

1974 Bill 41

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Third Session, 17th Legislature, 23 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 41**

**The Expropriation Act**

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MR. KOZIAK

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**First Reading** .....

**Second Reading** .....

**Third Reading** .....

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*Bill 41*  
*Mr. Koziak*

## **BILL 41**

1974

### **THE EXPROPRIATION ACT**

*(Assented to , 1974)*

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

**1.** In this Act,

- (a) “authorizing Act” means the Act authorizing an expropriation by an expropriating authority;
- (b) “Board” means
  - (i) the Land Compensation Board constituted under this Act, or
  - (ii) in the case of expropriations referred to in section 26, subsection (2), the Surface Rights Board;
- (c) “court” means the Supreme Court of Alberta;
- (d) “Crown land” means land of the Crown in right of Alberta;
- (e) “expropriating authority” means the Crown or any person empowered to acquire land by expropriation;
- (f) “expropriation” means the taking of land without the consent of the owner by an expropriating authority in the exercise of its statutory powers;
- (g) “land” means land as defined in the authorizing Act and if not so defined, means any estate or interest in land;
- (h) “municipality” means a city, town, new town, village, county or municipal district;
- (i) “owner” means
  - (i) a person registered in the land titles office as the owner of an estate in fee simple in land, or
  - (ii) a person who is shown by the records of the land titles office as having a particular estate or an interest, mortgage or encumbrance in or upon land, or
  - (iii) any other person who is in possession or occupation of the land, or
  - (iv) any other person who is known by the expropriating authority to have an interest in the land, or

## **Explanatory Notes**

General. This Bill is based upon a report of the Institute of Law Research and Reform issued in March, 1973. An attempt is made to expedite procedures to prevent unnecessary delay. Changes are also proposed in the basis of compensation.

The basic procedural requirements are:

- (1) notice to the owner of a proposed expropriation;
- (2) provision for objections by the owner;
- (3) if his land is taken, the right to payment of a reasonable proportion of his compensation before he is obliged to give up possession;
- (4) that the time from the inception of the expropriation until surrender of possession should be kept to a minimum both in the interest of the public and the owner;
- (5) that the procedures be as uniform as possible, while recognizing that some types of expropriation may require variation from the general scheme.

The principles of compensation provided are:

- (1) market value as the basic method of assessing the expropriated land;
- (2) reinstatement as the basis of compensation where the structures on the land do not have a market value;
- (3) an allowance to the home owner where the cost of equivalent accommodation is above the market value of his expropriated home;
- (4) damages for injurious affection on a partial taking;
- (5) compensation for disturbance including business losses where the owner is compelled to move;
- (6) separate valuation of separate interests in the expropriated land.

References in the explanatory notes to numbered recommendations are to the recommendations in the Institute's Report.

**1. Definitions.** Recommendations No. 1 and No. 67,

- (v) in the case of Crown land, a person shown on the records of the department administering the land as having an estate or interest in the land;
- (j) "right of way" means the right of an expropriating authority to carry its pipes, wires, conductors or transmission lines upon, over or under land and that is registerable under *The Land Titles Act*;
- (k) "work" or "works" means the undertaking and all the works and property that may be acquired, constructed, extended, enlarged, repaired, maintained, improved, formed, excavated, operated, reconstructed, replaced or removed in the exercise of any powers conferred by an authorizing Act.

#### **Application of Act**

**2.** (1) This Act applies to any expropriation authorized by the law of Alberta and prevails over any contrary provisions that may be found therein, except the statutes or parts of statutes enumerated in Schedule 1.

(2) This Act binds the Crown.

**3.** Where an authorizing Act permits or authorizes an expropriation of land, the expropriating authority may, unless the authorizing Act expressly otherwise provides, acquire any estate required by him in the land and may, unless the authorizing Act expressly otherwise provides, acquire any lesser interest by way of profit, easement, right, privilege or benefit in, over or derived from the land.

**4.** (1) Unless the authorizing Act expressly authorizes the expropriation of mines or minerals, the expropriating authority is not entitled to any mines or minerals in any land vested in him under the procedure prescribed by this Act, and, subject to subsection (2), the ownership of mines or minerals is in no way affected by the filing or registration in the land titles office of a certificate of approval under this Act.

(2) Where an authorizing Act expressly authorizes the expropriation of mines or minerals, the certificate of approval by which the expropriation is effected shall state the estate or interest acquired in the mines and minerals, and failing such statement no estate or interest in the mines and minerals passes upon the expropriation.

(3) Notwithstanding subsection (1), an expropriating authority may, to the extent necessary for his works, excavate or otherwise disturb any minerals within, upon or under land in which he has acquired an estate or interest by expropriation or by agreement or transfer, without permission from or compensation other than for minerals lost thereby to any person.

**2.** Application of Act. Recommendation No. 63.

**3.** Extent of expropriation. Recommendation No. 64.

**4.** Application of Act to acquisition of mines and minerals. Recommendation No. 65. The exception for lost minerals is a variance.

**5.** Unless an authorizing Act expressly otherwise provides, nothing in this Act restricts or affects

- (a) the right of an expropriating authority to acquire, by agreement or transfer, any estate or interest in land that he may acquire by expropriation, or
- (b) the right of the Crown or any person to convey to an expropriating authority any estate or interest in any land that the expropriating authority may acquire by expropriation from the Crown or person.

**5. Agreements. Recommendation No. 66.**

## **PART 1**

### **PROCEDURE FOR EXPROPRIATION**

**6.** (1) No person may in any proceedings under this Act dispute the right of an expropriating authority to have recourse to expropriation.

(2) In any proceedings under this Act the owner may question whether the taking of the land, or the estate or interest therein, is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.

**7.** For the purpose of this Act, the approving authority in respect of an expropriation shall be

- (a) in the case of an expropriation by the Crown or an agent of the Crown, the Minister responsible for the administration of the authorizing Act, or
- (b) the municipal council where a municipality expropriates land, or
- (c) in any other case, the Board.

**8.** (1) The expropriating authority shall file a notice of intention to expropriate in the land titles office for the registration district in which the land to be expropriated is situated.

(2) The expropriating authority shall forthwith serve a copy of the notice of intention on

- (a) every person shown in the records of the land titles office as having an interest in the land, and
- (b) every other person who is known to the expropriating authority to have an interest in the land.

(3) Where the expropriating authority is a person other than the Crown or a municipality, the expropriating authority shall forthwith serve a copy of the notice of intention on the approving authority.

(4) The notice of intention shall be published in at least two issues, not less than seven nor more than 14 days apart, of a newspaper in general circulation in the locality in which the land is situated.

(5) A notice of intention shall contain

- (a) the name of the expropriating authority,
- (b) the description of the land,
- (c) the nature of the interest intended to be expropriated,



**6.** Right to object. Recommendation No. 2.

**7.** The approving authority. Recommendation No. 3. The Institute placed residual responsibility with the Attorney General.

