

1980 BILL 53

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 53

**THE MINES AND MINERALS AMENDMENT
ACT, 1980 (NO. 2)**

THE MINISTER OF ENERGY AND NATURAL
RESOURCES

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 53

1980

THE MINES AND MINERALS AMENDMENT ACT, 1980 (NO. 2)

(Assented to _____, 1980)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1 *The Mines and Minerals Act is amended by this Act.*

2 *The following is added after section 12.1:*

12.2 The Minister may, with the approval of the Lieutenant Governor in Council, enter into a contract with any person, or with the government of Canada or of another province respecting

- (a) development or sale of minerals and of any substances obtained from or by processing minerals belonging to the Crown in right of Alberta,
- (b) development of mines in Alberta, and
- (c) any matter that the Minister considers to be necessarily incidental to, in relation to or in connection with anything referred to in clause (a) or (b).

3 *Section 14(c) is repealed and the following is substituted:*

- (c) make regulations respecting
 - (i) placer mining,
 - (ii) the conduct of exploration for any minerals,
 - (iii) the working and development of any minerals,
 - (iv) the development and operation of mines and any other matter incidental to mining, and
 - (v) the disposal pursuant to an agreement of the right to explore for, win, work, recover, obtain or sell minerals for which no provision is made by this Act,

Explanatory Notes

1 This Bill will amend chapter 238 of the Revised Statutes of Alberta 1970.

2 The amendment will authorize the Minister with the approval of the Lieutenant Governor in Council to enter into development agreements respecting mines and minerals.

3 Section 14 presently reads in part:

14 The Lieutenant Governor in Council may from time to time

(c) make regulations,

(iii) governing the conduct of exploration for any minerals in the Province,

(iv) governing the working and development of any minerals, and

(vi) for the leasing or other disposal of any minerals for which no provision is made by this Act,

The amendment will permit the making of regulations to provide for the disposition of placer mineral rights and of regulations prescribing the terms and conditions under which the Minister is authorized to vary a royalty prescribed by the Lieutenant Governor in Council.

(c.1) make regulations authorizing the Minister

(i) to determine the deductions that may be allowed in computing a royalty prescribed by the Lieutenant Governor in Council under this Act, and

(ii) to waive or vary a royalty prescribed by the Lieutenant Governor in Council under this Act in accordance with the terms and conditions prescribed in the regulations,

4 *Section 31(5) is repealed.*

5 *Section 40 is repealed and the following is substituted:*

40(1) In this section, “due date” means

(a) in relation to the payment of a royalty on a mineral, the last day of the month following the month of production or the last day of the month in which the proceeds of sale of the mineral are received, whichever is later, and

(b) in relation to the payment of a sum of money due and payable under an agreement or certificate of record, other than a royalty on a mineral, the date specified in the agreement or certificate of record for the payment of that sum of money.

(2) Interest at the rates prescribed in the regulations shall be charged on a royalty on a mineral or other sum of money payable under an agreement or certificate of record from the due date to the actual date of payment if

(a) the royalty on the mineral is not paid on or before the due date, or

(b) the sum of money, other than a royalty on a mineral, is not paid within one month or 30 days, whichever is greater, following the due date,

and interest so charged is payable in addition to that royalty or other sum of money.

4 Section 31(5) presently reads:

(5) The deductions that may be allowed when computing the royalty on petroleum and natural gas, other than crude oil, for the costs, charges and expenses incurred in gathering or processing shall be the deductions specified by the Minister.

This subsection is being re-enacted as section 132(2.1). See NOTE: 11.

5 Section 40 presently reads:

40 When any money payable under any disposition is not paid within one month or 30 days, whichever is the greater, from the date on which it became due, interest shall be charged from the due date at the rate prescribed by the regulations.

This amendment prescribes the “due date” for royalty payments and other payments and that interest will be payable after the due date if a royalty is not paid on or before the due date, and if any money, other than a royalty, is not paid within 1 month or 30 days after the due date.

6 Section 47.1 as enacted by section 23 of *The Mines and Minerals Amendment Act, 1978*

(a) is renumbered as section 47.2, and

(b) is amended in subsection (4) by striking out “or on behalf of each of the holders of the agreement” and substituting “all of the holders of the agreement either personally, by an authorized employee or by a person authorized under a power of attorney”.

