

1973 Bill 54

---

---

Second Session, 17th Legislature, 21 Elizabeth II

---

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

## **BILL 54**

**The Alberta Heritage Act, 1973**

---

---

MR. HARLE

---

---

First Reading .....

Second Reading .....

Third Reading .....

---

---

Printed by QUEEN'S PRINTER for the Province of Alberta, EDMONTON

*Bill 54*  
*Mr. Harle*

## **BILL 54**

1973

### **THE ALBERTA HERITAGE ACT, 1973**

*(Assented to* , 1973)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

**1. In this Act,**

- (a) "archaeological site" means any heritage site containing heritage resources which are the result of the activities of man and which are buried or partially buried on land or submerged or partially submerged beneath the surface of any watercourse or permanent body of water;
- (b) "Board" means the Heritage Sites Board;
- (c) "department" means a department of the public service of Alberta and includes
  - (i) any board, commission or organizational unit that forms part of the public service of Alberta but that is not part of any department,
  - (ii) any corporation that is an agent of the Crown in right of Alberta,
  - (iii) any corporation, commission, board or other body empowered to exercise judicial or quasi-judicial or governmental functions and whose members are appointed by an Act of the Legislature, the Lieutenant Governor in Council, or a Minister of the Crown, or any combination thereof, and
  - (iv) any court established by the Province;
- (d) "donation" includes any gift, testamentary disposition, deed of trust or other form of contribution;
- (e) "Foundation" means The Alberta Heritage Foundation;
- (f) "heritage object" means any heritage resource of a movable nature including any specimen, artifact, document or work of art;
- (g) "heritage resources" means those works of nature and of man, that are primarily of interest for their historical, cultural, scientific or aesthetic values in-

## **Explanatory Notes**

### **1. Definitions.**

- cluding, but not limited to, historic, archaeological or natural sites or structures and heritage objects;
- (h) "heritage site" means any site including or comprising heritage resources of an immovable nature or which cannot be disassociated from their context without destroying some or all of their value as heritage resources and includes historic, archaeological or natural sites or structures;
  - (i) "Minister" means the member of the Executive Council charged with the administration of this Act;
  - (j) "person" includes any department;
  - (k) "public records" means all original documents, parchments, manuscripts, records, books, maps, plans, photographs, magnetic tapes or other documentary materials regardless of physical form created in the administration of the public affairs of the Province by any department;
  - (l) "records management" means a program instituted to provide economies and efficiency of operation in handling records by the establishment of controls in respect of the quantity and quality of records, the organization of files and the maintenance and disposition of records.

## **PART 1**

### **HERITAGE RESOURCES GENERALLY**

- 2.** The Minister is responsible for
- (a) the co-ordination of the orderly development,
  - (b) the preservation,
  - (c) the study and interpretation, and
  - (d) the promotion of appreciation
- of Alberta's heritage resources.
- 3.** In accordance with *The Public Service Act* there may be appointed an Executive Director, a Provincial Museum Director, a Provincial Archivist, a Heritage Sites Director, a Provincial Archaeologist and such other persons as may be necessary for the administration of this Act.
- 4.** (1) The Minister may
- (a) acquire by purchase, gift, bequest, devise, loan, lease or otherwise any heritage object, building or heritage site;
  - (b) sell, lease, exchange or otherwise dispose of any heritage object, building or heritage site so acquired;

**2. Responsibilities of the Minister.**

**3. Administration and personnel.**

**4. Acquisition of property.**

(c) lend or lease any heritage objects or any other objects acquired under this Act;  
on such terms as he considers appropriate.

(2) The Minister may acquire by gift, devise, bequest or loan, any building, site or other thing of historic, scientific or artistic interest whether or not having a bearing on the heritage of Alberta.

**5. (1) The Minister may**

- (a) exhibit and display the property acquired under this Act, including exhibitions outside Alberta as he considers desirable,
- (b) classify, preserve, index and catalogue the heritage resources and other property acquired under this Act,
- (c) for the purpose of public sale
  - (i) cause to be prepared or acquired books, pamphlets, souvenirs, photographs, reproductions and similar items, and
  - (ii) cause information and studies to be compiled or prepared,
- (d) undertake, support or sponsor educational or research programs relevant to the purposes of this Act,
- (e) provide assistance, advisory services and training programs to individuals, institutions, agencies and organizations in Alberta having similar aims and objectives to this Act, and
- (f) do or authorize to be done all other things which are incidental to or conducive to the attainment of the purposes and objects of this Act.

