

# **SURVEYS ACT**

## Chapter S-26

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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*, SA 1930 c21, and all amendments to that agreement;
  - (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) “cadastral mapping” means the portion of the mapping system that deals with the land survey system;
  - (e) “correction line” means a correction line as described in section 23(3) and (4);
  - (f) “Director” means the Director of Surveys designated pursuant to section 4;
  - (g) “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;

- (h) “identifier” means a label on a map that corresponds to a description contained in the mapping system;
- (i) “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;
- (j) “Land Titles Office” means a Land Titles Office established pursuant to the *Land Titles Act*;
- (k) “legal subdivision” means legal subdivision as described in section 28;
- (l) “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;
- (m) “Metis patented land” means patented land as defined in the *Metis Settlements Act*;
- (n) “Metis Settlements Land Registry” means the Metis Settlements Land Registry established under the *Metis Settlements Act*;
- (o) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (p) “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;
- (q) “municipality” means a city, town, village, municipal district, specialized municipality, improvement district, special area or Metis settlement;
- (r) “official plan” means a plan confirmed pursuant to section 33;
- (s) “public land” means land vested in the Crown in right of Alberta;
- (t) “Registrar” means
  - (i) in respect of surveys of and other matters affecting Metis patented land, the Registrar of the Metis Settlements Land Registry, and
  - (ii) in respect of surveys of and other matters affecting all other land, a Registrar of Land Titles;
- (u) “survey control” means a network of interrelated survey control markers whose co-ordinate positions form part of the geographical positioning system;
- (v) “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;
- (w) “surveyor” means an Alberta land surveyor as defined in the *Land Surveyors Act*.

1987 cS-29.1 s1;1998 c22 s43;1999 c6 s2

### 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.

1987 cS-29.1 s2

## 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), SC 1908 c20 and RSC 1927 c113, 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 June 9, 1988 is deemed for the purposes of this Act to have been made under this Act.

1987 cS-29.1 s3

### Director of Surveys

**4** The Minister shall designate an employee under the Minister's administration who is a surveyor as the Director of Surveys.

1987 cS-29.1 s4

### Director's duties

**5(1)** Subject to subsection (2), the Director shall

- (a) co-ordinate the establishment, maintenance and preservation of the land survey system for the purpose of determining the positions of boundaries that govern the extent of interests in land,
- (b) co-ordinate the establishment and maintenance of a geographical positioning system for Alberta,
- (c) co-ordinate the establishment and maintenance of a mapping system for Alberta,
- (d) co-ordinate the development and maintenance of a land-related information systems network for Alberta,
- (e) maintain the network of survey control markers and controlled photographic diapositives that are the physical elements of the geographical positioning system,
- (f) provide a cartographic service, and
- (g) perform any other duties prescribed by this Act.

(2) The Minister may, in writing, assign

- (a) any duty under subsection (1)(b) or (e) to an employee of the Government who is a surveyor and whose position is under the administration of the Minister, and
- (b) any duty under subsection (1)(c), (d) or (f) to an employee of the Government whose position is under the administration of the Minister.

1987 cS-29.1 s5;1988 c43 s2

**Inspection of survey**

**6(1)** If a plan of survey has been prepared but has not been registered at a Land Titles Office or filed at the Metis Settlements Land Registry 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 the Director 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 the Director considers advisable to correct any errors or omissions in a plan of survey before it is registered at a Land Titles Office or filed at the Metis Settlements Land Registry.

1987 cS-29.1 s6;1998 c22 s43

**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.

1987 cS-29.1 s7

**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 the Director confirms its co-ordinate position.

1987 cS-29.1 s8;1999 c6 s3

**Survey error investigation**

**9(1)** In this section, "land owner" in respect of Metis patented land means a person who is registered in the Metis Settlements Land Registry as owner of Metis title, provisional Metis title or an allotment.

**(2)** The Director shall on receipt of a written notice from a land owner, the council of a municipality, the Council of the Alberta Land Surveyors' Association or a Registrar 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 the Director's findings to the Minister.

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

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

(5) If the alleged error in survey is in respect of a plan of survey filed or registered at a Land Titles Office, the Board appointed under subsection (3) shall notify by personal service or by registered mail

- (a) the registered owners of the land affected by the alleged error,
- (b) the encumbrancees, as defined in the *Land Titles Act*, of the land affected by the alleged error,
- (c) each surveyor whose survey may be affected by a decision of the Board, and
- (d) the Registrar of that Land Titles Office.

