

1987 BILL 17

Second Session, 21st Legislature, 36 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 17

SURVEYS ACT

THE MINISTER OF FORESTRY, LANDS AND WILDLIFE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

NOTICE

Measurements used in this Act are in Imperial measure in order to preserve the original dimensions of the Alberta Township System. For information purposes only, the approximate metric equivalents of measurements used in this Act are as follows:

Section	Imperial Unit	Approximate Metric Equivalent
18	1 mile	1.609 kilometres
20	66 feet	20.117 metres
	1 mile	1.609 kilometres
	2 miles	3.218 kilometres
24(1)	160 acres	64.750 hectares
26(4)	66 feet	20.117 metres
28	40 acres	16.187 hectares
41(2)	150 feet	45.720 metres

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SURVEYS ACT

(Assented to , 1987)

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

Definitions

1 In this Act,

- (a) “agreement of transfer” means the agreement set out in the Schedule to *The Alberta Natural Resources Act*, chapter 21 of the Statutes of Alberta, 1930;
- (b) “Alberta Township System of Survey” means the system of survey described in sections 18 to 28;
- (c) “base line” means a base line as described in section 23(2);
- (d) “correction line” means a correction line as described in section 23(3) and (4);
- (e) “Director” means the Director of Surveys designated pursuant to section 4;
- (f) “geographical positioning system” means a series of data bases co-ordinated by the Director that contain the geographical positions of survey control markers, land survey monuments and photogrammetric control points;
- (g) “identifier” means a label on a map that corresponds to a description contained in the mapping system;
- (h) “land-related information systems network” means a series of data bases co-ordinated by the Director that contain information on land or related to land and that are compatible because all the data bases

- (i) contain geographically positioned data elements, and
- (ii) adhere to common design standards;
- (i) “Land Titles Office” means a Land Titles Office established pursuant to the *Land Titles Act*;
- (j) “legal subdivision” means legal subdivision as described in section 28;
- (k) “mapping system” means a series of data bases co-ordinated by the Director that cover a range of accuracy and detail levels, that contain at least the positions of points, lines and areas and their identifiers, and that depict the survey control, land survey system, hydrographic features, relief features, municipal boundaries and transportation features;
- (l) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (m) “monument” means a brass tablet, iron post, wooden post, mound, pit or trench, or anything else used by a surveyor to mark a boundary, corner or line;
- (n) “official plan” means a plan confirmed pursuant to section 30;
- (o) “public land” means land vested in the Crown in right of Alberta;
- (p) “Registrar” means a Registrar as defined in the *Land Titles Act*;
- (q) “survey control” means a network of interrelated survey control markers whose co-ordinate positions form part of the geographical positioning system;
- (r) “survey control marker” means any mark, other than a monument, set in the ground whose co-ordinate position is confirmed by the Director under section 8;
- (s) “surveyor” means an Alberta land surveyor as defined in the *Land Surveyors Act*;
- (t) “well” means a well as defined in the regulations for the purposes of this Act.

Application
of Act

2(1) This Act applies to surveys of any land within Alberta that is within the legislative competence of the Legislature.

(2) Nothing in this Act applies to surveys of land continued to be vested in and administered by the Government of Canada as National Parks under the agreement of transfer or to surveys of land in Indian reserves.

PART 1
GENERAL

- Old surveys **3(1)** Any survey of land completed before March 28, 1931, certified as correct and registered, is deemed for the purposes of this Act to have been made under this Act.
- (2) Any survey of land made under the *Dominion Lands Surveys Act* (Canada) before July 1, 1931 is deemed for the purposes of this Act to have been made under this Act.
- (3) Any survey of land with respect to which a plan has been registered at the Land Titles Office or an official plan has been confirmed or approved by the Director of Surveys prior to the coming into force of this Act is deemed for the purposes of this Act to have been made under this Act.
- Director of Surveys **4** The Minister shall designate an employee under his administration who is a surveyor as the Director of Surveys.
- Director's duties **5** The Director shall
- (a) co-ordinate the establishment and maintenance of a geographical positioning system for Alberta,
 - (b) co-ordinate the establishment and maintenance of a mapping system for Alberta,
 - (c) co-ordinate the development and maintenance of a land-related information systems network for Alberta,
 - (d) maintain the network of survey control markers and controlled photographic diapositives that are the physical elements of the geographical positioning system,
 - (e) provide a cartographic service, and
 - (f) perform any other duties prescribed by this Act.
- Inspection of survey **6(1)** If a plan of survey has not been registered at a Land Titles Office the Director may, on the application of a Registrar or the Council of the Alberta Land Surveyors' Association, or for any reason that the Director considers sufficient, make an inspection of the survey or order an inspection to be made by a surveyor he appoints.
- (2) The Director, or a surveyor appointed under subsection (1),
- (a) shall inspect any survey concerning which an application has been made and any survey with respect to which the Director considers there is sufficient reason, and
 - (b) shall consider any evidence that may have been presented to the surveyor who made the survey.
- (3) If the Director makes an inspection referred to in subsection (2), the Director shall make a report of it and if a surveyor makes an inspection referred to in subsection (2), the surveyor shall make a report and submit it to the Director and submit any records that the Director may request.

