

No. 45

2nd Session, 15th Legislature, Alberta
13 Elizabeth II

BILL 45

A Bill to Provide for the Payment to Surface Owners of
Royalties Collected by the Crown with Respect to
Clay and Marl

HON. MR. PATRICK

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Explanatory Note

1. Short title.

2. Definitions.

BILL

No. 45 of 1965

An Act to Provide for the Payment to Surface Owners of
Royalties Collected by the Crown with Respect to
Clay and Marl

(Assented to _____, 1965)

WHEREAS *The Clay and Marl Act* declares that the owner of the surface of land is and shall be deemed at all times to have been the owner of and entitled to clay and marl on the surface of that land, and all clay and marl obtained by stripping off the overburden, excavating from the surface, or otherwise recovered by surface operations; and

WHEREAS Her Majesty in right of Alberta as owner of the mines and minerals prior to the commencement of *The Clay and Marl Act*, being the 12th day of April, 1961, had granted quarrying leases giving authority to obtain clay or marl by surface excavation methods; and

WHEREAS it is desirable and in the public interest that the royalties paid to Her Majesty under such quarrying leases on, from and after the 12th day of April, 1961, be paid by Her Majesty to the owners of the surface:

THEREFORE, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Clay and Marl Crown Leases Act*".

2. In this Act,

- (a) "additional royalty" means the royalty payable to Her Majesty with respect to clay or marl pursuant to the terms of a quarrying lease but excluding minimum royalty;
- (b) "lease year" means a period of time commencing on an anniversary date of a quarrying lease and continuing until the next following anniversary date;
- (c) "minimum royalty" means the royalty payable to Her Majesty yearly in advance pursuant to the terms of a quarrying lease;
- (d) "Minister" means the Minister of Mines and Minerals;
- (e) "quarrying lease" means a lease whereby Her Majesty granted authority to obtain clay or marl by surface excavation methods.

3. Application of Act.

4. (1) Amount equal to minimum royalty to be paid to the owner of the surface of land described in a quarrying lease.

(2) Minimum royalty to be apportioned where there is more than one owner.

5. (1) Amount equal to additional royalty to be paid to the owner of the surface of the area from which clay or marl has been excavated during lease year.

(2) Clay or marl excavated from each owner's land to be determined during lease year where there is more than one owner from whose land clay or marl was excavated.

(3) Additional royalty to be apportioned where there is more than one owner of the area from which clay or marl has been excavated during lease year.

6. Interest to form part of minimum royalty or additional royalty as the case may be.

7. Decision of the Minister to be final.

8. Commencement.

3. This Act applies to each quarrying lease granted by Her Majesty prior to and subsisting on the 12th day of April, 1961.

4. (1) When a minimum royalty is paid to Her Majesty on or after the 12th day of April, 1961, the Minister is empowered to direct the Provincial Treasurer to pay an equal amount of money out of the General Revenue Fund to the owner of the surface of the land described in the quarrying lease.

(2) Where there is more than one owner of the surface of the land described in a quarrying lease, the Minister shall apportion the amount of the minimum royalty among the various owners in the ratio that the acreage of each owner of the surface within the quarrying lease bears to the acreage comprised in the quarrying lease.

5. (1) When an additional royalty is paid to Her Majesty on or after the 12th day of April, 1961, the Minister is empowered to direct the Provincial Treasurer to pay an equal amount of money out of the General Revenue Fund to the owner of the surface of the land from which the clay or marl has been excavated during the lease year.

(2) Where there is more than one owner of the surface of the land comprised in the area from which clay or marl has been excavated during the lease year, the Minister shall determine the amount of clay or marl excavated from each owner's land and in so doing may have regard to the reports of a district inspector appointed under *The Coal Mines Regulation Act* and may consider such other evidence as he deems necessary.

(3) Where subsection (2) applies, the Minister shall apportion the amount of the additional royalty among the various owners in the ratio that the amount of clay or marl excavated from each owner's land as determined by the Minister bears to the total amount of clay or marl excavated during the lease year from the land described in the quarrying lease.

6. Where interest is paid with respect to minimum royalty or additional royalty, such interest is deemed to be part of the minimum royalty or additional royalty, as the case may be.

7. Any decision made by the Minister under this Act is final and there is no appeal therefrom.

8. This Act comes into force on the day upon which it is assented to.

No. 45

SECOND SESSION

FIFTEENTH LEGISLATURE

13 ELIZABETH II

1965

BILL

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to Surface Owners of Royalties
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Received and read the

First time.....

Second time.....

Third time.....

HON. MR. PATRICK