(6) If the alleged error in survey is in respect of a plan of survey filed at the Metis Settlements Land Registry, the Board appointed under subsection (3) shall notify by personal service or by registered mail

- (a) every person who has an interest registered in the Metis Settlements Land Registry in the land affected by the alleged error,
- (b) each surveyor whose survey may be affected by a decision of the Board, and
- (c) the Registrar of the Metis Settlements Land Registry.

(7) A notification under subsection (5) or (6) shall state the nature of the alleged error and state a time and place at which a person who is referred to in subsection (5) or (6) 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.

(8) 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 evidence affecting the corner or boundary in question.

(9) If a person who is served with a subpoena issued under subsection (8)(b) and who has been tendered reasonable expenses does not appear before the Board at the time and place set out in the subpoena and does not give evidence on the position of the corner or boundary 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.

(10) The Board has the powers and duties of an arbitrator under sections 29(3) and 43 of the *Arbitration Act*.

(11) 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, registers, certificates of title or plans of survey deposited, filed or registered in a Land Titles Office or in the Metis Settlements Land Registry 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.

(12) The Board shall provide a copy of its order under subsection (11) by personal service or by mail to the persons referred to in subsection (5) or (6).

(13) For the purposes of subsection (12), the date of receipt of the order by mail is deemed to be 5 days from the mailing of the order.

(14) Any party may appeal an order of the Board to the Court of Queen's Bench by originating notice within 30 days from the date of receipt of an order under subsection (12).

1987 cS-29.1 s9;1991 cA-43.1 s57;1998 c22 s43

### 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 plan of a survey shall be certified under oath by a surveyor in the form prescribed by regulations under the *Land Titles Act*.

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

(3) Monuments that are intended to be used by surveyors in making surveys must be obtained from

- (a) the Minister at a price fixed by the Minister, or
- (b) a person designated by the Minister at a price fixed by and on any other terms and conditions that may be prescribed by the Minister.

1987 cS-29.1 s10;1988 c43 s3;1999 c6 s4

### Standard of measure

**11(1)** The measure of length used in surveys made under this Act must 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 the surveyor 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 the surveyor by comparison with calibration base lines established by the Minister for that purpose.

1987 cS-29.1 s11

**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, plans, books 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, in the possession of a department as defined in the *Financial Administration Act* or the Government of Canada, shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the originals, and of the contents of the originals.

1987 cS-29.1 s12;1999 c6 s5

**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 the surveyor examines in relation to those matters.

1987 cS-29.1 s13

**Compelling attendance of witness**

**14(1)** When a surveyor

- (a) is in doubt as to the true corner or boundary of any parcel that the surveyor 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 or herself 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 the person 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.

1987 cS-29.1 s14

**Disposition of evidence**

**15(1)** A surveyor shall record in writing all evidence taken by the surveyor, 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 the person 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 the surveyor shall be filed and kept by the surveyor or a practitioner as defined in the *Land Surveyors Act*, subject to being produced as evidence in court.

1987 cS-29.1 s15

**Right to enter private property**

**16** A surveyor and the surveyor's 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 of any person, but the surveyor is liable for any damage the surveyor or the surveyor's assistants cause.

1987 cS-29.1 s16

**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 is to be referred to as the bank of the body of water.

(3) For the purposes 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.

1987 cS-29.1 s17

## Part 2 Surveys of Public Land and Metis Patented Land in Unsurveyed Territory

**System of survey**

**18** The Alberta Township System shall consist of quadrilateral townships, each containing 36 sections as nearly one mile square as the convergence of meridians permits.

1987 cS-29.1 s18

**Township sections**

**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	
WEST	19	20	21	22	23	24	EAST
	18	17	16	15	14	13	
	7	8	9	10	11	12	
	6	5	4	3	2	1	
SOUTH							

1987 cS-29.1 s19

**Road allowances****20(1)** Road allowances 99 feet wide shall be allowed

- (a) in a north-south direction, one mile between each column of sections, and
- (b) in an east-west direction, 2 miles between each 2nd row of sections commencing on the township outline.