(4) If an inspection is made pursuant to an application under subsection (1), the Director shall submit a report on the inspection to the Registrar or the Council of the Alberta Land Surveyors' Association, as the case may be.

(5) The Director may take steps that he considers advisable to correct any errors or omissions in a plan of survey before it is registered at a Land Titles Office.

Geographical
positioning and
mapping systems

7 The Minister may

- (a) co-ordinate the provision of a geographical positioning system,
- (b) co-ordinate the provision of a mapping system, and
- (c) enter into an agreement with a municipality for the purpose of providing a geographical positioning system and a mapping system within all or part of that municipality and the agreement may specify how the costs are to be distributed between the Government and the municipality,

in any area of Alberta where the Minister considers it necessary.

Survey control

8(1) Survey control may be established only by a surveyor in accordance with the specifications and instructions of the Director.

(2) A survey control marker becomes an integral part of the geographical positioning system if it meets the requirements of the regulations and the Director confirms its co-ordinate position.

Survey error
investigation

9(1) The Director shall on the receipt of a written notice from a land owner, the council of a municipality, the Council of the Alberta Land Surveyors' Association or the Inspector of Land Titles Offices stating that the position of a corner or boundary is in question as the result of an alleged error in a survey or may, for any reason the Director considers sufficient, conduct an investigation and report his findings to the Minister.

(2) If on the receipt of the report from the Director under subsection (1) the Minister is satisfied that an error in survey may have been made, the Minister may appoint a Board consisting of 3 members, 1 of whom shall be a member of The Law Society of Alberta and 1 of whom shall be a member of the Alberta Land Surveyors' Association, to investigate the alleged survey error.

(3) A member appointed under subsection (2) shall receive the remuneration and travelling and living expenses for services that the Minister determines.

(4) The Board appointed under subsection (2) shall notify by personal service or by registered mail

- (a) the registered owners of the land affected by the alleged error,
- (b) each surveyor whose survey may be affected by a decision of the Board, and
- (c) the Inspector of Land Titles Offices.

(5) A notification under subsection (4) shall state the nature of the alleged error and state a time and place at which a person who is referred to in subsection (4) and any person who claims to have an interest in or knowledge of the corner or boundary under investigation, and notifies the Board in writing of their desire to be heard, may be heard.

(6) The Board may

(a) hear any persons who may have information affecting the corner or boundary under investigation, and

(b) if it has reason to believe that a person is in possession of information about the true position of the corner or boundary under investigation and does not willingly appear before it to present the information, apply to a justice of the peace for a subpoena commanding the person to appear before the Board and to give any evidence or information he may possess affecting the corner or boundary in question.

(7) The Board has the powers and duties of an arbitrator under section 7 of the *Arbitration Act*.

(8) The Board, on completing the investigation, may

(a) order that surveys and survey plans be varied, altered or amended in the manner that it directs;

(b) order that any descriptions, certificates of title or plans of survey deposited, filed or registered in a Land Titles Office be varied, amended or altered as may be necessary to reflect the true position of monuments or boundaries, or the accuracy of dimensions or areas;

(c) order costs to be paid by or to any person who is a party to the investigation.

(9) Any party may appeal an order of the Board to the Court of Queen's Bench by originating notice within 30 days after issue of the order by the Board under subsection (8).

Survey format
and monument

10(1) All surveys made under this Act shall be made

(a) under the personal supervision of a surveyor,

(b) in accordance with good surveying practices, and

(c) in accordance with this Act and the regulations,

and the plan of a survey shall be certified under oath by a surveyor in the prescribed form.

