

1978 BILL 44

Fourth Session, 18th Legislature, 27 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 44

THE ALBERTA HISTORICAL RESOURCES
AMENDMENT ACT, 1978

MR. WOLSTENHOLME

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 44
Mr. Wolstenholme

BILL 44

1978

THE ALBERTA HISTORICAL RESOURCES AMENDMENT ACT, 1978

(Assented to , 1978)

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

1 The Alberta Historical Resources Act is amended by this Act.

2 Section 1 is amended

(a) by repealing clause (a) and substituting the following:

(a) "archaeological resource" means a work of man that

(i) is primarily of value for its prehistoric, historic, cultural or scientific significance, and

(ii) is or was buried or partially buried in land in Alberta or submerged beneath the surface of any watercourse or permanent body of water in Alberta,

and includes those works of man or classes of works of man that are designated by the regulations as archaeological resources;

(b) in clause (f) by striking out "historical" wherever it occurs and substituting "historic";

(c) by repealing clause (g) and substituting the following:

(g) "historic resource" means any work of nature or of man, that is primarily of value for its palaeontological, archaeological, prehistoric, historic, cultural, natural, scientific or aesthetic interest including, but not limited to, a palaeontological, archaeological, prehistoric, historic or natural site, structure or object;

Explanatory Notes

1 This Bill will amend chapter 5 of the Statutes of Alberta, 1973.

2 Section 1 (a), (f) and (g) presently read:

1 In this Act

(a) "archaeological site" means any historic site containing historical resources which are buried or partially buried on land or submerged or partially submerged beneath the surface of any watercourse or permanent body of water;

(f) "historical object" means any historical resource of a moveable nature including any specimen, artifact, document or work of art;

(g) "historical resource" means any work of nature or of man, that is primarily of interest for its palaeontological, prehistorical, historical, cultural, natural, scientific or aesthetic value including, but not limited to, a palaeontological, prehistorical, historical or natural site, structure or object;

(d) by adding the following after clause (i):

(j) “palaeontological resource” means a work of nature consisting of or containing evidence of extinct multicellular beings and includes those works of nature or classes of works of nature that are designated by the regulations as palaeontological resources;

(k) “Provincial Historic Resource” means an historic resource that is designated under section 18(1) as a Provincial Historic Resource;

(l) “Registered Historic Resource” means an historic resource that is designated under section 17(1) as a Registered Historic Resource;

3 Section 3(2) is amended by striking out “section 4, section 5, subsection (1), section 8 or section 14” and substituting “this Act, other than under sections 5(2), 16.1(4), 18.2(d)(ii), 19(a) and (a.1) and 20.5,”

4 The following is added after section 3:

3.1(1) The Minister may from time to time engage the services of experts or persons having special technical or other knowledge to advise him or to inquire into and report to him on matters under this Act.

(2) A person whose services are engaged under this section may be paid such remuneration and expenses as the Minister may prescribe.

5 Section 8(h) is amended

(i) in subclause (i) by striking out “and storage” and substituting “, storage, publication and public exhibition”, and

(ii) in subclause (ii) by striking out “and preservation” and substituting “preservation, publication and public exhibition”.

6 The title to Part 3 is repealed and “**HISTORIC RESOURCE MANAGEMENT**” is substituted.

3 Section 3(2) presently reads:

3(2) The Minister may delegate any of his powers, duties or functions under section 4, section 5, subsection (1), section 8 or section 14 to any employee appointed under subsection (1).

4 Experts and advisors.

5 Section 8(h) presently reads:

8 The Minister may

(h) provide for the operation, maintenance and development of the Provincial Archives of Alberta for

(i) the preservation and storage of public records (as defined in The Department of Government Services Act), and

(ii) the acquisition and preservation of documents parchments, manuscripts records, books, maps, plans, photographs, magnetic tapes or other materials regardless of physical form the preservation of which is in the public interest.