**(2)** When surveying a road allowance that is 99 feet wide

- (a) the centre of sections, quarter sections and legal subdivisions shall be located in the same relative positions as if a road allowance that is 66 feet wide existed, and
- (b) in the case of a correction line, the road allowance shall be given its prescribed width midway between the south-east corner of section 4 of the township north of the correction line, and the north-east corner of section 33 of the township south of the correction line.

1987 cS-29.1 s20;1988 c43 s4

**Township boundaries****21** The lines bounding townships

- (a) on the east and west sides are meridians, and
- (b) on the north and south sides are chords to parallels of latitude.

1987 cS-29.1 s21

**Numbering of townships and ranges****22** The townships

- (a) shall be numbered in regular order, northerly from the 49th parallel of latitude, and
- (b) shall lie in ranges numbered westward of the 4th, 5th and 6th meridians.

1987 cS-29.1 s22

**Width of townships****23(1)** Townships must be given their width prescribed in section 18, on their base lines and the meridians between townships shall be drawn across those base lines, northward and southward to the depth of 2 townships to the correction lines.**(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 townships 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.

1987 cS-29.1 s23

#### **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.

1987 cS-29.1 s24

#### **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 the north-south lines, be placed on the west limit of the road allowances, and on 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.

1987 cS-29.1 s25

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

1987 cS-29.1 s26

#### **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.

1987 cS-29.1 s27

#### Division of section

**28** Every section is considered to be divided into sixteen 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		
WEST	12	11	10	9	8	EAST	
		5	6	7	4		
		4	3	2	1		
		SOUTH					

1987 cS-29.1 s28

#### 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.

1987 cS-29.1 s29

#### Metis patented land - unsurveyed territory

**30(1)** In this section, "prior official plan" means an official plan confirmed by the Director before the letters patent were issued for the Metis patented land, but does not include an official plan used to describe the boundaries of the parcels conveyed to the Metis Settlements General Council under those letters patent.

(2) For the purposes of this Act, Metis patented land is unsurveyed territory unless

- (a) there is a prior official plan of the land, or
- (b) the land has been surveyed in accordance with section 32 and the plan of the survey has been confirmed under section 33.

1998 c22 s43

#### Official plan of Metis patented land required

**31(1)** On and after March 26, 1998, no Metis title, provisional Metis title or allotment in Metis patented land may be granted or transferred to a member of a Metis settlement or be recorded in the Metis Settlements Land Registry in the name of a member of a Metis settlement if the Metis patented land is unsurveyed territory.

(2) On and after March 26, 1998, no register for Metis title in Metis patented land may be created in the Metis Settlements Land Registry in the name of a Metis settlement if the Metis patented land is unsurveyed territory.

1998 c22 s43

**Role of Director and settlement council**

**32(1)** When Metis patented land that is unsurveyed territory is surveyed for the purpose of granting, transferring or recording Metis title, provisional Metis title or an allotment to or in the name of a member of a Metis settlement or for the purpose of having a register created for the Metis title in the name of a Metis settlement, the land shall be surveyed under the supervision of the Director.

**(2)** When land is surveyed under subsection (1), the council of the Metis settlement in which the land is located shall direct that the land be surveyed

- (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 council considers advisable.

1998 c22 s43

**Official plan**

**33(1)** A plan of public land surveyed pursuant to section 29 or a plan of Metis patented land surveyed pursuant to section 32

- (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 referred to in subsection (1) 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 one copy of the official plan with the Registrar.

1987 cS-29.1 s30;1996 c32 s5(48);1998 c22 s43

**Re-survey of public land**

**34(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 one copy of the official plan with the Registrar.

1987 cS-29.1 s31;1996 c32 s5(48)

**Re-survey of Metis patented land**

**35(1)** Metis patented land may be re-surveyed when necessary if

- (a) the Metis title to the land is in the name of the settlement council,

- (b) the settlement council approves the re-survey, and
  - (c) there are no adverse interests.
- (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 one copy of the official plan with the Registrar.

1998 c22 s43

**Boundary lines on confirmation of survey or re-survey**

**36** All boundary lines of a survey in accordance with section 29 or 32 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.

1987 cS-29.1 s32;1998 c22 s43

**Land between boundaries**

**37** Every parcel surveyed in accordance with section 29 or 32 shall consist of all the land included between the several monuments placed to determine the boundary lines, and no more and no less, notwithstanding any quantity or measure expressed on the official plan, certificate of title, grant or other instrument.