**(2) The Minister may make regulations**

- (a) fixing the times, terms and conditions of public access to collections, property and locations under his control,
- (b) respecting the use and protection of property under his control,
- (c) fixing the sale price of items sold pursuant to this Act,
- (d) fixing tariffs of charges for services rendered under this Act, and
- (e) generally for the operation, conduct and management of properties under his control.

**6. (1) From moneys appropriated by the Legislature for the purpose, the Minister may, subject to the regulations, make a grant to any organization having purposes similar to those of this Act.**

**5. Powers of the Minister.**

**6. Grants.**

(2) The Lieutenant Governor in Council may make regulations

- (a) prescribing the purposes for which grants may be made under this section, and
- (b) limiting the maximum amount payable as grants.

7. (1) The Minister may appoint committees from time to time as he considers advisable or necessary for the purposes of this Act.

(2) The Minister may, with respect to any board or committee established under this section,

- (a) appoint or provide for the manner of appointment of its members,
- (b) prescribe the term of office of any member,
- (c) designate a chairman, vice-chairman and secretary, and
- (d) authorize, fix and provide for the payment of remuneration and expenses to members.

8. The Minister may

- (a) provide for the operation, maintenance and development of The Provincial Museum of Alberta;
- (b) cause to be exhibited and displayed specimens, artifacts, documents and works of art depicting the heritage of Alberta, or such other subjects as may be of public interest from time to time;
- (c) receive from other institutions, produce, exchange and display loan and circulating exhibits for use both in and out of Alberta;
- (d) undertake, support or sponsor educational and research programs relevant to the purposes of this Part;
- (e) publish information and studies;
- (f) co-operate with other agencies and societies and in particular, provide advisory services, training, grants and assistance to museums in Alberta;
- (g) maintain and operate museums placed under his care and custody and enter into agreements with other institutions, agencies and organizations for the operation of museums.

**7.** Power to appoint committees.

**8.** Museum objects.

## **PART 2**

### **PUBLIC RECORDS MANAGEMENT**

**9.** The Minister is responsible for

- (a) the preparation and implementation of an inter-departmental records management program;
- (b) the provision and maintenance of the Provincial Archives of Alberta for
  - (i) the acquisition and preservation of documents concerning Alberta;
  - (ii) the preservation and storage of public records;
  - (iii) the preservation and storage of other documents in accordance with the regulations;
- (c) the destruction of public records upon the advice of the Public Records Committee;
- (d) the provision of such other services as may be required from time to time in furthering the purposes of this Act.

**10.** (1) There shall be a Committee to be known as the Public Records Committee which shall consist of

- (a) the deputy of the Minister, who shall be chairman,
- (b) a representative of the Attorney General, who shall be vice-chairman,
- (c) the Provincial Archivist, who shall be secretary,
- (d) a representative of the Provincial Auditor, and
- (e) such other members of the public service as may be appointed by the Lieutenant Governor in Council.

(2) The Public Records Committee may, subject to the regulations,

- (a) establish disposition schedules including retention, destruction or transfer to the Provincial Archives of public records;
- (b) authorize the destruction of any public record that is no longer required for any purpose.

**11.** (1) Subject to the regulations, any public record in the possession of a department shall be dealt with by the department in accordance with the disposition schedules established by the Public Records Committee.

(2) Each department shall appoint an employee of the department to act as a records officer and to be responsible for all aspects of records management within that department with the advice and assistance of the Public Records Committee.

**9.** Responsibility of the Minister in the area of public and other records.

**10.** Establishment and responsibility of Public Records Committee.

**11.** Departmental handling of public records.

**12.** The Lieutenant Governor in Council may make regulations

- (a) designating any document or class of documents to be or not to be a public record for the purposes of this Act;
- (b) governing the preservation or destruction of any public record or class of public records;
- (c) prohibiting or restricting access to public records;
- (d) designating public bodies who shall be required to preserve their records, the nature of the records to be preserved, the period of time they are to be preserved and providing for their preservation by the Provincial Archives of Alberta if necessary;
- (e) respecting any other matter necessary to give effect to the intent of this Part.

