

Bill No. 53 of 1951.

A BILL TO AMEND THE MINES AND  
MINERALS ACT.

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NOTE.

This Bill amends *The Mines and Minerals Act*, being chapter 66 of the Statutes of Alberta, 1949.

Four of the definitions in section 2, subsection (1) are amended. Clause (u) defining "mineral" is rewritten for clarification. Clause (v) defining "mineral claim" is changed to make it clearer that the tract may be staked under either of Part II or Part III of the Act. Clause (aa) defining "officer" refers to an appointment pursuant to *The Public Service Act* and as such appointments are now made pursuant to *The Public Service Act, 1947*, the definition is changed accordingly. The definition of "owner" in clause (bb) is replaced by a new definition by which the owner may be more easily and definitely determined.

Section 4 dealing with school minerals has been changed. The old section provided that minerals underlying school lands which are set apart as an educational endowment are administered under the Act. By an amendment made in March, 1946, to the former *The Provincial Lands Act*, lands could be taken out of school lands to be used in connection with veterans' re-establishment measures if they were replaced by other lands. Following that enactment some selections of lands to be taken from school lands for that purpose was made. The new section will make it clear that the school minerals will be those minerals that were school minerals in 1946 plus the school endowment sections in townships subsequently coming under survey. This section will not affect the rights which were received by veterans under the re-establishment measures. It will permit the carrying out of the 1946 provisions regarding school lands without concern for mineral rights.

Section 7 is amended for clarification.

Section 8, for convenience of reference, lists the parts and headings that are to follow in the Act. This is amended by the addition of new headings added to the Act.

Sections 10 and 11 contain references to *The Public Service Act*. These are amended in the same manner as section 2, subsection (1), clause (aa) so that the reference will be to *The Public Service Act, 1947*.

Section 19 sets out the powers of the Lieutenant Governor in Council under the provisions of the Act and is amended in two particulars. Clause (g) authorizing the establishment of a tariff of fees is amended so that the tariff may cover fees for mineral claims and for applications. A new clause, clause (k), is added which authorizes the exchange of school minerals for other minerals and provides that the minerals obtained in exchange would become school minerals. The new clause is similar to clause (a) dealing with the exchange of Crown minerals generally but has the additional provision authorizing the change in the school mineral establishment.

A new section 25a is added. It provides that a person entitled to work minerals may go through other minerals for the purpose of working the minerals to which he is entitled. *The Right of Entry Arbitration Act* would enable such a person to obtain the necessary right of entry as far as the surface of the land goes by providing the machinery for making an adjustment with the surface occupier. The new section gives him also the right to work through intervening subsurface minerals.

Subsection (1) of section 34 is amended for clarification.

Section 41 is also amended for clarification.

Section 54 deals with the disposition of moneys obtained from school minerals. This section is amended to bring it in line with the new section 4 dealing with school minerals.

Section 57 is the interpretation section for Part II of the Act and is amended by adding a definition of "holder".

Section 64 is amended for clarification.

Section 81, subsection (3) is amended to make it clear that one of the requirements in the recording of the mineral claim is the payment of the prescribed fee. This was formerly provided for in section 86. Section 86 deals with the issuing of a certificate of record of a quartz claim. It is also amended so that the claimant may obtain his certificate as soon as the application is made.

Sections 88 and 106 are amended in the same manner as section 64 for clarification.

In section 90 the word "grantee" is replaced by the word "holder" which is now being defined in the Act.

Section 97, subsection (1) is amended to obtain greater uniformity with the parallel section in Part III of the Act, to include reference to the amended section 102 and to provide for payment of a fee for certificate of work.

Section 102 provides that where there is a dispute as to who is entitled to a quartz claim the person who first staked it will be the one entitled. The amendment to this section provides a mechanism whereby final decision may be made as to which is the person so entitled.

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Section 105 is amended to make it clear what proof is required to come within that section.

Section 107, subsection (1) is now amended in two particulars. Firstly, the word "holder", now defined in section 57, is made use of. Secondly, provision is made for payment of the prescribed fee before the issue of a certificate of improvements.