**8.** Notice of intention to expropriate. Recommendation No. 4.

- (d) an indication of the work or purpose for which the interest is required,
- (e) a statement of the provisions of section 6 and section 10, and
- (f) the name and address of the approving authority, and
- (g) a statement that a person affected by the proposed expropriation need not serve an objection to the expropriation in order to preserve his right to have the amount of compensation payable determined by the Board or the court, as the case may be.

**9.** (1) Where, in the opinion of the approving authority, the owner has, pursuant to the provisions of any other Act, had substantially the same opportunity to object to the expropriation as he would have had on an inquiry under this Act, the approving authority by direction in writing may dispense with an inquiry.

(2) Where the inquiry is dispensed with under subsection (1), the provisions of section 8, subsection (4), clauses (e), (f) and (g) do not apply to the notice of intention to be served by the expropriating authority but a copy of the direction of the approving authority shall be attached thereto.

(3) Where the inquiry is dispensed with under subsection (1), the expropriating authority may apply immediately to the approving authority for a certificate of approval.

(4) Where the inquiry is dispensed with under subsection (1), the provisions of sections 10 and 11 do not apply.

**10.** (1) An owner who desires an inquiry shall serve the approving authority with a notice of objection

- (a) in the case of an owner served in accordance with section 8, subsection (2), within 21 days of service upon him of the notice of intention, and
- (b) in any other case, within 21 days after the first publication of the notice of intention.

(2) The notice of objection shall state

- (a) the name and address of the person objecting,
- (b) the nature of the objection,
- (c) the grounds upon which the objection is based, and
- (d) the nature of the interest of the person objecting.

**11.** (1) Upon the expiration of the period within which a notice of objection may be served and upon proof of service in accordance with section 8, subsection (2) and proof of

**9.** No inquiry where previous hearing. Recommendation No. 9.

**10.** Notice of objection. Recommendation No. 5.

**11.** Approval where no objection. Recommendation No. 6.

publication in accordance with section 8, subsection (4), the approving authority, unless it has been served with a notice of objection, shall approve or disapprove the proposed expropriation.

(2) The approving authority may approve the expropriation of a lesser interest than that described in the notice of intention.

**12.** Where a person who has served a notice of objection withdraws it, the approving authority may proceed as though no objection had been made.

**13.** (1) Where the Lieutenant Governor in Council is at any time satisfied that the expropriating authority urgently requires the land and that delay would be prejudicial to the public interest, he may by order direct that an intended expropriation shall proceed without inquiry.

(2) Where an order is made under subsection (1) prior to service of the notice of intention, the provisions of section 8, subsection (5), clauses (e), (f) and (g) do not apply to the notice of intention to be served by the expropriating authority but a copy of the order shall be attached thereto.

(3) Where an order is made under subsection (1) after the notice of intention has been served,

(a) a copy of the order shall be served on every person served with the notice of intention, and

(b) a copy of the order shall be published in the same newspaper and in the same manner as the notice of intention was published under section 8, subsection (5).

(4) Where an order is made under subsection (1), the expropriating authority may apply immediately to the approving authority for a certificate of approval, and the approving authority shall issue the certificate.

(5) Where the Lieutenant Governor in Council is satisfied that a refusal by an approving authority to grant a certificate of approval for a proposed expropriation is contrary to the public interest, he may by order direct the approving authority to issue a certificate of approval in such terms as he considers necessary and appropriate.

**14.** (1) Where the approving authority receives an objection it shall forthwith notify the Attorney General.

(2) Within five days after receiving notice that the approving authority has received an objection, the Attorney General shall appoint an inquiry officer, who is not an officer or employee of the Crown or of any agency of the Crown, to conduct an inquiry in respect of the intended expropriation.

**12.** Withdrawal of objection. Recommendation No. 7.

**13.** No inquiry where expropriation is urgent. Recommendation No. 8. The provision in subsection (5) whereby the Lieutenant Governor in Council can override the refusal of an expropriation by an approving authority where it is in the public interest to do so is a new provision.

**14.** Hearing by inquiry officer. Recommendation No. 12. Subsection (4) authorizing the Board to conduct the inquiry is a variation. In those cases the Board would also be the approving authority and would integrate the two functions if an inquiry was necessary.

(3) The Attorney General may appoint a chief inquiry officer who shall exercise the power of the Attorney General under subsection (2) and who shall have general supervision and direction over inquiry officers.

(4) Where the expropriating authority is other than the Crown or a municipality, the Attorney General shall appoint the Board to carry out the functions of an inquiry officer under this Act.

(5) The inquiry officer shall fix a time and place for the inquiry and shall cause notice of the inquiry to be served on the expropriating authority and on each person who has made an objection to the expropriation.

(6) The expropriating authority and each person who has objected shall be parties to the inquiry.

(7) The inquiry before the inquiry officer shall be held in public.

(8) The inquiry officer shall inquire into whether the intended expropriation is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.

(9) For the purposes of subsection (8), the inquiry officer

- (a) shall require the expropriating authority to attend at the inquiry and to produce such maps, plans, studies and documents as the inquiry officer considers necessary for his inquiry;
- (b) may add as a party to the inquiry any owner whose land would be affected by the expropriation of the lands concerned in the inquiry and any person who appears to have a material interest in the outcome of the expropriation;
- (c) shall give each party to the inquiry a reasonable opportunity to present evidence and argument and may permit examination and cross-examination, either personally or by counsel or agent;
- (d) may inspect the lands intended to be expropriated or the lands of an owner referred to in clause (b), either with or without the presence of the parties;
- (e) has general control over the procedure at the inquiry, including power to adjourn the hearing and change the venue;
- (f) may combine two or more related inquiries and conduct them as one inquiry;
- (g) may swear witnesses;
- (h) may provide for a transcript of the evidence;
- (i) is not bound by the rules of law concerning evidence.



(10) The reasonable costs of the owner in connection with the inquiry shall be paid by the expropriating authority unless the inquiry officer determines that special circumstances exist to justify the reduction or denial of costs.

**15.** (1) The inquiry officer shall within 30 days of his appointment make a report in writing to the approving authority and the report shall contain a summary of the evidence and arguments advanced by the parties, the inquiry officer's findings of fact, and his opinion on the merits of the expropriation with his reasons therefor.

(2) The inquiry officer shall forthwith send a copy of his report to the parties to the inquiry and shall make it available on request to any person at reasonable cost.

**16.** No proceedings by or before an inquiry officer or the Board in carrying out the functions of an inquiry officer shall be restrained by injunction, prohibition or other process or proceedings in any court or are removable by *certiorari* or otherwise into court nor shall any report or recommendation by the inquiry officer or the Board in carrying out the functions of an inquiry officer be subject to review in any court.

**17.** (1) The approving authority shall consider the report of the inquiry officer and shall approve or disapprove the proposed expropriation or approve the proposed expropriation with such modifications as the approving authority considers proper, but no approval shall be modified so as to affect the lands of a person who was not a party to the inquiry.