(2) All monuments shall meet the requirements of this Act and the regulations.

Standard of
measure

11(1) The measure of length used in surveys made under this Act shall be the Canadian or the International System measure of length defined by the *Weights and Measures Act* (Canada).

(2) A surveyor shall verify

(a) all tapes used by him by comparison with a subsidiary standard of a type approved for that purpose by the Director or by a person authorized in writing by the Director, and

(b) all electronic linear measuring devices used by him by comparison with calibration base lines established by the Minister for that purpose.

Evidential value
of copies of
certain records

12(1) Copies of any records, documents, plans, books or papers belonging to or deposited in the Director's office and attested under the signature of the Minister, the Director or any person authorized in writing by the Minister shall be admitted in evidence in all cases in which the original records, documents, books, plans or papers would be admissible as evidence.

(2) Lithographed or other copies of maps or plans that purport to be issued or published in accordance with this Act or the regulations, in the possession of a department as defined in the *Financial Administration Act* or the Government of Canada, shall be admitted in evidence as prima facie proof of the originals, and of the contents of the originals.

Evidence under
oath before a
surveyor

13(1) For the purposes of this Act, an affidavit or oath made pursuant to this Act may be taken before a surveyor.

(2) A surveyor may

(a) examine witnesses under oath with respect to all matters relating to the survey of land, and

(b) administer an oath to every person he examines in relation to those matters.

Compelling
attendance
of witness

14(1) When a surveyor

(a) is in doubt as to the true corner or boundary of any parcel that he is surveying, and

(b) has reason to believe that a person has information with respect to it or a plan or document that may establish its true position, and that person

(i) does not willingly appear before and allow himself to be examined by the surveyor, or

(ii) does not produce to the surveyor the plan or document on demand,

the surveyor may apply to a justice of the peace for a subpoena.

(2) An application under subsection (1) shall include an affidavit setting out reasonable grounds on which the surveyor believes the person has knowledge of or has a plan or document that pertains to the true position of a corner, boundary or limit.

(3) The justice of the peace may issue a subpoena commanding the person to appear before the surveyor at a time and place set out in the subpoena and may require him to bring a plan or document referred to in the subpoena.

(4) If a person who is served with a subpoena issued under subsection (3) and who has been tendered reasonable expenses

(a) does not appear before the surveyor at the time and place set out in the subpoena or does not produce the plan or document, if any, or

(b) does not give evidence on the corner, boundary or limit in question,

a justice of the peace may issue a warrant for the arrest of that person and that person is guilty of an offence.

Disposition
of evidence

15(1) A surveyor shall record in writing all evidence taken by him, and shall read the written record to the person giving the evidence.

(2) The person giving the evidence shall

(a) sign the written record of the evidence, or

(b) if he cannot write, acknowledge the written record as correct before 2 witnesses, who shall sign it,

and the surveyor shall also sign it.

(3) The evidence shall be filed and kept and any document or plan prepared and sworn to as correct by a surveyor with reference to a survey performed by him shall be filed and kept by him or a practitioner as defined in the *Land Surveyors Act*, subject to being produced as evidence in court.

Right to enter
private property

16 A surveyor and his authorized assistants may, using reasonable care, pass over, measure along and ascertain the bearings of any line or boundary, and for those purposes may pass over or through the land and buildings of any person, but the surveyor is liable for any damage the surveyor or his assistants cause.

Natural boundary

17(1) A surveyor who needs to determine the position of a natural boundary when performing a survey under this Act may do so by any survey method that has the effect of accurately determining its location at the time of survey, relative to the surveyed boundaries of the affected parcel.

(2) When surveying a natural boundary that is a body of water, the surveyor shall determine the position of the line where the bed and shore of the body of water cease and the line shall be referred to as the bank of the body of water.

(3) For the purpose of this section, the bed and shore of a body of water shall be the land covered so long by water as to wrest it from vegetation or as to mark a distinct character on the vegetation where it extends into the water or on the soil itself.