Section 108 is clarified by including reference to the posting of a plan of the claim which is already indirectly referred to by reference to the preceding provision requiring the posting. Also, there is deleted from the section the qualification requiring the absence from the area of others engaged in prospecting, as this cannot often be ascertained in a practical way.

Section 134, subsection (4) is also clarified by amendments.

Section 161 is the interpretation section for Part III of the Act and a definition of the word "holder" is added.

Section 174 deals with the recording of a placer claim. Two new subsections are added, one providing for payment of the prescribed fee and the other subsection, similar to the parallel provision in Part II, providing for lapse of a claim that is not recorded within the prescribed period.

Section 175 is struck out and replaced by a new section similar to one in Part II, providing for the obtaining of a certificate of record of placer claim.

Section 179, subsection (3) is amended for the purpose of clarification and uniformity with Part II of the Act.

A new section 181*a* is added so that in the event of more than one person staking a placer claim the rightful claimant can be finally determined.

A new section is substituted for section 182. The provisions of subsection (1) of the old section are now covered by the provisions of sections 174 and 175 as amended. The new section 182 covers the matters formerly dealt with in subsection (2) of the old section but amended to include reference to the new section 181*a* and to obtain greater uniformity with Part II of the Act.

Section 188 is amended so that it will parallel section 105 in Part II.

Amendment is made to sections 194 and 195. The former section 195 is renumbered and now becomes subsection (3) of section 194. In place of the former section 195 a new heading and section are placed in the Act providing for a survey of a claim in the case of dispute as to boundaries or uncertainty as to the location. Such surveys were formerly provided for by regulation rather than statutory provision.

Section 233 deals with the descriptions of leased areas in petroleum and natural gas leases in surveyed territory. An exception, permitting leases out of a reservation of legal subdivisions or parts thereof, is authorized where the applicant holds other similar rights in the balance of the legal subdivision or the adjoining legal subdivision, and subsection (3) states that such a lease will remain in force so long as the applicant continues to hold the other rights. This is amended so that the lease will remain in force so long as the lessee continues to hold the other rights, thus enabling the applicant, after obtaining the lease, to assign his holdings. Subjection (4) provides that in certain cases lands within a mile of a surveyed line may be deemed to be surveyed. It is amended by deletion of the words "out of a reservation" so that the provision will apply in any case of application for a lease.

A new heading, "Reservations and Licenses" is added preceding section 275.

A new section 275a is added, providing for the establishment of regulations governing the licensing of natural gas rights.

The Bill comes into force upon assent except for section 36 which is deemed to have been in force since January 29, 1951.

KENNETH A. MCKENZIE,  
*Legislative Counsel.*

*(This note does not form any part of the Bill but is offered in explanation of its provisions.)*

# BILL

No. 53 of 1951.

An Act to amend The Mines and Minerals Act.

(Assented to \_\_\_\_\_, 1951.)

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

**1.** *The Mines and Minerals Act*, being chapter 66 of the Statutes of Alberta, 1949, is hereby amended.

**2.** Section 2, subsection (1) is amended,— Section 2  
amended

(a) by striking out clause (u) and by substituting the following:

“(u) ‘mineral’ means all naturally occurring minerals, and without derogating from the generality of the foregoing includes gold, silver, uranium, platinum, pitchblende and other minerals from which radium is or may be obtained, precious stones, copper, iron, tin, zinc, asbestos, salt, sulphur, petroleum, oil, asphalt, tar sands, natural gas, coal, limestone, granite, slate, shale, marble, sandstone, and any other stone which is or may be quarried or otherwise mined for any purpose, sand, gravel, gypsum, clay, marl and volcanic ash, but does not include sand and gravel that belongs to the owner of the surface of land under *The Sand and Gravel Act*;” “mineral”

(b) by striking out the words and figures “Parts II and III”, where they occur in clause (v) and by substituting the words and figures “Part II or Part III”;

(c) by adding immediately after the words “*The Public Service Act*” where they occur in clause (aa) the figures “, 1947”;

(d) by striking out clause (bb) and by substituting the following:

“(bb) ‘owner’ when used in Part II or Part III of this Act means the holder according to the records of the Department of a mineral claim;” “owner”

**3.** Section 4 is struck out and the following is substituted: Section 4  
amended

“**4.** This Act applies to all minerals set apart as an endowment for the purposes of education which are designated school minerals, and are,— School  
minerals

- “(a) the minerals which were comprised in school lands on the twenty-sixth day of March, 1946; and
- “(b) the minerals vested in or belonging to the Crown in the right of the Province in sections eleven and twenty-nine in every township or part thereof as indicated on the plan of survey approved and confirmed by the Director of Surveys after the twenty-sixth day of March, 1946.”.

