduces potential harm and increases transparency with little to no cost. If PSC's other proposals are implemented, the information necessary to achieve these objectives will already be generated – it just needs to be registered in a way that allows for transparency and access.

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PSC's proposed amendments require operators to deposit survey information with the local land registry office in cases where they have installed underground infrastructure on private lands or where adjacent private lands may be affected by either the installation or maintenance of that infrastructure. As with PSC's other proposals, PSC has suggested that this apply only to new underground infrastructure to minimize the administrative burden. However, ideally, this registration requirement would apply to all underground infrastructure that can affect private lands.

As additional concern with this proposal is coordination with local land registry offices. Each province applies a different standard and format for registering interests in and encumbrances on private lands. In order to draft federal legislation that best integrates with these different land registry systems, it would be advisable to consult with the various provincial land registry offices about the practical concerns involved in implementing this requirement.

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