

No. 99

---

---

3rd SÉSSION, 13th Legislature, Alberta  
5 Elizabeth II, 1957

---

---

## **BILL 99**

A Bill to amend The Right of Entry Arbitration Act

---

HON. MR. MANNING

---

## Explanatory Note

2. (a) Clause (b) defines minerals. The proposed amendment is intended to make it conform with The Mines and Minerals Act.

(b) and (c) redefine "occupant" and "owner" for clarity. Clauses (d) and (f) presently read:

"(d) "occupant" means

"(i) a person who is in actual possession of the land other than the owner, or

"(ii) a person entitled to enter, use or take the surface of the land pursuant to an order of the Board;";

.....  
"(f) "owner" means a person who is registered under The Land Titles Act as owner."

3. Subsection (2) of section 5 reads as follows:

"5. ....

"(2) Where the chairman is absent or is unable to act an order, rule, regulation and any other document may be signed by any one member, and when so signed has the like effect as if it were signed by the chairman."

The change is intended to make the subsection conform with other provisions of the Act.

# BILL

No. 99 of 1957

An Act to amend The Right of Entry Arbitration Act

(Assented to \_\_\_\_\_, 1957)

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

**1.** *The Right of Entry Arbitration Act*, being chapter 290 of the Revised Statutes of Alberta, 1955, is hereby amended.

**2.** Section 2 is amended

(a) as to clause (b), subclause (ii) by striking out the words "tar sands" and by substituting the words "oil sands",

(b) by striking out clause (d) and by substituting the following:

"(d) "occupant" means

"(i) a person, other than the owner, who is in actual possession of land,

"(ii) a person who is shown on a certificate of title as having an interest in land, or

"(iii) an operator granted right of entry, user or taking of land pursuant to an order of the Board;"

(c) by striking out clause (f) and by substituting the following:

"(f) "owner" means the person in whose name a certificate of title has been issued pursuant to *The Land Titles Act*."

**3.** Section 5, subsection (2) is amended by striking out the words "rule, regulation" and by substituting the word "direction".

**4. (a) An unnecessary reference to The Department of Mines and Minerals Act is struck out. Section 7 reads as follows:**

"7. Subject to the provisions of The Public Service Act and of The Department of Mines and Minerals Act, the Lieutenant Governor in Council may appoint a secretary and such other officers and clerks as are required to carry on the business of the Board."

(b) "employee" to be substituted for "clerk" for clarification.

**5. Section 11 reads as follows:**

"11. The secretary of the Board shall

"(a) keep a record of all proceedings conducted before the Board,

"(b) keep properly authenticated copies of every regulation and order made by the Board,

"(c) have the custody and care of all records and documents belonging to or pertaining to the Board and filed in its office,

"(d) ensure that every regulation or order made by the Board is drawn pursuant to the direction of the Board and properly authenticated and filed in his office,

"(e) deliver to any person on request and on payment of the prescribed fee a certified copy of any regulation or order made by the Board,

"(f) sign and issue on behalf of the Board, when all members of the Board are absent or unable to act, an order giving an operator leave to enter forthwith, if leave has been applied for pursuant to section 18, but pending the hearing and disposition of the operator's application to the Board,

"(g) perform such other duties as may from time to time be assigned or allocated to him by the Board, and

"(h) obey all rules and directions given by the Board or a member of the Board and relating to the duties of the secretary."

Rule is substituted for clarification.

The amendment to clause (h) is intended to provide that the secretary will receive directions from the Board rather than from each individual member of the Board.

**6. (a) Subsection (3) of section 12 presently reads:**

"12. ....

"(3) The order of the Board may grant the right of entry, user or taking of the surface of

"(a) the land in which the operator or his principal has the right to a mineral or the right to work a mineral, and

"(b) such other land as in the opinion of the Board is necessary

"(i) for a pipe line or a road to connect the operator's mining or drilling operations located on adjacent lands and to permit the operations to be operated jointly, and for the tanks, stations and structures to be used in the operations, or

"(ii) to give the operator access to his mining or drilling operations from a public roadway or other public way, and egress from the operations to the public roadway or other public way,

irrespective of whether or not the owner or occupant of the other land is the owner or occupant of the surface of the land in which the operator or his principal has the right to the mineral or the right to work the same."

The amendment would permit an operator to apply for land required for a power line when electricity is necessary at his operations.