(2) Subject to subsection (3), the approving authority shall give written reasons for its decision and shall cause a copy of its decision together with the reasons therefor to be served upon all the parties within 30 days after the date upon which the report of the inquiry officer is received by the approving authority.

(3) Where the Board is carrying out the functions of an inquiry officer under this Act it shall, in its capacity as the approving authority,

(a) approve or disapprove the proposed expropriation or approve the proposed expropriation with modifications,

(b) give written reasons for its decision, and

(c) cause a copy of its decision together with the reasons therefor to be served upon all the parties,

within 60 days of its appointment to carry out the functions of the inquiry officer.

(4) Where the approving authority approves the expropriation, it shall also provide the expropriating authority with a certificate of approval in the prescribed form.



**15.** Report of inquiry officer. Recommendation No. 13.

**16.** No judicial proceedings in respect of proceedings before an inquiry officer. Recommendation No. 14.

**17.** Certificate of approval. Recommendation No. 15.

(5) Where the approving authority and expropriating authority are one and the same, the requirements of subsections (2) and (4) respecting service on the expropriating authority are inapplicable.

**18.** The expropriating authority may register the certificate of approval in the land titles office for the land registration district in which the relevant land is situated, and registration vests in the expropriating authority the title to the lands therein described as to the interest specified in the certificate.

**19.** Subject to section 22, if the expropriating authority does not cause the certificate of approval to be registered in the land titles office within 120 days from the date when the notice of intention was registered and no extension order has been registered under section 22, subsection (4), the expropriation shall be conclusively presumed to be abandoned, the notice of intention to expropriate shall lapse and the Registrar shall cancel the memorandum thereof on any certificate of title affected thereby.

**20. (1)** After the approving authority has approved a proposed expropriation and notwithstanding registration of the certificate of approval, it may vary the size, location or boundary of the expropriated land within the boundaries of the parcel from which the land was expropriated, if, in the opinion of the approving authority, the variation is minor and can be made without prejudice to the owner.

(2) Where the approving authority varies the expropriation under subsection (1), it shall provide the expropriating authority with an amended certificate of approval.

(3) The expropriating authority may register the amended certificate of approval in the land titles office.

(4) Where the amended certificate of approval is registered in the land titles office

- (a) it takes the place of the certificate of approval registered under section 18;
- (b) the expropriating authority shall not be delayed in taking possession on account of the amendment;
- (c) the owner is entitled to compensation for his interest in the lands described in the amended certificate of approval or to compensation for his interest in the lands described in the certificate of approval, whichever is the greater;
- (d) the provisions of this Act for determining compensation, including the provisions relating to proposed payments, apply.

**21.** Registration of the certificate of approval is conclusive proof that all the requirements of this Act in respect

**18.** Registration of certificate vests title. Recommendation No. 16.

**19.** Failure to register certificate of approval. Recommendation No. 10.

**20.** Amended certificate of approval. Recommendation No. 15.

**21.** Registration is conclusive proof of compliance with the Act. Recommendation No. 17.

of registration and of matters precedent and incidental to registration have been complied with.

**22.** (1) The Attorney General may, prior to the expiration of the 120-day period referred to in section 19,

- (a) extend the time for appointing the inquiry officer by an additional five days;
- (b) extend the time for the inquiry officer to report by an additional 30 days;
- (c) extend the time for the approving authority to make its decision by an additional 30 days.

(2) Where the Attorney General has, pursuant to subsection (1), extended the time for the approving authority to make its decision and at the end of the extended period the Board has not made a decision, the application for a certificate of approval shall be deemed to have been refused.

(3) Where any extension is granted under subsection (1), the Attorney General shall execute an extension order extending the time for registration of the certificate of approval for an equivalent number of days.

(4) The extension order executed under subsection (3) shall be registered in the land titles office for the land registration district in which the land is situated prior to the expiration of the 120-day period and shall be served forthwith upon the persons who were served with the notice of intention and upon any other person who has given notice of objection or has otherwise become a party to the inquiry.

**23.** (1) An expropriating authority may abandon its intention to expropriate, either wholly or partially, at any time before registration of the certificate of approval in the land titles office.

(2) The expropriating authority shall serve a copy of a notice of abandonment on all persons who were entitled to be served with the notice of intention to expropriate, including the approving authority, and shall deposit the notice in the appropriate land titles office.

(3) Where an expropriation has been abandoned the expropriating authority shall pay to the owner any actual loss sustained by him and the reasonable legal, appraisal and other costs incurred by him up to the time of abandonment, as a consequence of the initiation of the expropriation proceedings.

(4) Compensation payable under this section including costs, shall be fixed by the Board.

**22.** Extension of time. Recommendation No. 18. Subsection (2) is new.

**23.** Abandonment of expropriation. Recommendation No. 19.

**PART 2**  
**PROCEDURE FOR COMPENSATION**

**24.** (1) There is hereby established a Board called the "Land Compensation Board" consisting of the members appointed by the Lieutenant Governor in Council in accordance with this section.

(2) The Lieutenant Governor in Council shall designate one member as chairman and one other member as vice-chairman and may appoint such other members as the Lieutenant Governor in Council considers advisable.

(3) The chairman and each member of the Board shall receive such remuneration as may be fixed by the Lieutenant Governor in Council.

(4) Each member of the Board holds office during good behaviour for a term of 10 years from the date of his appointment and at the expiration of his term of office is eligible for reappointment.

(5) The chairman may select a member or any uneven number of members to deal with a particular case or class or group of cases.

(6) The member or members selected pursuant to subsection (5) may perform the functions of the Board in respect of the particular case or class or group of cases for which they were selected and when performing any of those functions shall have all the powers and jurisdiction of the Board.

**25.** In accordance with *The Public Service Act* there may be appointed a secretary, an assistant secretary, inspectors, land examiners and such other employees as are required to carry on the business of the Board.

**26.** (1) Except as provided in subsection (2) or in section 28, subsection (3), the Land Compensation Board has jurisdiction with respect to expropriations under this Act.

(2) The Surface Rights Board has jurisdiction with respect to expropriations under this Act authorized under or pursuant to

- (a) *The Pipe Line Act*, or
- (b) *The Water, Gas, Electric and Telephone Companies Act*, or
- (c) section 86 of *The Water Resources Act*, or
- (d) *The Hydro and Electric Energy Act*.

**27.** (1) The Lieutenant Governor in Council may make rules of procedure and practice governing the hearings and proceedings before the Board and in particular relating to

**24.** The Land Compensation Board. Recommendation No. 20.

**25.** Staff. Recommendation No. 20.

**26.** Jurisdiction of Boards. This is a variation from the Institute's report which recommended that all expropriations come under a single Land Compensation and Surface Rights Board consisting of the existing Surface Rights Board and an increase in membership.

