

The Clean Air Act

being

Chapter C-12.1 of the *Statutes of Saskatchewan, 1986-87-88* (effective November 1, 1989) as amended by the *Statutes of Saskatchewan, 1989-90, c.30 and 31; 1992, c.22; 1995, c.A-12.1; 2000, c.50; 2002, c.C-11.1; and 2003, c.29.*

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 C-12.1

An Act respecting the Emission of Air Contaminants

SHORT TITLE

Short title

1 This Act may be cited as *The Clean Air Act*.

INTERPRETATION AND APPLICATION

Interpretation

2 In this Act:

- (a) **“air contaminant”** means a solid, liquid, gas or combination of any of them in the ambient air that contributes to air pollution;
- (b) **“air pollution”** means the presence in the ambient air of any air contaminant:
 - (i) in a concentration greater than the permissible concentration specified in a permit or prescribed in the regulations;
 - (ii) in quantities that are or are likely to:
 - (A) be injurious to the health, safety, comfort or well-being of the public;
 - (B) be injurious or damaging to property or plant or animal life; or
 - (C) interfere with normal business; or
 - (iii) that has an offensive or obnoxious odour, regardless of its concentration;
- (c) **“ambient air”** means the air surrounding the earth, but does not include the air within a structure or within any underground space;
- (d) **“applicant”** means a person who applies for a permit;
- (e) **“control order”** means a control order issued pursuant to section 14 or 16;
- (f) **“department”** means the department over which the minister presides;
- (g) **“director”** means the Director of Air Quality appointed pursuant to section 4;
- (h) **“fuel-burning equipment”** means any equipment, apparatus, device, mechanism or structure that burns solid, liquid or gaseous fuel for the purpose of vehicle transportation, heating, drying, generating power, processing steam or any combination thereof;

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- (i) **“incinerator”** means any equipment, apparatus, device, mechanism or structure that is designed to incinerate garbage, wood waste, refuse, liquid or gaseous waste, or any other waste materials and that is capable of controlling the combustion temperature, the degree of gaseous mixing and the length of time that combustion gases reside in the incinerator;
- (j) **“industrial source”** means any facility, operation, activity or equipment that is a source or potential source of an air contaminant, but does not include fuel-burning equipment or incinerators;
- (k) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (l) **Repealed.** 2002, c.C-11.1, s.373.
- (m) **“permit”** means a permit issued pursuant to section 9;
- (n) **“operator”** means the person having the charge, management or control of any industrial source, incinerator or fuel-burning equipment, whether on his own account or as an agent of another person;
- (o) **“terrorist activity”** means a terrorist activity as defined in the *Criminal Code*.

1986-87-88, c.C-12.1, s.2; 2002, c.C-11.1, s.373;
2003, c.29, s.4.

Crown bound

- 3** The Crown is bound by this Act.

1986-87-88, c.C-12.1, s.3.

DIRECTOR

Appointment

- 4** The minister shall appoint an officer of the department to be called the Director of Air Quality.

1986-87-88, c.C-12.1, s.4.

PERMITS

Permit required

- 5** Subject to sections 6 and 7, no person shall:

- (a) operate an industrial source, an incinerator or fuel-burning equipment;
or
- (b) alter, add to or change an industrial source, an incinerator or fuel-burning equipment in a manner that affects the emission of air contaminants;

unless he holds a valid subsisting permit authorizing him to do so.

1986-87-88, c.C-12.1, s.5; 1989-90, c.30, s.3.

Exceptions to requirement**6** Section 5 does not apply to:

- (a) the mining industry, where the operation of an industrial source, an incinerator or fuel-burning equipment requires a permit under *The Environmental Management and Protection Act*;
- (b) **Repealed.** 1995, c.A-12.1, s.30.
- (c) crude oil production for primary oil recovery;
- (d) **Repealed.** 1992, c.22, s.3.
- (e) equipment using natural gas, commercial fuel oil or other commercially available fuel for the purposes of domestic, commercial or institutional comfort heating, recreation or food preparation;
- (f) fuel-burning equipment used for the construction or maintenance of public roads, rail lines, pipelines or any other right of way;
- (g) equipment used on agricultural lands for seeding, harvesting, fertilizing or controlling pests or weeds;
- (h) motor vehicles, rail locomotives, boats and aircraft;
- (i) the burning of brush for the purpose of clearing land for cultivation or for a roadway, rail line, pipeline or any other right of way;
- (j) a fire for the purpose of burning weeds, the prevention or control of fires or the training of persons for fire fighting, if the fire is specifically authorized or required pursuant to any Act, Act of Parliament or bylaw of a municipality;
- (k) a fire for the purpose of burning grain stubble or grain straw;
- (l) a household fire for the disposal of trash, rubbish or refuse in a rural area or in a town or village;
- (m) a plant or operation:
 - (i) situated at least 500 metres from any city, town, village or hamlet;
 - (ii) situated on the same site for a period of less than six months;for the grinding, mixing, cleaning, drying, dehydrating or processing of primary agricultural products where any emissions from the plant or operation contain no toxic or corrosive elements; or
- (n) the burning of refuse at a municipal waste disposal ground.

1986-87-88, c.C-12.1, s.6; 1992, c.22, s.3; 1995,
c.A-12.1, s.30.

Power to waive

7(1) Where the minister considers it appropriate, he may, by order, waive the requirements of section 5 in respect of minor industrial sources, minor incinerators or minor fuel-burning equipment.

(2) The minister may, by order, rescind a waiver issued pursuant to subsection (1).

1986-87-88, c.C-12.1, s.7.

Application

8(1) A person who wishes to apply for or renew a permit shall make his application in accordance with the regulations and file his application with the minister.

(2) An applicant shall include in his application the information and material prescribed in the regulations and any additional information or material that the minister considers relevant and may request.

(3) The filing of an application for renewal of a permit in accordance with this section authorizes the applicant to operate the industrial source, fuel-burning equipment or incinerator, as the case may be, on the terms and conditions of the permit that is sought to be renewed, until:

- (a) the permit is renewed; or
- (b) the minister refuses the application.

1986-87-88, c.C-12.1, s.8; 1992, c.22, s.4.

Issuance

9(1) When an application for a permit in accordance with section 8 has been received, the minister shall:

- (a) issue a permit authorizing the operation of the industrial source, incinerator or fuel-burning equipment, subject to any terms and conditions that he considers appropriate; or
- (b) refuse to issue a permit;

and he shall notify the applicant of the reasons for his decision.

(2) A permit may contain terms and conditions:

- (a) requiring the operation of any equipment designed to control or eliminate the emission of an air contaminant;
- (b) requiring that equipment designed to control or eliminate the emission of an air contaminant be operated in a specified manner or at a specified minimum control efficiency;
- (c) requiring a specified level of maintenance or inspection of equipment designed to control or eliminate the emission of an air contaminant;

- (d) specifying limits on the rate of emission or the total amounts of an air contaminant released to the ambient air;
 - (e) specifying the maximum ambient air concentrations of an air contaminant in the immediate area of the industrial source;
 - (f) requiring measurements of the rate of emission or the concentration of an air contaminant in the ambient air;
 - (g) requiring the measurement or monitoring of meteorological conditions that have a bearing on the dispersion of an air contaminant;
 - (h) requiring the collection of information, statistics or other data regarding operating conditions or circumstances that have a bearing on the emission of an air contaminant;
 - (i) requiring the disposal of any wastes generated as a result of the control of an air contaminant in a manner or in a location acceptable to the minister and consistent with any other Act or regulations governing the disposal of wastes;
 - (j) specifying the nature, content and timing of reports to be submitted with respect to any condition contained in the permit;
 - (k) requiring or specifying any other matter or thing that the minister considers advisable in the circumstances.
- (3) Notwithstanding subsections (1) and (2), where the minister issues a permit to a person in respect of an industrial source, an incinerator or fuel burning equipment for which the person did not require a permit pursuant to subsection 3(4) of “The Air Pollution Control Regulations”, being Saskatchewan Regulations 211/75, the minister shall not include as a term or condition of the permit a requirement that the person substantially reduce the emission of air contaminants from the industrial source, incinerator or fuel-burning equipment within five years from the day on which this Act comes into force unless the minister is of the opinion that the health or safety of the public is at risk as a result of the emission of the air contaminants.