(b) Subsection (6) of section 12 presently reads:

"(6) This Act does not apply to a pipe line that is subject to The Pipe Line Act."

This is intended to conform with amendments to The Pipe Line Act and to specify the rights vested in an operator under an order.

**4. Section 7 is amended**

- (a) by striking out the words "and of *The Department of Mines and Minerals Act*,"
- (b) by striking out the word "clerks" and by substituting the word "employees".

**5. Section 11 is amended**

- (a) as to clauses (b), (d) and (e) by striking out the word "regulation" and by substituting the word "rule",

- (b) as to clause (h) by striking out the words "or a member of the Board and".

**6. Section 12 is amended**

- (a) as to subsection (3), clause (b), subclause (i) by adding immediately after the words "pipe line" the words ", power line,"

- (b) by striking out subsection (6) and by substituting the following:

"(6) Unless otherwise provided in the order, an order of the Board granting right of entry, user or taking of the surface of land is deemed to vest in the operator the exclusive right, title and interest in the surface of the land other than the right to a certificate of title issued pursuant to *The Land Titles Act* but does not vest in the operator the right to carry away sand and gravel from the land."

**7.** This amendment will make the subsection enabling, not mandatory. Subsection (1) presently reads:

"14. (1) Where surface rights required by an operator are held under a lease or other form of terminable grant from the Crown, or have been disposed of by the Crown pursuant to an Act or regulation that contemplates the issue of a notification, the operator shall make application to the Board for the acquisition of such interest in the surface rights as may be necessary for the efficient and economical performance of his operations."

**8.** This amendment will make the subsection enabling, not mandatory. Subsection (1) presently reads:

"15. (1) Where the surface rights required by an operator are held by the Crown, and no person other than the Crown has an interest therein, the operator shall make application to the Board for the acquisition of such interest in the surface rights as may be necessary for the efficient and economical performance of his operations."

**9.** Section 17 reworded in part for clarification. Subsection (1) of section 17 reads:

"17. (1) The Board shall hear the application and shall proceed in accordance with its rules of procedure and practice."

Subsection (4) of section 17 reads:

"17. ....  
 "(4) The Board may adjourn an application from time to time for such length of time as the Board in its discretion deems expedient or advisable."

**10.** This substituted section is intended to clarify the procedure for applying to the Board and includes references to forms in a new Schedule that were previously given in the rules and procedure of the Board. Section 18 presently reads:

"18. (1) Notwithstanding anything in this Act or in the rules of procedure and practice of the Board, an operator may

"(a) at any time after the commencement of the proceedings before the Board, and

"(b) upon giving all persons affected seven clear days' notice of his application,

apply to the Board for leave to enter forthwith upon and use the surface for any or all the purposes set out in section 12.

"(2) The Board may, if it deems it proper to do so, grant the application upon the operator providing security sufficient in the opinion of the Board to protect all the rights and privileges of the owner and the occupant of the surface.

"(3) The amount deposited by the applicant as security under subsection (2) shall stand as charged with and shall be available for the payment from time to time of such sums as the Board may order to be paid out of it in respect of all or any of the rights that are the subject matter of the application and in respect of the costs of and incidental to the application.

"(4) In determining the amount of security under this section, the Board shall be deemed not to limit or determine the amount that it may ultimately order to be paid in respect of all or any of the rights that are the subject matter of the application.

"(5) A person affected by the application may

"(a) waive in writing the notice prescribed by subsection (1), or

"(b) agree in writing to a shorter period of notice.

"(6) Where an operator proves to the satisfaction of the Board that he is unable to effect service of the notice of his application upon a person affected by the application, he may make his application to the Board after serving upon that person such notice as may be prescribed in writing by the Board.

"(7) The period of the notice prescribed by the Board under subsection (6) shall not be less than fourteen days and, if the Board so directs, such notice may be served by registered mail addressed in accordance with the direction of the Board."

**7.** Section 14, subsection (1) is amended by striking out the word “shall” and by substituting the word “may”.

**8.** Section 15, subsection (1) is amended by striking out the word “shall” and by substituting the word “may”.

**9.** Section 17 is amended

- (a) as to subsection (1) by striking out the words “shall hear the application and” and by substituting the words “in hearing an application”,
- (b) as to subsection (4) by adding immediately after the words “may adjourn” the words “the hearing of”.