Section 7 amended

4. Section 7 is amended by striking out the words “said provision and order” and by substituting the words “said provision or order”.

Section 8 amended

5. Section 8 is amended,—

- (a) by adding immediately following the heading “Acquisition of Claims.....59-64” the heading “Application for Lease of Iron and Other Minerals .....64a”;
- (b) by adding immediately following the heading “Recording Claims.....173-181” the heading “Disputes.....181a”;
- (c) by striking out the figures “195” where they occur in the heading “Claims of Deceased or Insane Persons.....193-195” and by substituting the figures “194”;
- (d) by adding immediately following the heading “Claims of Deceased or Insane Persons.....193-194” the heading “Surveys.....195”;
- (e) by striking out the figures “275” where they occur in the heading “Crown Reserves.....272-275” and by substituting the figures “274”;
- (f) by adding immediately following the heading “Crown Reserves.....272-274” the heading “Reservations and Licenses.....275-275a”.

Sections 10 and 11 amended

6. Sections 10 and 11 are amended by adding immediately after the words “*The Public Service Act*”, wherever they occur, the figures “, 1947”.

Section 19 amended

7. Section 19 is amended,—

- (a) by adding immediately after clause (c), subclause (iv) the following new subclause:  
“(v) for the leasing or other disposal of the sand or gravel on or obtainable from the surface of land which is owned by the Crown;”;
- (b) by adding immediately after the word “permit,” in clause (g), subclause (i) the words “mineral claim, application,”;
- (c) by adding immediately after clause (j) the following new clause:  
“(k) notwithstanding the provisions of section 4, exchange any school minerals for other min-

to exchange school minerals

erals in the Province with any person or corporation, if the reason for the exchange is set forth in the order, and thereupon the school minerals so exchanged shall no longer be school minerals and the other minerals shall become school minerals.”.

**8.** The following new section 25*a* is added immediately after section 25: New section 25*a*

“**25*a*.** Notwithstanding the provisions of section 5, any person who has the right to any mineral or the right to work the same may work through any other mineral in the same tract to the extent necessary to obtain his mineral, without permission from or compensation to any other person for the right to work through the other mineral, subject, however, to the provisions of this Act, *The Coal Mines Regulation Act*, *The Oil and Gas Resources Conservation Act*, 1950, and *The Quarries Regulation Act*. Right to work through other minerals”

**9.** Section 34, subsection (1) is amended by striking out the word “thereon”. Section 34 amended

**10.** Section 41 is amended by striking out the word “forfeit” and by substituting the word “cancel”. Section 41 amended

**11.** Section 54 is struck out and the following is substituted: Section 54 amended

“**54.** All moneys realized from school minerals after deducting the cost of management shall be paid annually into the General Revenue Fund of the Province toward the support of schools organized and carried on in accordance with the law of the Province and the moneys so paid shall be distributed for that purpose by the Government in such manner as it deems expedient.”. Money realized from school minerals

**12.** Section 57 is amended by adding immediately after clause (c) the following new clause: Section 57 amended

“(d) ‘holder’ means the holder of a mineral claim according to the records of the Department.”. “holder”

**13.** Section 64 is amended by striking out the words “iron and mica” wherever they occur and by substituting the words “iron or mica”. Section 64 amended

**14.** Section 81, subsection (3) is amended by adding immediately after the words “recording requirements,” the words “including the payment of the prescribed fee.”. Section 81 amended

**15.** Section 86 is struck out and the following is substituted: Section 86 amended

“**86.** A locator, having duly recorded a claim, may obtain therefor a certificate of record of mineral claim for one Certificate of record of mineral claim”

year if he has furnished to the Mining Recorder all the particulars necessary for the record.”.

