

1978 BILL 7

Fourth Session, 18th Legislature, 27 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 7

THE SURFACE RIGHTS AMENDMENT ACT, 1978

MR. BUTLER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 7
Mr. Butler

BILL 7

1978

THE SURFACE RIGHTS AMENDMENT ACT, 1978

(Assented to , 1978)

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

1 *The Surface Rights Act is amended by this Act.*

2 *Section 3(2) is repealed and the following is substituted:*

(2) The Board shall consist of such number of members as may be appointed to it by the Lieutenant Governor in Council.

3(1) *Section 36 is amended*

(a) *in subsection (5) by striking out “if the notice is given during the last three months of the fifth year of the term of the compensation order”,*

(b) *in subsection (6) by adding the following after clause (b):*

(c) may not be given during the first 4 years of the term of the compensation order.

(c) *in subsection (7) by striking out “fifth year” and substituting “year of the term in which the notice is given”,*

(d) *in subsection (9) by striking out “but not later than the end of the three-month period following the expiration of the fifth year of the term of the compensation order”,*

(e) *in subsection (12) by striking out “fifth year” and substituting “year of the term in which the notice under subsection (5) was given”,*

(f) *by repealing subsection (14) and substituting the following:*

(14) Further notices may be given under subsection (5) except that a further notice may not be given under that subsection during the 4-year period following the year in which the last notice was given.

Explanatory Notes

1 This Bill will amend chapter 91 of the Statutes of Alberta, 1972.

2 Section 3(2) presently reads:

3(2) The Board shall consist of not more than seven members who shall be appointed by the Lieutenant Governor in Council.

3 Section 36 deals with the review every 5 years of right of entry compensation orders of the Surface Rights Board. At present the notice to commence the review procedure must be given during the last 3 months of the 5th year of the term of the compensation order. If negotiations between the parties fail, the application to the Board must be made during the first 3 months of the 5th year of the term of the compensation order. The same time limits apply to every 5-year review thereafter. The effect of the amendments to get rid of both 3-month limitations and instead allow the review procedure to be commenced by a notice given in the 5th or any succeeding year of the term. In any case, a new rate of compensation is to be effective commencing in the year following the year in which the notice is given. The same rule will apply to subsequent reviews of compensation.

(2) A person who, before the commencement of this Act, failed to give a notice under section 36(5) of The Surface Rights Act within the time prescribed by that subsection is not precluded from giving a notice under that subsection after the commencement of this Act.

4(1) Section 37 is amended

(a) in subsection (3) by striking out “if the notice is given during the last three months of the fifth year of the term of the surface lease”

(b) in subsection (4) by adding the following after clause (b):

(c) may not be given during the first 4 years of the term of the surface lease.

(c) in subsection (5) by striking out “fifth year” and substituting “year of the term in which the notice is given”

(d) in subsection (7) by striking out “but not later than the end of the three-month period following the expiration of the fifth year of the term of the surface lease”,

(e) in subsection (10) by striking out “fifth year” and substituting “year of the term in which the notice under subsection (3) was given”,

(f) by repealing subsection (13) and substituting the following:

(13) Further notices may be given under subsection (3) except that a further notice may not be given under that subsection during the 4-year period following the year in which the last notice was given.

(2) A person who, before the commencement of this Act, failed to give a notice under section 37(3) of The Surface Rights Act within the time prescribed by that subsection is not precluded from giving a notice under that subsection after the commencement of this Act.

5 Form B in the Schedule is repealed and Form B in the Schedule to this Act is substituted.

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

4 Section 37 deals with the review every 5 years of the periodic rentals under private surface leases or easements for mineral operations, pipelines, power lines and telephone lines. The section contains time limits similar to those in section 36. The amendments to section 37 are the equivalent of those being made by this Bill to section 36.

5 Replaces Form B. See the Schedule to this Bill.

SCHEDULE

FORM B

THE SURFACE RIGHTS ACT

(Section 18)

NOTICE

Re: *(land description)*

Between:

..... Applicant,

- and -

..... Respondent(s)

TAKE NOTICE that an application in the form attached hereto has been made to the Surface Rights Board pursuant to *The Surface Rights Act* for a right of entry order with respect to the above land;

AND FURTHER TAKE NOTICE that the Board may issue the order applied for after *clear days from the date of service of this Notice and without any further notice to you;

AND FURTHER TAKE NOTICE that if you wish to object to the issue of the right of entry order you may do so in person or in writing to the Board at:

.....
.....

(address of the Board)

Dated at, Alberta, this day of,
19....

.....

Name and address of Applicant

TO:

*(Name and address of
Respondent).*

(*NOTE: *As to the appropriate number of days,
see section 18(1) of the Act.*)