**10.** Section 18 is struck out and the following substituted :

**“18.** (1) Notwithstanding anything in this Act, after the filing of an application the Board may, if it deems it proper to do so, issue an order granting immediate right of entry, user or taking of the surface of the land,

“(a) upon the operator providing security in such amount as may be prescribed by the Board, and

“(b) after seven clear days have elapsed from the date of personal service, or fourteen days from the date of any substituted service, on the owner and the occupant, of

“(i) a copy of the application, and

“(ii) a notice in Form B in the Schedule.

“(2) The amount deposited by the operator as security under subsection (1) shall stand as charged with and is available for the payment from time to time of such sums as the Board may direct to be paid in respect of the rights that are the subject matter of an order granted under subsection (1) and in respect of the costs of and incidental to the application.

“(3) In determining the amount of security under this section, the Board is deemed not to limit or determine the amount that it may ultimately order to be paid.

“(4) Upon the execution of a waiver in Form C in the Schedule by the owner and by the occupant, the period of seven clear days prescribed in subsection (1) is waived or reduced accordingly.

“(5) Substituted service under subsection (1) means any form of service other than personal service as may be directed by the Board in writing.”.

**11. Subsection (1) of section 19 presently reads:**

"19. (1) Where land is required for the drilling and operating of a well and for the necessary surface installations at the well head, the Board by order may grant the right of entry, user or taking of the surface of the land for the purpose of

- "(a) repressuring, recycling or pressure maintenance in a petroleum or natural gas field or pool,
- "(b) the storage or disposal of
  - "(i) natural gas,
  - "(ii) processed or treated natural gas, or
  - "(iii) products of natural gas,
  - or
- "(c) the storage and disposal of water produced from or to be injected in a petroleum or natural gas field or pool."

The amendment is intended to specifically require applications to be made for land needed for flow lines to or from wells used for conservation purposes and for the drilling of water wells for conservation purposes.

Reference is corrected. Subsection (2) of section 19 presently reads as follows:

"19. ....

"(2) The application for an order under subsection (1) shall be accompanied by

- "(a) a duplicate of the written approval of the Petroleum and Natural Gas Conservation Board to the scheme for which the well is to be drilled, and
- "(b) a statement by the Petroleum and Natural Gas Conservation Board that a well for the purposes of the scheme at the site applied for is essential to implement desirable conservation or production practices."

**12. Form for commencing application stipulated.**

**13. Heading is corrected to conform to proposed amendment to section 21.**

**14. Section 21 presently reads as follows:**

"21. An award and order of the Board made in writing is final and there is no appeal therefrom.

The words are to be deleted to make the section conform to the other provisions of the Act.

**15. Section 22 is rewritten to ensure that all persons affected receive copies of orders, and it provides for the filing of orders at the land titles office. Section 22 presently reads as follows:**

"22. (1) In the case of lands other than Crown lands, when an award and order of the Board is filed with the Registrar of the land registration district in which the land is situated, there is vested in the operator such interest in the land other than the fee simple as is set out in the award and order.

"(2) Upon such filing and upon payment of the proper fee the Registrar shall

- "(a) make an entry of the award and order on the certificate of title, and
- "(b) do all such other things as are necessary to give effect to the award and order.

"(3) In the case of Crown lands, or lands held under a lease or other form of terminable grant from the Crown, or lands disposed of by the Crown pursuant to any Act or regulation that contemplates the issue of a notification, when the award and order of the Board is filed



**11.** Section 19 is amended

- (a) as to subsection (1),
  - (i) by adding immediately after the words "surface installations at" the words "and pipe lines to or from",
  - (ii) by striking out the word "or" at the end of clause (b),
  - (iii) by adding immediately at the end of clause (c) the word "or",
  - (iv) by adding immediately after clause (c) the following new clause:
    - "(d) obtaining water for any operation mentioned in clauses (a), (b) and (c).",
- (b) as to subsection (2) by striking out the words "Petroleum and Natural Gas Conservation Board" and by substituting the words "Oil and Gas Conservation Board".

**12.** The following new heading and section are added immediately after section 19:

**"Applications**

**"19a.** An application to the Board for a right of entry shall be in Form A in the Schedule or in a form to the like effect."

**13.** The heading "Award and Order of the Board" immediately preceding section 20 is amended by striking out the words "Award and".

**14.** Section 21 is amended by striking out the words "award and".

**15.** Section 22 is struck out and the following section is substituted:

**"22.** (1) Upon an order being issued by the Board, the secretary or an employee of the Board shall mail or deliver the order or a certified copy thereof to the owner, the occupant and the operator.

