

Bill No. 107 of 1954

A BILL TO AMEND THE MINES AND MINERALS ACT

NOTE

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

Section 5 contains a provision that the Act does not apply to the working or operating of coal mines or oil or gas wells. This provision is amended for clarification.

Certain provisions of *The Provincial Lands Act* were carried forward into *The Mines and Minerals Act* in 1949. As a result of the decision of the Judicial Committee of the Privy Council in an action to test the coal royalty provisions of *The Provincial Lands Act*, it is necessary to amend section 30 and section 216 to eliminate provisions considered outside of the jurisdiction of the Province by the Privy Council. At the same time section 214 is amended slightly to fit in with the new provisions of section 216.

Section 42, subsection (2), giving the Minister or an authorized person access to certain property is amended for clarification.

Section 45 provides that the company shall not acquire a grant under the Act unless it is registered under the provisions of *The Companies Act* of the Province. Chartered banks are incorporated by the *Bank Act* (Canada) and are exempted from registration by *The Companies Act*. Section 45 is amended to permit the acquisition of interests in Crown minerals by banks and also by companies incorporated by special Provincial statutes.

Part II, containing provisions regarding quartz mining claims, originally contained special provisions regarding claims for iron. In 1950 section 64a was added providing for a lease or other agreement for the mining of iron, associated minerals and other base minerals. The original provisions regarding iron claims are no longer of use and accordingly section 64 is deleted and minor amendments are made to sections 58, 88, 106 and 134.

Section 59 sets out the right of a person to enter upon lands to stake a quartz claim. A new subsection is added to prevent such entry and staking where it would interfere with a grant made under the Act. Similarly section 163 is amended with respect to the entry and staking of placer claims.

By an amendment to section 62, the number of quartz claims a person may stake is increased and section 87 is amended in accordance with this increase.

Section 63 provides that a person who has recorded a quartz claim may not locate another claim in the same district within a period of twenty days. This section has outlived its usefulness and is repealed.

Section 76 states that no person shall move post No. 1 of a quartz claim. To eliminate possible conflict between this provision and section 80, an amendment to section 76 will enable a surveyor to move post No. 1 with the permission in writing of the Director of Mineral Rights.

Section 96 deals with the grouping of mineral claims for the purposes of Part II. This section limited the grouping to a maximum of nine claims and this is amended by making the limitation on the basis of area.

Section 107 sets out the steps to be taken by the holder of a quartz claim to qualify for a certificate of improvements. This section is amended for clarification and to simplify the provisions regarding the advertisement of the application for the certificate.

Section 115 is amended for clarification.

Section 118 dealing with the survey of mineral claims is amended with regard to the application of the costs to representation work and as to the advertisement of the notice of survey.

Section 120 also dealing with the survey of a mineral claim provides for the inclusion of adjoining fractional lands in the claim. For greater flexibility the conditions under which this power may be exercised are deleted and the conditions will now be prescribed by the Minister.

Section 180 provides that a person recording a placer claim shall not locate another claim in the same valley or basin within sixty days. Amendments to this section would make it applicable to the person who has located a claim, and also would make it clear that the locator might locate a claim for another person under power of attorney in accordance with section 178.

In Part V dealing with mining in road allowances, section 229 provided that a lease of road allowance would not be granted without the approval of the Lieutenant Governor in Council except for coal. This exception is expanded to include petroleum and natural gas leases.

Section 272 defines what petroleum and natural gas rights are Crown reserves. An amendment would permit the Minister to designate additional Crown reserves. A new section 272a is added so that when Crown reserves have been established to complement lease areas taken out of a petroleum and natural gas reservation, adjustments of the Crown reserve areas may subsequently be made as, for example, when the lease is cancelled, subject to the limitation that one half of the lands in the township will be retained as Crown reserves.

Part IX is added to the Act to enable the inclusion of Crown mineral rights in an agreement for unit operation of a mineral. A unit operation is one in which a number of tracts are integrated for the development or production of a mineral underlying the tracts, or the implementing of a programme of conservation of the mineral. The provisions of Part IX will enable the Lieutenant Governor in Council to authorize the Minister to enter into a unit operation agreement that may supersede other provisions of the Act regarding the disposal of that mineral. Where a unit operation agreement is made the Minister may require that leaseholds and other grants be split so that the leaseholds and the unit operation area are as nearly as possible co-terminous. Crown minerals within a unit operation shall remain subject to the agreement so long as it is in force.

This Bill comes into force upon assent.