6 Title to Part 3 presently reads:

HISTORIC SITES

7 *Section 14 is amended*

(a) *in clause (a) by*

(i) *renumbering it as clause (a.1), and*

(ii) *striking out “, Registered Historic Sites, Classified Historic Sites and Provincial Historic Sites” and substituting “Registered Historic Resources and Provincial Historic Resources”.*

(b) *by adding the following before renumbered clause (a.1):*

(a) *designate and protect historic resources;*

(c) *in clause (c) by striking out “Sites” and substituting “Resources that are owned by the Crown or wholly located on Crown lands”.*

8 *Sections 17 and 18 are repealed and the following is substituted:*

17(1) The Minister, after giving the owner 60 days' notice of his intention to do so, may by order designate any historic resource the preservation of which he considers to be in the public interest, together with any land in or on which it is located and adjacent land that may be specified in the order, as a Registered Historic Resource.

(2) The Minister shall

(a) serve a copy of the order on the owner of the historic resource and the owner of any land that will be subject to the order,

(b) cause a notice of the designation, including a description of the historic resource, to be published in the Alberta Gazette, and

(c) if the order relates to or includes any land, cause a certified copy of the order to be registered in the appropriate Land Titles Office.

(3) Upon the registration of a certified copy of the order in the appropriate Land Titles Office, the Registrar shall endorse a memorandum of the registration on the certificate of title to any land affected by the order.

(4) An order under subsection (1) is effective

(a) as against the owner of the historic resource and the owner of any land that is subject to the order, when he is served with a copy of the order or the notice under subsection (2)(b) is published in the Alberta Gazette, whichever occurs first, and

7 Section 14(a) and (c) presently read:

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 Historic Sites, Classified Historic Sites and Provincial Historic Sites;

(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 Provincial Historic Sites;

17 Sections 17 presently reads:

17(1) The Minister may, after giving 30 days' notice of his intention to do so, by order designate any historic site whose preservation is in the public interest, together with such adjacent land as may be specified in the order, as a "Registered Historic Site".

(2) The Minister shall serve a copy of the order on the owner and 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 Historic 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 Historic Site or remove any heritage object from a Registered Historic Site until the expiration of 30 days from the date of serving notice on the Minister or the Executive Director of his proposed action, unless the Minister sooner consents to the proposed action.

(5) Notice or service on an owner under this section shall be given personally or by registered mail on the owner of the site as shown in the records of the Land Titles Office.

(6) Where the Minister revokes an order made under subsection (1), he shall serve a copy of the rescinding order on the owner and register a certified copy of the order in the appropriate Land Titles Office the Registrar of which shall make a memorandum on the title or titles to the land concerned cancelling the registration of the order under subsection (1).

(b) as against all other persons, when the notice under subsection (2)(b) is published in the Alberta Gazette.

(5) Notwithstanding any other Act, no person shall

(a) destroy, disturb, alter, restore or repair any historic resource or land that has been designated under this section, or

(b) remove an historic object from an historic resource that has been designated under this section,

until the expiration of 90 days from the date that notice of his proposed action is served on the Minister, unless the Minister sooner consents to the proposed action.

(6) Upon the service of a notice of intention under subsection (1), subsection (5) applies to the historic resource and land as if an order under subsection (1) had been made and was effective under subsection (4), until such time as the Minister makes the order or revokes the notice of intention or until the expiry of 120 days from the receipt of the notice.

(7) Notwithstanding subsection (6), a person who has been served with a notice of intention under subsection (1) may apply by originating notice to the District Court of Alberta or the Supreme Court of Alberta for an order shortening the period of 120 days mentioned in subsection (6).

(8) Where the Minister rescinds an order made under subsection (1), he shall

(a) serve a copy of the rescinding order on the owner of the historic resource and the owner of any land that is subject to the order,

(b) cause a notice of the rescinding order to be published in the Alberta Gazette, and

(c) if the order under subsection (1) was registered against the certificate or certificates of title to any land, cause a certified copy of the rescinding order to be registered in the appropriate Land Titles Office.

