

1981 BILL 78

---

Third Session, 19th Legislature, 30 Elizabeth II

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 78**

## **PETROLEUM INCENTIVES PROGRAM ACT**

---

---

THE MINISTER OF ENERGY  
AND NATURAL RESOURCES

---

---

First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

---

---

## PETROLEUM INCENTIVES PROGRAM ACT

Interpretation	1
Alberta Petroleum Incentives Program Fund	2
Operation of Fund	3
Federal-provincial agreement	4
Delegation	5
Incentives	6
Regulations	7
Appeals	8
Audit or examination	9
Assisting authorized persons	10
Privilege	11
Exceptions	12
Evidentiary privilege	13
Withholding or refusing to make payments	14
No incentive or reduced incentive	15
Recovery	16
Garnishment	17
Failure to comply	18
False information	19
Offence by employee or agent	20
Officer, etc. of corporation	21
Limitation	22
Consequential amendments	23

*Bill 78*

## **BILL 78**

1981

### **PETROLEUM INCENTIVES PROGRAM ACT**

*(Assented to , 1981)*

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

Interpretation

**1** In this Act,

- (a) “eligible asset costs” means prescribed costs in respect of prescribed assets used in the oil and gas industry;
- (b) “eligible costs or expenses” means eligible asset costs, eligible development expenses and eligible exploration expenses;
- (c) “eligible development expenses” means prescribed expenses in respect of the development of lands for the purpose of producing oil or gas or both;
- (d) “eligible exploration expenses” means prescribed expenses in respect of the exploration for oil or gas or both;
- (e) “federal-provincial agreement” means an agreement entered into pursuant to section 4(1);
- (f) “Fund” means the Alberta Petroleum Incentives Program Fund;
- (g) “gas” means gas as defined in the regulations;
- (h) “incentive” means a payment under section 6;
- (i) “Minister” means the Minister of Energy and Natural Resources;
- (j) “oil” means oil as defined in the regulations;
- (k) “person” includes a partnership or prescribed organization;

(l) “prescribed” means prescribed by or pursuant to the regulations;

(m) “record” means record as defined in the regulations.

Alberta Petroleum  
Incentives Program  
Fund

**2(1)** There is hereby established a fund to be known as the “Alberta Petroleum Incentives Program Fund”.

(2) The Minister shall hold and administer the Fund in accordance with this Act.

(3) The Minister shall establish and maintain a separate accounting record of the Fund.

(4) The Fund is a designated fund of the Consolidated Cash Investment Trust Fund and the Minister is the depositor with respect to the Fund for the purposes of the *Financial Administration Act*.

(5) The Minister shall, as soon as practicable after the end of each fiscal year of the Government, prepare a report summarizing the operation of the Fund during that year, and containing its audited financial statements.

(6) When a report is prepared pursuant to subsection (5), the Minister shall lay a copy of it before the Legislative Assembly if it is then sitting and, if not, within 15 days after the commencement of the next ensuing sitting.

Operation of Fund

**3(1)** On the request of the Minister, the Provincial Treasurer shall transfer from the General Revenue Fund to the Fund an amount of non-renewable resource revenue as defined in the *Alberta Heritage Savings Trust Fund Act* equal to the amount estimated by the Minister, taking into account any balance in the Fund, to be required to meet payments of incentives from time to time.

(2) Money transferred to the Fund pursuant to subsection (1) shall be excluded from the total amounts used to determine the transfers required to be made to the Alberta Heritage Savings Trust Fund pursuant to section 5 of that Act or any Special Act referred to in that section and enacted before or after the commencement of this Act, notwithstanding anything in those Acts.

(3) The Lieutenant Governor in Council may advance to the Fund from the General Revenue Fund the amount specified in the order, on the report of the Minister that the advance is or will be required to meet expenditures from the Fund.

(4) The following shall be paid into the Fund:

(a) any money received by the Minister pursuant to this Act or the regulations;

(b) advances made pursuant to subsection (3).