7 The following is added after section 53:

53.1 If

(a) an approved scheme referred to in section 38(1)(a) of *The Oil and Gas Conservation Act* that is for experimental purposes, or

(b) an approved scheme or operation referred to in section 43(3) of *The Oil and Gas Conservation Act*

is being conducted on the location of a lease of petroleum rights, petroleum and natural gas rights or oil sands rights, the lessee shall, upon the request of the Minister, submit to the Minister within the time specified by him, any data that the Minister requires for the purpose of determining the amount of production from and costs relating to that scheme or operation.

8 Section 81 is renumbered as section 81.1 and the following is added before the renumbered section 81.1:

81 In this Part “quarriable mineral” means a mineral that may be quarried and used in its natural state for building, construction, industrial, manufacturing or agricultural purposes and without limitation includes

(a) anhydrite, bentonite, diatomite, gypsum, granite, limestone, marble, mica, potash, quartz rock, rock phosphate, sandstone, shale, slate, talc, volcanic ash, and

(b) a mineral rock or stone that may be cut or polished for use as an ornament, a decoration or personal adornment but does not include precious stone.

6 The first amendment will correct a numbering error and the second amendment will require the holders of an agreement to execute an official address for service personally or through an authorized employee or attorney.

The renumbered section 47.1 presently reads in part:

(4) An official address for service filed under subsection (2) of this section or section 176(2)(e) shall be signed by or on behalf of each of the holders of the agreement.

7 This section empowers the Minister to obtain from a lessee of petroleum, petroleum and natural gas or oil sands rights any data that he may require to determine the amount of production from and relevant costs attributable to an experimental scheme conducted on his lease location.

8 This section defines quarriable minerals under Part 3.

The definition expresses quarriable minerals in the traditional sense of consisting primarily of rock that is quarried and used for construction purposes with only a minimal amount of processing.

9 Section 119(1) is amended by striking out “subsection (3) and”.

10 In the following provisions “to 123” is struck out and “to 123.1” is substituted:

section 129(2);
section 131(4).

11 The following is added after section 132(2):

(2.1) The Minister may specify the deductions for costs, charges and expenses incurred in gathering, compressing or processing natural gas that are allowed in the computation of the royalty on the natural gas and on any substance obtained from or by processing the natural gas.

12 Section 135 is repealed.

13 Section 174(3) is amended by striking out “bituminous sands or”.

9 Section 119(1) presently reads in part:

119(1) Subject to subsection (3) and sections 121 to 123, a petroleum and natural gas lease continues after the expiration of its term

(a) as to any part of the location that is within the spacing unit for a producing well;

Section 119(3) was repealed by chapter 23 of the Statutes of Alberta, 1978.

10 Corrects an omission. Section 123.1 was added by chapter 23 of the Statutes of Alberta, 1978.

11 This section will include allowable deductions for natural gas as part of the authority dealing with petroleum and natural gas royalties rather than royalties generally. See also NOTE: 4. Section 132 presently reads in part:

132(1) The petroleum and natural gas obtained pursuant to any agreement acquired under this Part is subject to the payment to the Crown of such royalty thereon as may from time to time be prescribed by the Lieutenant Governor in Council.

(2) The royalty may be collected in such manner as may be prescribed by the Minister.

12 Corrects an omission. Section 135 became redundant when its contents were duplicated by section 31.1, which was added by chapter 23 of the statutes of Alberta, 1978. Section 135 presently reads:

135 When petroleum or natural gas is obtained from any well during any month, the lessee or his agent authorized in writing shall, not later than

(a) the 30th day after the end of that month, or

(b) the last day of the next succeeding month,

whichever is the later, file with the Department, on forms prescribed by the Minister, a full report showing the production, disposition and sales during the month in which the petroleum or natural gas was obtained, and any other information required by the form.

13 Section 174(3) presently reads:

(3) In this section "products" includes any products recovered from hydrocarbons obtained from bituminous sands or oil sands.