(9) Upon the registration of a certified copy of a rescinding order in the appropriate Land Titles Office, the Registrar shall endorse a memorandum on the certificate of title to any land concerned cancelling the registration of the order under subsection (1).

18(1) The Minister may by order designate any historic resource the preservation of which he considers to be in the public interest, together with any land in or on which it is located and adjacent land that may be specified in the order, as a Provincial Historic Resource.

(2) The Minister shall

(a) serve notice of his intention to make an order under subsection (1) on the owner of the historic resource and on the owner of any land that will be subject to the order, and

(b) publish notice of his intention to make an order under subsection (1) in the Alberta Gazette,

at least 60 days prior to the date on which he proposes to make the designation.

(3) A notice under subsection (2) shall contain a description of the historic resource that the Minister proposes to designate and shall state 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.

(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 on which the Minister proposes to make the designation, and the Board may, after hearing the representations, make recommendations to the Minister as to the proposed designation.

(6) If no representations are made or if the Board after hearing any representations recommends that the Minister proceed with the proposed designation, the Minister may proceed to make the order under subsection (1) and as soon as possible after making the order the Minister shall

(a) serve a copy of the order on the owner of the historic resource and on the owner of any land that is subject to the order,

(b) cause a notice of the designation, including a description of the historic resource and any land that is subject to the order, to be published in the Alberta Gazette, and

18 Section 18 presently reads:

18(1) The Lieutenant Governor in Council upon the recommendation of the Minister may by order designate any historic site whose preservation is in the public interest, together with any adjacent land which may be specified in the order, as a "Classified Historic Site".

(2) The Minister shall

(a) serve notice of his intention to recommend the designation of any site as a Classified Historic 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.

(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 Historic 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 Historic 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 Historic Site or remove any historic object from a Classified Historic Site without the written approval of the Minister.

(10) The owner of any property comprising in whole or in part a Classified Historic 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.

(c) if the order relates to or includes any land, cause a certified copy of the order to be registered in the appropriate Land Titles Office.

(7) Upon the registration of a certified copy of an order in the appropriate Land Titles Office, the Registrar shall endorse a memorandum on the certificate of title to any land affected by the order.

(8) An order under subsection (1) is effective

(a) as against the owner of the historic resource and the owner of any land that is subject to the order, when he is served with a copy of the order or the notice under subsection (6)(a) is published in the Alberta Gazette, whichever occurs first, and

(b) as against all other persons, when the notice under subsection (6)(b) is published in the Alberta Gazette.

(9) Notwithstanding any other Act, no person shall

(a) destroy, disturb, alter, restore, repair any historic resource or land that has been designated under this section, or

(b) remove an historic object from an historic resource that has been designated under this section

without the written approval of the Minister.

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

(11) The owner of an historic resource that is subject to an order under subsection (1) shall, at least 30 days before any sale or other disposition of the historic resource, serve notice of the proposed sale or other disposition upon the Minister.

(12) Where a person inherits an historic resource that is subject to an order under subsection (1), that person shall notify the Minister of the inheritance within 15 days of the historic resource being transferred to him.

(13) Upon service of a notice of intention under subsection (2), subsections (8) to (12) apply to the historic resource and land as if an order under subsection (1) had been made and was effective under subsection (8), until such time as

(13) Where the Lieutenant Governor in Council rescinds an order made under subsection (1), the Minister shall

(a) serve a copy of the rescinding order personally or by registered mail on the owner of the site as shown in the records of the Land Titles Office, and

(b) register a certified copy of that order in the appropriate Land Titles Office the Registrar of which shall make a memorandum on the title or titles to the land concerned cancelling the registration of the order made under subsection (1).

the Minister makes the order or revokes the notice of intention or until the expiry of 120 days from service of the notice.

(14) Notwithstanding subsection (13), a person who has been served with a notice of intention under subsection (2) may apply by originating notice to the District Court of Alberta or the Supreme Court of Alberta for an order shortening the period of 120 days mentioned in subsection (13).