1986-87-88, c.C-12.1, s.9.

Duration

- 10(1)** Subject to subsections (2) and (3), a permit is valid for a period of five years from the date of its issue.
- (2) The minister may issue a permit for a period of other than five years, in which case the permit expires on the date that the minister shall specify in the permit.
- (3) If an industrial source, fuel-burning equipment or an incinerator is sold, leased or otherwise disposed of, the permit in respect thereof expires immediately on the date that the sale, lease or other disposition becomes effective.

1986-87-88, c.C-12.1, s.10.

Duty of operator

11 The operator of the industrial source, fuel-burning equipment or incinerator in respect of which a permit has been issued shall keep the permit and make it available for inspection at the request of the minister.

1986-87-88, c.C-12.1, s.11.

Suspension, amendment, cancellation

12(1) The minister may amend, suspend or cancel a permit if:

- (a) the holder of the permit has contravened any provision of this Act or the regulations;
- (b) the holder of the permit has not complied with any term or condition of the permit;
- (c) subject to subsection (3), a change in operation, an alteration or a malfunction that increases the emission of an air contaminant has occurred;
- (d) the applicant makes a false, misleading or incomplete application for a permit;
- (e) the applicant requests it; or
- (f) in circumstances other than those described in clauses (a) to (e), the minister is of the opinion that it is necessary in the public interest to do so.

(2) Any alteration or change to an industrial source, an incinerator or fuel-burning equipment that affects air emissions and is scheduled or planned shall not be incorporated, unless:

- (a) the minister has been notified in writing;
- (b) approval has been received; and
- (c) the necessary amendments to the applicable permit have been made.

(3) Any minor alteration or change to an industrial source, an incinerator or fuel-burning equipment that:

- (a) is made during the course of normal maintenance or repairs; and
- (b) does not affect the emission of air contaminants;

does not require the prior approval of the minister or an amendment to a permit.

1986-87-88, c.C-12.1, s.12; 1992, c.22, s.5.

Alterations due to emergency

13(1) If an emergency situation arises that affects the emission of air contaminants and requires any alteration or change to an industrial source, an incinerator or fuel-burning equipment, an amendment to the applicable permit is not required prior to the incorporation of the alteration or change.

(2) The operator of the industrial source, incinerator or fuel-burning equipment that has been changed or altered as described in subsection (1) shall, within seven days of the emergency, submit to the minister full details of the emergency and of the alterations or changes.

(3) If required, an application for an amendment to the applicable permit shall be submitted to the minister within 14 days of the emergency.

1986-87-88, c.C-12.1, s.13.

CONTROL ORDER

Power to issue

14(1) The director may issue one or more control orders to the owner or operator of any industrial source, incinerator or fuel-burning equipment that the director considers to be the source or one of a number of sources causing air pollution.

(2) The director may issue a control order notwithstanding that the industrial source, incinerator or fuel-burning equipment owned or operated by the person to whom the order is directed is:

- (a) the subject of a permit; or
- (b) being operated in accordance with a permit;

at the time that the order is issued.

1986-87-88, c.C-12.1, s.14.

Terms

15 The director may, in a control order, require the person to whom it is issued to:

- (a) refrain from emitting an air contaminant permanently, for a specified period, during certain times or in the circumstances specified in the order;
- (b) control the emission of an air contaminant in accordance with the directions specified in the order;
- (c) comply with any directions specified in the order relating to the manner in which an air contaminant may be emitted or the procedures to be followed in the control of the emission of an air contaminant;
- (d) install, replace or alter any equipment designed to control or eliminate the emission of an air contaminant;
- (e) measure the rate of emission of an air contaminant;
- (f) measure the concentration of an air contaminant in the ambient air;
- (g) provide information, statistics or other data with regard to the operating conditions or other circumstances that have a bearing on the emission of an air contaminant;

- (h) measure or monitor the meteorological conditions that have a bearing on the dispersion of an air contaminant;
- (i) carry out studies or investigations in response to a specific air pollution problem with respect to the effects of an air contaminant on human, plant or animal life or health; or
- (j) report to the director with respect to any matter mentioned in clauses (a) to (i) in accordance with the instructions specified in the order.