**13.** A copy of any original public record or other document in the custody of the Provincial Archives of Alberta, certified by the Provincial Archivist to be a true copy, shall be admitted in evidence as prima facie proof of the authenticity and correctness of the document and of the contents of the original without proof of the signature of the Provincial Archivist or of his appointment.

**12. Regulations.**

**13. Copies of Archives records as evidence.**

### **PART 3**

#### **HERITAGE SITES AND MONUMENTS**

**14.** The Minister may

- (a) undertake programs of research into and documentation of matters relating to the heritage of Alberta and maintain records of Registered Heritage Sites, Classified Heritage Sites and Heritage Monuments;
- (b) place markers, signs, cairns or other interpretive facilities in any suitable location for the interest and guidance of the public;
- (c) administer, maintain, restore, record, conduct research and educational services, provide interpretive exhibits and carry out any functions required in the proper management and interpretation of Heritage Monuments;
- (d) carry out surveys, investigate, document and excavate any site in Alberta;
- (e) report on the investigation, documentation or excavation of any site;
- (f) enter into agreements with persons to carry out surveys and excavations and prepare reports thereon;
- (g) co-operate with other agencies, societies or persons in carrying out any program likely to promote or enhance the preservation, protection and interpretation of heritage sites;
- (h) provide programs for the information and benefit of persons interested in archaeology or the conservation of heritage sites.

**15.** (1) The Lieutenant Governor in Council may appoint a Heritage Sites Co-ordinating Committee composed of the Executive Director as chairman and such other persons as the Lieutenant Governor in Council considers appropriate.

(2) The Heritage Sites Co-ordinating Committee shall establish liaison between and co-ordinate the activities of departments in relation to actions and programs which may have effect on the preservation and development of heritage sites.

**16.** (1) The Minister may establish a Heritage Sites Board composed of such persons as he may appoint from time to time and may

- (a) prescribe the term of office of any member,
- (b) designate a chairman, vice-chairman and secretary, and
- (c) authorize, fix and provide for the payment of remuneration and expenses to the members.

**14.** Responsibility of the Minister in relation to heritage sites.

**15.** Heritage Sites Co-ordinating Committee established.

**16.** Heritage Sites Board established.

(2) A majority of the members of the Board constitutes a quorum but the Board may form, from among its members, committees to make studies and recommendations to the Board.

(3) The Board shall advise and make recommendations to the Minister on matters concerning the preservation and protection of heritage sites in Alberta.

**17.** (1) The Minister may, after consultation with the Board, by order designate any heritage site whose preservation is in the public interest, together with such adjacent land as may be specified in the order, as a "Registered Heritage Site".

(2) The Minister shall register a certified copy of the order in the appropriate Land Titles Office against the title or titles to the land affected by the order.

(3) The designation as a Registered Heritage Site is effective upon the filing of the order.

(4) Upon the registration of an order under subsection (2), no person may, notwithstanding any other Act, destroy, alter, restore, repair, disturb or change any Registered Heritage Site or remove any heritage object from a Registered Heritage Site until the expiration of 14 days from the date of serving notice on the Minister of his proposed action, unless the Minister sooner consents to the proposed action.

**18.** (1) The Lieutenant Governor in Council may by order designate any heritage site whose preservation is in the public interest, together with such adjacent land as may be specified in the order, as a "Classified Heritage Site".

(2) The Minister shall

(a) serve notice of his intention to recommend the designation of any site as a Classified Heritage Site personally or by registered mail on the owner of the site as shown in the records of the Land Titles Office, and

(b) publish the notice of intention in the Alberta Gazette,

at least 60 days prior to the date of making the recommendation.

(3) A notice under subsection (2) shall contain an adequate description of the site which is proposed to be designated so that it may be easily ascertainable and a statement of the reasons for the proposed designation.

(4) Any interested person may, within 30 days of the publication of the notice in the Gazette, advise the Board that he wishes to make representations concerning the proposed designation.