SURVEYS OF PUBLIC LAND IN UNSURVEYED TERRITORY

19 The sections in a township shall be arranged and numbered in the following order:

	NORTH						
	31	32	33	34	35	36	
	30	29	28	27	26	25	
	19	20	21	22	23	24	
WEST	18	17	16	15	14	13	EAST
	7	8	9	10	11	12	
	6	5	4	3	2	1	
	SOUTH						

(2) The first base line shall be the 49th parallel of latitude, the 2nd base line shall be between townships 4 and 5, the 3rd between town-

ships 8 and 9, the 4th between townships 12 and 13, the 5th between townships 16 and 17, and so on northerly, in regular succession.

(3) The correction lines are those on which the jog resulting from the convergence of meridians shall be allowed and are those lines running east and west between townships and midway between adjacent base lines.

(4) The correction lines are located between townships 2 and 3, between townships 6 and 7, between townships 10 and 11, and so on northerly, in regular succession.

Division of
sections

24(1) Each section shall be divided into quarter-sections of 160 acres, more or less, subject to this section.

(2) The north and south error in closing on the correction lines from the north and south shall be left in the rows of quarter-sections adjoining and north or south respectively of those correction lines, but in the case of a north and south error in those townships between the first and 2nd base lines, that error shall be left in the quarter-sections adjoining the first base line.

(3) In the survey of a township, the east and west error in closing on an existing surveyed meridian shall be left in the column of sections adjoining the meridian.

(4) If road allowances are not between but through sections, the area reserved for the road allowances shall not be included in the area recorded for a quarter-section or other parcel.

Monuments

25(1) Subject to section 27(1), only a single row of monuments to indicate the corners of a township, section or quarter-section shall be placed on a boundary.

(2) The monuments shall, on north-south lines, be placed on the west limit of the road allowances, and on the east-west lines, on the south limit of road allowances, and in all cases shall fix and govern the position of the boundary corner between the adjoining townships, sections or quarter-sections on the opposite side of the road allowance.

Quarter-section
position

26(1) If an east-west section line does not have a road allowance adjacent to it and if a monument has not been placed at a quarter-section corner on that east-west section line, then the position of that quarter-section corner is the point that is midway on a straight line connecting the section corners lying on either side of the quarter-section.

(2) If no monument has been placed at the centre of a section, the position of that centre is the point of intersection of the straight lines joining opposite quarter-section corners.

(3) If no monuments have been placed to mark the corners of legal subdivisions, the corners are the midpoints of the boundaries of the quarter-sections and the intersections of the straight lines joining those midpoints.

(4) For the purposes of this section, if the official plan shows no road allowance or a road allowance of a width other than 66 feet, the posi-

tion of the midpoint shall be determined as though a road allowance 66 feet wide had been shown.

Corner on a correction line

27(1) In the case of a township, section or quarter-section corner on a correction line, monuments shall be placed independently for the corners on each side in accordance with the regulations, by the surveyor doing the survey.

(2) If a road allowance is laid out along a correction line, the monuments shall be placed by the surveyor laying out the road allowance, in the limit of the road lying alongside the land that the monuments are intended to define.

Division of section

28 Every section is considered to be divided into sixteen $\frac{1}{4}$ quarter-sections called legal subdivisions, each of 40 acres, more or less, arranged and numbered in the following order:

NORTH			
13	14	15	16
12	11	10	9
5	6	7	8
4	3	2	1
SOUTH			

WEST EAST

Minister's directions on surveying

29 The Minister may direct that public land be surveyed under the supervision of the Director

(a) in the Alberta Township System of Survey conforming with sections 18 to 28 as nearly as possible, or

(b) in lots of a size and shape and with an allowance for roads that the Minister considers advisable.

Official plan

30(1) A plan of public land surveyed pursuant to section 29

(a) shall be plotted from the surveyor's field notes under the direction of the Director, and

(b) shall show the directions and lengths of the boundaries, the nature and positions of the monuments and the areas of the parcels laid out.

(2) The confirmation of a plan of public land by the Director shall be held to be a confirmation of the survey and the confirmed plan is the official plan.

(3) No land is considered to be surveyed until the official plan has been confirmed by the Director.

(4) If the official plan is found to have been improperly or incorrectly plotted from the field notes of the survey, or if any omission or clerical error or other defect is found on the plan, the Director may cause a new plan to be made showing the omission, error or defect

corrected and the new plan shall, after it has been confirmed by the Director, become the official plan and shall be used for all purposes instead of the old plan.

