



Province of Alberta

DRAINAGE DISTRICTS ACT

COMPENSATION REGULATION

Alberta Regulation 29/2002

With amendments up to and including Alberta Regulation 177/2015

Office Consolidation

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(Consolidated up to 177/2015)

ALBERTA REGULATION 29/2002

Drainage Districts Act

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Definition

1 In this Regulation,

- (a) “Board” means the Surface Rights Board;
- (b) “board of trustees” means a board of trustees of a drainage district.

Scope of Regulation

2 This Regulation makes applicable with modifications certain provisions of the *Surface Rights Act* for the purposes of applications under section 34 of the *Drainage Districts Act*.

Application to Board

3(1) An owner or occupant of land may apply to the Board for an order for the payment of compensation in respect of the following kinds of loss or damage suffered by the owner or occupant as a

result of a board of trustees exercising its powers under sections 30 to 33 of the *Drainage Districts Act*:

- (a) loss of or damage to livestock or other personal property of the owner or occupant;
- (b) damage to the owner's or occupant's land;
- (c) loss of or damage to the owner's or occupant's crops.

(2) The Board may accept an application only if

- (a) the amount claimed as compensation does not exceed \$3000,

(a.1) the loss or damage claimed does not arise from

- (i) flooding or drought resulting from any source or cause, or

(ii) any natural occurrence not covered by subclause (i),

- (b) the application is made not later than 2 years after the last date on which the loss or damage is alleged to have occurred, and

(c) the application contains or is accompanied with documents that contain the following information to the satisfaction of the Board:

- (i) the name of the owner or occupant and the name of the relevant board of trustees;

(ii) a description of the nature and extent of the loss or damage and the date or dates on which it occurred;

(iii) the legal description of the land on which the loss or damage occurred;

(iv) the amount of compensation being sought;

(v) a detailed description of the steps taken to resolve the dispute.

(3) The Board may require the owner or occupant to provide any additional information that the Board considers is necessary in order to allow it to properly deal with the application.

(4) The owner or occupant shall give a copy of the application and supporting documents and a copy of any additional information referred to in subsection (3) to the board of trustees at the same

time it gives the application and supporting documents or the additional information to the Board.

(5) The Board may refuse to accept an application where it is not satisfied that the parties have made reasonable attempts to resolve the dispute.

AR 29/2002 s3;168/2014

Hearing

4(1) Where the Board accepts an application, it shall give reasonable notice in writing of the date on which it will hold a hearing to consider the application to

- (a) the applicant, and
- (b) the board of trustees.

(2) The applicant and the board of trustees are parties to the proceeding.

(3) Subject to subsection (4), the Board shall hold the hearing not later than 90 days after it receives the complete application and shall make its decision not later than 60 days after the date on which the hearing is completed.

(4) The Board may, on the written request of any of the parties or on the Board's own motion, extend either or both of the time limits referred to in subsection (3).

Procedure of hearing

5 In conducting a hearing, the Board

- (a) shall proceed in accordance with its rules of procedure and practice, except to the extent that they are inconsistent with this Regulation,
- (b) is not bound by the rules of law concerning evidence,
- (c) may enter on and inspect, or authorize any person to enter on and inspect, any land, building, works or other property,
- (d) may adjourn the hearing from time to time for any length of time the Board considers advisable, and
- (e) has the rights, powers and immunities conferred on a commissioner under the *Public Inquiries Act*.

Jurisdiction of Board

6(1) Any 3 members may perform any function of the Board under this Regulation and, when performing that function, those members have all the powers, duties, immunities and jurisdiction of the Board.

(2) Notwithstanding subsection (1), one member may perform any function of the Board under this Regulation

- (a) when the other member or members of the Board cannot act by reason of disability or of being absent, on vacation or on a leave of absence, or
- (b) with the consent of all of the parties,

and when performing that function that member has all the powers, duties, immunities and jurisdiction of the Board.

Order for compensation

7(1) In determining the amount of compensation to which an owner or occupant is entitled, the Board may consider

- (a) in the case of loss of or damage to crops, the amount the crop might have been expected to realize if sold on the open market by a willing seller to a willing buyer on the date the crop was damaged or destroyed,
- (b) in the case of loss of livestock, the amount the livestock might have been expected to realize if sold on the open market by a willing seller to a willing buyer on the date on which the loss occurred,
- (c) time spent and expenses incurred by the owner or occupant in recovering livestock that strayed as a result of the board of trustees' exercise of its power, and
- (d) any other factors the Board considers appropriate in the circumstances.

(2) In making an order for the payment of compensation, the Board may fix certain amounts payable in the manner and over the periods that the Board decides.

(3) The Board may order the board of trustees to pay interest on any or all of the compensation payable on and from the date and at the rate prescribed by the Board.

Notice of order

8 On making an order for the payment of compensation, the Board shall forthwith give a copy of the order to each of the parties.

Certified copy as evidence

9 A copy of an order for the payment of compensation, certified as a true copy by the chairman or a member of the Board or the secretary, shall be admitted in evidence as prima facie proof of the order by the Board, without any proof of the appointment of the person so certifying or of the authenticity of the person's signature or any other proof.

Filing of order in Court

10(1) A certified copy of an order for the payment of compensation may be filed with the court clerk of the Court of Queen's Bench.

(2) On payment of the fees prescribed by law, an order filed under subsection (1) shall be entered as a judgment of the Court and may be enforced according to the ordinary procedure for enforcement of a judgment of the Court.

AR 29/2002 s10;164/2010

Additional powers of the Board

11 The Board may

- (a) rehear an application before deciding it,
- (b) review, rescind, amend or replace an order for the payment of compensation, and
- (c) with or without a hearing, amend an order for the payment of compensation to show as a party 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.

Costs

12(1) The costs of and incidental to a proceeding under this Regulation are in the discretion of the Board and may be fixed in any case at a sum certain or may be reviewed or assessed in accordance with the *Alberta Rules of Court* (AR 124/2010).

- (2) Without restricting the generality of subsection (1), the Board may make regulations
- (a) establishing a schedule of fees and other expenses incurred by a party in connection with a proceeding under this Regulation that may be allowed as part of that party's costs under this section, and
 - (b) respecting the circumstances under which the Board may allow costs with respect to matters dealt with in the schedule on a basis other than that prescribed in the schedule.
- (3) Repealed AR 164/2010 s9.

AR 29/2002 s12;164/2010

Expiry

13 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on December 1, 2020.

AR 29/2002 s13;252/2006;258/2009;190/2012;177/2015

Application

14 This Regulation applies only in respect of powers exercised by a board of trustees on or after the coming into force of this Regulation.

Coming into force

15 This Regulation comes into force on the date that section 34 of the *Drainage Districts Act* comes into force.



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