

No. 85

5th Session, 14th Legislature, Alberta
11 Elizabeth II

BILL 85

A Bill respecting the Maintenance and Reclamation of, and
the Recovery of Rental for, the Surface of Land
Used in Connection with Mines, Quarries, Oil
and Gas Operations and Pipe Lines

HON. MR. PATRICK

Explanatory Note

General—The main purpose of this Bill is to create a Surface Reclamation Council which will be concerned largely with reclaiming land surface in surveyed areas that have been used in connection with mines, quarries, oil and gas operations and pipe lines, and also with the maintenance of land that has been or is being used for those purposes. The Council will also be able to settle compensation for the more common types of claims that arise from mineral and pipe line operations. The Bill provides a means by which surface owners can recover rental or compensation payments where the mineral or pipe line operator fails to make payment.

2. (1) Definitions.

BILL

No. 85 of 1963

An Act respecting the Maintenance and Reclamation of, and
the Recovery of Rental for, the Surface of Land
Used in Connection with Mines, Quarries, Oil
and Gas Operations and Pipe Lines

(Assented to _____, 1963)

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

1. This Act may be cited as "*The Surface Reclamation Act*".

2. (1) In this Act,

- (a) "chairman" means the chairman of the Council;
- (b) "Council" means the Surface Reclamation Council;
- (c) "expropriation board" means the board, person or other body having the power to order termination of a right of entry order as to the whole or part of any lands affected by the order;
- (d) "local authority" means
 - (i) the council of a county, municipal district, city, town or village,
 - (ii) the board of administrators of a new town, or
 - (iii) in the case of an improvement district or special area, the Minister of Municipal Affairs;
- (e) "mine" includes a mine within the meaning of *The Coal Mines Regulation Act*;
- (f) "Minister" means the Minister of Mines and Minerals;
- (g) "municipality" means a county, municipal district, city, town, new town, village, improvement district or special area;
- (h) "occupant" means
 - (i) a purchaser under an agreement for sale of land, or
 - (ii) a person, other than the owner, who is in actual occupation of land adjacent to land that is the subject of a surface lease or right of entry order;

- (i) "operator" means
 - (i) a person in whose favour a surface lease or right of entry order is held, as an original party or by transfer or other document or by amendment of the order, or the agent of that person, or
 - (ii) where a surface lease or right of entry order has been surrendered or terminated, the person in whose favour the surface lease or right of entry order was held at the time of the surrender or termination;
- (j) "owner" means
 - (i) the person in whose name a subsisting 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;
- (k) "pipe line" means a pipe line within the meaning of *The Pipe Line Act, 1958*;
- (l) "quarry" means a quarry within the meaning of *The Quarries Regulation Act*;
- (m) "right of entry order" means
 - (i) an order granting right of entry and made by the Board of Arbitration under *The Right of Entry Arbitration Act* or made by the Board of Public Utility Commissioners or a district court judge under regulations established pursuant to *The Provincial Lands Act* prescribing the conditions under which the right of entry may be obtained upon land, or
 - (ii) an order for the expropriation of land or an interest in land required for the purposes of a pipe line and made by the Public Utilities Board or the Board of Public Utility Commissioners;
- (n) "surface lease" means a lease, easement, licence, agreement or other instrument granted or made before or after the commencement of this Act and under which the surface of land has been or is being held incidental to or in connection with
 - (i) the drilling, operation or abandonment of a well,
 - (ii) the construction, operation or abandonment of a pipe line or battery,
 - (iii) the opening up, operation or abandonment of a mine or quarry, or
 - (iv) any other purpose for which a right of entry order could have been made;
- (o) "surrender" means a surrender, relinquishment, quit claim, release, notice, agreement or other instrument whereby a surface lease is discharged or

(2) Decision as to whether a person is an occupant.

3. (1) Application of Act.

(2) Decision as to whether land is surveyed.

4. Conditioning, maintenance and reclamation to be done to satisfaction of Council.

5. (1) Creation of Council.

(2) Composition of Council.

(3) Appointment of members by local authorities.

otherwise terminated as to the whole or part of the lands affected by the surface lease;

- (p) "termination" means the termination of a right of entry order by an expropriation board as to the whole or part of the lands affected by the order;
- (q) "well" means a well within the meaning of *The Oil and Gas Conservation Act*.

