

1999 BILL 229

Third Session, 24th Legislature, 48 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 229

**SURFACE RIGHTS
AMENDMENT ACT, 1999 (NO. 2)**

DR. NICOL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 229
Dr. Nicol

BILL 229

1999

SURFACE RIGHTS AMENDMENT ACT, 1999 (NO. 2)

(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 1 is amended

**(a) by renumbering clause (a) as clause (a.1) and by
adding the following before clause (a.1):**

(a) “affected person” means a person other than an owner
or occupant who has incurred damage or loss arising
out of the operations of an operator authorized under
this Act;

**(b) in clause (l) by striking out “or occupant” and
substituting “, occupant or affected person”.**

**3 Section 32(d) is amended by striking out “that would
otherwise be payable to an owner or occupant”.**

Explanatory Notes

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

2 (a) Definition of “affected person” added.

(b) Section 1(1) presently reads:

1(l) “respondent” means an owner or occupant named as a respondent in an application to or in an order of the Board;

3 Section 32 presently reads:

32 The Board may

(a) rehear an application before deciding it;

(b) review, rescind, amend or replace a decision or order made by it;

(c) without a hearing, amend an order of the Board with respect

4 Section 33 is amended

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

(1) Subject to subsections (2) to (4), the Board may hold a hearing and make an order with respect to a dispute between an operator and an owner, occupant or affected person 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, occupant or affected person other than the area granted to the operator,
- (b) for any loss or damage to livestock or other personal property of the owner, occupant or affected person arising out of the 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 the owner, occupant or affected person in recovering livestock that have strayed due to an 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.

to an operator or respondent named in it,

- (i) when there is a change of operator, on receipt of evidence satisfactory to the Board of the change, or*
 - (ii) when there is a change as to the owner or occupant of the land, on receipt of proof of the change or on receipt of proof of the change and a proper assignment of compensation from the owner or occupant to the new owner or occupant;*
- (d) notwithstanding anything in this Act, and with or without a hearing, amend a compensation order to show as a respondent a person who is neither an owner or occupant of the land concerned, and to make compensation payable to that person, when the Board is satisfied that that person is legally entitled to receive the compensation that would otherwise be payable to an owner or occupant.*

4 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 other than the area granted to the operator,*
- (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*

(b) in subsection (2) by repealing clause (b);

(c) by repealing subsection (4) and substituting the following:

(4) An order under this section may be appealed by the operator, owner, occupant or affected person.

5 The following is added after section 33:

Arbitration

33.01(1) As an alternative to a hearing under section 33, any party to a dispute under section 33 may submit the matter under dispute to arbitration by notifying the other party in writing.

(2) The provisions of the *Arbitration Act* apply to an arbitration under this section.

6 This Act comes into force on Proclamation.

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.

(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.

5 Arbitration included as an alternate method of dispute resolution.

6 Coming into force.