(15) If the Minister rescinds an order made under subsection (1), he shall

(a) serve a copy of the rescinding order on the owner of the historic resource and the owner of any land that is subject to the order,

(b) cause a notice of the rescinding order to be published in the Alberta Gazette, and

(c) if the order under subsection (1) was registered against the certificate or certificates of title to any land, cause a certified copy of the rescinding order to be registered in the appropriate Land Titles Office.

(16) Upon the registration of a certified copy of a rescinding order in the appropriate Land Titles Office, the Registrar shall endorse a memorandum on the certificate of title to any land concerned cancelling the registration of the order under subsection (1).

18.1 A notice, order or other document under section 17 or 18 may be served by personal service or registered mail or in such other manner as the District Court of Alberta or the Supreme Court of Alberta may direct.

18.2 If the historic resource that is the subject of an order under section 18(1) is an historic resource that is owned by the Crown or wholly situated on Crown lands,

(a) sections 18(2), (4), (5), (6)(a), (7)(a), (10) to (14) and (15)(a) do not apply with respect to that historic resource,

(b) at least 60 days prior to the date of making an order under section 18(1), the Minister shall give notice of his intention to make the order to the Minister of the Crown who has the administration the land or historic resource,

(c) no sale or other disposition of property that is the subject of an order under section 18(1) may be made without giving the Minister at least 60 days notice, and

18.1 Service of notice.

18.2 Classified Historic Sites and Provincial Historic Sites have been combined into a single category under the proposed amendments to section 18. Clause (d) of proposed section 18.2 is a variation of what is presently in section 24 of the Act.

- (d) the Minister may,
 - (i) restore, alter or demolish any structure located within the area designated as a Provincial Historic Resource, and
 - (ii) make regulations governing the management and development of the Provincial Historic Resource.

9 *Section 19 is amended*

(a) *in clause (a) by striking out “Classified Historic Sites, and” and substituting “Provincial Historic Resources,”*

(b) *by adding the following after clause (a):*

(a.1) make regulations governing signs and billboards on Provincial Historic Resources, and

(c) *in clause (b) by striking out “Classified Historic Site” and substituting “Provincial Historic Resource”.*

10 *The following is added after section 19:*

19.1(1) The Lieutenant Governor in Council may by regulation establish any area of Alberta as a Provincial Historic Area.

(2) Where the Lieutenant Governor in Council establishes a Provincial Historic Area he may, with respect to the Area, by regulation,

(a) prohibit or regulate and control the use, development or occupation of land or buildings;

(b) prohibit or regulate and control the exercise of any power specified in the regulations by

(i) a specified Minister of the Crown, or

(ii) a government agency;

(c) prohibit or regulate and control the demolition, removal, repair, construction or reconstruction of buildings or other things;

(d) authorize the acquisition by purchase or expropriation by a specified Minister of the Crown of any estate or interest in the land;

(e) authorize any specified Minister of the Crown, government agency or any other person to consent to

9 The amendments in clauses (a) and (c) are consequential to section 8 of this Bill.

The proposed new clause (a.1) authorizes regulations with respect to signs and billboards on Provincial Historic Sites.

19.1 Provincial Historic Areas.

or approve any particular kind of use, development or occupation of land or to exempt any particular kind of use, development or occupation from the operation of any provision of the regulations made under this section;

(f) regulate and control the construction, height, location or size of buildings;

(g) make any or all of the provisions of *The Surface Rights Act* inapplicable to lands of the Crown;

(h) prohibit, with respect to any land of the Crown in the area, any expropriation to which *The Expropriation Act* applies;

(i) confer on any specified Minister of the Crown, with or without conditions, any power or duty under the regulations.

(3) In this section, “government agency” means a corporation that is an agent of the Crown in right of Alberta, a government official or any corporation, commission, board or other body empowered to exercise 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.