**27.** Procedure and powers of the Board. Recommendation No. 21.

- (a) the method and form of initiating proceedings,
- (b) notice to admit facts,
- (c) production of documents,
- (d) examinations for discovery, and
- (e) providing for the hearing of two or more claims together.

(2) The Board may hold its sittings at such place or places in Alberta as it from time to time considers expedient.

(3) The Board shall cause all oral evidence submitted before it at a formal hearing to be recorded, and this evidence together with any documentary and other evidence, shall form the record before the Board.

(4) The Board has

- (a) all the powers of a commissioner appointed under *The Public Inquiries Act*, and
- (b) such further powers and duties as may be provided by the Lieutenant Governor in Council.

(5) The Board may enter upon and inspect, or authorize any person to enter upon and inspect, any land, building, works or other property.

(6) The Board

- (a) in conducting any hearing shall proceed in accordance with its rules of procedure and practice,
- (b) is not bound by the rules of law concerning evidence, and
- (c) may adjourn any hearing of a proceeding from time to time for such length of time as the Board in its discretion considers expedient or advisable.

(7) If any person, other than a party without just cause,

- (a) on being duly summoned as a witness before the Board makes default in attending, or
- (b) being in attendance as a witness refuses to take an oath legally required by the Board to be taken, or to produce any document or thing in his power or control legally required by the Board to be produced by him, or to answer any question to which the Board may legally require an answer,

a member of the Board may certify a statement of the facts of the default or refusal of that person and a judge of the Supreme Court, on the application of the Board, may thereupon inquire into the matter and, after hearing any witnesses who may be tendered and after hearing any representations that may be offered, may





- (c) issue a warrant requiring the attendance of the person before the Board, or the production by him of the document or thing, or
- (d) commit the person for contempt.

**28.** (1) Where the expropriating authority and the owner have not agreed upon the compensation payable under this Act, the Board shall determine such compensation.

(2) The Board shall also determine any other matter required by this or any other Act to be determined by the Board.

(3) Notwithstanding subsection (1), where the expropriation is by the Crown, the owner may elect to have the compensation fixed by the court and in such case the provisions of this Act relating to determination of compensation by the Board apply with all necessary modifications to the proceedings before the court.

**29.** (1) Where a certificate of approval has been registered, the expropriating authority shall forthwith serve the owner with a notice of expropriation as set out in Schedule 2.

(2) Within 90 days after registration of the certificate of approval the expropriating authority shall give to the owner a written notification setting out the amount, hereinafter referred to as "the proposed payment", which the expropriating authority, subject to subsection (3), estimates to be equal to the compensation to which the owner is then entitled in respect of his interest in the land.

(3) Where the expropriated land is part of a larger parcel,

- (a) the proposed payment shall be for the estimated value of the expropriated land, and excepting co-owners of the same interest, where there is more than one owner and they are not co-owners of the same interest therein, the owners may agree as to the disposition among themselves of the proposed payment, but in the event of dispute the expropriating authority may apply to the Board for an order for payment to the Board of the proposed payment and the Board may make directions as to the disposition of that amount, and
- (b) the proposed payment shall include the expropriating authority's estimate of severance damage.

(4) Immediately upon receipt of the written notification given by the expropriating authority under subsection (2), the owner is entitled to receive payment of the amount of the proposed payment.

**28.** Fixing compensation. Recommendation No. 22.

**29.** Proposed payment. Recommendation No. 23.

(5) Acceptance by the owner of the proposed payment is without prejudice to his right to claim additional compensation in respect of the expropriation.

(6) The proposed payment is irrevocable by the expropriating authority until the hearing but nothing in this section shall prevent the Board from awarding an amount less than that of the proposed payment.

(7) The expropriating authority may, within the 90-day period mentioned in subsection (2) and before taking possession of the land, upon giving at least two days' notice to the registered owner, apply to the court for an order extending the 90-day period.

**30.** The proposed payment shall be based on a written appraisal as prescribed in the regulations, and a copy of the appraisal shall accompany the notification to the owner pursuant to section 29, subsection (2).

**31.** (1) To assist the expropriating authority in making its appraisal, the owner shall furnish on request to the expropriating authority any information relevant to the valuation of his interest.

(2) Any owner who withholds any relevant information may be penalized in

(a) costs, and

(b) interest that he would otherwise be entitled to under section 64.

**32.** Where the expropriating authority is unable to obtain the information necessary to make a proper determination of the amount of a proposed payment, the expropriating authority may apply to the Board for directions and the Board may determine the amount of the proposed payment.

**33.** (1) The owner may obtain an independent appraisal of his interest that has been expropriated and the expropriating authority shall pay the reasonable cost of the appraisal.

(2) The owner may obtain advice from any solicitor of his choice as to whether to accept the proposed payment in full settlement of compensation, and the expropriating authority shall pay the owner's reasonable legal costs therein.

**34.** (1) Where the expropriating authority and the owner have not agreed upon the compensation payable under this Act

**30.** Determination of proposed payment. Recommendation No. 24.

**31.** Expropriating authority entitled to certain information from owner. Recommendation No. 25.

**32.** Application to Board to determine proposed payment. Recommendation No. 26.

**33.** Payment of costs. Recommendation No. 27.

**34.** Time limit. Recommendation No. 28.

- (a) the expropriating authority may institute proceedings to determine compensation after offering the proposed payment;
- (b) the owner may institute proceedings after the offering of the proposed payment or the expiration of the time for offering the proposed payment, whichever first occurs.

(2) Where no proceedings have been commenced by either party within one year of the date of offering the proposed payment, the amount of the proposed payment shall be conclusively deemed to be the full compensation to which the owner is entitled.

**35.** (1) An appeal lies to the Appellate Division from any determination or order of the Board except when it is carrying out the functions of an inquiry officer under Part 1.

(2) An appeal under subsection (1) may be made on questions of law or fact or both and the Appellate Division

(a) may refer any matter back to the Board, or

(b) may make any decision or order that the Board has power to make,

and may exercise the same powers that it exercises on an appeal from a judge of the Trial Division sitting without a jury, and the rules and practice applicable to appeals to the Appellate Division apply.

**36.** (1) Where the jurisdiction of the Board or the validity of any decision, order, direction or other act of the Board is called into question by any person affected thereby, the Board, upon the request of that person, shall state a case in writing to the Appellate Division setting forth the material facts and the decision of the Appellate Division thereon is final and binding.

(2) If the Board refuses to state a case, the person affected may apply to the Appellate Division for an order directing the Board to state a case.

(3) Pending a decision on the stated case, no further proceedings in respect of the application shall be taken by the Board except with leave of a judge of the Appellate Division.

(4) This section does not apply to the Board when it is carrying out the functions of an inquiry officer under Part 1.

**37.** (1) The reasonable legal, appraisal and other costs actually incurred by the owner for the purpose of determining the compensation payable shall be paid by the expro-

**35. Appeals. Recommendation No. 29.**

**36. Stated case. Recommendation No. 30.**

**37. Costs. Recommendation No. 33.**

priating authority, unless the Board determines that special circumstances exist to justify the reduction or denial of costs.