- (5) The following shall be paid out of the Fund:
- (a) incentives;
  - (b) amounts to be paid to the Government of Canada pursuant to a federal-provincial agreement;
  - (c) any amounts required to be paid to the General Revenue Fund to repay an advance made pursuant to subsection (3);
  - (d) any other amounts required to be paid by the Minister pursuant to this Act or the regulations.
- (6) The income of the Fund accrues to and forms part of the Fund.
- (7) The Lieutenant Governor in Council may order that all or part of a surplus in the Fund be paid into the General Revenue Fund, and any amount paid into the General Revenue Fund under this subsection shall, for the purposes of the *Alberta Heritage Savings Trust Fund Act*, be treated as though it were non-renewable resource revenue as defined in that Act.
- (8) After the end of each fiscal year of the Government, the Provincial Treasurer, with the approval of the Treasury Board, shall
- (a) estimate an amount of the fees, wages, salaries, costs, expenses or other payments incurred in connection with the administration of the Fund and paid out of the General Revenue Fund in the preceding fiscal year, and
  - (b) transfer the amount estimated under clause (a) from the Fund to the General Revenue Fund.

Federal-provincial  
agreement

**4(1)** With the approval of the Lieutenant Governor in Council, the Minister may, on behalf of the Government of Alberta, enter into an agreement with the Government of Canada for any purpose in relation to the administration and enforcement of this Act or the Petroleum Incentives Program of the Government of Canada or both.

(2) Without limiting the generality of subsection (1), a federal-provincial agreement may provide for the exchange between the Government of Canada and the Government of Alberta of information and records obtained under this Act and the Petroleum Incentives Program of the Government of Canada for the purpose only of facilitating the effective administration and evaluation of that program and this Act.

Delegation

**5** The Minister may delegate in writing to any employee of the Government of Alberta any of the Minister's powers or duties under this Act or the regulations other than the power to enter into a federal-provincial agreement.

Incentives

**6(1)** Subject to this Act and the regulations, a person is entitled to a payment by the Minister if

(a) he, or a person associated with him in the manner and to the extent prescribed, has incurred eligible costs or expenses in respect of lands in Alberta,

(b) the eligible costs or expenses are incurred during the period commencing on January 1, 1981 and ending on December 31, 1986,

(c) he applies for the payment in the form and manner prescribed,

(d) he is qualified to receive the payment, and

(e) this Act and the regulations are complied with.

(2) Notwithstanding subsection (1), the Minister, on application and in accordance with the regulations, may make periodic advances in respect of a payment to an applicant under subsection (1).

Regulations

**7(1)** The Lieutenant Governor in Council may make regulations

(a) prescribing any matter or thing that is to be prescribed by this Act;

(b) respecting applications for incentives;

(c) respecting the circumstances in which and the conditions subject to which a person is qualified to apply for or receive an incentive;

(d) prescribing the time at which eligible costs or expenses shall be deemed to have been incurred;

(e) respecting the adjustment of eligible costs or expenses;

(f) prescribing the methods of determining the amounts of incentives in respect of classes of eligible costs or expenses and in respect of classes of applicants;

(g) respecting the circumstances in which and the conditions subject to which the Minister may make advances pursuant to section 6(2);

(h) respecting the rights and duties of applicants for and recipients of incentives in relation to those incentives;

(i) respecting any matter in connection with or incidental to eligibility for incentives or the payment of incentives;

(j) respecting liability for the payment of interest to or by the Minister on overpayments and underpayments, respectively, of incentives;

(k) respecting assignments of incentives;

(l) respecting appeals to the Court of Queen's Bench under this Act;

(m) respecting the records required to be kept by applicants for or recipients of incentives;

(n) conferring on the Minister the power to make an order to prescribe a form in any specified case and the information to be given on the form;

(o) respecting the imposition of pecuniary penalties for

(i) the late filing of any return, statement, report or other document required by the regulations to be filed with or submitted to the Minister or an officer of his Department, or

(ii) the failure to complete the information on a return, statement, report or other document that is in a prescribed form and is required by the regulations to be filed by or on behalf of an applicant for or recipient of an incentive with the Minister or an officer of his Department.