(5) The Director shall, forthwith after the confirmation under subsections (2) and (4), file 1 copy of the official plan with the Registrar for the registration district within which the surveyed land is situated.

Re-survey of
public land

31(1) Land that is property of the Crown and respecting which there are no adverse interests may be re-surveyed when necessary.

(2) A boundary is not considered re-surveyed until a new official plan has been confirmed by the Director.

(3) The Director shall, forthwith after the confirmation under subsection (2), file 1 copy of the official plan with the Registrar for the registration district within which the surveyed land is situated.

Boundary lines
on confirmation
of survey or
re-survey

32 All boundary lines of a survey in accordance with section 29 are determined by the monuments placed for that purpose as shown on the official plan, whether or not the dimensions between them or the areas expressed on the official plan are found by re-measurement to be different.

Land between
boundaries

33 Every parcel surveyed in accordance with section 29 shall consist of all the land included between the several monuments placed to determine the boundary lines, and no more nor less, notwithstanding any quantity or measure expressed on the official plan, certificate of title, grant or other instrument.

Aliquot part

34 A certificate of title, grant or other instrument purporting to convey a right or interest in any aliquot part of a parcel surveyed in accordance with section 29 shall be construed to affect that aliquot part of the quantity it contains on the ground, and no more or less, notwithstanding any quantity or measure expressed in the certificate of title, grant or other instrument.

PART 3

SURVEYS OTHER THAN UNDER PART 2

Re-survey of
s29 land in
municipality

35(1) The council of a municipality may, on the application of 50% of the registered owners of the parcels of land to be affected, or without an application, pass a resolution that it is desirable to re-survey and place monuments at the corners of parcels surveyed in accordance with section 29.

(2) On receipt of a resolution under subsection (1), the Minister may direct the Director or a surveyor appointed by the Director to re-survey the land in question and to place monuments of a style approved by the Minister for that purpose at the corners of the land.

(3) Before beginning the re-survey, the Director shall publish notice of it in 1 issue of The Alberta Gazette and once each week for 2 consecutive weeks in a newspaper that circulates in the neighbourhood of the land to be re-surveyed.

(4) Any person

- (a) who claims to know the position of any of the survey monuments defining the land to be re-surveyed, or
- (b) who claims to be in possession of information whereby the position of monuments can be established,

may, before the commencement of the re-survey, notify the Minister by registered mail of the information in his possession regarding the matters referred to in clauses (a) and (b).

(5) Before re-establishing a monument with respect to which notice has been given, the Director or a surveyor appointed by him shall, by registered letter or personal service, request the person who has given the notice under subsection (4) to appear before him at a time and place specified to show the position of the monument or to produce the evidence in his possession with regard to it.

(6) The Director, or a surveyor appointed by the Director, shall

- (a) commence the re-survey in accordance with this Act not less than 2 weeks after the last publication of the notice under subsection (3),
- (b) place monuments to mark the corners of the re-surveyed land, and
- (c) submit a plan and other records respecting the re-survey to the Minister.

Confirmation
of re-survey

36(1) On receipt of the plan and other records under section 35(6), the Minister

- (a) shall publish a notice of it in 1 issue of The Alberta Gazette and once each week for 2 consecutive weeks in a newspaper that circulates in the neighbourhood of the land re-surveyed, and
- (b) shall specify in the notice a day, not less than 2 weeks from the date of the last publication of the notice, on which the plan and other records will be considered and parties affected by it may be heard.

(2) After the hearing under subsection (1), the Minister may either confirm the re-survey or direct that any amendments or corrections that he considers necessary be made, and shall confirm the re-survey as amended or corrected.

(3) On confirmation by the Minister of the re-survey, the Director shall amend the official plan accordingly.

(4) The monuments established by the re-survey mark the boundary lines of the land re-surveyed for all purposes.

No review of
re-survey

37 The order of the Minister confirming the re-survey is final and conclusive and shall not be questioned in any court, whether or not the monuments marking the original survey are subsequently found or their positions proved by other evidence.

Filing of
re-survey

38(1) The Director shall, forthwith after the confirmation under section 36(2), file 1 copy of the official plan of the re-survey with the

Registrar of the registration district within which the re-surveyed land is situated.

(2) On receipt of the official plan of the re-survey, the Registrar may make corrections to the certificates of title to reflect any changes effected by the re-survey.