14 *Section 175 is repealed and the following is substituted:*

175 In this Part,

(a) “approved lender” means a member of a class of money lenders designated by the Minister pursuant to section 180.3;

(b) “document” means an instrument that pertains to a right granted under an agreement;

(c) “notice of financial transaction” means a document in the form prescribed in the regulations and capable of registration under section 180;

(d) “registration” means

(i) the entering of a document in a record authorized by the Minister for that purpose,

(ii) in the case of a transfer, the endorsing or attaching of a memorandum evidencing an entry under subclause (i) on or to the original and a duplicate of an agreement affected by the transfer and on or to that transfer, and

(iii) in the case of a document other than a transfer, the endorsing or attaching of a memorandum evidencing an entry under subclause (i) on or to the original of an agreement affected by that document and on or to that document;

(e) “transfer” means a document in Form B, C or D in the Schedule and capable of registration under section 176.

15 *Section 179(a) is amended by striking out “providing for” and substituting “respecting”.*

16 *Section 180 is repealed and the following is substituted:*

180(1) A notice of financial transaction may be submitted to the Minister for registration under this section if, under the financial transaction to which that notice relates, an agreement or an interest in an agreement has been assigned to an approved lender as security by

(a) the holder of that agreement or interest, or

14 Section 175 presently reads:

175 In this Part,

(a) “document” means an instrument, other than a transfer, pertaining to any right granted under an agreement;

(b) “registration” or “register” means

(i) the entering in a book authorized by the Minister for that purpose of a transfer or document, and

(ii) the endorsing on or the attaching to the agreement affected of a memorandum evidencing an entry under subclause (i);

(c) “transfer” means an instrument in Form B, C or D in the Schedule or to a like effect and capable of registration under section 176.

The revision of this section is consequential to the other amendments to Part 7 of the Act as contained in this Bill. See also sections 16 to 18 of this Bill.

15 Section 179(a) presently reads:

179 The Lieutenant Governor in Council may make regulations

(a) providing for the registration of documents,

16 Section 180 presently reads:

180 Where, by a document made pursuant to section 82 of the Bank Act (Canada), an agreement from the Crown with respect to petroleum or natural gas, or both, or any interest therein is assigned, transferred or set over as security to a bank by the holder of the agreement or by a person having an interest therein, there may be registered by the Minister upon payment of the prescribed fee

(a) an original of the document, or

- (b) a person having an interest in that agreement or interest derived directly or indirectly from that holder.
- (2) The Minister may refuse to register a notice of financial transaction if
- (a) it is not in the form prescribed under the regulations,
 - (b) it is not executed in the manner and accompanied by the proof of execution satisfactory to the Minister,
 - (c) the fee prescribed under the regulations is not paid, or
 - (d) the person who submits the notice of financial transaction does not submit an address for service for the approved lender.
- (3) A notice of financial transaction registered under this Part has priority over an unregistered notice of financial transaction.
- (4) A person whose notice of financial transaction has been registered shall file immediately with the Department a notice of any change of the address for service relating to the notice of financial transaction.
- (5) An approved lender named in a registered notice of financial transaction may by notice in writing to the Minister executed in the manner and accompanied by proof of execution satisfactory to the Minister, discharge the registration of the notice of financial transaction in whole or in part and the Minister shall register the notice of discharge according to its intent.
- (6) This section and section 180.1 do not apply to a document made pursuant to section 82 of the *Bank Act* (Canada) that was registered by the Minister before the date of the coming into force of this section.

180.1 The registration of a notice of financial transaction under this Part in respect of an agreement or an interest in an agreement does not restrict or in any manner affect any right or power of the Crown under a provision of this Act or the regulations applicable to that agreement or under that agreement and does not derogate from the estate or interest of the Crown in the mines and minerals comprised in that agreement.

180.2 A document that evidences a financial transaction but is not a notice of financial transaction or is not referred to in or incorporated into a notice of financial transaction is not capable of registration under section 180.

(b) a copy of the document certified by an officer or employee of the bank to be a true copy thereof, or

(c) a caveat in respect of the rights of the bank, or

(d) a discharge or partial discharge of the rights of the bank under the document, or

(e) a withdrawal or partial withdrawal of a caveat registered under clause (c).

The proposed section will permit the registration by way of notices of financial transaction of security agreements between members of classes of money lenders approved by the Minister and holders of agreements or persons who have derived an interest from those holders. This section will no longer only apply to security under section 82 of the Bank Act (Canada).

180.3 The Minister may in writing designate as approved lenders the classes of money lenders considered appropriate by him for giving loans on the security of an agreement or of an interest in an agreement.

