

1967 Bill 56

Fifth Session, 15th Legislature, 15 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 56

An Act to amend The Surface Reclamation Act

THE MINISTER OF MINES AND MINERALS

First Reading

Second Reading

Third Reading

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BILL 56

1967

An Act to amend The Surface Reclamation Act

(Assented to _____, 1967)

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

1. *The Surface Reclamation Act* is hereby amended.

2. Section 7 is amended by adding the following subsections:

(3) The secretary shall have the custody and care of the records and documents belonging to or pertaining to the Council and filed in its office.

(4) A certified copy of an order, reclamation certificate, decision, plan, invoice or other document, signed by the chairman or the secretary, shall be received in evidence in all cases in which the original document would be received, without any proof of the authenticity of the signature or any other proof whatsoever.

3. Section 11 is struck out and the following section is substituted:

11. (1) 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 expenses incurred shall be paid by the Provincial Treasurer out of the General Revenue Fund.

(2) The expenses paid by the Provincial Treasurer under subsection (1) shall be invoiced to the person to whom the order under section 9 or 10 was directed and upon the mailing of the invoice to that person, the expenses paid

(a) constitute a debt payable to the Crown by the person to whom the order was directed, and

(b) 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.

4. Section 15 is amended

(a) as to subsection (1) by adding at the end thereof the words "in Form B in the Schedule",

Explanatory Notes

1. This Bill amends chapter 64 of the Statutes of Alberta, 1963.
2. New subsections are added
 - (a) giving custody of the Council's records to the secretary, and
 - (b) providing for admission in evidence of certified copies of certain documents.

Section 7 presently reads:

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.

3. Section 11 is amended by adding a procedure for invoicing persons who are to pay the expenses incurred. Section 11 presently reads:

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.

4. Section 15 is amended by adding a procedure of notifying surface owners and occupants of the issue of a reclamation certificate. Section 15 presently reads:

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.

(b) by striking out subsection (2) and by substituting the following:

(2) A copy of the reclamation certificate issued under subsection (1) shall be mailed or delivered to the owner of the surface of the land and where the land is occupied by other than the owner, a copy of the reclamation certificate shall be mailed or delivered to the occupant.

5. Section 16 is amended

(a) as to subsection (1)

(i) by adding after the words "the surrender or termination" the words "of the surface lease or right of entry order",

(ii) by adding at the end thereof the words "in Form C in the Schedule",

(b) as to subsection (2) by striking out the words "shall hold" and by substituting the words "may hold".

6. Section 19 is amended by adding the following subsection after subsection (1):

(1a) A demand under subsection (1) for money paid under section 11 shall be mailed to the mineral owner accompanied by a copy of the invoice referred to in subsection (2) of section 11.

7. The following section is added after section 23:

23a. When an order, reclamation certificate, decision, plan, invoice or other document or any copy thereof is mailed to any person pursuant to a provision of this Act, it shall be sent by registered mail.

8. The following headings and sections are added after section 24:

Appeals regarding Orders

25. A person to whom an invoice for expenses paid under section 11 is mailed, may appeal to the district court of the judicial district in which the land is situated.

26. (1) The appellant shall within 30 days of the date of mailing to him of the invoice for the expenses paid, file a notice of appeal with the clerk of the district court.

(2) The notice of appeal shall state

(a) the grounds of appeal,

(b) whether the appellant disputes liability for the whole or a part of the expenses paid, and

(c) where the appellant disputes liability for a part of

5. Section 16 presently reads:

16. (1) Where evidence is supplied that is sufficient in the opinion of the chairman to indicate that the owner or occupant, as the case may be, has 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.

6. A new subsection (1a) is added for mailing a copy of the invoice for expenses incurred to the mineral owner. Section 19 presently reads:

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.

7. A new section 23a is added regarding mailing of documents by registered mail.

8. New sections 25 to 32 are added incorporating a procedure for appeals regarding expenses incurred in carrying out work ordered by Council.