J. W. RYAN,
Acting Legislative Counsel.

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

BILL

No. 107 of 1954

An Act to amend The Mines and Minerals Act

(Assented to _____, 1954)

HER 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 5, subsection (1), is amended by striking out the words "and production operations of oil and natural gas wells" and by substituting the words ", production or abandonment operation of a well for which a license is required by the provisions of *The Oil and Gas Resources Conservation Act, 1950*".

Section 5
amended

3. Section 30 is amended

Section 30
amended

(a) by striking out subsections (1) and (2) and by substituting the following:

"**30.** (1) A royalty is reserved to Her Majesty on the mineral that may be won, worked, recovered or obtained pursuant to any agreement or mineral claim made under this Act.

Royalty
reserved

"(2) The royalty to be computed, levied and collected on the mineral won, worked, recovered or obtained pursuant to any agreement or mineral claim made under this Act or *The Provincial Lands Act*, shall be the royalty prescribed from time to time by the Lieutenant Governor in Council.

Lieuten-
ant Governor
in Council
to prescribe
royalty

"(3) Where the payment of a royalty has been reserved to the Crown in the right of Canada in any patent, agreement for sale, lease or other agreement that conveys a mineral or the right to win, work, recover or obtain the same, there is payable to Her Majesty in the right of the Province, and there shall be computed, levied and collected,

Royalty on
grant from
Canada

"(a) the royalty prescribed from time to time by the Lieutenant Governor in Council in accordance with the terms of the agreement between the Province and Canada referred to in the Schedule of *The Alberta Natural Resources Act*, being chapter 21 of the Statutes of Alberta, 1930, or

“(b) the royalty at the rate in effect immediately prior to the coming into force of the agreement between the Province and Canada referred to in clause (a).”,

(b) by renumbering subsections (3), (4) and (5) as subsections (4), (5) and (6) respectively.

Section 42
amended

4. Section 42, subsection (2), is amended by adding immediately after the words “who may own” the words “or occupy”.

Section 45
amended

5. Section 45 is amended by striking out subsection (1) and by substituting the following:

Company
must be
registered
to acquire
agreement

“**45.** (1) A company shall not be deemed to acquire an agreement in whole or in part by application or assignment unless the company is

“(a) registered under the provisions of *The Companies Act* of the Province,

“(b) incorporated by an Act of the Province and approved by the Minister as a company that may acquire an agreement, or

“(c) incorporated under the *Bank Act* (Canada).”

Section 58
amended

6. Section 58 is amended by adding immediately after subsection (2) the following new subsection:

“(3) This Part does not apply to iron except for the purposes of section 64a.”.

Section 59
amended

7. Section 59 is amended by adding immediately after subsection (2) the following new subsection:

“(3) No person may enter, locate, prospect and stake out a claim for minerals pursuant to this Part

“(a) on lands granted by the Crown for the exploration or development of a mineral, or

“(b) on lands in which a mineral has been reserved pursuant to this Act.”.

Section 62
amended

8. Section 62 is amended,

(a) by striking out the word “nine” and by substituting the word “twenty-one”,

(b) by striking out the word “five” where it occurs in clause (a) and by substituting the word “fifteen”,

(c) by striking out the word “two” where it first occurs in clause (b) and by substituting the word “three”.

Sections 63
and 64
repealed

9. Section 63 and section 64 are repealed.

Section 76
amended

10. Section 76 is amended by adding immediately after subsection (2) the following new subsection:

“(3) Notwithstanding subsection (1) an Alberta land surveyor may move post No. 1 with the prior consent in writing of the Director of Mineral Rights.”.

11. Section 87, subsection (2) is amended by striking out the words “two claims” and by substituting the words “three claims”. Section 87
amended

12. Section 88 is amended by striking out the words “excepting in the case of a claim for the mining of iron or mica recorded pursuant to section 64”. Section 88
amended

13. Section 96, subsection (1) is amended, Section 96
amended

- (a) by striking out the word “adjoining”,
- (b) by striking out the words “nine in number” and by substituting the words “forty-two in number situated within a radius of five miles”.

14. Section 106, subsection (1), is amended by striking out the words “and in the case of a claim for iron or mica only, acquired under the provisions of section 64, payment may be made of double that amount in lieu of such expenditure”. Section 106
amended

15. Section 107 is amended Section 107
amended

- (a) as to subsection (1)
 - (i) by striking out clause (f) and by substituting the following:
 - “(f) after the posting of the notice on the claim, inserted a copy of the notice in a newspaper approved by the Mining Recorder on two occasions as nearly seven days apart as possible, the first of which insertions shall be at least sixty days prior to the application;”,
 - (ii) by striking out the words “immediately after posting the notice on the claim of his intention to apply for a certificate of improvements” where they occur in clause (g),
- (b) as to subsection (2)
 - (i) by striking out the words “said publication” and by substituting the words “first publication”,
 - (ii) by striking out the words “nearest local”.