**17. Establishment of Registered Heritage Sites.**

**18. Establishment of Classified Heritage Site.**

(5) At the conclusion of the 30-day period the Board shall notify all persons who have advised the Board of their intention to make representations of a date fixed by the Board for the hearing of the representations which shall be not less than 15 days prior to the date the Minister proposes making the recommendation and the Board may then confirm, reverse or vary its recommendation for the making of the order.

(6) If no representations are made or if the Board, after hearing any representations, confirms or varies its recommendation, the Minister may proceed to recommend to the Lieutenant Governor in Council that an order be made designating the area as a Classified Heritage Site and as soon as possible after the making of the order the Minister shall

- (a) register a certified copy of the order in the appropriate Land Titles Office against the title or titles to the land affected by the designation, and
- (b) cause a notice of the designation including an adequate description of the site to be published in the Alberta Gazette.

(7) The designation as a Classified Heritage Site is effective upon the registration of the order.

(8) Upon the registration of an order under subsection (6), no person may, notwithstanding any other Act, destroy, alter, restore, repair, disturb or change any Classified Heritage Site or remove any heritage object from a Classified Heritage Site without the written approval of the Minister.

(9) The Minister may, in his absolute discretion, refuse to grant an approval under subsection (8) or may make the approval subject to such conditions as he considers appropriate.

(10) The owner of any property comprising in whole or in part a Classified Heritage Site shall, at least 30 days before commencing any sale or other disposition of the property, serve notice of the proposed sale or other disposition upon the Minister and the owner may complete the sale after the 30-day period if the Minister has not within that period offered to purchase the property at its fair market price.

(11) In the event that the owner and the Minister cannot agree on the fair market price of any property under subsection (10), the matter shall be submitted to the Public Utilities Board for determination.

(12) Upon service of a notice of intention under subsection (2), the provisions of subsections (8) to (11) apply to the site as if an order had been made and registered, but such provisions shall cease to be applicable to the site at the expiration of 90 days unless the site is so designated by order of the Lieutenant Governor in Council within that period.



**19.** The Minister may

- (a) make regulations governing standards of maintenance of Classified Heritage Sites, and
- (b) by order require specific repairs or other measures to be made or taken to preserve any particular Classified Heritage Site.

**20.** (1) The Minister may issue archaeological research permits authorizing the person named therein to make excavations on a Registered Heritage Site or on a Classified Heritage Site or on any Crown land.

(2) No persons may make excavations on any lands in Alberta for the purpose of seeking archaeological objects or remains without holding a valid and subsisting archaeological research permit.

(3) An archaeological research permit shall be subject to the following conditions:

- (a) the holder shall, within such time as may be specified upon the permit, furnish to the Minister a progress report on the work done in such detail as the Minister may require,
- (b) the holder of a permit shall, after completion of the excavation, restore the site to its normal condition insofar as it is reasonably possible to so do unless the Minister otherwise authorizes, and
- (c) the holder shall deliver possession of all heritage objects recovered while excavating pursuant to the archaeological research permit to any public institution which the Minister may designate,

and to such other conditions as the Minister may consider necessary.

(4) An archaeological research permit is valid for the period specified in the permit but may be sooner cancelled by the Minister if he is of the opinion that the holder of the permit is not complying with the conditions specified on the permit or with any provision of this Act or the regulations.

**21.** (1) The issue of an archaeological research permit does not thereby authorize the holder of the permit to enter upon any land.

(2) No liability attaches to the Crown by reason of the issue of an archaeological research permit.

**22.** (1) The Minister may authorize any person to enter, at any reasonable hour and after notice to the owner or occupant, upon

**19. Maintenance.**

**20. Excavations prohibited without permit.**

**21. Effect of issue of permit.**

**22. Right of entry.**

- (a) any lands for the purpose of making surveys for or inspecting heritage sites which the Minister has reason to believe may qualify as a Registered Heritage Site or a Classified Heritage Site, or
  - (b) any Classified Heritage Site for the purpose of examining, surveying or recording the site or carrying out excavation and works required for the preservation or development of the site as a heritage resource.
- (2) Where, in the opinion of the Minister, land contains or may contain heritage resources that are likely to be altered, damaged or destroyed by reason of any development or activity he may order a survey of heritage resources to be undertaken.