(2) The Board may order by whom the costs are to be taxed and allowed.

(3) Where settlement has been made without a hearing and the owner and the expropriating authority are unable to agree on the costs payable by the expropriating authority, the Board may determine the costs payable to the owner and subsections (1) and (2) shall apply.

(4) On appeal by the expropriating authority, costs of the appeal shall be paid on the same basis as they are payable under subsection (1) and on appeal by the owner, the owner is entitled to his costs where the appeal is successful and, where unsuccessful, the costs are in the discretion of the Appellate Division.

**38.** (1) Where the persons interested, or appearing to be interested, in the compensation fail to agree as to the disposition thereof among themselves, the Board shall direct that the amount shall be paid into court.

(2) Where money is paid into court pursuant to subsection (1), the court shall, upon application by originating notice of motion by any party claiming an interest therein, determine the disposition of the money.

#### **Principles of Compensation**

**39.** The market value of land expropriated is the amount the land might be expected to realize if sold in the open market by a willing seller to a willing buyer.

**40.** (1) Where land is expropriated, the expropriating authority shall pay the owner such compensation as is determined in accordance with this Act.

(2) Where land is expropriated, the compensation payable to the owner shall be based upon

- (a) the market value of the land,
- (b) the damages attributable to disturbance,
- (c) the value to the owner of any element of special economic advantage to him arising out of or incidental to his occupation of the land to the extent that no other provision is made for its inclusion, and
- (d) damages for injurious affection.



**38.** Distribution of compensation. Recommendation No. 38.

**39.** Determination of market value. Recommendation No. 40.

**40.** Principles of compensation. Recommendation No. 41.

**41.** Where the owner of the land which is being or was expropriated is or was in occupation and as a result of the expropriation it is or was necessary for him to give up occupation of the land, the value of the land is the greater of

- (a) the market value thereof determined as set forth in section 39, or
- (b) the aggregate of
  - (i) the market value thereof determined on the basis that the use to which the expropriated land was being put at the time of its taking was its highest and best use, and
  - (ii) damages for disturbance.

**42.** In determining the amount of compensation payable no allowance shall be made on account of the acquisition being compulsory except where unusual circumstances exist for which no provision for compensation is contained in this Act.

**43.** In determining the value of the land, no account shall be taken of

- (a) any anticipated or actual use of the land by the expropriating authority at any time after the expropriation;
- (b) any value established or claimed to be established by or by reference to any transaction or agreement involving the sale, lease or other disposition of the land, where such transaction or agreement was entered into after the commencement of expropriation proceedings;
- (c) any increase or decrease in the value of the land resulting from the development or the imminence of the development in respect of which the expropriation is made or from any expropriation or imminent prospect of expropriation;
- (d) any increase or decrease in the value of the land due to development of other land that forms part of the development for which the expropriated land is taken;
- (e) any increase or decrease in value which results from the imposition or amendment of a zoning by-law, land use classification or analogous enactment made with a view to the development under which the land is expropriated.

**44.** (1) Where any land has any building or other structure erected thereon that was specially designed for use for the purpose of a school, hospital, municipal institu-

**41.** Value of expropriated land. Recommendation No. 42.

**42.** No additional payment for compulsory taking. Recommendation No. 43. The exception for unusual circumstances is a variation from the Institute's report.

**43.** Factors not to be considered in determining value. Recommendation No. 44.

**44.** Special purpose structures. Recommendation No. 45.

tion or religious or charitable institution or for any similar purpose, and the use of the building or other structure for that purpose by the owner has been rendered impracticable as a result of the expropriation, the value of the expropriated interest is, if the expropriated interest was and, but for the expropriation, would have continued to be used for that purpose and if at the time of its taking there was no general demand or market for the building or structure to be used for that purpose, the greater of

- (a) the market value of the expropriated interest determined as set forth in section 39, or
- (b) the aggregate of
  - (i) the cost of any reasonably alternative interest in land for that purpose, and
  - (ii) the cost, expenses and losses arising out of or incidental to moving to and re-establishment on other premises, minus the amount by which the owner has improved, or may reasonably be expected to improve, his position through re-establishment on other premises.

(2) For the purposes of subsection (1), clause (b) the cost of any reasonably alternative interest in land shall be computed as of the date at which construction of the new building or the structure could reasonably be begun.

**45.** (1) Upon application therefor, the Board shall, after fixing the market value of lands used for the principal residence of the owner, award such additional amount of compensation as, in the opinion of the Board, is necessary to enable the owner to relocate his residence in accommodation that is at least equivalent to the accommodation expropriated, and in fixing the additional amount of compensation the Board shall include the increase in cost between the time of expropriation and the time when the new accommodation could reasonably be obtained.

(2) In this section "owner" means a registered owner or purchaser and does not include a tenant.

**46.** Where there is more than one separate interest in land, the market value of each such separate interest shall, where practical, be established separately.

**47.** (1) Where the expropriated land is subject to a security interest, the market value of each person having an interest in the land shall be established separately.

(2) Where the amount owing to the security holder is greater than the market value of his interest and there is no collateral security other than the covenant of the purchaser or borrower to pay the amount of the debt, the

**45.** Relocation of residence. Recommendation No. 46.

**46.** Separate interests to be separately valued. Recommendation No. 47.

**47.** Security interests. Recommendation No. 49.

security interest shall be deemed to be fully paid, discharged and satisfied on payment to the security holder of the market value of the security.

(3) Where the amount owing to the security holder is greater than the market value of his interest and there is collateral security other than the covenant of the purchaser or borrower to pay the amount of the debt, and whether such collateral is by way of security on other property or a guarantee of a third party or otherwise, the compensation shall not fully discharge the debt and the Board shall determine the balance remaining and the manner in which it is to be repaid.

(4) Where the expropriation is of a part of land that is subject to a security interest, the Board shall determine the market value of the expropriated part and shall distribute the compensation between the parties as it considers just in the circumstances.

**48.** The expropriating authority shall pay to an owner other than a tenant, in respect of disturbance, such reasonable costs and expenses as are the natural and reasonable consequences of the expropriation, including,

- (a) where the premises taken include the owner's residence,
  - (i) an allowance of
    - (A) 5 per cent of the compensation payable in respect of the market value of that part of the land expropriated that is used by the owner for residential purposes, or
    - (B) the actual amount proved with respect to those items,whichever is the greater, to compensate for inconvenience and the costs of finding another residence, if the part of the land so used was not being offered for sale on the date of the expropriation, and
  - (ii) a reasonable allowance for improvements the value of which is not reflected in the market value of the land;
- (b) where the premises taken do not include the owner's residence, the owner's costs of finding premises to replace those expropriated, if the lands were not being offered for sale on the date of expropriation;
- (c) relocation costs, to the extent that they are not covered in clause (a) or (b), including,
  - (i) moving costs, and
  - (ii) legal and survey costs and other non-recoverable expenditures incurred in acquiring other premises.