Payment for
re-survey

39(1) All expenses for a re-survey shall be paid to the Minister by the municipality on whose resolution the re-survey was made, on receipt of an invoice from the Minister, which may be issued from time to time during the progress of the re-survey.

(2) The municipality on whose resolution the re-survey was made may pay the expenses out of the general funds of the municipality either in whole or in part, as it considers proper.

(3) If the municipality pays only a part of the expenses out of general funds, it may order that the remainder be placed on the tax roll as an additional tax against the property affected by the re-survey, in proportion to the assessed value of the property as shown on the last assessment roll and that amount shall be collected in the same manner as taxes on land.

Re-establishment
of Part 2 survey
monument

40(1) When a surveyor is required to re-establish the position of a monument placed in the original survey in accordance with section 29 that cannot be found, the surveyor shall do so from the best available evidence respecting the position of the monument.

(2) If the position of the monument cannot be satisfactorily ascertained under subsection (1) or if the corner was not previously marked by a monument in the original survey, the surveyor shall re-establish the monument or establish the corner's position in relation to those monuments of the original or subsequent surveys that can be found, in a manner that carries out the evident intention of the original survey as shown in the original field notes and the official plan of record in the Director's office.

(3) A surveyor who establishes a corner of a section, quarter-section or legal subdivision that was not previously marked by a monument, or re-establishes the position of a monument in accordance with subsection (1) or (2),

(a) shall mark the position with a new monument, and

(b) shall, within 90 days after completion of the survey, prepare and submit to the Registrar a plan of survey showing the method by which the position was re-established.

Establishing
boundaries

41(1) If a surveyor does a survey for a plan that is required to be registered in the Land Titles Office for the registration district in which the land is situated, the surveyor shall

(a) mark the positions of the boundary lines to be established by placing monuments

(i) at every change of direction and the beginning and end of every curve and every curve shall have a constant radius, and

(ii) at every intersection of the boundary lines with every surveyed boundary of the parcels affected by the new survey,

and

(b) make all measurements necessary to show the positions of the monuments placed and the boundary lines to be established, relative to the existing surveyed boundary lines of the parcels affected.

(2) Notwithstanding subsection (1), a surveyor,

(a) when surveying a right of way that is to be bounded by parallel lines that are not more than 150 feet apart, need mark only 1 boundary line of the right of way, and the unmarked boundary shall be determined from the marked boundary and the width shown on the plan,

(b) when surveying the boundaries of a strata space, as defined in the *Land Titles Act*, shall not mark the boundary lines of the horizontal, vertical or inclined planes or curved surfaces, but shall relate the locations of them

(i) to at least 2 monuments of known elevation in the geographical positioning system placed within or adjacent to the boundaries of the parcel for that purpose, or

(ii) to 2 survey control markers

and shall relate the locations of them to the external boundaries of the parcel within which the spaces lie, and

(c) when surveying the boundaries of condominium units other than bare land units as defined in the *Condominium Property Act*, shall not mark the boundary lines of the units but shall locate or re-establish the monuments that determine the boundaries of the parcel within which the units lie.

(3) All the boundary lines surveyed and established in accordance with subsection (1) shall be defined by the monuments placed for that purpose as shown on the plan of the survey registered at the Land Titles Office, whether or not the dimensions or areas expressed on the plan are found by re-measurement to be different.

(4) Notwithstanding subsection (3), every lot on a linear block boundary in a subdivision survey shown on a plan registered at the Land Titles Office after February 16, 1912, and before the date on which this Act comes into force shall have a frontage measurement proportionate to the total distance between the corners of the block in the same ratio as the frontage measurement of each lot shown on the registered plan bears to the total distance between corners of the block shown on the plan.

Re-establishment
of Part 3 survey
monument

42(1) When a surveyor is required to re-establish the position of a monument placed pursuant to this Part that cannot be found, the surveyor shall do so from the best available evidence respecting the position of the monument.

(2) If the position of the monument cannot be satisfactorily re-established under subsection (1), the surveyor shall re-establish it relative to those monuments that can be found, in a manner that carries out

the evident intention of the survey as it is shown on the plan of survey registered at the Land Titles Office.

(3) A surveyor who re-establishes the position of a monument in accordance with subsection (1) or (2), or establishes a corner that was not previously marked by any monument in a survey made pursuant to this Part,

(a) shall mark the position with a new monument, and

(b) shall prepare and within 90 days after the completion of the survey submit to the Registrar a plan of survey showing the method by which the position was re-established and shall certify that the survey was made in accordance with this Act.