Section 88  
amended

**16.** Section 88 is amended by striking out the words “iron and mica” and by substituting the words “iron or mica”.

Section 90  
amended

**17.** Section 90 is amended by striking out the word “grantee” and by substituting the word “holder”.

Section 97  
amended

**18.** Section 97, subsection (1) is amended by striking out all that portion of subsection (1) preceding clause (a) and by substituting the following:

Require-  
ments for  
certificate  
of work

“**97.** (1) Any person, having received a certificate of record of a mineral claim which has not been cancelled pursuant to the provisions of section 102, shall be entitled to hold the claim for a period of one year from the date of recording the same, and thence from year to year upon payment of the prescribed fee for a certificate of work without the necessity of re-recording, if such person,—”.

Section 102  
amended

**19.** Section 102 is struck out and the following is substituted:

Priority in  
staking

“**102.** (1) Where two or more persons lay claim to the same tract, or where the record indicates that a tract is comprised in the stakings of more than one mineral claim, then the person who was first to take possession of the tract by staking in the manner prescribed and has complied with the recording requirements, shall have the right to the certificate of record of mineral claim.

Minister may  
investigate

“(2) The person who has the right to the certificate in accordance with subsection (1) shall be determined by the Minister, who may consider evidence submitted by affidavit, and may have such other investigation made as he considers the situation may warrant.

No appeal  
from  
decision of  
Minister

“(3) The decision of the Minister as to the right to a certificate shall be final and there shall be no appeal therefrom.

Cancellation  
of certificate  
by Minister

“(4) If a certificate has been issued to a person other than the one who is found to have the right to the tract, the certificate or such portion thereof as may be decided by the Minister shall be cancelled by the Minister, and the record shall be amended accordingly.”.

Section 105  
amended

**20.** Section 105 is amended by adding immediately after the word “proven” the words “to the satisfaction of the Minister”.

Section 106  
amended

**21.** Section 106 is amended by striking out the words “iron and mica” and by substituting the words “iron or mica”.



- 22.** Section 107, subsection (1) is amended,— Section 107  
amended
- (a) by striking out the word “lawful” where it first occurs;
  - (b) by adding immediately after the words “mineral claim” where they first occur the words “, upon payment of the prescribed fee,”.
- 23.** Section 108 is amended,— Section 108  
amended
- (a). by striking out the words “and where other persons are not engaged in prospecting”;
  - (b) by adding immediately after the word “waive” the words “posting of a copy of the plan of the claim,”.
- 24.** Section 134, subsection (4) is amended,— Section 134  
amended
- (a) by striking out the word “rental” where it first occurs and by substituting the word “lease”;
  - (b) by striking out the words “iron and mica” and by substituting the words “iron or mica”.
- 25.** Section 161 is amended by striking out clause (d) and by substituting the following: Section 161  
amended
- “(d) ‘holder’ means the holder of a claim according to the records of the Department;” “holder”
- 26.** Section 174 is amended by adding immediately after subsection (3) the following new subsections: Section 174  
amended
- “(4) The application shall not be recorded until the prescribed fee has been paid. Payment  
of fee
- “(5) A claim which is not recorded within the prescribed period shall be deemed to have been abandoned and forfeited, without any declaration of cancellation or abandonment on the part of the Crown.” Abandon-  
ment or  
forfeiture  
of claim
- 27.** Section 175 is struck out and the following is substituted: Section 175  
amended
- “175.** A locator, having duly recorded a claim, may obtain therefor a certificate of record of placer claim for one year if he has furnished to the Mining Recorder all the particulars necessary for the record.” Certificate  
of record of  
placer claim
- 28.** Section 179, subsection (3) is amended by adding immediately after the word “mark” the words “the record of”. Section 179  
amended
- 29.** The following new heading and section 181a are added immediately after section 181: New  
section 181a
- “Disputes.**
- “181a.** (1) Where two or more persons lay claim to the same tract, or where the record indicates that a tract is comprised in the stakings of more than one placer claim, then the person who was first to take possession of the Priority in  
staking

tract by staking in the manner prescribed and has complied with the recording requirements, shall have the right to the certificate of record of placer claim.