1987 cS-29.1 s33;1998 c22 s43

**Aliquot part**

**38** 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 or 32 shall be construed to affect that aliquot part of the quantity it contains on the ground, and no more and no less, notwithstanding any quantity or measure expressed in the certificate of title, grant or other instrument.

1987 cS-29.1 s34;1998 c22 s43

## **Part 3 Surveys Other Than Under Part 2**

**Re-survey of s29 or 32 land in municipality**

**39(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 or 32.

(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 one 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 that person's 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 the Director shall, by registered letter or personal service, request the person who has given the notice under subsection (4) to appear before the Director at a time and place specified to show the position of the monument or to produce the evidence in the person's 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.

1987 cS-29.1 s35;1998 c22 s43

#### **Confirmation of re-survey**

**40(1)** On receipt of the plan and other records under section 39(6), the Minister

- (a) shall publish notice of it in one 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 the 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 the Minister 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.

1987 cS-29.1 s36

#### **No review of re-survey**

**41** 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.

1987 cS-29.1 s37

#### **Filing of re-survey**

**42(1)** The Director shall, forthwith after the confirmation under section 40(2), file one copy of the official plan of the re-survey with the Registrar.

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

1987 cS-29.1 s38;1996 c32 s5(48);1998 c22 s43

**Payment for re-survey**

**43(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.

1987 cS-29.1 s39

**Re-establishment of Part 2 survey monument**

**44(1)** When a surveyor is required to re-establish the position of a monument placed in the original survey in accordance with section 29 or 32 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.

1987 cS-29.1 s40;1998 c22 s43

**Establishing boundaries**

**45(1)** If a surveyor does a survey for a plan that is required to be registered at the Land Titles Office or filed at the Metis Settlements Land Registry, 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
  - (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) For the purposes of subsection (1)(a)(i), all curves shall have a constant radius.

(3) 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 one 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.

(4) 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 or filed at the Metis Settlements Land Registry, whether or not the dimensions or areas expressed on the plan are found by re-measurement to be different.

(5) Notwithstanding subsection (4), 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 June 9, 1988 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 the corners of the block shown on the plan.

1987 cS-29.1 s41;1991 c21 s39;1996 c32 s5(48);1998 c22 s43

#### **Re-establishment of Part 3 survey monument**

**46(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 or filed at the Metis Settlements Land Registry.

(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.

1987 cS-29.1 s42;1998 c22 s43

#### **Registration or filing of non-monumented survey plan**

**47(1)** Notwithstanding anything in this Act, a surveyor may, without placing the monuments required by section 45(1), submit a plan for registration at the Land Titles Office or filing at the Metis Settlements Land Registry if sufficient survey control markers exist in the vicinity of the survey.

(2) Subject to subsection (4), 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 one year from its registration or within a longer period of time specified by the Director,

- (a) place the monuments required by section 45(1) in accordance with the survey control markers and the co-ordinates shown on the plan, and
- (b) file with the Registrar proof under oath, in the form prescribed by regulations under the *Land Titles Act*, of having done so.

(4) 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.

(5) 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).

1987 cS-29.1 s43;1995 c23 s23;1996 c32 s5(48);  
1998 c22 s43;1999 c6 s6

#### Re-survey of s45 land in municipality

**48(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 45.

(2) Sections 39(2) to (6), 40(1), (2) and (4), 41, 42 and 43 apply to a re-survey under this section.

1987 cS-29.1 s44

## Part 4 Miscellaneous

### Fees

**49** The Minister may make orders

- (a) respecting a tariff of fees for goods, services and materials provided pursuant to this Act;
- (b) requiring the payment of a fee for updating cadastral mapping at the time a plan of survey or a descriptive plan is submitted for registration at the Land Titles Office.

1987 cS-29.1 s46;1999 c6 s8;2000 c6 s2

### Offence

**50(1)** A person who interferes with, obstructs, interrupts, molests or hinders the Director or a surveyor carrying out the Director's or surveyor's duties under this Act is guilty of an offence.

(2) A person who is not a surveyor and knowingly has in the person's 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 the surveyor's duties under this Act is guilty of an offence and liable to a fine of up to \$10 000.

1987 cS-29.1 s48