**48.** Disturbance compensation to owner. Recommendation No. 50.

**49.** (1) The expropriating authority shall pay to a tenant occupying expropriated land in respect of disturbance so much of the cost referred to in section 48 as is appropriate having regard to,

- (a) the length of the term,
- (b) the portion of the term remaining,
- (c) any rights to renew the tenancy or the reasonable prospects of renewal,
- (d) in the case of a business, the nature of the business, and
- (e) the extent of the tenant's investment in the land.

(2) The tenant's right to compensation under this section is not affected by the premature determination of the lease as a result of the expropriation.

**50.** (1) Where the expropriated land is subject to a security interest, the expropriating authority shall pay to the security holder three months' interest at the rate described in the security document or, where no rate is prescribed, at the rate that would normally be payable in respect of the security, on the amount of the outstanding principal.

(2) Where the Board makes a determination under section 46, the amount payable in respect of interest under this section to the security holder shall be in the same proportion in relation to the total payment made on account of interest that the land being expropriated and subject to the security interest bears to the entire amount of land subject to the security interest.

**51.** Where a business is located on the land expropriated, the expropriating authority shall pay compensation for business loss resulting from the relocation of the business because of the expropriation and the Board may defer determination of the business losses until the business has moved and been in operation for six months or until a three-year period has elapsed, whichever occurs first.

**52.** The Board may, on the application of the expropriating authority or an owner, include in determining compensation an amount not exceeding the value of the good will of a business where the land is valued on the basis of its existing use and, in the opinion of the Board, it is not feasible for the owner to relocate.

**53.** Where only part of an owner's land is expropriated and as a result of the expropriation the value of the remaining land is increased, the owner shall nevertheless be entitled to the market value of the land expropriated.



**49.** Disturbance compensation to tenant. Recommendation No. 51.

**50.** Disturbance compensation to security holder. Recommendation No. 52. This is a variation from the Institute's report.

**51.** Business losses. Recommendation No. 53.

**52.** Compensation for goodwill. Recommendation No. 53.

**53.** Partial taking. Recommendation No. 54.

**54.** Where part only of an owner's land is taken, compensation shall be given for

- (a) injurious affection, including
  - (i) severance damage, and
  - (ii) any reduction in market value to the remaining land,
- and

- (b) incidental damages,

if the injurious affection and incidental damages result from or are likely to result from the taking or from the construction or use of the works for which the land is acquired.

**55.** On the expropriation of an easement or right of way, the Board, in making its award for the value of the interest taken, may ignore the residual value to the owner.

**56.** Where the expropriation is of an easement or right of way, the Board may determine the amount of compensation payable by the expropriating authority for

- (a) damage caused by or arising out of the operation of the expropriating authority to any land of the owner or occupant other than the area expropriated,
- (b) the loss of or damage to livestock or other personal property of the owner or occupant caused by or arising out of the operations of the expropriating authority, and
- (c) time spent or expense incurred by the owner or occupant in repairing or recovering any of his personal property, or in recovering any of his livestock that have strayed, due to an act or omission of the expropriating authority,

and shall direct the person to whom the compensation is payable.

**54.** Compensation for injurious affection and incidental damage arising from a partial taking. Recommendation No. 56.

**55.** Expropriation of easement or right of way. Recommendation No. 57.

**56.** Compensation for damages incurred arising from expropriation of the easement or right of way. Recommendation No. 58.

### **PART 3**

#### **GENERAL**

**57.** Where a proposed payment has been paid to a person in respect of an expropriated interest, the amount so paid shall be deducted from the amount of the compensation awarded by the Board, and where the amount so paid exceeds the amount awarded by the Board, the excess constitutes a debt to the expropriating authority and may be recovered by action.

**58.** The Lieutenant Governor in Council may make such orders, and regulations as may be considered necessary to effect the intent of this Act.

**59.** (1) The right to compensation and the compensation finally awarded for any estate or interest acquired or taken under this Act in Crown or other land by an expropriating authority shall stand in the stead of the estate or interest so acquired or taken and a claim to or an encumbrance upon the estate or interest is converted, as against the expropriating authority, into a claim for the compensation or a portion of the compensation.

(2) When the estate or interest has been expropriated in the manner provided by this Act, the estate or interest becomes the property of the expropriating authority free and clear of any and all claims and encumbrances in respect of the previous estate or interest.

**60.** Where a fee simple estate in any land is held by any person and the land is not registered in a land titles office, the land may be expropriated by a deposit in the land titles office for the land registration district in which the land is situated of a certificate of approval and such certificates of title may be made in respect thereof by the registrar of the land titles office as may be necessary to indicate the vesting in the expropriating authority of the land expropriated.

**61.** (1) Whether or not expropriation proceedings have been commenced by registration of notice of intention to expropriate, the expropriating authority may, after making reasonable effort to give notice thereof to the person in possession of the land, enter by itself or by its servants or agents, on any Crown or other land for the purpose of making

(a) surveys, examinations, soil tests, or other necessary arrangements to determine the location of any

**57.** Credit of proposed payment against compensation awarded.  
Recommendation No. 59.

**58.** Regulations. Recommendation No. 60.

**59.** Expropriation vests clear title. Recommendation No. 61.

**60.** Unregistered land. Recommendation No. 62.

**61.** Right of entry. Recommendation No. 11.

proposed works or the description of the land that he may require in connection therewith, and

- (b) an appraisal of the value of the land or any interest therein.

(2) Subject to subsection (3), where it is necessary to effect a survey an expropriating authority may, by itself or by its servants or agents, cut down any trees or brush that obstruct the running of survey lines.

(3) An expropriating authority who exercises a power given by this section shall compensate the registered owner or person in possession of the land, as the case may be, for all damage caused by it or its servants or agents in or by the exercise of all or any of the powers given by this section.

(4) Where the land entered upon is not expropriated, no action lies against the expropriating authority for damage occasioned by it in the exercise of a power given by this section unless notice in writing signed by the claimant is given to the expropriating authority who exercised the power within six months after notice was given to the claimant pursuant to subsection (1).

(5) The provisions of this section for notice and compensation apply notwithstanding that the authorizing Act makes express provision with respect to the subject matter of this section.

**62.** (1) In this section, "occupied land" means a parcel of land

- (a) on which the dwelling house or buildings associated therewith occupied by the occupant of the parcel is situated, and
- (b) that consists of
  - (i) not more than four adjoining lots in one block in a city, town, new town, village or hamlet as shown on a plan duly registered in the proper land titles office, or
  - (ii) not more than one-quarter section of land other than land in a city, town, new town or village.

(2) After the certificate of approval has been registered, the expropriating authority may, subject to any agreement to the contrary, serve on the person in possession a notice that it requires the land on the date specified therein.