(2) The decision of the chairman is final as to whether or not any person is an occupant within the meaning of clause (h) of subsection (1) and there is no appeal therefrom.

Application of Act

3. (1) This Act applies to all lands in the Province, including Crown lands, that are surveyed before or after the commencement of this Act, but does not apply

- (a) to lands within forest reserves constituted under *The Forest Reserves Act*, or
- (b) where lands are surveyed after the commencement of this Act, to any case where a surface lease or right of entry order was surrendered or terminated prior to the date indicated on the plan of survey as the date on which it was approved and confirmed by the Director of Surveys.

(2) For the purposes of subsection (1), the decision of the Director of Surveys is final as to whether or not any lands are surveyed and there is no appeal therefrom.

4. Where land has been or is being held incidental to or in connection with

- (a) the drilling, operation or abandonment of a well,
- (b) the construction, operation or abandonment of a pipe line or battery, or
- (c) the opening up, operation or abandonment of a mine or quarry,

the conditioning, maintenance and reclamation of the surface of the land shall be performed in a manner satisfactory to the Council in accordance with this Act.

Appointment and Powers of Council

5. (1) There shall be a Council which shall be styled as the Surface Reclamation Council.

(2) The Council shall consist of

- (a) the Deputy Minister of Mines and Minerals, who shall be chairman of the Council,
- (b) members appointed by the Lieutenant Governor in Council, and
- (c) members appointed by local authorities pursuant to subsection (3).

(3) Each local authority may appoint one or more members to the Council but any member so appointed may act only in cases involving land in the municipality for which he is appointed.

- (4) Mayor, councillor or administrator not to be appointed.
 - (5) Local authorities to inform chairman of appointments, etc.
 - (6) Acting chairman.
- 6.** (1) Inquiries, etc., to be conducted by two members.
- (2) Local and government member to act.
- 7.** (1) Appointment of secretary, officers, etc.
- (2) Duties.
- 8.** Powers of Council.
- 9.** (1) Section not to apply where reclamation certificate issued.

(4) A member appointed under subsection (3) shall not be a mayor, councillor or administrator.

(5) The local authority shall notify the chairman of each appointment made by it under subsection (3) and of the revocation or termination of any such appointment.

(6) The Lieutenant Governor in Council may appoint an acting chairman to act in the absence from duty of the chairman.

6. (1) Any inquiry that may be conducted by the Council and any decision, order or reclamation certificate that may be made or issued by the Council shall be conducted, made or issued by two members of the Council.

(2) Unless otherwise provided in the regulations,

(a) one member shall be a member appointed by the local authority, and

(b) the other shall be a member appointed by the Lieutenant Governor in Council.

7. (1) The Lieutenant Governor in Council may appoint a secretary and such other officers and employees as are required to carry on the business of the Council.

(2) The secretary, officers and employees of the Council shall perform such duties as may be prescribed by the chairman.

8. (1) The Council may

(a) hold its inquiries at such place or places in the Province as it from time to time deems expedient, and

(b) adjourn any inquiry from time to time for such period as the Council thinks fit.

(2) The Council, may for the purposes of this Act, enter upon and inspect, or authorize any person to enter upon and inspect, any place, works or other property, except upon a well site during the period drilling equipment is located thereon.

(3) The Council in conducting any inquiry is not bound by the rules of law concerning evidence.

(4) The Council has the powers and duties given to it by this Act and such further powers and duties as may be determined by the Lieutenant Governor in Council.

Maintenance of Surface

9. (1) Subject to section 16, this section does not apply to any land in respect of which a reclamation certificate has been issued.

(2) Inquiry.

(3) Issue of orders re maintenance.

(4) What order may direct.

(5) Persons to whom order may be given.

(6) Form of order.

10. Issue of new order by chairman.

11. Carrying out of work when order not complied with, and recovery of money expended.

(2) The Council may hold an inquiry with respect to the condition of any land

- (a) that has been or is held under a surface lease or right of entry order, or
- (b) that has been or is owned in fee simple and that has been or is being used for any purpose referred to in section 4.

(3) Where, at or following the inquiry, it is the opinion of the Council that measures should be taken to properly condition, maintain or reclaim the surface of the land, the Council may issue an order setting out the measures to be taken and the date by which the work is to be completed.

