

1980 BILL 92

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 92

**THE MINES AND MINERALS
AMENDMENT ACT, 1980 (NO. 3)**

THE MINISTER OF ENERGY
AND NATURAL RESOURCES

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 92

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1980

THE MINES AND MINERALS AMENDMENT ACT, 1980 (No. 3)

(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(1) Section 2(1) is amended

*(a) in clause 1 by striking out “permit or other agreement” and
by substituting “permit or certificate of record or any other agree-
ment”,*

(b) in clause 8 by striking out “certificate of record,”.

*(2) In the following provisions “or certificate of record” is struck
out wherever it occurs:*

section 2(2);
section 5;
section 31(1) and (2);
section 40;
section 47.1.

*(3) In the following provisions “or mineral claim” is struck out
wherever it occurs:*

section 42(2);
section 54(1);
section 56(1);
section 182(a)(i);
section 185.

(4) Section 12.1(1)(c.1) is repealed.

(5) Section 14 is amended

(a) in clause (f)(i) by striking out “certificates of record,” and

Explanatory Notes

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

2 As to the amendments in section 2(1) of the Bill, section 2(1), clauses 1, 3, 14 and 21 of the Act presently read:

1. "agreement" means any lease, licence, reservation, permit or other agreement made or entered into under

(i) this Act or the former Act, or

(ii) The Provincial Lands Act or the Dominion Lands Act and relating to a mineral,

but does not include a unit agreement under Part 8;

3. "certificate of record" means a certificate of record within the meaning of the regulations;

14. "mineral claim" means the tract described in a certificate of record;

24. "owner" when used in connection with a mineral claim means the holder according to the records of the Department of a certificate of record;

The effect of these and the other consequential amendments in the section is to include all references to certificates of record in the defined expression "agreement", and, as a consequence, to include references to mineral claims and owners of mineral claims in the defined expressions "location" and "lessee", respectively.

A second result of these amendments will be to extend to certificates of record certain provisions in the Act relating to "agreements" (as defined) that are presently not applicable to certificates of record under the Act.

(b) in clause (g.2) by striking out “or certificate of record pursuant to section 12.1(1)(c) or (c.1), as the case may be” and substituting “pursuant to section 12.1(1)(c)”.

(6) Section 39(1) is amended by striking out “or a mineral claim”.

(7) Section 42(2) is amended by striking out “or the owner of a mineral claim”.

(8) Section 54(1) is amended by striking out “or owner of the mineral claim”.

(9) Section 56(2) is amended by striking out “or owner”.

(10) Section 57 is amended by striking out “mineral claim or” and “owner or”.

(11) Section 183(2) is amended

(a) by striking out “, agreement or certificate of record” and substituting “or agreement”,

(b) in clause (d) by striking out “or certificate of record”,

(c) in clause (e) by striking out “or mineral claim” wherever it occurs, and

(d) in clause (g) by striking out “or owner of a mineral claim” and “or certificate of record”.

3 Section 14 is amended by adding the following after clause (g.2):

(g.21) by regulation prescribe pecuniary penalties for the late filing of any returns or reports required to be filed with the Minister or any officer of the Department pursuant to this Act, the regulations or an agreement or pursuant to a notice given under this Act, the regulations or an agreement,

4 The following section is added after section 44:

44.1 If the acceptance by the Minister of an offer or application for an agreement would result in the issuance of an agreement under which any one of the lessees would hold less than a 1% undivided interest, the agreement shall not be issued unless the Minister otherwise agrees.

3 Section 14 enumerates the subject-matters on which the Lieutenant Governor may make orders and regulations.

4 The proposed section 44.1 is complementary to section 176(2)(c) of the Act which allows the Minister to refuse registration of a transfer of an agreement if the transfer conveyed an undivided interest of less than 1%.