(3) The date specified in the notice shall be

- (a) seven days from the date of registration of the certificate of approval where the land expropriated is other than occupied land or is for a right of way, and

**62.** Date of possession. Recommendation No. 31.

- (b) in all other cases, at least 90 days from the date of registration of the certificate of approval.
- (4) After service of the notice either party may apply to the court by originating notice of motion on three days' notice for an adjustment of the date for possession specified in the notice, and the court may order an adjustment in the date.
- (5) Notwithstanding anything in this section, the expropriating authority shall not be entitled to take possession
  - (a) in the case of occupied land, other than occupied land expropriated for a right of way, until the expiry of 30 days after the proposed payment has been made, or
  - (b) in all other cases, until after the proposed payment has been made,except by leave of the court.

**63.** If any resistance or opposition is made or is threatened to be made by any person to the expropriating authority, or to any authorized person acting for it, in exercising its rights in or over, or to enter upon and take possession of, the land, the court may upon application by originating notice of motion issue a writ of possession or such other order as may be necessary to enable the expropriating authority to exercise such rights.

**64. (1)** An expropriating authority shall pay interest at such rate as the Board considers just

- (a) with respect to
    - (i) compensation for the land, and
    - (ii) severance damages on a partial taking from the date of acquisition of title until payment in full;
  - (b) on damages for disturbance from the date of the award of the damages until payment in full.
- (2) Notwithstanding subsection (1), where the owner is in possession when the expropriating authority acquires title, he is not entitled to interest until he has given up possession.
- (3) Where the expropriating authority has delayed in notifying the owner of the proposed payment beyond the prescribed time, the Board shall order the expropriating authority to pay additional interest on the value of the land and severance damage, if any, from the beginning of the delay until the proposed payment is or was made, at the same rate as that prescribed in subsection (1).
- (4) Where the amount of the proposed payment is less than 80 per cent of the amount awarded for the interest



**63.** Enforcement of right to possession. Recommendation No. 32.

**64.** Interest. Recommendation No. 34.

taken and severance damage, if any, the Board shall order the expropriating authority to pay additional interest at the same rate as that prescribed in subsection (1), from the date of notifying the owner of the proposed payment until payment, on the amount by which the compensation exceeds the amount of the proposed payment.

(5) Notwithstanding subsections (3) and (4), where the Board is of opinion that a proposed payment of less than 80 per cent of the amount awarded for the interest taken and severance damage, if any, or any delay in notifying the owner of the proposed payment is not the fault of the expropriating authority, the Board may refuse to allow the owner additional interest for the whole or any part of any period for which he would otherwise be entitled to interest.

**65.** Where a document is required by this Act to be served on any person and no method of service is prescribed, the document may be served personally or by registered mail addressed to the person to be served at his last known address, or if that person or his address is unknown, by publication once in a newspaper having general circulation in the locality in which the land concerned is situated, and service shall be deemed to be made

- (a) in the case of service by registered mail, in ordinary course of mail;
- (b) in the case of service by publication, on the date of publication.

**66.** (1) If the owner of land which is the subject of expropriation is under a legal disability, or is not known, or his residence is not known, or he cannot be found, the court may appoint a person to act in his behalf for any purpose under this Act.

(2) Where there is no guardian, committee or other person to represent an owner under legal disability, or the owner is unknown, or his residence is unknown, or he cannot be found, the expropriating authority shall apply to the court for an order for payment into court of the proposed payment and the court may make directions as to the disposition of that amount.

**67.** (1) After the expropriating authority has acquired title, where the expropriating authority or the Board is in doubt as to the persons who had any interest in the land or the nature or extent thereof, the expropriating authority may apply or the Board may direct the expropriating authority to apply to the court to make a determination respecting the state of the title of the land immediately before the expropriation, and the court shall determine that issue.

(2) Where any application is made under subsection (1),

**65.** Service of documents. Recommendation No. 35.

**66.** Special cases. Recommendation No. 36.

**67.** Determination of interests in land. Recommendation No. 37.

- (a) notwithstanding section 29, subsection (2), the expropriating authority has 90 days from determination of the issue by the court to make its notification of proposed payment, and
- (b) the expropriating authority may apply to the court for leave to take possession of the land as soon as it is required by the expropriating authority.

**68.** (1) If, within two years of acquiring title to land by expropriation, the expropriating authority finds that the lands or any portion thereof are no longer required for its purposes and the expropriating authority desires to dispose of them, it shall first offer to sell them to the former owner of the fee simple and if the former owner does not accept the offer the expropriating authority may sell the lands to any other person on terms that are at least as favorable to the expropriating authority.

(2) Where the expropriation is of part of a parcel of land, the offer pursuant to subsection (1) shall be to the former owner or his successor in title to the residue of the parcel, and if there is more than one successor, to such of them as to the expropriating authority appears just.

(3) In the case of the taking of a right of way, where at any time the expropriating authority or its successor has discontinued the use for which the land was expropriated, the expropriating authority or the former owner of the expropriated lands or his successor in title to the land from which the right of way was taken may apply to the court in those cases where the expropriation was authorized by the court and in all other cases to the Board for an order terminating the estate or interest of the expropriating authority and the court or the Board, as the case may be, may

- (a) terminate the estate or interest acquired by the expropriating authority, and
- (b) grant the estate or interest so terminated to the person from whom it was expropriated or to such other person as the court may order.

(4) Where the expropriated estate or interest is one to which *The Land Surface Conservation and Reclamation Act* applies, the court or the Board, as the case may be, shall not make an order under subsection (3) unless a certificate under that Act has been furnished.

(5) An order of the court or the Board made pursuant to subsection (3), or a certified copy thereof,

- (a) may be registered in the appropriate land titles office, or

**63.** Revesting of expropriated interest. Recommendation No. 39.

(b) if the land is not registered in a land titles office, may be filed with the Deputy Minister of the Department charged with the administration of the land affected, and upon registration or filing the estate or interest so terminated is revested in the person from whom it was expropriated or is vested in the other person named in the order, as the case may be.

**69.** (1) Subject to subsection (2), where only part of the interest of a lessee is expropriated, the lessee's obligation to pay rent under the lease shall be abated to such extent as the parties agree or, failing agreement, as determined by the Board.

(2) Where all the interest of a lessee in land is expropriated or where part of the lessee's interest is expropriated and the expropriation renders the remaining part of the lessee's interest unfit for the purposes of the lease, as determined by the Board, the lease shall be deemed to be frustrated from the date of the expropriation.

**69. Expropriation of lessee's interest. Recommendation No. 48.**

## PART 4

### CONSEQUENTIAL

**70.** (1) *The Alberta Government Telephones Act is amended as to section 25 by striking out subsection (3).*

(2) *The Alberta Resources Railway Corporation Act is amended as to section 13 by striking out subsection (2).*

(3) *The Colleges Act is amended as to section 37 by striking out subsection (2).*

(4) *The Department of the Environment Act is amended as to section 15, subsection (2), clause (g) by striking out the words "Part 3 of The Expropriation Procedure Act" and by substituting therefor the words "The Expropriation Act".*

(5) *The Alberta Housing Act is amended by striking out section 40 and by substituting therefor the following section:*

**40.** Where a municipality desires to expropriate land for the purpose of implementing an urban renewal scheme being undertaken pursuant to section 34, the municipality may make a commitment to dispose of land before it has acquired it.