(4) An order may direct the performance of any act necessary in the opinion of the Council

- (a) to condition, maintain or reclaim the land or any part thereof,
- (b) to destroy or prevent the growth of noxious weeds or weed seeds,
- (c) to remove or remedy any hazard to livestock or to the conduct of farming operations, and
- (d) to install or repair any fence, gate, cattle guard, culvert or other thing.

(5) An order under this section may be directed to the operator or any other person.

(6) An order under this section shall be in Form A in the Schedule.

10. (1) Where representations are made to the chairman that an order under section 9 was erroneously or improperly directed to the person named in the order, the chairman may consider the representations and in his discretion may

- (a) allow the order to stand, or
- (b) cancel the order and issue a new order directed to some other person.

(2) Where under subsection (1) a new order is issued the chairman may extend the date by which the work is to be completed.

11. Where an order under section 9 or 10 is not complied with, the chairman may cause any work to be done to remedy the default and the costs incurred

- (a) shall be paid by the Provincial Treasurer out of the General Revenue Fund,
- (b) constitute a debt payable to the Crown by the person to whom the order was directed, and
- (c) where the order was directed to the operator, may be recovered pursuant to clause (b) of subsection (3) of section 18 or pursuant to section 19.

12. Reclamation certificate required before land is surrendered.

13. Inquiries in cases where land surrendered before commencement of Act.

14. Issue of order under section 9.

15. Issue and form of certificate.

16. Issue of certificate by chairman where surrender made by consent and inquiry following certificate.

17. Where further work is considered necessary after certificate is issued it will be carried out and paid for by the Province.

Reclamation Certificates

12. Notwithstanding anything in any other Act or in any surface lease or right of entry order in effect at or after the commencement of this Act

- (a) no surrender of a surface lease is effective or binding on any person, and
- (b) no expropriation board shall order the termination of a right of entry order,

until a reclamation certificate has been issued pursuant to section 15 or 16 for the land to be affected by the surrender or termination.

13. The Council may hold an inquiry with respect to land held under a surface lease or right of entry order that was surrendered or terminated before the commencement of this Act.

14. At or following an inquiry regarding the issue of a reclamation certificate, the Council may issue an order under section 9 as to the land concerned.

15. (1) When the Council is of the opinion that the surface of the land in respect of which the inquiry was held is in satisfactory condition, the Council shall issue a reclamation certificate.

(2) A reclamation certificate shall be in Form B in the Schedule.

16. (1) Where evidence is supplied that is sufficient in the opinion of the chairman to indicate that the owner or the owner and occupant, as the case may be, have consented to the surrender or termination the chairman may, before an inquiry is held by the Council, issue a reclamation certificate.

(2) Where a reclamation certificate is issued pursuant to subsection (1), the Council shall hold an inquiry with respect to the condition of the land referred to in the certificate and, at or following the inquiry, may issue an order under section 9.

Reclamation Subsequent to Certificate

17. (1) Where, after the issue of a reclamation certificate, it is indicated to the Council that further work may be necessary to reclaim the surface of the land referred to in the certificate, the Council may hold an inquiry into the matter.

(2) Where, following the inquiry, the Council is of the opinion that further work is necessary to remedy conditions not apparent to the Council prior to the issue of the certificate or at an inquiry under subsection (2) of section 16, the matter shall be reported to the chairman.

18. Recovery of rental or compensation where operator defaults.

19. (1) Recovery of money by Province from mineral owner.

(2) Recovery by mineral owner.

(3) The chairman may cause such further work to be done to remedy conditions referred to in the report, and the cost of the work shall be paid by the Provincial Treasurer out of the General Revenue Fund.

Recovery of Rental or Compensation

18. (1) Where an operator has failed to pay, within thirty days following the day on which it was due, any money payable under a surface lease, right of entry order or other order of an expropriation board determining compensation in respect of a right of entry order, the person entitled to receive the money may submit to the Minister evidence of the failure.

(2) Where the evidence submitted is satisfactory in the opinion of the Minister with respect to the failure to pay, the Minister may direct the Provincial Treasurer to pay out of the General Revenue Fund the amount of money to which the person is entitled.