5 *Section 47.2(2) is repealed.*

6 *Section 112 is amended*

(a) *in subsection (1)(b) by striking out “, reservation or permit”, and substituting “or reservation”, and*

(b) *in subsection (3) by striking out “, reservation or permit”, and substituting “or reservation”.*

7 *Section 120 is amended by adding the following after subsection (4.1):*

(4.2) The Minister may extend a 90-day period within which the drilling of a well pursuant to subsection (4) or (4.1) must be commenced if

(a) an application is made for the extension during that 90-day period,

(b) the Minister is satisfied that the lessee requires additional time to properly evaluate the well to determine whether or not it can be completed as a producing well, and

(c) the extension does not exceed a further period of 90 days,

and upon the granting of the extension, a reference in subsection (4) or (4.1) to a 90-day period shall, in relation to the commencement of drilling of the next well, be deemed to be a reference to the extended period.

5 Section 47.2(2) presently reads:

(2) The lessee of an agreement issued before July 1, 1978 shall file with the Department an official address for service for the agreement not later than one year after the first anniversary of the date of issue of the agreement occurring after June 30, 1978.

Section 47.2(2) is to be repealed as being a spent provision.

6 See section 12 of this Bill for the repeal of section 127 of the Act.

7 Section 120(3), (4) and (4.1) presently reads:

(3) Where the well referred to in subsection (1) is not completed as a producing well, the lease further continues as to the same part of the location continued under subsection (1), for a period of 90 days from the finished drilling date of the well.

(4) Where the lease is continued as to part of the location for 90 days pursuant to subsection (2.1), the lessee may drill one or more wells in that part of the location subject to the following:

(a) the drilling of the first well pursuant to this subsection must be commenced within that 90-day period and the drilling of each subsequent well must be commenced within 90 days after the finished drilling date of the previous well;

(b) subsections (1), (2) and (2.1) apply with respect to each well drilled pursuant to this subsection as though the expiration of the 90-day period in which drilling commenced were the expiration of the term of the lease, whether or not the well in any case is completed as a producing well.

(4.1) Where the lease is continued for 90 days pursuant to subsection (3), the lessee may drill one or more wells in the location subject to the following:

(a) the drilling of the first well pursuant to this subsection must be commenced within that 90-day period and the drilling of each subsequent well must be commenced within 90 days after the finished drilling date of the previous well;

(b) subject to clause (c), where a well drilled pursuant to this subsection is not completed as a producing well, subsections (1) and (3) apply with respect to the well as though the expiration of the 90-day period in which drilling commenced were the expiration of the term of the lease;

(c) upon the completion of a well drilled pursuant to this subsection

8 *Section 121(3) is amended by striking out “120, 122 or 123” and substituting “120 or 122”.*

9 *Section 122(3) is amended by striking out “initial”.*

10 *Section 123 is repealed and the following is substituted:*

123(1) In this section, “deeper rights reversion date” means

- (a) with reference to a five-year lease, the day following the last day of its initial term,
- (b) with reference to a ten-year lease that is not a renewal of any previous 21-year lease, the day following the last day of its initial term or January 1, 1983, whichever is later,
- (c) with reference to a 21-year lease that is not a renewal of any previous 21-year lease, the day following the last of its term or January 1, 1983, whichever is later,
- (d) with reference to a ten-year lease that is a renewal of a 21-year lease, January 1, 1983, or

as a producing well, subsections (1), (2), (2.1) and (4) apply, and this subsection ceases to apply, with respect to the well as though the expiration of the 90-day period in which drilling commenced were the expiration of the term of the lease.

The proposed subsection (4.2) will enable the Minister to grant extensions of the 90-day drilling period in any case where further time is required to evaluate a drilled well.

8 Section 121(3) presently reads:

(3) When any part of the location is not continued or is no longer further continued under section 119, 120, 122 or 123,

(a) the description of the location of the lease shall be amended accordingly, and

(b) a copy of the amended description shall be forwarded to the lessee for inclusion in his copy of the lease.

The amendment is consequential to the re-enactment of section 123 in section 10 of this Bill. See subsection (7) of the proposed section 123.

9 Section 122(3) presently reads:

(3) The Minister may allow a lease to continue as to the unproven area under subsection (1) for a period of one year from the expiration of the initial term of the lease and upon such terms and conditions he prescribes but only if the lessee pays the annual rental and furnishes security to the Minister in a form approved by the Minister and in an amount equal to \$25 for each hectare in the unproven area.