17 Section 181 is amended

(a) by repealing clause (a), and

(b) in clause (c) by striking out “transfers and”.

18 Section 188(2) is repealed and the following is substituted:

(2) No person shall operate exploration equipment in Alberta unless he is either

(a) the holder of an exploration permit, or

(b) a person authorized by a permittee to operate exploration equipment under that permittee's permit,

and the permit under which he is operating is not suspended and no other suspended permit exists with respect to that equipment.

19 Section 189(g) and (h) is repealed and the following is substituted:

(g) respecting the filing of reports, plans, maps, surveys and other documents and the submission of rock samples, drill cuttings, core samples, logs or other data obtained as a result of mineral exploration to a person authorized by the Minister to receive them;

(g.1) prescribing the nature of the content of the reports, plans or maps and the condition of samples, cuttings, logs or other data referred to in clause (g);

(g.2) authorizing the Minister to examine rock samples, drill cuttings and core samples at a drill site and to select and take all or any part of those rock samples, drill cuttings or core samples for storage or further evaluation at a place designated by the Minister;

17 Section 181 presently reads:

181 The Lieutenant Governor in Council may from time to time establish a tariff of fees pertaining to

- (a) the registration of transfers,*
- (b) the registration of documents, and*
- (c) any services supplied by the Department in connection with transfers and documents.*

18 Section 188 presently reads in part:

(2) No person shall operate exploration equipment in Alberta unless

- (a) he is the holder of an exploration permit or is a person authorized by that holder to operate that equipment, and*
- (b) the permit is not suspended or is not suspended with respect to that equipment.*

19 Section 189 presently reads in part:

189 The Lieutenant Governor in Council may make regulations

- (g) prescribing the circumstances under which and the times at or within which any kinds of reports, plans, maps, surveys, logs or other data obtained as a result of exploration must be filed with or surrendered to the Department and prescribing the content of any reports, plans or maps required to be so filed or surrendered;*
- (h) respecting the retention, disposition and publication of preliminary plans filed under the regulations and of plans, reports, maps, surveys, logs or other data obtained as a result of exploration;*

The new clauses will permit the making of regulations that require a licensee to provide to the Minister or his authorized representative designated data and that prescribe rules dealing with the retention, confidentiality, disposition and publication of preliminary plans and of other data filed in the Department.

(h) respecting the retention, confidentiality, disposition and publication of preliminary plans filed pursuant to the regulations and of plans, reports, maps, surveys, or other documents, rock samples, drill cuttings, core samples, logs or other data obtained as a result of mineral exploration;

20 *The following is added after section 194:*

PART 10

METALLIC MINERALS

195 In this Part,

- (a) “lease” means a metallic mineral lease issued under this Part;
- (b) “metallic mineral” means a mineral prescribed as a metallic mineral in the regulations for the purposes of this Part;
- (c) “permit” means a metallic mineral exploration permit issued under this Part;
- (d) “permittee” means the holder of a permit.

196 A permit or lease shall be in the form determined by the Minister and may include any terms or conditions prescribed by him.

197(1) A person is entitled to a permit if

- (a) his offer for the permit is accepted by the Minister at a sale by public tender, or
- (b) he applies for the permit and the Minister considers the granting of it warranted in the circumstances.

(2) A permittee or a holder of a certificate of record or quartz mineral exploration permit issued pursuant to the regulations may apply for a lease in accordance with the regulations and the Minister may grant to him a lease of all or any part of the location described in his permit, certificate of record or quartz mineral exploration permit, as the case may be.

20 The new Part 10 will authorize the disposition of metallic minerals, formerly described as quartz minerals, by way of permits and leases instead of by way of quartz mineral certificates of record, quartz mineral exploration permits and quartz mining leases pursuant to the regulations.

198 A lessee or permittee may surrender all of the location described in his permit or lease, and may, with the consent of the Minister, surrender a part of that location.

199(1) A permit entitles the permittee to search for, mine, quarry, work and remove metallic minerals that are the property of the Crown in right of Alberta in the location for the purposes and in accordance with the regulations and the terms and conditions prescribed in the permit.

(2) A lease grants the right to metallic minerals that are the property of the Crown in right of Alberta in the location in accordance with the terms and conditions prescribed in the lease.