(4) Unless the contrary is expressly declared in regulations made under this section, the regulations operate notwithstanding *The Planning Act, 1977*.

19.2(1) If a Provincial Historic Area is established pursuant to section 19.1, the Minister shall file a notice to that effect together with a certified copy of the regulation with the Registrar for the land registration district in which the Area is situated, and the Registrar shall endorse a memorandum of the notice on each certificate of title pertaining to land within the Area.

(2) If a regulation made pursuant to section 19.1 is amended

(a) the Minister shall file a further notice respecting the amending regulation together with a certified copy of the amending regulation,

(b) the Registrar shall keep the further notice with the original notice and shall treat them as one document, and

19.2 Registration in land titles offices of notice of Provincial Historic Area regulations.

(c) subject to subsections (3) and (4), the Registrar shall not make any further endorsement on any certificate of title in respect of the further notice.

(3) If a regulation made pursuant to section 19.1 is amended and the effect of the amendment is to add land to the Area, the Registrar shall, upon receiving the further notice under subsection (2), endorse on each certificate of title for the additional land a memorandum of the original notice under subsection (1) and the further notice under subsection (2).

(4) If a regulation made pursuant to section 19.1 is amended and the effect of the amendment is to remove any land from the Area, the Registrar shall, upon receiving the further notice under subsection (2), cancel the memorandum of the original notice under this section on each certificate of title to the land so removed.

(5) If a regulation made under section 19.1 is rescinded and not replaced, the Minister shall file a notice to that effect and a copy of the rescinding regulation with the Registrar who shall cancel the memorandum of the original notice on each certificate of title to the land previously within the Area.

(6) If a regulation made pursuant to section 19.1 is rescinded and replaced by another regulation under this section, the Minister shall file with the Registrar a notice to that effect and a certified copy of the new regulation and the Registrar shall

(a) with respect to land that was subject to the rescinded regulation and is also subject to the new regulation, cancel the memorandum on the certificate of title for the land of the notice pertaining to the rescinded regulation and endorse a memorandum on the certificate of title of the notice pertaining to the new regulation, which shall be then treated as a notice under subsection (1),

(b) with respect to land that was subject to the rescinded regulation but is not subject to the new regulation, cancel the memorandum of the notice on the certificate of title for the land, and

(c) with respect to land that was not subject to the rescinded regulation but is subject to the new regulation, treat the notice as a notice under subsection (1) and act accordingly.

(7) Upon filing with a Registrar of a notice under subsection (1), (2), (5) or (6), the Registrar shall send a notification respecting the filing of the notice, but without sending a copy of the regulation, amending regulation or rescinding regulation to which the notice relates, by mail or otherwise, to each registered owner upon whose title a memorandum of the notice is endorsed.

(8) The Minister shall send, by mail or otherwise, to each person shown on a certificate of title as having an estate or interest in the lands affected by any regulation, amending regulation or rescinding regulation referred to in subsection (1), (2), (5) or (6), at the last reasonably ascertainable address of the person, a copy of the regulation, amending regulation or rescinding regulation, as the case may be, together with a notification relating to it containing such information as the Minister considers necessary.

(9) The validity or operation of a regulation made pursuant to section 19.1 is not dependant upon the filing of any notice by the Minister with a Registrar under this section.

19.3(1) In this section and in sections 19.4 and 19.5,

(a) “municipality” means a city, town, new town, village, summer village, county, municipal district, improvement district or special area;

(b) “council” means

(i) the council of a city, town, village, summer village, municipal district or county, or

(ii) the board of administrators of a new town.

(2) A council of a municipality, after giving the owner 60 days’ notice, may by by-law designate any historic resource within the municipality whose preservation it considers to be in the public interest, together with any land in or on which it is located that may be specified in the by-law, as a Municipal Historic Resource.

(3) A council that designates an historic resource as a Municipal Historic Resource under subsection (2) shall

(a) cause a copy of the by-law to be served on the owner of the historic resource and the owner of any land that will be subject to the by-law, and

(b) if the by-law relates to or includes any land, cause a certified copy of the by-law to be registered at the appropriate Land Titles Office.