New sections 33 to 40 are added incorporating a procedure for appeals by surface owners and occupants regarding reclamation certificates.

New sections 41 to 44 relate generally to appeals.

the expenses paid, the part for which he disputes liability.

27. Upon the filing of the notice of appeal all proceedings by the Crown with respect to the recovery of the expenses paid are stayed until the appeal has been disposed of.

28. The appellant shall, within 10 days of filing the notice of appeal, serve a copy thereof upon the secretary.

29. The secretary shall forthwith upon being served with the notice of appeal, cause to be transmitted to the clerk of the district court certified copies of the documents relating to the expenses paid.

30. The appeal shall be to the sittings of the district court next after receipt by the clerk of the district court of the certified copies of the documents.

31. The court shall

- (a) hear and determine the matter of the appeal as a trial *de novo*,
- (b) determine whether the appellant shall pay for
 - (i) the whole, or
 - (ii) such part as the court determines, of the expenses paid, and
- (c) make such directions as to costs of the appeal as it considers just.

32. A judgment under section 31 shall be served upon the chairman.

Appeals regarding Reclamation Certificates

33. An owner or occupant of the surface of land with respect to which a reclamation certificate has been issued under section 15, may appeal to the district court of the judicial district in which the land is situated.

34. (1) The appellant shall, before the expiration of one year from the date of the mailing of the copy of the reclamation certificate, file a notice of appeal with the clerk of the district court.

(2) The notice of appeal shall state the grounds of appeal.

35. The appellant shall, within 20 days of filing the notice of appeal, serve a copy thereof upon the secretary.

36. The secretary shall forthwith upon being served with the notice of appeal, cause to be transmitted to the clerk of

the district court certified copies of the documents relating to the issue of the reclamation certificate.

37. The appeal shall be to the sittings of the district court next after receipt by the clerk of the district court of the certified copies of the documents.

38. The court shall

- (a) hear and determine the matter of the appeal as a trial *de novo*,
- (b) render a judgment
 - (i) confirming that the condition of the land is satisfactory, or
 - (ii) directing such additional work on the land as the court deems proper,and
- (c) make such directions as to costs of the appeal as it considers just.

39. A judgment under section 38 shall be served upon the chairman.

40. Upon being served with a judgment under subclause (ii) of clause (b) of section 38, the chairman shall cause the additional work directed by the court, to be performed and the work so performed shall be deemed to be work done pursuant to subsection (3) of section 17.

General

41. The hearing of an appeal may be adjourned from time to time as circumstances require.

42. No proceeding under this Act with respect to an appeal shall be deemed invalid for informality, if there has been a substantial compliance with the requirements of the Act.

43. By leave of a judge of the Appellate Division of the Supreme Court of Alberta, a person may appeal from the judgment of the district court to the Appellate Division of the Supreme Court of Alberta and the rules and practice applicable to appeals to the Appellate Division apply.

44. Any notice or other document required to be served upon the secretary or the chairman may be served by

- (a) delivery to, or
- (b) registered mail addressed to

the Surface Reclamation Council, Department of Mines and Minerals, Edmonton, Alberta.

9. Form A is amended by striking out the numerals "1., 2., 3.", and by substituting the words "perform the work indicated on the attached schedule".

10. Form B is amended

- (a) by striking out the words "Sections 15 and 16" and by substituting the words "Section 15",
- (b) by striking out the words "investigated and",
- (c) by striking out the words "or *Chairman*" at the end thereof.

11. The following form is added after Form B:

FORM C

(Section 16)

THE SURFACE RECLAMATION ACT

(Date)

Reclamation Certificate No.

This is to certify that consent has been given to the surrender or termination of within the within the
Sec. Tp. Rge. W. Mer.
in connection with or incidental to (..... well,
or as the case may be).

Surface Reclamation Council
Chairman

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