**23.** The Minister may make grants to owners of heritage sites and may make such grants conditional upon such terms as he considers necessary or appropriate.

**24.** (1) The Lieutenant Governor in Council may by order designate any heritage site wholly situated on Crown lands as a "Heritage Monument".

- (2) The Minister may, after consultation with the Board,
- (a) restore, alter or demolish any structures located within a Heritage Monument,
  - (b) determine the times, terms and conditions under which the public is admitted to any Heritage Monument, and
  - (c) make any regulations necessary for the proper management and development of the Heritage Monument.

**23. Grants.**

**24. Establishment of Heritage Monuments.**

#### **PART 4**

##### **THE ALBERTA HERITAGE FOUNDATION**

**25.** (1) There is hereby established a body corporate with the name "The Alberta Heritage Foundation" consisting of a board of directors of nine persons and such other persons as become members of the Foundation.

(2) The board shall consist of

- (a) six directors appointed by the Lieutenant Governor in Council to serve for such term as may be designated in their respective appointments, and
- (b) three directors elected by the members from the general membership to serve for a period of two years.

(3) The first board shall be a provisional board composed of six directors appointed by the Lieutenant Governor in Council for a period of six months.

(4) A majority of the directors constitutes a quorum.

(5) No member of the board shall receive any remuneration for his services but any member may receive payment from the funds of the Foundation for his necessary traveling and subsistence expenses incurred by him while absent from his ordinary place of residence and engaged on the business of the Foundation.

**26.** The directors of the Foundation may, with the approval of the Minister, make by-laws

- (a) governing the administration of the Foundation and its funds;
- (b) prescribing the conditions of membership in the Foundation and fixing the amount of dues payable by members;
- (c) establishing such honorary offices as they consider desirable and governing the appointment of persons thereto;
- (d) establishing terms and conditions governing the management of property belonging to the Foundation;
- (e) governing the making of grants and the provision of technical and advisory services in furtherance of the objectives of the Foundation and prescribing the terms and conditions thereof;
- (f) relating to any other matter necessary for carrying out the objectives of the Foundation.

**27.** The objects of the Foundation are:

- (a) to receive, acquire by purchase or donation, hold, preserve, maintain, restore and manage heritage

**25.** Establishment of The Alberta Heritage Foundation.

**26.** By-laws of the Foundation.

**27.** Objectives of the Foundation.

resources for the use, enjoyment and benefit of the people of Alberta;

- (b) to support and contribute to the acquisition, holding, preservation, maintenance, reconstruction, restoration and management of heritage resources by any person for the use, enjoyment and benefit of the people of Alberta;
- (c) to inform and stimulate the interest of the public in historical, architectural and other related matters through any suitable means;
- (d) to contribute to the increase and diffusion of knowledge about the history and culture of Alberta through any suitable means;
- (e) to provide the people of Alberta with an opportunity to become directly involved in the programs of the Foundation.

**28.** In furtherance of its objects, the Foundation has power:

- (a) to acquire real or personal property, whether by purchase, donation, lease, public subscription, grant, bequest or otherwise;
- (b) to hold, preserve, maintain, renovate, restore and manage the real and personal property of the Foundation;
- (c) to enter into agreements with any person respecting any matter within the objects of the Foundation;
- (d) to engage the services of such persons as are considered necessary for the operations of the Foundation;
- (e) to make grants or subsidies to any person within the objects of the Foundation;
- (f) subject to the terms of any agreement made as a condition of acquisition, to dispose of any property by sale, lease or any other manner and to execute such deeds or other instruments as may be required to effect such disposal;
- (g) to invest its funds in such classes of securities as trustees are permitted to invest in under *The Trustee Act*;
- (h) to borrow money upon the credit of the Foundation from time to time;
- (i) to publish or produce and distribute books, pamphlets, films, or any other productions which contribute towards the objects of the Foundation;
- (j) to conduct membership campaigns and public subscriptions for funds to carry out the objects of the Foundation.

**28. Powers of the Foundation.**

**29.** (1) The Foundation shall maintain a fund which shall consist of moneys received by it from any source, including such revenues as the Foundation may receive.

(2) The Foundation may disburse, expend or otherwise deal with any portion of its fund for the purposes of any of the objects of the Foundation and to defray any expenses in connection therewith.

**30.** (1) The real and personal property, business and income of the Foundation are exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature, and such exemption extends to any person registered as a charitable organization under the *Income Tax Act* (Canada) who leases any property of the Foundation under section 28, clause (f).

(2) The Alberta Heritage Foundation is an agent of the Crown in right of Alberta.

**31.** The accounts and financial transactions of the Foundation shall be audited annually by the Provincial Auditor.

**32.** The Minister may, out of moneys appropriated by the Legislature for that purpose, make grants to the Foundation at such times, and in such amounts, and upon such terms and conditions as he deems advisable.

**33.** The Foundation shall, as soon as possible after December 31st of each year, present to the Minister an annual report of its operations and the Minister shall lay a copy of the report before the Legislative Assembly, if it is then in session, and if not, within 15 days after the commencement of the next ensuing session.

**34.** Upon the recommendation of the Minister, the Lieutenant Governor in Council may from time to time and upon such conditions as he considers proper, authorize the Provincial Treasurer to guarantee on behalf of the Province the due payment of all or any part of any sum borrowed by the Foundation for the purpose of carrying out its objects, including interest.

**29.** Finances of the Foundation.

**30.** Exemption.

**31.** Audit.

**32.** Grants to the Foundation.

**33.** Annual reports.

**34.** Guarantees of Foundation's borrowing.

**PART 5**  
**GENERAL**

**35.** (1) Where the Minister is of the opinion that any person is engaged in an activity which he considers likely to result in damage or destruction to any site which could be designated as a Registered Heritage Site or as a Classified Heritage Site the Minister may issue an order (in this section called a "Temporary Stop Order") requiring that person to cease the activity or such portion thereof as the Minister may specify in the Temporary Stop Order for a period not exceeding 15 days.

(2) Where it appears that the site qualifies for designation as a Classified Heritage Site, the Lieutenant Governor in Council may, on the recommendation of the Minister, order suspension of the activity or any part thereof for a further specified period in order to allow salvage, recording or excavation of the site and investigation of alternatives to its destruction including its designation as a Classified Heritage Site.

(3) Where any person feels himself aggrieved by an order issued pursuant to this section he may appeal to the Supreme Court by way of originating notice upon two days' notice and the judge of the application may confirm, vary or rescind the order appealed from.

**36.** The Minister may authorize the payment of compensation in accordance with the regulations to any person who has suffered loss as the result of the application of any provisions of this Act or the regulations.

**37.** (1) The Minister may make regulations exempting Classified Heritage Sites or Heritage Monuments from the application of any provision contained in any building code which would otherwise be applicable pursuant to any Act, regulation or municipal by-law where the enforcement of such provision would prevent or seriously hinder the preservation, restoration or use of all or any portion of the site or monument.

(2) A regulation under subsection (1) may be general or particular in application.

**38.** (1) Every person who contravenes any provision of this Act or the regulations, the conditions of any permit or any direction of the Minister under this Act is guilty of an offence and is liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both fine and imprisonment.

(2) When a Classified Heritage Site is altered or destroyed in any way in contravention of any provision of this Act, the regulations or a direction of the Minister pursuant to

**35.** Stop orders.

**36.** Compensation.

**37.** Exemption.

**38.** Offences and restrictions.

this Act, the Minister may cause it to be restored and the Crown may recover the cost thereof from the person causing the alteration or destruction by an action in debt.

(3) Where a Classified Heritage Site is altered or destroyed in contravention of any provision of this Act, the regulations or an order of the Minister pursuant to this Act in such manner that it is not possible to effect restoration the Crown may recover damages therefor from the person causing the alteration or destruction by action.

**39.** The Crown is bound by the provisions of this Act except section 38.

**40.** The following Acts are hereby repealed:

*The Alberta Heritage Act;*

*The Public Documents Act.*

**41.** This Act comes into force on the day upon which it is assented to.

**39.** This Act will bind the Crown.

**40.** Repeal of previous Acts dealing with same subject matter.