16. Section 115 is amended by striking out the word “Act” and by substituting the word “Part”. Section 115
amended

17. Section 118 is amended, Section 118
amended

- (a) as to subsection (1) by striking out the words “in lieu of representation work on the claim for the year in which the survey is made” and by substituting the words “as representation work on the claim in any one year”,
- (b) by striking out subsection (2) and by substituting the following:

“(2) Notice of such survey in the form prescribed by the Minister shall be inserted in a newspaper approved by the Mining Recorder on two occasions as nearly seven days apart as possible.”,

- (c) as to subsection (4) by striking out the words “publication of the notice” and by substituting the words “the first publication of the notice pursuant to subsection (2)”.

Section 120 amended **18.** Section 120 is struck out and the following is substituted:

Fraction may be included in claim **“120.** An Alberta land surveyor when making a survey may, upon such terms and conditions, including any payment, as may be prescribed by the Minister, include an adjoining fractional area or portion thereof within the claim that is being surveyed if the fractional area or portion is available and open to disposal.”.

Section 134 amended **19.** Section 134 is amended by striking out subsection (4).

Section 163 amended **20.** Section 163 is amended by adding immediately after subsection (2) the following new subsection:

“(3) No person may enter, locate, prospect and stake out a claim for minerals pursuant to this Part

“(a) on lands granted by the Crown for the exploration or development of a mineral, or

“(b) on lands in which a mineral has been reserved pursuant to this Act,

unless the consent of the Minister in writing is first obtained.”.

Section 180 amended **21.** Section 180 is amended

(a) by striking out the words “having recorded” and by substituting the words “having located”,

(b) by striking out the words “recorded claim” and by substituting the words “claim except when staking in the name of another person in accordance with subsection (2) of section 178”.

Section 214 amended **22.** Section 214 is amended by striking out subsection (1) and by substituting the following:

Royalty on leases **“214.** (1) The coal mined or excavated from a location acquired under this Part is subject to the payment to Her Majesty of the royalty provided for by section 216.”.

Section 216 amended **23.** Section 216 is struck out and the following new sections are substituted:

Royalty on coal **“216.** (1) Notwithstanding the provisions of subsection (2) of section 30, the royalty to be computed, levied and collected on any coal mined or excavated, pursuant to a lease made under this Act or *The Provincial Lands Act* or pursuant to a lease comprising a road allowance, shall be

“(a) ten cents per ton, or

“(b) such other royalty as may be prescribed from time to time by the Lieutenant Governor in Council.

“(2) Notwithstanding the provisions of subsection (2) of section 30 and subsection (1) of this section, the royalty to be computed, levied and collected on any coal mined or excavated pursuant to a lease issued by the Province as the first renewal of a lease granted under the *Dominion Lands Act* containing a renewal provision, while the location is held under such first renewal lease, shall be five cents per ton.

New
Section 216a

“**216a.** Where the payment of a royalty has been reserved to the Crown in the right of Canada in any patent or agreement for sale that conveys coal or the right to mine, win, work or excavate the same, the royalty to be computed, levied and collected and paid to Her Majesty in the right of the Province on any coal mined or excavated, shall be

Royalty on
coal granted
by Canada

“(a) seven cents per ton, or

“(b) such other royalty as may be prescribed from time to time by the Lieutenant Governor in Council in accordance with the terms of the agreement between the Province and Canada referred to in the Schedule of *The Alberta Natural Resources Act*, being chapter 21 of the Statutes of Alberta, 1930.”.

24. Section 229 is amended by adding immediately after the words “other than coal” the words “, petroleum or natural gas”.

Section 229
amended

25. Section 272 is amended by adding immediately after clause (e) the following new clause:

Section 272
amended

“(f) such other areas as may be designated Crown reserves by the Minister.”.

26. The following new section is added immediately after section 272:

New
section 272a

“**272a.** Crown reserves, other than those constituted by clause (b) of section 272, may be reselected or cancelled by the Minister in any township or unsurveyed township, if the acreage that would then remain as Crown reserves in the township or unsurveyed township is not less than the other acreage held under lease from the Crown.”.