(2) An order of the Board or a certified copy thereof may be filed with the Registrar of the appropriate land registration district who, on payment of the proper fee, shall make an entry of the order filed on the certificate of title of the land affected."

“(a) with the Deputy Minister of Lands and Forests or Deputy Minister of Municipal Affairs, as the case may be, and

“(b) if the title to the lands shows that another Department has an interest therein, with the Deputy Minister of that Department, there is vested in the operator such interest in the lands other than the fee simple as is set out in the award and order.

“(4) The Deputy Minister, upon such filing and upon payment of the proper fee, shall do all such things as are necessary to give effect to the award and order.

“(5) When the Board grants a right of entry on Crown lands it is a condition of the award and order that the operator and the persons engaged in his operations comply with The Public Lands Act, The Forest Reserves Act or The Provincial Parks Act, as the case may be, Part III of The Forests Act, and the regulations made pursuant thereto, whether or not the lands are held under lease or other form of terminable grant from the Crown, or are disposed of by the Crown pursuant to an Act or regulation that contemplates the issue of a notification.”.

**16.** Section 27 is rewritten to add a definition of the term “right of entry” in the new subsection (1). A single order of the Board may grant the land required for several wells. Under the present section, when one of such wells is abandoned, the Board has not had the power to terminate the order with respect to the abandoned well. Subsections (6) and (7) are removed since they are now included in the amended section 22. Subsections (8) and (9) are removed and the provisions consolidated in the new subsection (1). Subsection (5) is reworded for clarity. Section 27 presently reads as follows:

“27. (1) If at any time after the expiration of two months from the date of an order of the Board granting a right of entry, the operator has ceased to use the land for the removal of minerals, or for or incidental to his mining or drilling operations, the operator, the owner or the occupant of the land may apply to the Board for an order terminating the right of entry.

“(2) On the receipt of an application referred to in subsection (1) the Board

“(a) shall appoint a date for the hearing, and

“(b) may require the applicant to give such notice to such persons and in such manner as the Board may direct.

“(3) The Board shall hear the application and may

“(a) direct the operator to restore the lands as nearly as possible to the same condition as they were in before the exercise of the right of entry, and for that purpose may direct the operator to remove structures, fill excavations and do all such other things as the Board deems proper, and

“(b) impose a penalty on the operator for failure to carry out the directions of the Board.

“(4) Upon being satisfied that the directions, if any, given under subsection (3) have been carried out by the operator the Board may make an order terminating the right of entry.

“(5) If it is indicated to the Board that the termination of a right of entry granted by order should be considered, the Board

“(a) may inquire into the matter, and

“(b) may, if the circumstances in the opinion of the Board so warrant, make an order terminating the right of entry on such terms and conditions as the Board deems proper.

“(6) An order made by the Board terminating a right of entry may be filed with

“(a) the Registrar of the land registration district in which the land is situated, or

“(b) the Deputy Minister of Lands and Forests or the Deputy Minister of Municipal Affairs, and any other Deputy Minister, as the case requires.

“(7) Upon the filing of the order in accordance with subsection (6) and upon payment of the proper fee, the Registrar or Deputy Minister shall make all necessary entries and do such things as are necessary to give effect to the order.

“(8) The Board on application may make an order terminating a right of entry granted before the thirty-first day of March, 1947, pursuant to subsection (2) of section 44 of The Provincial Lands Act.

“(9) The provisions of this section regarding applications and orders in respect of the termination of a right of entry granted by an order of the Board apply to an application under subsection (8).”.

**16.** Section 27 is struck out and the following section is substituted:

**“27.** (1) In this section “right of entry” means a right of entry whether granted by an order of the Board or by an order of the Board of Public Utility Commissioners, or by a judge of the district court under regulations established pursuant to *The Provincial Lands Act* prescribing the conditions under which right of entry may be obtained upon land.

“(2) If at any time after the expiration of two months from the date of an order of the Board granting right of entry, the operator has not commenced to use or has ceased to use the surface of the land, or any part thereof, the operator, the owner or the occupant may request the Board for an order terminating the right of entry as to that land or part thereof.

“(3) On receipt of a request referred to in subsection (2) the Board

“(a) shall appoint a date for an inquiry into all matters pertaining to the request, and

“(b) may require notice of the inquiry to be given in such manner as the Board may direct.