The subsection was intended to extend to all petroleum and natural gas leases. The use of "initial term" may infer that it extends only to five-year and ten-year leases, and the amendment is aimed at removing that possible inference.

10 Section 123 presently reads:

123(1) Where at the relevant time referred to in clause (a), (b), (c) or (d) the Minister considers that petroleum or natural gas is capable of production in paying quantity from one or more zones in all or any part of a location of a petroleum and natural gas lease, the petroleum and natural gas rights granted by the lease that are stratigraphically below the base of that zone or the deeper or deepest of those zones in the location or that part of the location, as the case may be, shall revert to the Crown and shall not continue under the lease

(a) in the case of a five-year lease, upon the expiration of its initial term;

(b) in the case of a ten-year lease other than one that is a renewal of a 21-year lease, upon the expiration of its initial term or on January 1, 1983, whichever is later;

(c) in the case of a 21-year lease that is not a renewal of any

(e) with reference to a 21-year lease that is a renewal of a 21-year lease, January 1, 1983.

(2) Subject to subsections (3) to (7), if the Minister determines that, at the deeper rights reversion date, all or part of the location of a petroleum and natural gas lease is capable of producing petroleum or natural gas in paying quantity from one or more zones pursuant to that lease, the rights granted by the lease to the petroleum and natural gas in the portion of the location that is stratigraphically below the base of that zone or the deeper or deepest of those zones in the location, shall revert to the Crown and shall not continue under the lease as of the deeper rights reversion date.

(3) The Minister may, on or before the deeper rights reversion date and thereafter from time to time, with respect to any petroleum and natural gas lease extend the deeper rights reversion date applicable to the lease if the Minister is satisfied that it is in the public interest to grant the extension.

(4) An extension under subsection (3) may be made subject to any conditions prescribed by the Minister.

(5) Any extension or extensions granted under subsection (3) with respect to any lease shall not exceed in the aggregate a period longer than 5 years after the deeper rights reversion date applicable to that lease.

(6) If an extension is granted under subsection (3) with respect to a lease, a reference in subsection (2) to the deeper rights reversion date shall, in relation to that lease, be deemed to be a reference to the date on which the extension expires.

(7) After the deeper rights reversion date applicable to a lease, the Minister shall

(a) issue an amendment to the lease so as to exclude from the lease the petroleum and natural gas rights that reverted to the Crown under subsection (2),

(b) include the amendment in the Minister's copy of the lease, and

(c) forward a copy of the amendment to the lessee for inclusion in his copy of the lease.

11 Section 126(4) is amended by striking out "and section 127".

12 Section 127 and the heading preceding it are repealed.

previous 21-year lease, upon the expiration of its term or on January 1, 1983, whichever is later;

(d) in the case of a ten-year lease or 21-year lease that is a renewal of a previous 21-year lease, on January 1, 1983.

(2) Notwithstanding subsection (1), where at the relevant time applicable to a lease under clause (a), (b), (c) or (d) of that subsection, the lease is being continued as to all or any part of the location pursuant to section 120, then subsection (1) of this section applies to that lease with respect to the part so continued upon the completion of a well as a producing well or, where no well is completed as a producing well, upon the date on which the continuation under that section ceases.

The proposed re-enactment of section 123 will provide for extensions of the “deeper rights reversion date” for up to 5 years from that date.

11 See section 12 of this Bill.

12 Section 127 deals with permits of petroleum and natural gas rights. The section will be repealed as there are no longer any permits in force.

13 Section 176(2)(b) is repealed.

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

Section 127(3) prohibited the issue of any permits after June 30, 1976.

13 Section 176(2) presently reads:

(2) The Minister may in his discretion refuse to register a transfer submitted for registration if

(a) it is not executed by the transferor and the transferee in such manner and accompanied by such proof of execution as is satisfactory to the Minister, or

(b) registration thereof would result in more than five persons being the holder of the agreement, or

(c) an undivided interest conveyed is less than a 1% undivided interest in the agreement, or

(d) the prescribed fee is not paid, or

(e) the transferee does not submit for filing with the Department an official address for service for the agreement or a notice of change of the official address for service for the agreement in Form E in the Schedule.