Minister may investigate

“(2) The person who has the right to the certificate in accordance with subsection (1) shall be determined by the Minister, who may consider evidence submitted by affidavit, and may have such other investigation made as he considers the situation may warrant.

No appeal from decision of Minister

“(3) The decision of the Minister as to the right to a certificate shall be final and there shall be no appeal therefrom.

Cancellation of certificate by Minister

“(4) If a certificate has been issued to a person other than the one who is found to have the right to the tract, the certificate or such portion thereof as may be decided by the Minister shall be cancelled by the Minister, and the record shall be amended accordingly.”.

Section 182 amended

**30.** Section 182 is struck out and the following is substituted:

Requirements for renewal of placer claim

“**182.** Any person, having received a certificate of record of placer claim which has not been cancelled pursuant to section 181a, shall be entitled to hold the claim for a period of one year from the date of recording the same, and thence from year to year upon payment of the renewal fee prescribed, if such person,—

Renewal work

“(a) during the first year and during each succeeding year, does, or causes to be done, work on the claim to the value of one hundred and fifty dollars which is satisfactory to the Mining Recorder; and

“(b) files with the Mining Recorder within fourteen days after the date of the expiration of each year an affidavit made by him or his agent stating that such work has been done and setting out a detailed statement thereof.”.

Section 188 amended

**31.** Section 188 is struck out and the following is substituted:

Delays by officials

“**188.** No person shall suffer from any acts of omission or commission or delays on the part of any government official, if such can be proven to the satisfaction of the Minister.”.

Section 194 amended

**32.** Section 194 is amended by adding immediately after subsection (2) the following new subsection:

Expense of working or keeping claims

“(3) All charges and expenses which may be incurred by any person acting under the instructions of the Minister, in or about the working of such mining property, or in taking or keeping possession thereof, shall be and remain a first charge against the same until duly paid.”.

Section 195 amended

**33.** Section 195 is struck out and the following new heading and section is substituted:

**"Surveys.**

**"195.** (1) Where there is any dispute as to boundaries or measurements or where in the opinion of the Minister the definite location of a claim is necessary, he may employ an Alberta Land Surveyor to survey and define such claim, and the expense thereof shall be paid by the holder of the claim.

Survey of  
claim for  
Mining  
Recorder

"(2) If the expense is not paid within sixty days from the date of the demand notice, the Minister may cancel the claim.

Expense of  
survey of  
claim

"(3) The plan of survey on linen tracing cloth together with field notes shall be filed by the surveyor with the Director of Mineral Rights and the survey so made shall constitute the actual claim."

Filing of  
survey with  
Director of  
Mineral  
Rights

**34.** Section 233 is amended,—

Section 233  
amended

- (a) by striking out the word "applicant", where it occurs in subsection (3), and by substituting the word "lessee";
- (b) by striking out the words "out of a reservation" where they occur in subsection (4).

**35.** The following new heading is added immediately preceding section 275: "**Reservations and Licenses.**"

New  
heading

**36.** The following new section 275*a* is added immediately after section 275:

New  
section 275*a*

**"275*a*.** (1) The Lieutenant Governor in Council may make regulations governing the granting of licenses of natural gas rights which are the property of the Crown, and such regulations may prescribe the terms and conditions of leases to be granted out of rights included in a license.

Regulations  
regarding  
natural gas  
licenses

"(2) For the purposes of such regulations, other than those dealing with the computation, levy and collection of royalties, natural gas means the production from any well which in the opinion of The Petroleum and Natural Gas Conservation Board initially produces gas either alone or with oil at a gas-oil ratio of ten thousand cubic feet to the barrel or higher, but does not include any production that may be obtained from any well which in the opinion of the Board initially produces gas with oil at a lower gas-oil ratio."

**37.** This Act shall come into force on the day upon which it is assented to and upon so coming into force section 36 shall be deemed to have been in force at all times on and after the twenty-ninth day of January, 1951.

Coming  
into force

No. 53.

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FOURTH SESSION  
ELEVENTH LEGISLATURE

15 GEORGE VI

1951

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**BILL**

An Act to amend The Mines and  
Minerals Act.

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Received and read the

First time .....

Second time .....

Third time .....

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HON. MR. TANNER.

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