(6) *The Hydro and Electric Energy Act is amended as to section 30, clause (b) by striking out the word "Procedure".*

(7) *The Irrigation Act is amended as to section 49 by striking out subsection (2).*

(8) *The Land Titles Act is amended*

(a) *by adding the following section after section 57:*

**57.1** Upon the registration of a certificate of approval under *The Expropriation Act*, the Registrar shall cancel the registration of the notice of intention to expropriate respecting the lands to which the certificate applies which had been filed by the expropriating authority.

(b) *as to section 93 by striking out*

(i) *in subsection (1) the words "plans of surveys of any land taken for any public work as provided for in The Expropriation Procedure Act, the lands shown on such plans" and by substituting therefor the words "certificate of approval of any land taken for any public work under the provisions of The Expropriation Act, the lands shown in the certificate", and*

(ii) *in subsection (2) the words "any plans of survey" and by substituting therefor the words "any certificate of approval".*



**70. Consequential amendments.**

(9) *The Landmen Licensing Act is amended as to section 2, clause (c), subclause (ii) by striking out the word "Procedure".*

(10) *The Municipal Government Act is amended*

- (a) *as to section 127, subsection (9) by striking out the words "Public Utilities Board" and by substituting therefor the words "Land Compensation and Surface Rights Board",*
- (b) *as to section 130, subsection (1) by striking out the word "Procedure",*
- (c) *as to section 245, clause (b) by striking out the word "Procedure", and*
- (d) *as to section 284, subsection (1) by striking out the word "Procedure".*

(11) *The Municipal Telephone Act is amended as to section 6, subsection (2), clause (a) by striking out the word "Procedure".*

(12) *The Pipe Line Act is amended*

- (a) *as to section 41 by striking out clause (d) and by substituting therefor the following clause:*
  - (d) *by proceedings under The Expropriation Act.**and*
- (b) *as to section 42, subsection (1) by striking out the words "by an order under The Expropriation Procedure Act" and by substituting therefor the words "under The Expropriation Act".*

(13) *The Proceedings Against the Crown Act is amended by adding after section 6 the following section:*

**6.1** An owner of land expropriated by the Crown and an owner of land injuriously affected by the exercise of the power of expropriation is entitled to due compensation for any damages necessarily resulting from the exercise of the power of expropriation beyond any advantage that he may derive from any purpose for which the land was expropriated or by which the land was injuriously affected.

(14) *The Public Highways Development Act is amended*

- (a) *by striking out the words "section 16 and sections 18 to 21 of The Expropriation Procedure Act except where those provisions are inconsistent with this section" wherever they appear in section 30, subsection (6) and section 31, subsection (5) and by substituting therefor the words "The Expropriation Act", and*
- (b) *as to section 37, subsection (4) by striking out the words "Part 2 of The Expropriation Procedure Act" and by substituting therefor the words "The Expropriation Act".*



(15) *The Public Works Act is amended*

(a) *as to section 21 by striking out subsection (3) and by substituting therefor the following subsection:*

(3) The deposit in the land titles office of a certificate of approval as provided in *The Expropriation Act* shall, for the purposes of *The Land Titles Act*, be deemed to be the filing of a plan of the land.  
*and*

(b) *as to section 25 by striking out subsection (3).*

(16) *The Research Council Act is amended as to section 10 by striking out the word "Procedure".*

(17) *The Universities Act is amended as to section 17 by striking out subsection (2).*

(18) *The Water, Gas, Electric and Telephone Companies Act is amended as to section 32, subsection (2), clause (b) by striking out the word "Procedure".*

(19) *The Water Resources Act is amended*

(a) *as to section 82, subsection (2) by striking out the words "The Expropriation Procedure Act relating to the tender," and by substituting therefor the words "The Expropriation Act relating to proposed payments and to", and*

(b) *as to section 86, subsection (2), clause (b) by striking out the word "Procedure".*

**71.** Wherever a reference is made to *The Expropriation Procedure Act*, or to the Public Utilities Board when acting pursuant to that Act, in any statutory provision not amended by this Act or in any regulation, order, direction or other instrument in force in Alberta, the reference shall, in the former instance, be deemed to be a reference to *The Expropriation Act* and in all other instances shall be deemed to be a reference to the Land Compensation Board.

**72.** Any order, rule, regulation, direction or other instrument made by the Public Utilities Board or the Surface Rights Board pursuant to *The Expropriation Procedure Act*, or any predecessor thereof, in force upon the commencement of this Act shall be deemed to be an order, rule, regulation, direction or instrument of the Land Compensation Board or the Surface Rights Board, whichever is appropriate, made pursuant to this Act.

**73.** Any proceeding commenced pursuant to *The Expropriation Procedure Act* prior to the commencement of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force until such conclusion.

**71.** Other references.

**72.** Orders under former Act.

**73.** Proceedings continued under former provisions.

**74.** *The Expropriation Procedure Act* is hereby repealed.

**75.** This Act comes into force on a day to be fixed by Proclamation.

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SCHEDULE 1  
(Section 2)

TITLE	EXTENT OF EXCEPTION
1. The Agricultural Service Board Act	Orders of reclamation under section 19
2. The Land Titles Act	Plans of subdivisions and plans of surveys under sections 82 and 91
3. The Local Authorities Board Act	Cancellation of plans of subdivision
4. The Planning Act	(a) compulsory subdivisions (b) replotting schemes
5. The Public Lands Act	Cancellations or withdrawals under sections 79, 113 and 114
6. The Rural Mutual Telephone Companies Act	Confiscation of plant and equipment by Crown
7. The Surface Rights Act	The whole

**74.** This Bill will replace chapter 130 of the Revised Statutes of Alberta 1970.

To .....  
                     *(name of the owner)*  
 .....  
                     *(address)*

1. The following lands

(Where the expropriated estate or interest is less than a fee simple, the interest will be stated, e.g., right of way for a pipe line.)

.....  
(name)  
.....  
(address)

3. For your information and convenience we will set out the provisions dealing with your right to immediate payment of compensation based on an appraisal report, dealing with the expropriating authority's right to take possession, and dealing with your right to costs. *(The relevant sections will be attached; they are section 28, section 29, section 30, section 31, section 33, section 35 and section 62.)*

4. If you are not satisfied with the amount the expropriating authority is willing to pay, you may take the matter to the (Land Compensation Board or the Surface Rights Board, as the case may be) at . . . . .

(Where the expropriating authority is the Crown, add: or if you prefer you may commence proceedings in the Supreme Court of Alberta.)