Reselection
of Crown
reserves

27. The following new Part is added immediately after section 289:

New
sections
290 to 294

“PART IX

“UNIT OPERATION OF MINERALS

“**290.** In this Part, unless the context otherwise requires,

Interpre-
tation

- "tract" “(a) “tract” means,
 “(i) a location or mineral claim, or
 “(ii) a parcel comparable to a location or a mineral
 claim owned in fee simple,
- "unit
 operalon" “(b) “unit operation” means an operation in which a
 number of tracts are merged, pooled, consolidated
 or integrated as a single unit, without regard to
 the boundaries of the separate tracts for operation
 for
 “(i) the development or production of a mineral
 within, upon or under the tracts, or any speci-
 fied stratum or strata or portion thereof within
 the tracts, or
 “(ii) the implementing of a programme for the
 conservation of the mineral, or the co-ordinated
 management of interests in the mineral.
- Lieutenant
 Governor in
 Council may
 authorize
 agreement
 for unit
 operation “**291.** (1) The Lieutenant Governor in Council may
 authorize the Minister to enter into an agreement for a
 unit operation.
 “(2) Notwithstanding the other provisions of this Act
 or the provisions and terms of any regulation, agreement
 or mineral claim made pursuant to this Act or *The Pro-
 vincial Lands Act*, the agreement for a unit operation
 may provide
 “(a) for the designation of a person to conduct the unit
 operation,
 “(b) for participation in the development of the
 mineral,
 “(c) for compensation for interests adversely affected,
 “(d) that any provision or condition of an agreement
 or mineral claim, whether a statutory condition or
 otherwise, will be nullified, changed or varied to
 the extent necessary to give effect to the agreement
 for the unit operation,
 “(e) that so long as operations are conducted in accord-
 dance with the agreement for the unit operation
 the operational requirements with respect to each
 location or mineral claim in so far as they relate to
 the location or mineral claim or part thereof within
 the unit operation will be deemed to have been met,
 “(f) that the product allocated by the agreement for the
 unit operation to a tract will be deemed to have been
 produced from the tract,
 “(g) that production of a mineral in accordance with
 the agreement for the unit operation will be deemed
 to be production in commercial quantity from any
 tract covered by the agreement when such pro-
 duction is necessary to entitle the holder of an
 agreement or mineral claim to an extension or
 renewal of his agreement or mineral claim,
 “(h) for such other matters as the Minister deems
 necessary or advisable.

“(3) Notwithstanding the other provisions of this Act or the provisions and terms of any regulation, agreement or mineral claim, where in the opinion of the Lieutenant Governor in Council it is desirable to do so, he may authorize the Minister to enter into an agreement for calculation of the royalty payable on the mineral produced under the unit operation in respect of any tract that is subject to the payment of a royalty to the Crown.”

Agreement
for calculation
of
royalty

“292. Where a location or mineral claim is partly within and partly outside an area that is subject to an agreement for a unit operation, the Minister may require that the location or mineral claim be divided notwithstanding the provisions of this Act, or any regulations made under the authority of this Act, so that each location or mineral claim resulting from the division will be as nearly as possible either within or outside such area.”

Division of
location in
case of unit
agreement

“293. If an agreement is entered into pursuant to section 291 the minerals that are the property of the Crown, and affected by the agreement, and any interest in the minerals shall be subject to the terms and conditions of the agreement so long as the agreement is in effect.”

Minerals
subject to
agreement

“294. (1) The Lieutenant Governor in Council may authorize the Minister to enter into an agreement for the injection, storage, recycling or reproduction in or from an underground formation of any mineral substance or water.”

Agreement
for injection
or under-
ground
storage

“(2) The provisions of sections 291, 292 and 293 apply in so far as they are applicable to an agreement made under this section.”

28. Sections 290 and 291 are renumbered as sections 295 and 296.

Sections
290 and 291
renumbered

29. (1) This Act comes into force on the day upon which it is assented to.

Coming into
force

(2) Upon the coming into force of this Act the provisions of section 23

(a) shall be deemed to have been incorporated in *The Provincial Lands Act* as part of that Act from the 1st day of April, 1948, to the 1st day of April, 1949, and

(b) shall be deemed to have been in full force and effect as part of *The Mines and Minerals Act* on, from and after the 1st day of April, 1949.

No. 107

SECOND SESSION
TWELFTH LEGISLATURE
3 ELIZABETH II

1954

BILL

An Act to amend The Mines and
Minerals Act

Received and read the

First time

Second time.....

Third time.....

HON. MR. MANNING
