

1987 BILL 27

Second Session, 21st Legislature, 36 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 27

AGRICULTURE STATUTES AMENDMENT ACT, 1987

THE MINISTER OF AGRICULTURE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 27

BILL 27

1987

AGRICULTURE STATUTES AMENDMENT ACT, 1987

(Assented to _____, 1987)

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

Dairy Board Act

1(1) *The Dairy Board Act is amended by this section.*

(2) *Section 1 is amended by adding the following after clause (c):*

(d) “minimum price” in relation to producers means the price to be paid to producers prior to any deduction or adjustment authorized under this Act, the *Dairy Industry Act* or the regulations under either Act.

(3) *Section 25 is amended*

(a) *by adding “during a fiscal year” after “raised by the Dairy Board”;*

(b) *by striking out “on March 31” and substituting “on or before August 31”.*

Department of Agriculture Act

2(1) *The Department of Agriculture Act is amended by this section.*

(2) *Section 14 is repealed and the following is substituted:*

14 The Minister may charge fees for any service or materials provided or research done by the Department.

(3) *Section 16(1) is repealed and the following is substituted:*

16(1) The Minister may enter into an agreement on or in connection with any policy, program, service or other matter under his administration.

Explanatory Notes

Dairy Board Act

1(1) This section will amend chapter D-1 of the Revised Statutes of Alberta 1980.

(2) Section 1 presently reads:

1 In this Act,

(a) "Dairy Board" means the Alberta Dairy Control Board constituted pursuant to this Act;

(b) "excess milk" means excess milk as defined by the regulations;

(c) "milk" means milk as defined by the regulations.

(3) Section 25 presently reads:

25 Any money raised by the Dairy Board by assessment and levy under this Act and not required for the purpose of enforcement or administration as determined by the Dairy Board shall on March 31 in each year be transferred by the Provincial Treasurer to a reserve trust account, and that money, together with accumulated reserves from year to year, may be used for any purpose that the Dairy Board considers necessary or expedient in any matter relating to the proper conduct of the milk trade.

Department of Agriculture Act

2(1) This section will amend chapter D-12 of the Revised Statutes of Alberta 1980.

(2) Section 14 presently reads:

14 The Minister may make regulations for the establishment, operation and administration of any services provided by the Department and fixing the fees to be charged for any matter arising out of the provision of those services.

(3) Section 16(1) presently reads:

16(1) The Minister may enter into agreements with

(a) the Government of Canada,

(b) the government of another province or territory of Canada, or

(1.1) Without limiting subsection (1), an agreement may be made under that subsection with the Government of Canada or the government of a province or any agency of the Government of Canada or of the government of a province.

Farm Implement Act

3(1) *The Farm Implement Act is amended by this section.*

(2) *Section 1 is amended by adding the following after clause (e):*

(e.1) “lease” means a lease of a farm implement under which the lessee is not given the right to purchase the farm implement;

(e.2) “lease-purchase agreement” means a lease of a farm implement under which the lessee is given the right to purchase the farm implement;

(e.3) “lessor” means the lessor under a lease or lease-purchase agreement;

(3) *The following is added after section 3:*

3.1(1) A lease or lease-purchase agreement shall set out all the terms and conditions of the agreement.

(2) This Act and the regulations apply to a lease or lease-purchase agreement as if it were a sale agreement.

(3) A lease or lease-purchase agreement is assignable by the lessor or an assignee of the lease or lease-purchase agreement.

(4) A lessor who assigns a lease or lease-purchase agreement continues to be responsible for the warranties under this Act notwithstanding

(a) the assignment by the lessor, and

(b) any subsequent assignment by an assignee of the lease or lease-purchase agreement.

(4) *Section 24(1) is amended by striking out “sell or offer for sale and substituting “sell or lease or offer for sale or lease”.*

(5) *Section 29 is amended*

(a) *in clause (k) by adding “lease, lease-purchase and” after “for of”;*

(b) *in clause (l) by adding “lease, lease-purchase and” after “contents of”.*

(c) *an individual, agency or corporation,*
for the purpose of testing, evaluating, appraising, developing or improving machinery used for agricultural purposes or for the purpose of improving agricultural practice generally.

Farm Implement Act

3(1) This section will amend chapter F-4.1 of the Statutes of Alberta, 1982.

(2) Section 1 presently reads:

1 In this Act,

(a) *“custom operator” means a person who purchases a new farm implement and uses or permits the use of that farm implement for hire or for service to others for valuable consideration to the extent of at least 50% of the annual use of that farm implement;*

(b) *“dealer” means a person operating in the ordinary course of business a retail establishment for the sale of farm implements;*

(c) *“distributor” means a person, including a manufacturer, who sells, consigns or delivers farm implements to a dealer for sale in the ordinary course of business;*

(d) *“farm implement” includes any implement, equipment, engine, motor, machine, combine, tractor or attachment used or intended for use in farming operations;*

(e) *“inspector” means an inspector appointed under section 32;*

(f) *“Minister” means the Minister of Agriculture;*

(g) *“purchaser” means a farmer who purchases a farm implement for his own use.*

(3) Lease and lease-purchase agreement.

(4) Section 24(1) presently reads:

24(1) A dealer shall not sell or offer for sale a new farm implement unless the farm implement was obtained by the dealer from or through a distributor licensed under this Act.

(5) Section 29(k) and (l) presently read:

29 The Lieutenant Governor in Council may make regulations

(k) governing the form of sale agreements of farm implements;

(l) governing the contents of sale agreements of farm implements;

Hail and Crop Insurance Act

4(1) *The Hail and Crop Insurance Act is amended by this section.*

(2) *Section 4(5) is repealed.*

(3) *Section 32 is amended*

(a) *in clause (c) by adding “, honey” after “barley”;*

(b) *in clause (d) by striking out “seeded or to be seeded thereon”;*

Irrigation Act

5(1) *The Irrigation Act is amended by this section.*

(2) *Section 12(1) is repealed and the following is substituted:*

12(1) If one or more notices of objection are submitted to the Council within the 21-day period referred to in section 10(1)(c), the Council shall refer the petition

(a) to the Local Authorities Board, or

(b) to the Court of Queen’s Bench if any notice of objection requests that the petition be heard by the Court of Queen’s Bench.

Livestock Identification and Brand Inspection Act

6(1) *The Livestock Identification and Brand Inspection Act is amended by this section.*

(2) *Section 3(3) is amended by striking out “by an inspector” and substituting the following:*

(a) by an inspector or his designate, in a case to which sections 15 or 16 applies, or

(b) by an inspector, in any other case.

(3) *Section 15 is amended*

(a) *in subsection (1)(c) by adding “or his designate” after “inspector”;*

(b) *in subsection (1)(d) by adding “or his designate” after “inspector”;*

Hail and Crop Insurance Act

4(1) This section will amend chapter H-1 of the Revised Statutes of Alberta 1980.

(2) Section 4(5) presently reads:

(5) In the case of members of the corporation who are members of the Legislative Assembly, the acceptance of travelling and living expenses payable under subsection (4) must be authorized by the Lieutenant Governor in Council.

(3) Section 32 presently reads:

32 In this Part,

(a) "crop year" means the period from April 1 in a year until March 31 in the following year;

(b) "federal-provincial agreement" means an agreement made pursuant to section 43;

(c) "insurable crop" means wheat, oats, barley or any other agricultural crop declared by the regulations to be an insurable crop;

(d) "insurable person" means an operator of a farm in Alberta who has an insurable interest in an insurable crop seeded or to be seeded thereon.

Irrigation Act

5(1) This section will amend chapter I-11 of the Revised Statutes of Alberta 1980.

(2) Section 12(1) presently reads:

12(1) If a notice of objection is submitted to the Council within the 21-day period referred to in section 10(1)(b), the Council shall refer the petition

(a) to the Local Authorities Board, or

(b) to the Court of Queen's Bench, when the notice of objection also requests that the petition be heard by the Court of Queen's Bench.

Livestock Identification and Brand Inspection Act

6(1) This section will amend chapter L-22.5 of the Statutes of Alberta, 1985.

(2) Section 3(3) presently reads:

(3) Subject to subsection (4) and section 6(5), no livestock may be transported or driven from Alberta to a destination outside Alberta unless the livestock is accompanied by a livestock permit issued by an inspector.

(3) Section 15(1) and (4) presently read:

15(1) A person who

(a) purchases livestock at a market or country sale where the livestock has been inspected,

(b) wishes to transport the livestock directly to an abattoir for immediate slaughter,

- (c) by repealing subsection (4) and substituting the following:
- (4) If bills of sale presented under subsection (1)(d) are not satisfactory,
- (a) the livestock may be detained at the owner's expense until satisfactory bills of sale have been provided, or
 - (b) the livestock may be re-inspected by an inspector.

(4) Section 16 is amended

- (a) in subsection (1)(c) by adding "or his designate" after "inspector";
- (b) in subsection (1)(d) by adding "or his designate" after "inspector";
- (c) by repealing subsection (3) and substituting the following:
- (3) If bills of sale presented under subsection (1)(d) are not satisfactory,
- (a) the livestock may be detained at the owner's expense until satisfactory bills of sale have been provided, or
 - (b) the livestock may be re-inspected by an inspector.

Livestock and Livestock Products Act

7(1) The Livestock and Livestock Products Act is amended by this section.

(2) Section 1 is amended

- (a) by renumbering clauses (a) and (b) as clauses (b) and (a) respectively and by arranging those clauses alphabetically;
- (b) by adding the following after clause (c):
- (c.1) "licensed livestock dealers' agent" means a licensed livestock dealers' agent as defined in the regulations;
- (c) by repealing clause (g) and substituting the following:
- (g) "patron" means a person who in the ordinary course of his farming operation
- (i) maintains livestock for the purpose of propagation or the production of livestock products, or
 - (ii) maintains feeder livestock for the purpose of growing or finishing or both
- and includes a licensed livestock dealer or a licensed livestock dealers' agent if the dealer or agent, at the time he furnishes

- (c) applies to the inspector on the day the livestock is purchased, and*
- (d) presents bills of sale that are satisfactory in the opinion of the inspector*

may be granted, without payment of an inspection fee, a livestock permit authorizing him to transport the livestock to the specified abattoir.

(4) If bills of sale presented to an inspector are not satisfactory in his opinion, he may

- (a) detain the livestock at the owner's expense until satisfactory bills of sale have been provided, or*
- (b) re-inspect the livestock.*

(4) Section 16(1) and (3) presently read:

16(1) A person who

- (a) purchases livestock at a market or country sale where the livestock has been inspected,*
- (b) wishes to transport the livestock directly out of Alberta,*
- (c) applies to an inspector on the day the livestock is purchased, and*
- (d) presents bills of sale that are satisfactory in the opinion of the inspector,*

may be granted, without payment of an inspection fee, a livestock permit authorizing him to transport the livestock outside Alberta.

(3) If bills of sale presented to an inspector are not satisfactory in his opinion, he may

- (a) detain the livestock at the owner's expense until satisfactory bills of sale have been provided, or*
- (b) re-inspect the livestock.*

Livestock and Livestock Products Act

7(1) This section will amend chapter L-24 of the Revised Statutes of Alberta 1980.

(2) Section 1 presently reads in part:

1 In this Act,

- (g) "patron" means a farmer, rancher or other person,*
 - (i) who maintains livestock for the purpose of propagation or the production of livestock products, or*
 - (ii) who maintains feeder livestock for a period of not less than 30 days for the purpose of fattening,*
- and includes a licensed livestock dealer;*

a claim to the Minister pursuant to section 10, has owned for not fewer than 30 days the livestock that are the subject of the claim;

(3) *Section 3(1)(b) is repealed and the following is substituted:*

(b) define for the purposes of this Act and the regulations the following terms:

- (i) licensed livestock dealer;
- (ii) licensed livestock dealers' agent;
- (iii) stock yard;

Surface Rights Act

8(1) *The Surface Rights Act is amended by this section.*

(2) *Section 1(d) is repealed and the following is substituted:*

(d) "former Act" means *The Right of Entry Arbitration Act*, chapter 24 of the Statutes of Alberta, 1947, *The Right of Entry Arbitration Act*, 1952, chapter 79 of the Statutes of Alberta, 1955, *The Right of Entry Arbitration Act*, chapter 290 of the Revised Statutes of Alberta, 1955, and chapter 322 of the Revised Statutes of Alberta, 1970, the *Surface Rights Act*, chapter 91 of the Statutes of Alberta, 1972 and chapter S-27 of the Revised Statutes of Alberta, 1980, *The Water, Gas, Electric and Telephone Companies Act*, chapter 260 of the Revised Statutes of Alberta, 1942 and chapter 361 of the Revised Statutes of Alberta, 1955, *The Expropriation Procedure Act*, chapter 30 of the Statutes of Alberta, 1947 and chapter 130 of the Revised Statutes of Alberta, 1970, and *The Expropriation Act*, chapter 27 of the Statutes of Alberta, 1974;

(3) *Section 12(1)(c), (d) and (e) are repealed and the following is substituted:*

- (c) for or incidental to the construction, operation or removal of a pipeline,
- (d) for or incidental to the construction, operation or removal of a power transmission line, or
- (e) for or incidental to the construction, operation or removal of a telephone line,

(4) *Section 23 is repealed and the following is substituted:*

23(1) Forthwith on making a right of entry order, the Board shall give notice to the operator and each respondent of the date which it will hold a hearing to determine the amount of compensation payable and the persons to whom it is payable.

(2) The compensation hearing shall be scheduled for a date that is not more than 180 days after the date the right of entry order was made.

(3) Section 3(1)(b) presently reads:

3(1) The Lieutenant Governor in Council may by regulation

(b) define the terms "licensed livestock dealer" and "stock yard" for the purpose of this Act and the regulations;

Surface Rights Act

8(1) This section will amend chapter S-27.1 of the Statutes of Alberta, 1983.

(2) Section 1(d) presently reads:

1 In this Act,

(d) "former Act" means The Right of Entry Arbitration Act, chapter 24 of the Statutes of Alberta, 1947, The Right of Entry Arbitration Act, 1952, chapter 79 of the Statutes of Alberta, 1952, The Right of Entry Arbitration Act, chapter 290 of the Revised Statutes of Alberta, 1955 and chapter 322 of the Revised Statutes of Alberta 1970 and the Surface Rights Act, chapter 91 of the Statutes of Alberta, 1972 and chapter S-27 of the Revised Statutes of Alberta 1980;

(3) Section 12(1)(c), (d) and (e) presently read:

12(1) No operator has a right of entry in respect of the surface of any land

(c) for the construction of a pipeline, or for or incidental to the operation of a pipeline,

(d) for the construction of a power transmission line, or for or incidental to the operation of a power transmission line, or

(e) for the construction of a telephone line, or for or incidental to the operation of a telephone line,

until the operator has obtained the consent of the owner and the occupant of the surface of the land or has become entitled to right of entry by reason of an order of the Board pursuant to this Act.

(4) Section 23 presently reads:

23(1) Forthwith on making a right of entry order the Board shall give notice to the operator and the respondent of the date on which it will hold a hearing to determine the amount of compensation payable and the persons to whom it is payable.

(2) The compensation hearing shall be scheduled for a date that is not more than 30 days after the date the right of entry order was made.

(3) The Board shall make a compensation order not more than 30 days after the date on which the compensation hearing is completed.

(3) The Board shall make a compensation order not more than 60 days after the date on which the compensation hearing concluded.

(4) On notice to the parties, the Board may, if it considers necessary to do so, extend the time limits referred to in subsections (2) and (3).

(5) *Section 26(3)(b) is repealed and the following is substituted:*

(b) not later than 10 days after the filing of the notice of appeal serve the Board and the other parties to the compensation order appealed from or their respective solicitors with a copy of the notice of appeal with particulars of the filing endorsed thereon.

(6) *Sections 27, 28, 29 and 30 are repealed and the following is substituted:*

27(1) In this section,

(a) “lessor” means a party to a surface lease who is entitled to receive compensation under that surface lease;

(b) “operator” means an operator who is obligated to pay compensation under a surface lease to a lessor, or who is obligated to pay compensation under a compensation order to a respondent;

(c) “parties” means,

(i) with respect to the review or fixing of a rate of compensation under a surface lease, the operator and the lessor, and

(ii) with respect to the review or fixing of a rate of compensation under a right of entry order, the operator and the respondent;

(d) “rate of compensation” means the amount of compensation payable on an annual or other periodic basis under a surface lease or compensation order in respect of the matter referred to in section 25(1)(c) and (d).

(2) For the purposes of this section,

(a) the term of a compensation order shall be computed from the date the original right of entry order to which it relates was made, and

(b) the term of a surface lease shall be computed from its effective date of the lease.

(3) This section applies to compensation orders and surface leases

(a) that provide for the payment of compensation on an annual or other periodic basis, or

(b) that do not provide for the payment of compensation on an annual or other periodic basis but relate to major power transmission line structures as defined or designated in regulations.

(4) An operator shall give a notice to the lessor or respondent as the case may be,

(4) On notice to the parties the Board may, if it considers it necessary to do so, extend the time limits referred to in subsections (2) and (3).

(5) Section 26(3)(b) presently reads:

(3) The party appealing shall

(b) not later than 10 days after the filing of the notice of appeal, serve the Board and the other parties to the compensation order appealed from or their respective solicitors with a copy of the notice of appeal.

(6) Sections 27, 28, 29 and 30 presently read:

27(1) In this section, "rate of compensation" means the amount of compensation payable on an annual or other periodic basis under a compensation order.

(2) This section applies only to compensation orders made

(a) under this Act, or

(b) after January 1, 1972 under a former Act.

(3) For the purposes of this section the term of a compensation order shall be computed from the date the original right of entry order to which it relates is made.

(4) This section shall not be construed to limit the powers of the Board under section 32 to review, rescind, amend or replace compensation orders.

(5) When a compensation order provides for the payment of compensation on an annual or other periodic basis, the operator shall give a notice to the respondent

(a) on or within 30 days after the 4th anniversary of the date the right of entry order to which the compensation order relates is made, where the right of entry order

(i) is made after the coming into force of this section, or

(ii) was made under a former Act, and the 4th anniversary of that date occurs after the coming into force of this section, or

(b) on or within 30 days after the coming into force of this section, where the right of entry order to which the compensation order relates was made under a former Act and the 4th anniversary of the date it was made occurred before the coming into force of this section.

(6) A notice under subsection (5) shall state

(a) that the operator wishes to have the rate of compensation under the order reviewed, or

(b) that the respondent has a right to have the rate of compensation under the order reviewed

with respect to the compensation years of the term subsequent to the compensation year in which the notice is given.

(7) If either the operator or the respondent indicates pursuant to a notice under subsection (5) that he wishes to have the rate of compensation reviewed, they shall enter into negotiations in good faith for that purpose.

(8) When the operator and the respondent agree on a new rate of compensation under the compensation order, the operator and the respondent shall

(a) on or within 30 days after the 4th anniversary of the date the term of the surface lease commenced or the right of entry order was made, as the case may be, where the term of the surface lease commenced or the right of entry order was made on or after July 1, 1983, or

(b) where the term of the surface lease commenced or the right of entry order was made before July 1, 1983, on or within 30 days after July 1, 1987.

(5) A notice under subsection (4) shall state

(a) that the operator wishes to have the rate of compensation reviewed,

(b) that the lessor or respondent, as the case may be, has a right to have the rate of compensation reviewed, or

(c) where no rate of compensation has been fixed, that the lessor or respondent, as the case may be, has a right to have a rate of annual compensation fixed,

in respect of the compensation years of the term subsequent to the year in which notice is given.

(6) If either party indicates pursuant to a notice under subsection (4) that he wishes to have the rate of compensation reviewed or fixed, the parties shall enter into negotiations in good faith for this purpose.

(7) When the parties agree on a rate of compensation

(a) under a surface lease, the parties shall amend the lease in accordance with their agreement or enter into a new lease and

(b) under a compensation order, the parties shall notify the Board in writing of the rate agreed on and the Board shall vary the compensation order accordingly.

(8) If, by the end of the compensation year in which the notice is given, the parties cannot agree on a rate of compensation, the party desiring to have the rate of compensation reviewed or fixed may make an application to the Board for a hearing to determine the rate of compensation.

(9) An application pursuant to subsection (8) shall set forth

(a) the name and address of the operator,

(b) the name and address of the lessor or respondent, as the case may be,

(c) the rate of compensation under the surface lease or compensation order, and

(d) the amount the applicant believes to be a reasonable and fair rate of compensation,

and the application shall be accompanied by a copy of the surface lease, if applicable, and any other documents or material the applicant considers to be relevant to the application.

notify the Board in writing of the rate agreed on, and the Board shall vary the compensation order accordingly.

(9) If the operator and the respondent cannot, by the end of the compensation year in which the notice is given, agree on a new rate of compensation, the party desiring a review may make an application to the Board for a review of the rate of compensation.

(10) The application pursuant to subsection (9) shall

(a) state the amount the applicant believes to be a reasonable and fair rate of compensation, and

(b) be accompanied by any documents or material the applicant considers to be relevant to the application.

(11) On receipt of an application pursuant to subsection (9), the Board shall fix a date for the hearing of the application and notify the operator and the respondent of the date fixed.

(12) The Board shall hear the application and, on conclusion of the hearing or as soon as is convenient thereafter, shall make an order confirming or varying the rate of compensation payable under the compensation order in respect of the compensation years of the term subsequent to the compensation year in which the notice under subsection (5) was given.

(13) An order under subsection (12) may be appealed as though the order were a compensation order under section 23.

(14) The operator shall give a notice to the respondent that complies with subsection (6) on or within 30 days after every 5th anniversary date after the date the notice under subsection (5) was given for as long as the compensation order is in effect, and subsections (7) to (13) apply to such a notice.

(15) If the operator fails to give a notice required by subsection (5) or (14), the respondent may, within a reasonable time after the failure, give a notice to the operator stating that he wishes to have the rate of compensation under the order reviewed, and in such a case

(a) subsections (7) to (13) apply,

(b) the Board may, notwithstanding subsection (12), make its order regarding compensation effective from the same date it would have been effective if the operator had given the notice as required by subsection (5) or (14), and

(c) the Board may make any order regarding the payment of interest that it considers appropriate.

28(1) In this section, "rate of compensation" means the amount of compensation payable on an annual or other periodic basis under a compensation order in respect of the matters referred to in section 25(1)(c) and (d).

(2) This section applies only to compensation orders made on or before January 1, 1972.

(3) For the purposes of this section, the term of a compensation order shall be computed from the date an application for review under subsection (4) is received by the Board.

(4) An operator or respondent may make application to the Board for a review of a compensation order regarding the rate of compensation under the order in respect of the years of the term subsequent to the year of the term in which the application is made, whether or not at the time of the application the compensation order contains provision for the payment of annual or other periodic compensation in respect of the matters referred to in section 25(1)(c) and (d).

(10) On receipt of an application pursuant to subsection (9), the Board shall fix a date for the hearing of the application and notify the parties of the date so fixed.

(11) The Board shall hear the application and, as soon as it is convenient thereafter, shall make an order fixing, confirming or varying the rate of compensation payable commencing on the anniversary date of the surface lease or compensation order, as the case may be, next following the date notice was given under subsection (4).

(12) An order under subsection (11) may be appealed as though it were a compensation order under section 23.

(13) With respect to the review or fixing of a rate of compensation under a surface lease, when the Board makes an order varying or fixing the rate of compensation, the order operates to amend the surface lease in respect of the rate of compensation under it, notwithstanding anything contained in the surface lease.

(14) The operator shall give a notice that complies with subsection (5) to the other party on or within 30 days after every 5th anniversary date after the date notice should have been given under subsection (4) for as long as the surface lease or right of entry order, as the case may be, is in effect and subsections (6) to (13) apply to such a notice.

(15) If the operator fails to give a notice required by subsection (4) or (14) the lessor or respondent, as the case may be, may within a reasonable time after the failure, give a notice to the operator stating that he wishes to have the rate of compensation reviewed or fixed and in such case

(a) subsections (6) to (13) apply,

(b) the Board may, notwithstanding subsection (11), make its order as to the rate of compensation effective from the same date it would have been effective if the operator had given notice as required by subsection (4) or (14), and

(c) the Board may make any order regarding the payment of interest that it considers appropriate.

- (5) *The application pursuant to subsection (4) shall*
- (a) *state the amount the applicant believes to be a reasonable and fair rate of compensation, and*
 - (b) *be accompanied by any documents or material the applicant considers to be relevant to the application.*
- (6) *The applicant shall give notice of the application to the other party.*
- (7) *On receipt of an application pursuant to subsection (4), the Board shall fix a date for the hearing of the application and notify the operator and the respondent of the date fixed.*
- (8) *The Board shall hear the application and, on conclusion of the hearing or as soon as is convenient thereafter, shall make an order fixing, confirming or varying the rate of compensation payable under the compensation order in respect of the years of the term subsequent to the year in which the application is made.*
- (9) *An order under subsection (8) may be appealed as though the order were a compensation order under section 23.*
- (10) *The operator shall give a notice to the respondent that complies with section 27(6) on or within 30 days after every 5th anniversary date after the date the application under subsection (4) of this section was received by the Board for as long as the compensation order is in effect, and section 27(4), (6) to (13) and (15) apply in such a case.*
- 29(1) *In this section,*
- (a) *“operator” means an operator who is obligated to pay compensation under a surface lease to a lessor;*
 - (b) *“lessor” means a party to a surface lease who is entitled to receive compensation under that surface lease;*
 - (c) *“rate of compensation” means the amount of compensation payable on an annual or other periodic basis under a surface lease.*
- (2) *This section applies only to the following classes of surface leases:*
- (a) *surface leases that do not relate to pipelines, power transmission lines or telephone lines, where the terms of the leases commence on or after January 1, 1972;*
 - (b) *surface leases that relate to pipelines, power transmission lines or telephone lines, where the terms of the leases commence on or after January 1, 1977.*
- (3) *When a surface lease provides for the payment of compensation on an annual or other periodic basis, the operator shall give a notice to the lessor*
- (a) *on or within 30 days after the 4th anniversary of the date the term of the surface lease commences where the term of the surface lease*
 - (i) *commences after the coming into force of this section, or*
 - (ii) *commenced before the coming into force of this section and the 4th anniversary of the date it commenced occurs after the coming into force of this section, or*
 - (b) *on or within 30 days after the coming into force of this section, where the term of the surface lease commenced before the coming into force of this section and the 4th anniversary of the date it commenced occurred before the coming into force of this section.*
- (4) *A notice under subsection (3) shall state*
- (a) *that the operator wishes to have the rate of compensation under the surface lease reviewed, or*

(b) that the lessor has a right to have the rate of compensation under the surface lease reviewed

with respect to the compensation years of the term subsequent to the compensation year in which the notice is given.

(5) If either the operator or the lessor indicates pursuant to a notice under subsection (3) that he wishes to have the rate of compensation reviewed, they shall enter into negotiations in good faith for that purpose.

(6) When the operator and the lessor agree on a new rate of compensation under the surface lease, the operator and the lessor shall amend the lease in accordance with their agreement or enter into a new lease.

(7) If the operator and the lessor cannot, by the end of the compensation year in which the notice is given, agree on a new rate of compensation, the party desiring a review may make an application to the Board for a review of the rate of compensation.

(8) The application pursuant to subsection (7) shall set forth

(a) the name and address of the operator,

(b) the name and address of the lessor,

(c) the rate of compensation under the surface lease, and

(d) the amount the applicant believes to be a reasonable and fair rate of compensation,

and the application shall have attached to it a copy of the surface lease and may be accompanied by any other documents or material the applicant considers to be relevant to the application.

(9) On receipt of an application pursuant to subsection (7), the Board shall fix a date for the hearing of the application and notify the operator and the lessor of the date fixed.

(10) The Board shall hear the application and, on conclusion of the hearing or as soon as is convenient thereafter, shall make an order confirming or varying the rate of compensation payable under the surface lease in respect of the compensation years of the term subsequent to the compensation year in which the notice under subsection (3) was given.

(11) An order under subsection (10) may be appealed as though it were a compensation order under section 23.

(12) When the Board makes an order varying the rate of compensation, the order operates to amend the surface lease in respect of the rate of compensation under it, notwithstanding anything contained in the surface lease.

(13) The operator shall give a notice to the lessor that complies with subsection (4) on or within 30 days after every 5th anniversary date after the date the notice under subsection (3) was given for as long as the surface lease is in effect, and subsections (5) to (12) apply to such a notice.

(14) If the operator fails to give a notice required by subsection (3) or (13), the lessor may, within a reasonable time after the failure, give a notice to the operator stating that he wishes to have the rate of compensation under the surface lease reviewed, and in such a case

(a) subsections (5) to (12) apply,

(b) the Board may, notwithstanding subsection (10), make its order regarding compensation effective from the same date it would have been effective if the operator had given the notice as required by subsection (3) or (13), and

(c) the Board may make any order regarding the payment of interest that it considers appropriate.

30(1) In this section,

(a) "operator" means an operator who is obligated to pay compensation under a surface lease to a lessor;

(b) "lessor" means a party to a surface lease who is entitled to receive compensation under that surface lease;

(c) "rate of compensation" means the amount of compensation payable on an annual or other periodic basis under a surface lease in respect of the matters referred to in section 25(1)(c) and (d).

(2) This section applies only to the following classes of surface leases:

(a) surface leases that do not relate to pipelines, power transmission lines or telephone lines, where the terms of the leases commence before January 1, 1972;

(b) surface leases that relate to major power transmission line structures as defined or designated in the regulations, where the terms of the leases commence before January 1, 1977.

(3) For the purposes of this section, the term of a surface lease shall be computed from the date an application for review under subsection (4) is received by the Board.

(4) An operator or lessor may make application to the Board for a review of a surface lease regarding the rate of compensation under the lease in respect of the years of the term subsequent to the year of the term in which the application is made, whether or not at the time of the application the surface lease contains provision for the payment of annual or other periodic compensation in respect of the matters referred to in section 25(1)(c) and (d).

(5) The application pursuant to subsection (4) shall set forth

(a) the name and address of the operator,

(b) the name and address of the lessor,

(c) the rate of compensation under the surface lease, if any, and

(d) the amount the applicant believes to be a reasonable and fair rate of compensation,

and the application shall have attached to it a copy of the surface lease and may be accompanied by any other documents or material the applicant considers to be relevant to the application.

(6) The applicant shall give notice of the application to the other party.

(7) On receipt of an application pursuant to subsection (4), the Board shall fix a date for the hearing of the application and notify the operator and the lessor of the date fixed.

(8) The Board shall hear the application and, on conclusion of the hearing or as soon as is convenient thereafter, shall make an order fixing, confirming or varying the rate of compensation payable under the surface lease in respect of the years of the term subsequent to the year in which the application is made.

(9) An order under subsection (8) may be appealed as though the order were a compensation order under section 23.

(10) The operator shall give a notice to the lessor that complies with section 29(4) on or within 30 days after every 5th anniversary date after the date the application under subsection (4) of this section was received by the Board for as long as the surface lease is in effect, and section 29(4) to (12) and (14) apply in such a case.

(7) *Section 33 is amended*

(a) *by repealing subsection (1)(a) and substituting the following:*

(a) for damage caused by or arising out of the operations of the operator to any land of the owner or occupant other than the area granted to the operator,

(b) *by repealing subsection (3) and substituting the following:*

(3) This section does not apply to a claim for compensation the amount of which may be determined by the Board under section 25.

(8) *Section 43(1) is repealed and the following is substituted:*

43(1) Where this Act or the regulations provide for the giving or serving of an application, notice, order or any other document by any person other than the Board, the application, notice, order or other document is sufficiently given or served on the person to whom it is directed if it is

(a) personally served on him, or

(b) sent by registered mail addressed to him at his last known address.

(1.1) Where this Act or the regulations provide for the giving or serving of a notice, order or other document by the Board, the notice, order or other document is sufficiently given or served on the person to whom it is directed if it is

(a) personally served on him, or

(b) sent by ordinary, certified or registered mail addressed to him at his last known address.

(7) Section 33 presently reads:

33(1) Subject to subsections (2) to (4), the Board may hold a hearing and make an order with respect to a dispute between the operator and an owner or occupant who are parties to a surface lease or the operator and an owner or occupant under a right of entry order as to the amount of compensation payable by the operator

(a) for damage caused by or arising out of the operations of the operator to any land of the owner or occupant,

(b) for any loss or damage to livestock or other personal property of the owner or occupant arising out of the operations of the operator whether or not the land on which the loss or damage occurred is subject to the 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 an act or omission of the operator whether or not the act or omission occurred on the land that is subject to the surface lease or right of entry order.

(2) The Board has jurisdiction to hear and determine a dispute under this section only if

(a) the application is made in writing to the Board by a party to the dispute within 2 years of the last date on which damage is alleged to have occurred, and

(b) the amount of compensation claimed by the owner or occupant does not exceed \$5000.

(3) This section does not apply to a claim for compensation the amount of which may be determined by the Board under section 25(5) or to a claim for compensation for damages agreed to be paid by the operator under the terms of a surface lease.

(4) An order under this section may be appealed by the operator or the owner or occupant as though the order were a compensation order under section 23.

(8) Section 43 presently reads:

43(1) Where this Act or the regulations provide for the giving or serving of an application, notice, order or any other document, the application, notice, order or other document is sufficiently given to or served on the person to whom it is directed if it is

(a) personally served on him, or

(b) sent by registered mail addressed to him at his last known address.

(2) Where an application, notice, order or any other document is to be given to or served on the Crown, it shall be given to or served on

(a) a Deputy Minister of the department charged with the administration of the land to which the application, notice, order or other document relates, and

(b) a Deputy Minister of another department, where the title to the land to which the application, notice, order or other document relates indicates that another department has an interest in the land.

(9) Section 44(a) is repealed and the following is substituted:

(a) defining or designating major power transmission line structures for the purposes of section 27;

(10) This section comes into force on July 1, 1987.

(9) Section 44(a) presently reads:

44 The Minister may make regulations

*(a) defining or designating major power transmission line structures
for the purposes of section 30(2)(b);*

(10) Coming into force.