Royalty

200(1) A metallic mineral obtained pursuant to a permit or lease is subject to the payment to the Crown in right of Alberta of the royalty on the metallic mineral that may from time to time be prescribed by the Lieutenant Governor in Council.

(2) The Minister may prescribe the manner of collection of the royalty and the royalty shall be collected in the manner so prescribed.

201 The Lieutenant Governor in Council may make regulations

- (a) respecting applications for and the issuing of permits and leases;
- (b) prescribing fees payable in respect of applications for, or for the issuing of, permits and leases;
- (c) respecting the furnishing of deposits or other forms of security to the Government by applicants for permits and by permittees and providing for
 - (i) the form and amounts of the deposits or other security, or the fixing of those amounts by the Minister,
 - (ii) the circumstances under which the deposits or security become payable or forfeited,
 - (iii) the purposes for which the deposits or security so paid or forfeited may be expended by the Government,

- (iv) the circumstances under which the deposits or security may be returned or refunded, or
 - (v) any other matter relating to the deposits or other security;
- (d) respecting the rights and duties of permittees and lessees;
- (e) providing for any matter relating to the term of permits and leases, renewals or extensions of the term, size, shape and boundaries of the locations of permits and leases and the grouping, surrender, cancellation, expiry or forfeiture of permits and leases;
- (f) respecting the filing with or submission to the Department of reports, estimates, declarations, plans, maps or surveys by permittees and lessees and the form and the nature of the content of those reports, estimates, declarations, plans, maps or surveys;
- (g) respecting the retention, confidentiality, disposition and publication of reports, declarations, plans, maps, surveys or other data submitted by permittees and lessees to the Department;
- (h) prescribing the work and spending requirements to be met by permittees on the location of a permit and specifying the charges, credits or deposits required or allowed against those work and spending requirements;
- (i) prescribing the manner in which locations for leases may be selected;
- (j) prescribing rentals payable by lessees and deductions from or credits against those rentals;
- (k) authorizing the Minister to give a notice to a lessee requiring work to be done by the lessee on the location of a lease including, without limiting the generality of the foregoing, notice to
- (i) commence or resume mining operations on the location within a specified period;
 - (ii) mine from the location a specified amount of the metallic mineral within a specified period;
- (l) prescribing minerals, other than
- (i) gold, silver and precious stone that are recoverable from

(A) sand and gravel that belong to the owner of the surface of land under *The Sand and Gravel Act*, or

(B) clay and marl that belong to the owner of the surface of land under *The Clay and Marl Act*,

(ii) coal, petroleum, natural gas and oil sands, and

(iii) quarriable minerals to which Part 3 applies,

as metallic minerals for the purposes of this Part;

(m) respecting the granting of a permit in substitution for a certificate of record or quartz mineral exploration permit;

(n) respecting the granting of a metallic mineral lease in substitution for a quartz mineral lease.

202(1) An application made before the date of the coming into force of this Part for

(a) a certificate of record or a quartz mineral exploration permit, or

(b) a quartz mineral lease

pursuant to the regulations made before the date of the coming into force of this Part shall on and after that date be dealt with as an application for a permit or a lease, as the case may be, under this Part.

(2) An application made after the date of the coming into force of this Part for a quartz mineral lease from a certificate of record or quartz mineral exploration permit issued pursuant to the regulations made before the date of the coming into force of this Part shall be dealt with as an application for a lease under this Part.

203(1) An owner of a mineral claim and a holder of a quartz mineral exploration permit issued pursuant to the regulations made before the date of the coming into force of this Part may, before the date of expiry of the certificate of record for the mineral claim or of the quartz mineral exploration permit, as the case may be, apply for a permit under this Part and, on surrender of the certificate of record or quartz mineral exploration permit, may be issued, in accordance with the regulations made under this Part, a permit under this Part in substitution for the rights granted under the certificate of record or the quartz mineral exploration permit, as the case may be.

(2) A lessee of a quartz mineral lease issued pursuant to the regulations made before the date of the coming into force of this Part may,

(a) before the date of expiry of that lease, apply for, and

(b) on surrender of that lease, be issued, in accordance with the regulations,

a metallic mineral lease under this Part in substitution for the rights in the location granted under the quartz mineral lease.

21 This Act comes into force on a date or dates to be fixed by Proclamation.