19.3 Municipal Historic Resources.

(4) Upon the registration of a certified copy of the by-law at the appropriate Land Titles Office, the Registrar shall endorse a memorandum on the certificate or certificates of title to any land affected by the by-law.

(5) A by-law under subsection (2) is effective when it is passed.

(6) Notwithstanding any other Act, no person shall

(a) destroy, disturb, alter, restore or repair an historic resource that has been designated under this section, or

(b) remove any historic object from an historic resource that has been designated under this section,

without the written approval of the council or a person appointed by the council for the purpose.

(7) The council or the person appointed by the council, in its or his absolute discretion, may refuse to grant an approval under subsection (6) or may make the approval subject to such conditions as it or he considers appropriate.

(8) Upon the service of a notice of intention under subsection (2), subsection (6) applies to the historic resource and land as if a by-law under subsection (2) had been passed until such time as the Council passes the by-law or revokes the notice of intention or until the expiry of 120 days from the receipt of the notice.

(9) Notwithstanding subsection 8, a person who has been served with a notice of intention under subsection (2) may apply by originating notice to the District Court of Alberta or the Supreme Court of Alberta for an order shortening the period of 120 days mentioned in subsection (8).

(10) If the council repeals a by-law made under subsection (2), it shall

(a) cause a copy of the repealing by-law to be served on the owner, and

(b) if the by-law under subsection (2) was registered against the certificate or certificates of title to any land, cause a certified copy of the repealing by-law to be registered in the appropriate Land Titles Office.

(11) Upon the registration of a certified copy of the repealing by-law in the appropriate Land Titles Office, the Registrar shall endorse a memorandum on the certificate or certificates of title to the land concerned cancelling the registration of the by-law under subsection (2).

(12) A notice or by-law under this section may be served on the owner by personal service or registered mail or in such other manner as the District Court of Alberta or the Supreme Court of Alberta may direct.

19.4(1) If it is of the opinion that the preservation of the historical character of any part of the municipality is in the public interest, a council may by by-law

(a) designate that part of the municipality as a Municipal Historic Area, and

(b) prohibit or regulate and control the use and development of land and the demolition, removal, construction or reconstruction of buildings within the Municipal Historic Area.

(2) A by-law under subsection (1) shall be deemed to form part of the land use by-law of the municipality and the provisions of *The Planning Act, 1977* relating to a land use by-law apply to the by-law under subsection (1).

(3) Notwithstanding subsection (2), if the municipality has no land use by-law, *The Planning Act, 1977* is nevertheless applicable to the by-law under subsection (1) as though a land use by-law for the municipality were in existence and the by-law under subsection (1) were part of that land use by-law.

19.5(1) If a by-law under section 19.3 or 19.4 decreases the economic value of a building, structure or land that is within the area designated by the by-law, the council shall by by-law provide the owner of that building, structure or land with compensation for the decrease in economic value.

(2) If the council and the owner can not agree upon the compensation payable under subsection (1), the owner or the Minister may apply to the Land Compensation Board established under *The Expropriation Act* to determine the amount of compensation payable by the council to the owner for the decrease in economic value.

(3) When an application is made to the Land Compensation Board pursuant to subsection (2), *The Expropriation Act* and the regulations made under it respecting the determination of compensation, hearings and procedures, including interest, costs and appeals apply to the application with all necessary modifications.

(4) The council may, with the agreement of the owner, provide the compensation under subsection (1) by grant, tax relief or any other means.

19.4 Municipal Historic Area.

19.5 Compensation for decrease in economic value.

19.6(1) A condition or covenant, relating to the preservation or restoration of any land or building, entered into by the owner of land and

- (a) the Minister,
- (b) the council of the municipality in which the land is located,
- (c) the Foundation, or
- (d) an historical organization that is approved by the Minister,

may be registered with the Registrar of the land registration district in which the land is located.