1986-87-88, c.C-12.1, s.15.

Additional order

16 The director may, by a further control order, replace or revoke a previous control order and, in each case, shall cause the control order to be issued to the person to whom the original order was issued.

1986-87-88, c.C-12.1, s.16.

Compliance required

17 A person to whom a control order is directed shall comply with the order immediately on receipt of a copy of the order unless the control order specifies a future date on and from which the order is to be complied with.

1986-87-88, c.C-12.1, s.17.

Order carried out by minister

17.1(1) Where a person to whom a control order or an order pursuant to section 19.1 is directed fails to comply with the order within the time specified in the order, the minister may:

- (a) carry out the activities required by the order or enter into agreements to carry out the activities required by the order; and
- (b) recover the costs and expenses incurred pursuant to clause (a) on behalf of Her Majesty in right of Saskatchewan as a debt due to and recoverable by Her Majesty from the person who failed to comply with the order.

(2) A certificate signed by the minister that sets out the information described in subsection (3) may be filed in the office of the local registrar of Her Majesty's Court of Queen's Bench for Saskatchewan at the judicial centre nearest to the place where the work, or the greatest portion of the work, was done.

(3) A certificate mentioned in subsection (2) is to set out:

- (a) the amount of the costs and expenses incurred pursuant to clause (1)(a); and
- (b) the person from whom the costs and expenses are recoverable.

(4) A certificate filed pursuant to subsection (2) has the same effect as if it were a judgment obtained in Her Majesty's Court of Queen's Bench for Saskatchewan for the recovery of a debt in the amount specified in the certificate, together with any reasonable costs and charges with respect to its filing.

(5) A person with respect to whom a certificate has been entered as a judgment pursuant to this section may appeal against the amount of the costs and expenses set out in the certificate to a judge of Her Majesty's Court of Queen's Bench for Saskatchewan at any time within 30 days after the day of entry of the certificate.

1992, c.22, s.6; 2003, c.29, s.5.

Injunction

17.2(1) The minister may apply, by notice of motion, to Her Majesty's Court of Queen's Bench for Saskatchewan for a final order enjoining any person from proceeding contrary to this Act, the regulations, a control order, an order pursuant to section 19.1 or the terms and conditions of a ministerial approval or a permit, and the court may make an order on any terms and conditions that it considers appropriate.

(2) With respect to an application pursuant to subsection (1), the court may make any order for interim relief that it considers appropriate.

1992, c.22, s.6; 2003, c.29, s.6.

OTHER REQUIREMENTS FOR OPERATION

Powers of municipality

18(1) A municipality may make any bylaws that it considers necessary or advisable:

- (a) prohibiting, regulating or controlling the emission of air contaminants from fuel-burning equipment, incinerators and industrial sources;
- (b) prohibiting any person from setting, feeding or maintaining, or causing to be set, fed or maintained, an open fire for the disposal of any material in a way that causes air pollution;
- (c) requiring the submission of plans and specifications for the control of air pollution from fuel-burning equipment and incinerators and prescribing the time when that submission shall be made;
- (d) providing for the administration of any bylaw made pursuant to clause (a), (b) or (c).

(2) A bylaw made pursuant to subsection (1) shall be consistent with this Act and the regulations and has no effect until it has been approved by the minister.

(3) Where there is a conflict between a bylaw made pursuant to subsection (1) and any provision of this Act or the regulations, this Act or the regulations, as the case may be, prevails.

(4) When a municipality passes a bylaw pursuant to subsection (1) and the minister has approved the bylaw, the municipality shall cause notice of the bylaw and a synopsis of the bylaw to be published in a newspaper having general circulation in the municipality and in the Gazette.

1986-87-88, c.C-12.1, s.18; 1989-90, c.30, s.4.