(3) Where a payment is made pursuant to subsection (2), the Provincial Treasurer is subrogated to the rights of the person to whom the money was paid and may recover the money by any or all of the following methods:

- (a) any legal proceedings that could have been taken by that person; or
- (b) by ordering the purchaser from the operator of any production from any mine, quarry or well of the operator to pay to the Provincial Treasurer from the purchase money an amount not exceeding the money so paid under subsection (2) in lieu of paying the operator.

(4) A payment to the Provincial Treasurer under clause (b) of subsection (3) operates as a discharge of the obligation of the purchaser to pay the operator the same amount.

(5) This section does not apply to any money that became payable before the first day of January, 1960.

19. (1) Where a payment is made under section 11 or 18 and the surface lease or right of entry order pertained to land held incidental to or in connection with

- (a) the drilling, operation or abandonment of a well,
or
- (b) the opening up, operation or abandonment of a mine or quarry,

the Provincial Treasurer may, in addition to any remedies given under section 18, demand payment of the money paid under section 11 or 18 from the owner of the title to the mineral for which mineral the well was drilled or the mine or quarry opened up, and, failing payment, may recover the amount in an action in debt against that owner.

(2) Where money is recovered from the mineral owner under subsection (1), the mineral owner may recover the same amount from the operator.

20. Determination of compensation.

21. Inquiry re claims.

22. Regulations.

23. Right of access of persons required to carry out maintenance or other work.

Settlement of Claims

20. (1) The Council may, with the consent of the persons concerned, inquire into and decide a dispute between an operator and an owner or occupant as to the amount of compensation payable

- (a) for damage arising out of the operations of the operator to the land of the owner or occupant that is not subject to a surface lease or right of entry order, or
- (b) for loss of or damage to livestock or other personal property of the owner or occupant arising out of operations of the operator, whether or not the land on which the loss or damage occurred is subject to a surface lease or right of entry order, or
- (c) for time spent or expense incurred by an owner or occupant in recovering any of his livestock that have strayed due to the act or omission of the operator, whether or not the act or omission occurred on land that is subject to a surface lease or right of entry order.

(2) The decision of the Council in respect of the compensation determined under subsection (1) is final and binding on the parties to the dispute.

21. Where all of the parties do not consent to the Council determining a dispute regarding any of the matters referred to in section 20, the Council may, at the request of one of the parties to the chairman, hold an inquiry and report its findings to the chairman.

General

22. The Lieutenant Governor in Council may

- (a) make regulations governing proceedings under this Act,
- (b) make such regulations and orders as may be necessary to carry out the provisions of this Act according to their intent or to meet cases that may arise and for which no provision is made by this Act, and
- (c) by regulation strike out, vary, substitute or add to the forms in the Schedule.

23. Any person

- (a) to whom an order under section 9 or 10 has been directed, or
- (b) who is engaged or employed to do any work to be done pursuant to section 11 or subsection (3) of section 17,

and any agent or employee of that person, has access to and may enter upon the land referred to in the order or reclamation certificate for the purpose of complying with the order or doing the work.

24. Commencement of Act.

24. This Act comes into force on the first day of June, 1963.

SCHEDULE
FORM A

(Sections 9 and 10)

THE SURFACE RECLAMATION ACT

Order No.

IN THE MATTER OF

the surface of the land held in connection with or incidental to (well, or as the case may be) within the Sec. Tp. Rge. W. Mer.

is hereby ordered to

- 1.
2.
3.

and to complete the work by the day of 19 .

Dated at , Alberta

this day of 19 .

Surface Reclamation Council

Member

Member
or

Chairman

FORM B

(Sections 15 and 16)

THE SURFACE RECLAMATION ACT

Reclamation Certificate No.

This is to certify that the surface of the land held by within the Sec. Tp. Rge. W. Mer. in connection with or incidental to (well, or as the case may be) was investigated and found to be in a satisfactory condition.

Dated at , Alberta

this day of 19 .

Surface Reclamation Council

Member

Member
or

Chairman

No. 85

FIFTH SESSION
FOURTEENTH LEGISLATURE

11 ELIZABETH II

1963

BILL

An Act respecting the Maintenance and Reclamation of, and the Recovery of Rental for, the Surface of Land Used in Connection with Mines, Quarries, Oil and Gas Operations and Pipe Lines

Received and read the

First time

Second time

Third Time

HON. MR. PATRICK