(2) When a condition or covenant under subsection (1) is presented for registration, the Registrar of the land registration district in which the land is located shall endorse a memorandum of the condition or covenant on any certificate of title relating to that land.

(3) A condition or covenant registered under subsection (2) runs with the land and the person or organization under subsection (1) that entered into the condition or covenant with the owner may enforce it whether it is positive or negative in nature and notwithstanding that the person or organization does not have an interest in any land that would be accommodated or benefitted by the condition or covenant.

(4) A condition or covenant registered under subsection (2) may be assigned by the person or organization that entered into it with the owner to any other person or organization mentioned in subsection (1), and the assignee may enforce the condition or covenant as if it was the person or organization that entered into the condition or covenant with the owner.

(5) If the Minister considers it in the public interest to do so, he may by order discharge or modify a condition or covenant registered under subsection (2), whether or not he is a party to the condition or covenant.

(6) If the Minister discharges or modifies a covenant or caveat under subsection (5), he shall register a copy of the order with the Registrar for the land registration district in which the land is located and the Registrar shall endorse a memorandum discharging or modifying the condition or covenant on the certificate or certificates of title to the land.

19.6 Condition or covenant on land.

(7) This section applies notwithstanding section 52 of *The Land Titles Act*.

(8) No condition or covenant under this section shall be deemed to be an encumbrance within the meaning of *The Land Titles Act* or *The Tax Recovery Act*.

11 *Section 20 is amended*

(a) *by repealing subsections (1) and (2) and substituting the following:*

20(1) Subject to subsection (2), no person shall make an excavation on any land in Alberta for the purpose of seeking or collecting historic resources unless he is the holder of a valid permit issued under this section.

(2) The Minister may exempt any person from the requirements of subsection (1) upon such conditions as he considers appropriate.

(2.1) The Minister may issue permits authorizing the person named in the permit to make excavations for the purpose of seeking or collecting historic resources on any land in Alberta described in the permit.

(b) *in subsection 3(c), by striking out “historic objects” and substituting “historic resources”.*

12 *The following is added after section 20:*

20.1 A person who discovers an historic resource in the course of making an excavation for a purpose other than for the purpose of seeking historic resources shall forthwith notify the Minister of the discovery.

20.2(1) The property in all archaeological resources and palaeontological resources within Alberta is vested in the Crown in right of Alberta.

(2) No sale or other disposition of land belonging to the Crown in right of Alberta shall operate as a conveyance of an archaeological resource or palaeontological resource situated on or under the land unless the sale or other disposition expressly states that it does so operate.

11 Section 20(1), (2) and (3) (c) presently read:

20(1) The Minister may issue research permits authorizing the person named therein to make excavations on any land in Alberta described in the permit.

(2) No person may make excavations on any land in Alberta for the purpose of seeking historic objects or resources without holding a valid and subsisting research permit.

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

(c) the holder shall deliver possession of all historic objects recovered while excavating pursuant to the research permit to any public institution which the Minister may designate,

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

20.1 Notification of Minister as to discoveries of historic resources.

20.2 Title to archaeological property does not pass with land.

20.3 No person shall transport any of the following out of Alberta without the written permission of the Minister:

- (a) archaeological resources;
- (b) palaeontological resources;
- (c) historic resources that are the subject of an order under section 17 or 18.

20.4 No person shall alter, mark or damage an archaeological resource or palaeontological resource unless he is the holder of a valid permit under section 20 or has the written permission of the Minister to do so.

20.5 The Minister may make regulations exempting any person or class of persons from the operation of section 20.3 or 20.4.

13 Section 22 is amended

(a) in subsection(1)(a) by striking out “historic sites which the Minister has reason to believe may qualify as a Registered Historic Site or a Classified Historic Site” and substituting “historic resources that the Minister has reason to believe may qualify as a Registered Historic Resource or a Provincial Historic Resource”,

(b) in subsection (1)(b) by striking out “Classified Historic Site” and substituting “Provincial Historic Resource”, and

(c) by repealing subsection (4).

14 Section 24 is repealed.

20.3 Transport of historic resources out of Alberta

20.4 Prohibits damage to archaeological resources and palaeontological resources.

20.5 Regulations.

13 The amendments to subsection (1) are consequential to section 8 of this Bill. Subsection (4) is redundant in view of section 36 of the Act.

Section 22(4) presently reads:

22(4) Where the Minister requires the person to carry out the assessment, prepare and submit the report and undertake the salvage, preservation or protective measures referred to in subsection (2), clauses (a), (b) and (c), the Minister may authorize the payment by the Government of all or any part of the cost thereof.

14 Consequential to section 8 of this Bill.

Section 24 presently reads:

24(1) The Lieutenant Governor in Council may by order designate any historic site wholly situated on Crown lands as a "Provincial Historic Site".

(2) The Minister may, after consultation with the Board,

(a) restore, alter or demolish any structures located within a Provincial Historic Site,

(b) determine the times, terms and conditions under which the public is admitted to any Provincial Historic Site, and

(c) make any regulations necessary for the proper management and development of the Provincial Historic Site.

15 Section 35 is amended

(a) in subsection (1) by striking out “site which could be designated as a Registered Historic Site or as a Classified Historic Site” and substituting “historic resource that could be designated as a Registered Historic Resource or as a Provincial Historic Resource”, and

(b) in subsection (2)

(i) by striking out “site” wherever it occurs and substituting “historic resource”, and

(ii) by striking out “Classified Historic Site” wherever it occurs and substituting “Provincial Historic Resource”.

16 Section 36 is amended by adding “, other than sections 19.3, 19.4 and 19.5,” after “this Act”.

17 Section 38 is amended by striking out “Classified Historic Site” wherever it occurs and substituting “Provincial Historic Resource”.

18 Section 39 is amended by striking out “section” and substituting “sections 19.3, 19.4 and”.

19 Upon the commencement of section 8 of this Act,

(a) every Registered Historic Site that was designated prior to the commencement of section 8 shall, for all purposes, be deemed to be a Registered Historic Resource under section 17 of The Alberta Historical Resources Act, and

(b) every Classified Historic Site and Provincial Historic Site that was designated prior to the commencement of section 8 shall, for all purposes, be deemed to be a Provincial Historic Resource under section 18 of The Alberta Historical Resources Act.

20 The Improvement Districts Act is amended in section 18(1) by striking out “or The Planning Act, 1977” and substituting “The Planning Act, 1977 or The Alberta Historical Resources Act”.

15 Consequential to section 8 of this Bill.

16 Section 36 presently reads:

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.

17 Consequential to section 8 of this Bill.

18 Section 39 presently reads:

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

19 Transitional.

20 Amends chapter 180 of the Revised Statutes of Alberta, 1970. Section 18(1) of The Improvement Districts Act presently reads:

18(1) The Minister may by order provide for the doing, in an improvement district or any part thereof, of anything a council may by by-law or resolution enact to be done under The Municipal Government Act or The Planning Act, 1977.

21 *The Planning Act, 1977 is amended*

(a) *in section 1, clause 14 by adding “and includes a by-law under section 19.4 of The Alberta Historical Resources Act” after “Act”, and*

(b) *in section 4 by adding “and in section 19.5 of The Alberta Historical Resources Act” after “Except as provided in this Act”.*

22 *This Act comes into force on a date or dates to be fixed by Proclamation.*

21 Amends chapter 89 of the statutes of Alberta, 1977. Section 1, clause 14 and section 4 of The Planning Act, 1977 presently read:

1 In this Act,

14 "land use by-law" means a by-law of a council passed as a land use by-law in accordance with this Act;

4 Except as provided in this Act, nothing in this Act or the regulations or in any regional plan, statutory plan, replotting scheme or land use by-law gives a person a right to compensation.