(2) If a power is conferred on the Minister pursuant to subsection (1)(n), the *Regulations Act* does not apply to an order made in the exercise of the power.

Appeals

**8** Subject to the regulations, a decision by the Minister respecting

(a) the determination of any eligible costs or expenses,

(b) the determination of whether a person is a qualified applicant, or

(c) any other determination affecting a person's entitlement to, or the amount of, an incentive,

may be appealed to the Court of Queen's Bench in accordance with the regulations.

Audit or examination

**9** Records required to be kept by or under the regulations shall be made available, for the purpose of audit or examination, at all reasonable times to any person authorized by the Minister.

Assisting authorized persons

**10** Every applicant for and every recipient of an incentive shall, for the purpose of an audit or examination under this Act, give all reasonable assistance to a person authorized by the Minister to carry out the audit or examination, provide access to all relevant sites, answer, orally or in writing, as required, all questions relating to the audit or examination and provide all information, records and copies required for the purpose of the audit or examination.

Privilege

**11** Except as otherwise provided in this Act, information or records obtained by the Minister or a person who is or was employed or engaged in the administration or enforcement of this Act are privi-

leged and shall not knowingly be or be permitted to be communicated, disclosed or made available to any person without the written consent of the person from whom they were obtained.

Exceptions

**12(1)** Information or records obtained by the Minister or a person employed or engaged in the administration or enforcement of this Act may be communicated, disclosed or made available

(a) in proceedings under this Act in the Court of Queen's Bench or proceedings in respect of offences under this Act, or

(b) to a person authorized to receive or have access to the information or records pursuant to a federal-provincial agreement.

(2) Except in the case of information obtained pursuant to section 47 of the *Alberta Income Tax Act* or section 77 of the *Alberta Corporate Income Tax Act*, information or records obtained by the Minister or a person employed or engaged in the administration or enforcement of this Act may be communicated, disclosed or made available

(a) to a person employed in or engaged by the Department of Energy and Natural Resources for the purpose of evaluating and formulating policy relating to energy or oil and gas resources;

(b) to the Provincial Treasurer or an officer or employee of the Treasury Department for the purpose of

(i) evaluating and formulating tax policy in relation to energy or oil and gas resources, or

(ii) administering or enforcing the *Alberta Income Tax Act* or the *Alberta Corporate Income Tax Act*.

Evidentiary privilege

**13** Notwithstanding any other Act or law, no Minister of the Crown and no person who is or was employed or engaged in the administration or enforcement of this Act shall be required, other than in proceedings relating to the administration or enforcement of this Act, to give evidence relating to any information or record that is privileged under this Act or to produce anything containing that information or record.

Withholding or refusing to make payments

**14** If a person is in contravention of a provision of this Act or the regulations, the Minister may withhold in whole or in part or may refuse to make a payment to that person, whether or not that contravention relates to that payment.

No incentive or reduced incentive

**15(1)** Notwithstanding anything in this Act, if the Minister is of the opinion that one or more acts, agreements, arrangements, transactions or operations were effected before or after the coming into force of this Act for the purpose of improperly, artificially or unduly obtaining or increasing an incentive, then the Minister may, as the case requires, determine that

- (a) the whole of an incentive applied for is not to be made,
- (b) the amount of an incentive has been improperly, artificially or unduly increased and is to be reduced accordingly,
- (c) the whole of an incentive received should not have been made, or
- (d) the amount of an incentive received was improperly, artificially or unduly increased and should be reduced accordingly.

(2) If the Minister makes a determination under subsection (1), the applicant or recipient is not entitled to the incentive or to the amount by which the incentive is or was improperly, artificially or unduly increased, as the case may be.

Recovery

**16(1)** If an incentive is made to a person and for any reason the person is not entitled to the incentive or the amount of the incentive exceeds the amount to which the person is entitled, or if an incentive is made in circumstances in which a term or condition has been imposed under this Act or the regulations and the term or condition has not been met or has been contravened, the amount of the incentive or excess, as the case may be, together with interest at the prescribed rate, is a debt due to Her Majesty in right of Alberta.

(2) A debt owing to Her Majesty under subsection (1)

- (a) may be recovered as such in any court, or
- (b) may be retained in whole or in part out of any money payable to the person by Her Majesty in right of Alberta.

(3) If a judgment is obtained by Her Majesty pursuant to subsection (2)(a), then, notwithstanding anything in any other Act, an interest in land of the judgment debtor may be seized and sold under a writ of execution issued in respect of that judgment at any time and without the need for a previous return of *nulla bona*.

Garnishment

**17(1)** In this section, “debtor” means a person indebted to Her Majesty under section 16(1).

(2) If the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a debtor, the Minister may, by a notice served personally or by registered mail, require that person to pay the money otherwise payable to the debtor to the Minister on account of the liability to Her Majesty.

(3) If a notice is sent or served on a person pursuant to subsection (2), the requirement to pay is applicable to all future payments by that person to the debtor until the debt to Her Majesty and accrued interest on that debt is fully paid.

(4) The receipt by the Minister of money paid as required under

subsection (2) or (3) is a good and sufficient discharge of the liability to the debtor to the extent of the payment.

(5) A person who discharges any liability to the debtor without complying with a notice served on him pursuant to subsection (2) is liable to pay to the Minister an amount equal to the liability discharged or the amount he was required to pay to the Minister, whichever is the lesser.

(6) If a person carries on business under a name or style other than his own name, a notice to that person under subsection (2)

(a) may be addressed to the name or style under which he carries on business, and

(b) in the case of personal service, is validly served if it is left with an adult person employed at the place of business of the addressee.

(7) If 2 or more persons carry on business as a partnership, a notice to those persons under subsection (2)

(a) may be addressed to the partnership name, and

(b) in the case of personal service, is validly served if it is served on one of the partners or left with an adult person employed at the place of business of the partnership.

Failure to comply **18** Subject to section 19, everyone who contravenes this Act or the regulations is guilty of an offence and liable to a fine of not more than \$25 000 or to imprisonment for a term of not more than 1 year or to both.

False information **19** Everyone who, under this Act or the regulations, submits any information or record, makes any statement or answers any question, whether in connection with an application or otherwise, knowing that the information, record, statement or answer is false or misleading or misrepresents or fails to disclose a material fact, is guilty of an offence and liable to

(a) a fine not exceeding \$100 000 or the amount of money obtained by reason of the commission of the offence, whichever is the greater, or

(b) to imprisonment for a term not exceeding 2 years,

or to both.

Offence by employee or agent **20** In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without his knowledge

or consent and that he took all reasonable measures to prevent its commission.

Officer, etc. of  
corporation

**21** If a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

Limitation

**22** No prosecution for an offence under this Act may be instituted after 5 years from the day the subject-matter of the prosecution arose.

Consequential  
amendments

**23(1)** *The Alberta Income Tax Act is amended in section 47 by adding the following after subsection (2):*

(3) A person employed in the administration of this Act may communicate or allow to be communicated information obtained under this Act, or allow inspection of or access to any written statement furnished under this Act, to or by a person employed in the administration or enforcement of the *Petroleum Incentives Program Act*, solely for the purposes of administering and enforcing that Act.

(2) *The Alberta Corporate Income Tax Act is amended*

(a) *in section 77(1) by adding “or (2.1)” after “subsection (2)”, and*

(b) *by adding the following after section 77(2):*

(2.1) A person employed in the administration of this Act may communicate or allow to be communicated information obtained under this Act, or allow inspection of or access to any written statement furnished under this Act, to or by a person employed in the administration or enforcement of the *Petroleum Incentives Program Act*, solely for the purposes of administering and enforcing that Act.

---

*In accordance with section 4(1) of The Interpretation Act, 1980, this Bill comes into force on the date it receives Royal Assent.*