Powers of minister

19 The minister may:

- (a) prescribe the methods or equipment to be used to measure or determine the amounts of air contaminants;
- (b) prescribe the point at which a measurement to determine compliance with the regulations is to take place;
- (c) install, operate or maintain equipment to obtain and assess data respecting air contaminants in the ambient air;
- (d) investigate air pollution complaints or problems;
- (e) advise persons generally with respect to any matter relating to air pollution; and
- (f) prepare guidelines for the operation, testing, control, monitoring or location of any industrial source, incinerator or fuel-burning equipment.

1986-87-88, c.C-12.1, s.19.

Powers re terrorist activity

19.1(1) In this section, “**minister’s designate**” means a person designated by the minister for the purposes of this section.

(2) Notwithstanding any other provision of this Act or any provision of the regulations, any other Act or law or any licence, permit, approval, authorization, lease or grant of any right or benefit granted pursuant to any Act or law, if the minister has reasonable grounds to believe that terrorist activity is occurring or might occur, and that the terrorist activity constitutes an existing or potential threat of air pollution in quantities that might endanger the health or safety of the public or cause serious harm to the environment:

- (a) the minister may, by order:
 - (i) direct the owner or operator of any industrial source, incinerator or fuel-burning equipment to:
 - (A) shut down and cease operating that industrial source, incinerator or fuel-burning equipment; and
 - (B) take any measures that the minister may direct to secure the industrial source, incinerator or fuel-burning equipment against terrorist activity;
 - (ii) prohibit or restrict access to any industrial source, incinerator or fuel-burning equipment; and
 - (iii) require the owner or operator to take any other action that the minister considers necessary:
 - (A) to protect the health or safety of the public against that threat; or
 - (B) to prevent serious damage to the environment caused or that may be caused by that threat; and

- (b) the minister may take any action that the minister considers necessary:
 - (i) to protect the health or safety of the public against that threat; or
 - (ii) to prevent serious damage to the environment caused or that may be caused by that threat.
- (3) Subject to subsection (4), a minister's designate may make any order described in clause (2)(a) if:
 - (a) the minister's designate believes, on reasonable grounds, that:
 - (i) a terrorist activity constitutes a serious threat to the environment or the health or safety of the public; and
 - (ii) the requirements set out in the order are necessary to decrease or eliminate that serious threat; and
 - (b) in the opinion of the minister's designate, there will be insufficient time for the minister to make an order pursuant to this section because of the nature of the serious threat.
- (4) An order made by a minister's designate pursuant to subsection (3):
 - (a) must specify the time at which it is made; and
 - (b) terminates 72 hours after it is made unless the minister makes an order extending its effect.
- (5) Immediately after making an order pursuant to subsection (2) or (3), the minister or the minister's designate, as the case may be, shall:
 - (a) serve a copy on any person named in the order; and
 - (b) cause the order to be published by any means of communication that the minister or minister's designate reasonably considers will make the order known to the majority of the population in the area affected by the order.
- (6) No person shall fail to comply with an order made pursuant to subsection (2) or (3).

2003, c.29, s.7.

Prohibition

20 Notwithstanding compliance with this Act and the regulations, no person shall operate an industrial source, an incinerator or fuel-burning equipment under conditions through which the transport of air contaminants contributes to soil or water pollution in excess of limits that are prescribed pursuant to any other Act.

1986-87-88, c.C-12.1, s.20.

Delegation of power

21 Subsection 23(2) and section 23.1 of *The Interpretation Act, 1995* do not apply to the powers conferred on the minister by sections 4, 7, 8, 13, 17.1, 17.2, 19.1, 22.1 and 24.

2000, c.50, s.3; 2003, c.29, s.8.

GENERAL

Offences and penalties

22(1) Any person who:

- (a) contravenes any provision of this Act or the regulations;
- (b) fails to comply with any term or condition contained in a permit;
- (c) fails to comply with a control order;
- (c.1) fails to comply with an order made pursuant to section 19.1;
- (d) directly or indirectly makes a false, misleading or inaccurate statement in any application, plan, specification or other documentation supplied pursuant to this Act or the regulations; or
- (e) knowingly provides false information to, misleads or attempts to mislead the minister, the director or any person acting on their behalf;

is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000,000, to imprisonment for not more than three years or to both that fine and imprisonment.