Registration
of non-
monumented
survey plan

43(1) Notwithstanding anything in this Act, a surveyor may, without placing the monuments required by section 41(1), submit a plan for registration at the Land Titles Office in the registration district in which the land is situated, if

(a) the survey meets the requirements established in the regulations, and

(b) the surveyor has deposited with the Director a bond or other surety in accordance with the regulations to ensure satisfactory completion of the requirements of subsection (3).

(2) Subject to subsection (5), the co-ordinates of the survey control markers and of the monuments, as shown on the plan of survey, determine the boundary lines established by the survey and plan.

(3) A surveyor who submits for registration a plan pursuant to subsection (1) shall, within 1 year from its registration or within a longer period of time specified by the Director,

(a) place the monuments required by section 41(1) in accordance with the survey control markers and the co-ordinates shown on the plan, and

(b) file with the Registrar for the land registration district in which the land is situated proof under oath, in the prescribed form, of having done so.

(4) The Director, on being satisfied that a surveyor has complied with subsection (3), shall return the bond or other surety deposited pursuant to subsection (1) to the surveyor.

(5) On registration of the form referred to in subsection (3)(b), the Registrar shall endorse a memorandum on the plan, and the monuments placed pursuant to subsection (3) determine the boundary lines as though they had been placed before the registration of the plan.

(6) Notwithstanding subsection (3), if the surveyor who submitted a plan pursuant to subsection (1) ceases to be registered as an Alberta Land Surveyor, or for any other reason fails to satisfy the requirements of subsection (3), some other surveyor appointed by the Director may carry out the requirements of subsection (3).

Re-survey of
s41 land in
municipality

44(1) The council of a municipality may, on the application of 50% of the registered owners of the land to be affected, or without an application, pass a resolution that it is desirable to re-survey and place monuments at the corners of parcels the boundary lines of which were established pursuant to section 41.

(2) Sections 35(2) to (6), 36(1), (2) and (4), 37, 38 and 39 apply to a re-survey under this section.

PART 4

MISCELLANEOUS

Surveys in
unsurveyed
territory

45(1) A survey in unsurveyed territory shall be made in accordance with the regulations.

(2) A survey for location of a well in unsurveyed territory shall be made in accordance with the regulations.

Fees

46 The Minister may make orders respecting a tariff of fees for goods, services and materials provided pursuant to this Act or the regulations.

Regulations

47 The Lieutenant Governor in Council may make regulations

- (a) respecting modes of surveys;
- (b) respecting surveys in unsurveyed territory;
- (c) defining well for the purposes of this Act;
- (d) respecting well location surveys;
- (e) respecting standards and specifications for the construction, installation and marking of monuments;
- (f) respecting survey control markers;
- (g) respecting records and reports to be made, kept and filed under this Act;
- (h) respecting the specifications and accuracy standards to be used in the integration of surveys with the geographical positioning system;
- (i) respecting non-monumented surveys;
- (j) respecting forms for use under this Act and the regulations;
- (k) respecting the form, conditions, amount and term of a bond or other surety required under section 43;
- (l) respecting exemptions from the regulations.

Offence

48(1) A person who interferes with, obstructs, interrupts, molests or hinders the Director or a surveyor carrying out his duties under this Act is guilty of an offence.

(2) A person who is not a surveyor and knowingly has in his possession, not for any lawful purpose in connection with a survey of land in Alberta, any monument intended, or apparently intended, to be

used for the purpose of any survey, or to mark any limit, boundary or angle, is guilty of an offence.

(3) A person who, without the written permission of the Director, pulls down, alters, defaces or removes any monument or survey control marker placed by a surveyor in carrying out his duties under this Act is guilty of an offence and is liable to a fine of up to \$10 000.

Consequential **49** *Section 83.2(5)(c) of the Land Titles Act is repealed and the following is substituted:*

(c) have noted on it the elevation of each corner or angle of the strata spaces in relation to monuments of known elevation or survey control markers in accordance with the *Surveys Act*,

Repeal **50** *The Surveys Act, RSA 1980 cS-29, is repealed.*

Coming
into force **51** *This Act comes into force on Proclamation.*