“(4) The Board shall hold the inquiry and may

“(a) direct the operator to restore the land as nearly as possible to the same condition as it was in before the exercise of the right of entry and for that purpose may direct the operator to remove structures, fill excavations and do all such other things as the Board deems proper, and

“(b) impose a penalty on the operator for failure to carry out the directions of the Board.

“(5) Upon being satisfied that the directions, if any, given under subsection (4) have been carried out by the operator the Board may make an order terminating the right of entry as to the land or any part thereof.

“(6) Notwithstanding any of the provisions in subsection (2), (3), (4) or (5), if it is indicated to the Board that the termination of a right of entry should be considered, the Board

**17.** A Schedule to the Act containing three forms that were previously included in the Rules of Procedure made by the Board. This clarifies the procedure set out in the Act and will assist persons affected by the Act.

- “(a) may inquire into the matter, and
- “(b) may, if the circumstances in the opinion of the Board so warrant, make an order terminating the right of entry as to the land or any part thereof on such terms and conditions as the Board deems proper.”.

17. The following Schedule is added immediately after section 32:

“SCHEDULE  
 “FORM A  
 (Section 19a)  
 “THE RIGHT OF ENTRY ARBITRATION ACT  
 “APPLICATION

“In the matter of: *(land description)*

BETWEEN:

*(applicant)*

— and —

*(respondent)*

of .....

*(name and address of applicant)*  
 hereby applies for an order for right of entry, user or taking of the surface of the following land:

*(here give description and acreage of land required or refer to a plan attached)*

- 1. The applicant has the right to apply to the Board by virtue of .....  
*(here give particulars)*
- 2. The applicant requires the land for the following purpose(s) .....
- 3. The owner of the land is .....  
*(name)*  
 .....  
*(address)*
- 4. The occupant(s) of the land is (are) .....
- 5. The applicant has been unable to reach an agreement for the acquisition of the land with .....  
*(the owner and/or the occupant)*



6. The applicant requires (*or* does not require) immediate right of entry, user or taking of the surface of the land.

7. The applicant's address for service is.....  
.....

Dated at the..... of.....  
in the Province of Alberta this..... day of.....  
19.....

.....  
(Applicant)  
per .....

To: The Secretary,  
Board of Arbitration,  
*Right of Entry Arbitration Act*,  
Edmonton, Alberta.

“FORM B  
(Section 18 (1))  
“THE RIGHT OF ENTRY ARBITRATION ACT  
“NOTICE

“Re: (*land description*)

BETWEEN:

..... (applicant)  
— and —  
..... (respondent)

TAKE NOTICE that an application in the form hereto attached has been made to the Board of Arbitration pursuant to *The Right of Entry Arbitration Act* with respect to the above land.

AND FURTHER TAKE NOTICE that the Board may issue the order applied for at the expiration of seven clear days from the date of service hereof without further notice to you unless, within that time, representations are made by you either in writing or in person to the Board at its offices in the city of Edmonton, Alberta.

Dated at the City of Edmonton in the Province of Alberta this..... day of....., 19.....

.....  
(Applicant)  
To;





“FORM C

(Section 18 (4))

“THE RIGHT OF ENTRY ARBITRATION ACT

“WAIVER

“Re: (*land description*)

BETWEEN:

— and — (applicant)  
(respondent)

I, ..... of .....  
in the Province of Alberta acknowledge service by the  
applicant herein of a copy of an application and a notice  
in Form B dated the ..... day of ....., 19.....,  
under *The Right of Entry Arbitration Act*.

I hereby agree that the time prescribed in the said notice  
be waived (*or reduced to* ..... days).

It is understood that execution of this waiver does not  
in any way affect my rights to compensation.

Dated at the City of Edmonton in the Province of  
Alberta this ..... day of ....., 19.....

(Respondent)

To: The Secretary,  
Board of Arbitration,  
*Right of Entry Arbitration Act*,  
Edmonton, Alberta.”

**18.** This Act comes into force on the day upon which  
the Revised Statutes of Alberta, 1955, come into force.

No. 99

---

---

THIRD SESSION

THIRTEENTH LEGISLATURE

5 ELIZABETH II

1957

---

---

**BILL**

An Act to amend The Right of Entry  
Arbitration Act

---

---

Received and read the

First time.....

Second time.....

Third time.....

---

---

HON. MR. MANNING

---

---