(2) If a corporation has committed an offence provided for in subsection (1), any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence:

- (a) is a party to and guilty of the offence; and
- (b) is liable on summary conviction to the punishment provided for the offence;

whether or not the corporation has been prosecuted or convicted.

1989-90, c.31, s.2; 2003, c.29, s.9.

Default

22.1(1) Where default is made in payment of a fine imposed pursuant to section 22, no imprisonment in default of the payment is to be ordered, but the convicting judge or justice of the peace shall, on request, provide the minister with a certified copy of the conviction and sentence.

(2) The minister may file the certified copy of the conviction and sentence in the office of the local registrar of Her Majesty's Court of Queen's Bench for Saskatchewan at any judicial centre and when so filed the copy shall be entered as, and may be enforced as, a judgment of that court.

1989-90, c.31, s.2.

Limitation period

23 No prosecution for an offence against this Act shall be commenced after the expiration of two years from the date of commission of the alleged offence.

1986-87-88, c.C-12.1, s.23.

Regulations

24(1) The Lieutenant Governor in Council may make regulations prohibiting, regulating or controlling air pollution and respecting the emission, transport and deposition of air contaminants.

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations:

- (a) dividing Saskatchewan into districts and districts into divisions for the purpose of air pollution control;
- (b) prescribing the maximum concentration of any air contaminant that may be present in the ambient air in Saskatchewan or in any district or division;
- (c) prohibiting, regulating or controlling the setting, feeding or maintaining of an open fire for the disposal of any material;
- (d) prohibiting or controlling the operation of internal combustion engines;
- (e) prohibiting, regulating or controlling the emission of air contaminants from any industrial source or any class or classes of industrial sources;
- (f) prohibiting, regulating or controlling the emission of air contaminants from fuel-burning equipment and incinerators;
- (g) requiring the submission of plans and specifications for the control of air pollution from an industrial source, fuel-burning equipment or an incinerator and prescribing the time when that submission is to be made;
- (h) governing the procedure by which an application may be made for the issuance or renewal of permits;
- (i) classifying industrial sources, incinerators and fuel-burning equipment on the basis of the amount of emission of air contaminants from their operation;
 - (i.1) prescribing the fees, or a sliding scale of fees, payable for permits or renewals of permits for industrial sources, incinerators or fuel-burning equipment or any class of industrial sources, incinerators or fuel-burning equipment;
- (j) prohibiting or regulating the operation, removal or rendering ineffective of any device or thing attached, connected to or forming part of any industrial source, incinerator or fuel-burning equipment that reduces, prevents or is intended to prevent the emission of any air contaminant;

(k) requiring the provision of preliminary notifications and the submission of written reports to the minister in the event of any accidental, emergency or unauthorized release or discharge of an air contaminant;

(l) providing for any other matter or thing required or authorized to be prescribed in the regulations.

1986-87-88, c.C-12.1, s.24; 1989-90, c.30, s.5;
1992, c.22, s.7.

Immunity

24.1 No action or proceeding lies or shall be commenced against the Crown in right of Saskatchewan, the minister, the minister's designate, the department, the director or any officer, employee or agent of the department 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.

2003, c.29, s.10.

Transitional

25(1) For the purposes of this Act, a permit issued pursuant to "The Air Pollution Control Regulations", being Saskatchewan Regulations 211/75, is deemed to be a permit issued pursuant to section 9.

(2) A person operating an industrial source, an incinerator or fuel-burning equipment to which section 5 applies who did not require a permit pursuant to subsection 3(4) of "The Air Pollution Control Regulations", being Saskatchewan Regulations 211/75, shall apply for a permit within six months from the day on which this Act comes into force.

(3) An application received by the minister in accordance with subsection (2) temporarily authorizes the operation of an existing industrial source, incinerator or fuel-burning equipment until such time as a permit is issued or refused and written notice of the issuance or refusal is delivered to the applicant.

1986-87-88, c.C-12.1, s.25.

R.S.S. 1978, c.A-17 repealed

26 *The Air Pollution Control Act* is repealed.

1986-87-88, c.C-12.1, s.26.