

No. 56

2nd Session, 14th Legislature, Alberta
9 Elizabeth II

BILL 56

A Bill to amend The Right of Entry Arbitration Act

HON. MR. MANNING

Explanatory Note

2. (a) Section 2, clause (d) presently reads:

“(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;”.

Subclause (iv) is added to clause (d) so that persons having an interest in Crown land will also be included in the definition of “occupant”.

(b) Section 2, clause (f) presently reads:

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

The Act presently allows an operator to apply directly to the Board in the case of Crown land. The amendment contained in clause (b) above as well as those in clauses 4, 5 and 6 will make it clear that an operator may approach the Department or other body administering Crown land for an agreement for the use of the surface necessary for the mineral operations.

3. The new subsection (6) to section 12 is the same as before but with the addition of the new clause (b) which now allows an operator to excavate or otherwise disturb minerals without permission or compensation. A similar right is already vested in operators who acquire pipe line rights of way under The Pipe Line Act, 1958. Section 12, subsection (6) presently reads:

“(6) Notwithstanding any other Act, an order of the Board granting right of entry, user or taking of the surface of land is deemed to vest in the operator, unless otherwise provided in the order, 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 and the right to carry away sand and gravel from the land.”.

BILL

No. 56 of 1961

An Act to amend The Right of Entry Arbitration Act

(Assented to _____, 1961)

HER 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, is hereby amended.

2. Section 2 is amended

- (a) as to clause (d)
 - (i) by striking out the word "or" at the end of subclause (ii),
 - (ii) by adding the word "or" immediately at the end of subclause (iii),
 - (iii) by adding immediately after subclause (iii) the following:
 - (iv) in the case of Crown land, a person shown on the records of the Department or other body administering the land as having an interest in the land;
- (b) by striking out clause (f) and by substituting the following:
 - (f) "owner" means
 - (i) the person in whose name a certificate of title has been issued pursuant to *The Land Titles Act*, or
 - (ii) where no certificate of title has been issued, the Crown or other body administering the land.

3. Section 12 is amended by striking out subsection (6) and by substituting the following:

(6) Notwithstanding any other Act, an order of the Board granting right of entry, user or taking of the surface of land is deemed to vest in the operator,

- (a) unless otherwise provided in the order, the exclusive right, title and interest in the surface of the land other than
 - (i) the right to a certificate of title issued pursuant to *The Land Titles Act*, and

4. See note to clause 2(b).

5. Section 14 presently reads:

"14. (1) Where surface rights required by an operator have been disposed of by the Crown pursuant to an Act or regulation that contemplates the issue of a certificate of title, the operator may 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.

(2) The operator

(a) shall file a copy of the application

(i) with the Deputy Minister of Lands and Forests, or when the lands are in a special area, with the Deputy Minister of Municipal Affairs, and

(ii) when the title for the lands shows that another Department has an interest in the lands, with the Deputy Minister of that Department,

and

(b) shall serve a copy of the application on the occupant of the land."

Section 14 will relate to the manner in which the Crown in right of Alberta is to be served with an application. See note to clause 2(b).

6. Section 15, subsections (1) to (4) presently read:

"15. (1) Where the surface rights required by an operator

(a) are owned by the Crown and no person other than the Crown has an interest therein, or

(b) are held of the Crown under a disposition that does not contemplate the issue of a certificate of title,

the operator may make application to the Board for the acquisition of such interest in the surface rights as may be necessary for his operations.

(2) The application shall be accompanied by a plan or map satisfactory to the Board showing

(a) the proposed location of the land in which the interest is required with its approximate dimensions and coloured or outlined in red, and

(b) the quarter sections, or what would be quarter sections if the land were surveyed under The Alberta Surveys Act, in which the land is situated.

(3) The operator shall file a copy of the application

(a) with the Deputy Minister of Lands and Forests, or when the lands are in a special area, with the Deputy Minister of Municipal Affairs, and

(b) when the title for the lands shows that another Department has an interest in the lands, with the Deputy Minister of that Department,

and shall serve a copy of the application on any occupant of the land.

(4) Notwithstanding sections 16 and 20, after the filing of an application in accordance with this section, the Board may in its discretion issue an order granting the operator immediate right of entry for so much of the surface of any quarter section shown on the plan or map accompanying the application as may be necessary for his operations, and in the order the Board may,

(a) stipulate that a further plan satisfactory to the Board or a plan of survey of the surface of the land, or any part thereof, in which an interest has been acquired by the operator, be submitted to the Board within a specified time, and

(b) make such other terms and conditions as the Board deems necessary."

See note to clause 2(b).

- (ii) the right to carry away sand and gravel from the land,
and
- (b) the right to excavate or otherwise disturb any minerals within, upon or under the land to the extent necessary for his operations without permission from or compensation to the Crown or any other person.

4. Section 13, subsection (1) is amended by striking out the words "vested in some person other than the Crown" and by substituting the words "owned by the Crown or any other person".

5. Section 14 is struck out and the following is substituted:

14. Service of an application upon the Crown in right of Alberta shall be made by filing a copy of the application

- (a) with the Deputy Minister of Lands and Forests, or when the lands are in a special area, with the Deputy Minister of Municipal Affairs, and
- (b) when the title for the lands shows that another Department has an interest in the lands, with the Deputy Minister of that Department.

6. Section 15 is amended

- (a) by striking out subsections (1), (2) and (3) and by substituting the following:

15. (1) Where the surface rights required by an operator

- (a) are owned by the Crown and no person other than the Crown has an interest therein, or
- (b) are held of the Crown under a disposition that does not contemplate the issue of a certificate of title,

the application may be accompanied by a plan or map satisfactory to the Board showing

- (c) the proposed location of the land in which the interest is required with its approximate dimensions and coloured or outlined in red, and
 - (d) the quarter sections, or what would be the quarter sections if the land were surveyed under *The Alberta Surveys Act*, in which the land is situated.
- (b) as to subsection (4) by striking out the words "after the filing of an application in accordance with this section,".

7. Section 16, subsection (2) presently reads:

"(2) A notice of the hearing of an application relating to Crown lands or to lands held under a lease or other form of terminable grant from the Crown or to lands disposed of by the Crown pursuant to an Act or regulation that contemplates the issue of a notification, shall be given in writing

(a) to the Deputy Minister of Lands and Forests, or when the lands are in a special area, to the Deputy Minister of Municipal Affairs, and

(b) when the title for the lands shows that another Department has an interest in the lands, to the Deputy Minister of that Department,

five days before the hearing of the application."

8. Section 27, subsection (2) presently reads:

"(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."

The amendment is made for the purpose of clarifying the subsection.

7. Section 16, subsection (2) is amended by striking out the words "Crown lands or to lands held under a lease or other form of terminable grant from the Crown or to lands disposed of by the Crown pursuant to an Act or regulation that contemplates the issue of a notification" and by substituting the words "lands of the Crown in right of Alberta".

8. Section 27, subsection (2) is amended by striking out the words "of the Board".

9. This Act comes into force on the day upon which it is assented to.

No. 56

SECOND SESSION

FOURTEENTH LEGISLATURE

9 ELIZABETH II

1961

BILL

An Act to amend The Right of
Entry Arbitration Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING
