

1999 BILL 4

Third Session, 24th Legislature, 48 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 4

SURFACE RIGHTS AMENDMENT ACT, 1999

MINISTER OF AGRICULTURE, FOOD
AND RURAL DEVELOPMENT

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 4

1999

SURFACE RIGHTS AMENDMENT ACT, 1999

(Assented to _____, 1999)

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

Amends SA
1983 cS-27.1

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

2 Section 39 is repealed and the following is substituted:

Compensation

39(1) In this section, “operator” means any person who, at the time of non-payment under a surface lease, right of entry order or compensation order, became liable to pay the money in question because that person

- (a) was an approval or registration holder who carried on an activity on or in respect of specified land pursuant to an approval or registration,
- (b) carried on an activity on or in respect of specified land other than pursuant to an approval or registration,
- (c) was the holder of a licence, approval or permit issued by the Energy Resources Conservation Board for purposes related to the carrying on of an activity on or in respect of specified land,
- (d) was a working interest participant in a well on, in or under specified land, or
- (e) was the holder of a surface lease for purposes related to the carrying on of an activity on or in respect of specified land,

and includes a successor, assignee, executor, administrator, receiver, receiver-manager or trustee of a person referred

Explanatory Notes

1 Amends chapter S-27.1 of the Statutes of Alberta, 1983.

2 Section 39 presently reads:

39(1) When an operator fails to pay, within 30 days following the day on which it was due, any money under a compensation order or surface lease, the person entitled to receive the money may submit to the Board evidence of the failure.

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

(3) If the Provincial Treasurer pays money to a person under subsection (2), the amount paid thereby constitutes a debt owing by the operator to the Crown.

to in clause (a), (b), (c), (d) or (e) who was so liable and any person acting as principal or agent of any person referred to in or after clauses (a) to (e).

(2) Subsection (1)(a) to (e) shall be construed in accordance with the *Environmental Protection and Enhancement Act*.

(3) Where any money payable by an operator under a compensation order or surface lease has not been paid and the due date for its payment has passed, the person entitled to receive the money may submit to the Board written evidence of the non-payment.

(4) On receiving the evidence, if the Board considers that it satisfactorily proves the non-payment, the Board shall send a written notice to the operator demanding full payment.

(5) If the notice under subsection (4) is not complied with, the Board may, by written order served on the operator,

(a) suspend the operator's right to enter the site affected by the compensation order or lease, and

(b) after giving the operator written notice of its intention to do so, terminate all the operator's rights under the right of entry order or lease relating to the site that is subject to the claim under this section,

without affecting any of the operator's obligations in regard to the site (including those under this section) or any other person's rights as against the operator, and on the basis that the lease or compensation order remains in place for purposes of shutting-in, suspension, abandonment and reclamation of the site.

(6) If the operator's rights have been terminated under subsection (5)(b) and full payment has still not been made, the Board may direct the Provincial Treasurer to pay out of the General Revenue Fund the amount of money to which the person referred to in subsection (3) is entitled.

(7) If the Provincial Treasurer has made a payment under subsection (6) and the person who received the payment provides evidence of a subsequent non-payment of compensation by the operator in relation to the same site, then the Board may direct the Provincial Treasurer to make any further payments due under subsection (6), without any further application of subsections (3), (4) and (5), until the transfer or reclamation of the site is complete.

(8) The Board may direct the Provincial Treasurer not to make any further payments due under subsection (6) if it considers that the person entitled to receive them is refusing access for operations, abandonment or reclamation allowed by law.

(9) Where the Provincial Treasurer pays money under subsection (6) or (7),

(a) the amount paid and any expenses incurred, whether by the Crown or by a private agency, in collecting or attempting to collect the money owing, constitute a debt owing by the operator to the Crown, and

(b) a written certificate issued by or on behalf of the Provincial Treasurer certifying the payment of the amounts referred to in clause (a), including expenses, may be entered as a judgment of the Court of Queen's Bench for those amounts and enforced according to the ordinary procedure for enforcement of a judgment of that Court.

3 Section 44 is amended by adding the following after clause (f):

(g) establishing any procedural provisions for the purposes of section 39.

4 This Act comes into force on September 1, 1999.

3 Section 44 presently reads:

44 The Minister may make regulations

- (a) defining or designating major power transmission line structures for the purposes of section 27;*
- (b) regarding matters with respect to which a surface lease must make provision, and regulating the content of such provisions;*
- (c) prescribing forms for the purposes of this Act;*
- (d) for the purposes of section 15(2)(b) respecting information that must accompany an application for a right of entry order;*
- (e) prescribing fees for the purposes of section 5(1)(d);*
- (f) exempting operators for the purposes of section 21(c) and defining local distribution system for the purposes of the exemption.*

4 Coming into force.

GOVERNMENT AMENDMENT: March 9, 1999

AMENDMENTS TO BILL 4
SURFACE RIGHTS AMENDMENT ACT, 1999

The Bill is amended as follows:

A Section 2 is amended in the proposed section 39

(a) In subsection (1)

(i) In clause (d) by adding "or other energy development" after "well";

(ii) In clause (e) by adding "or right of entry order" after "lease";

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

(2) Words and expressions used in subsection (1)(a) to (e) that are defined in the *Environmental Protection and Enhancement Act* shall be construed in accordance with that Act.