

1985 BILL 40

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Third Session, 20th Legislature, 34 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 40**

**MINES AND MINERALS AMENDMENT ACT, 1985**

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THE MINISTER OF ENERGY AND NATURAL RESOURCES

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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## BILL 40

1985

### MINES AND MINERALS AMENDMENT ACT, 1985

(Assented to \_\_\_\_\_, 1985)

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2 *Section 1(1)(u) is repealed and the following is substituted:*

(u) "spacing unit" means

(i) in relation to a well producing or capable of producing petroleum or natural gas in Alberta, the production spacing unit for the well prescribed by or pursuant to the regulations under the *Oil and Gas Conservation Act*,

(ii) in relation to a well drilled or being drilled in Alberta, the drilling spacing unit for the well prescribed by or pursuant to the regulations under the *Oil and Gas Conservation Act*,

(iii) the area in Alberta that would be the drilling spacing unit prescribed for a well by or pursuant to the regulations under the *Oil and Gas Conservation Act* if the well were drilled, or

(iv) in relation to a well outside Alberta, the area allocated to the well for the purpose of drilling for or producing petroleum or natural gas;

3 *Section 11 is amended by renumbering it as section 11(1) and by adding the following after subsection (1):*

(2) Subsection (1) does not preclude

(a) the Lieutenant Governor in Council from transferring the administration and control of minerals to the Crown in right of Canada, or

(b) the Minister from executing and delivering a transfer under the *Land Titles Act* in favour of the Crown in right of Canada of an estate in minerals of which the Crown in right of Alberta is the registered owner.

4 *Section 24(5) is amended by adding "or otherwise acquired by" after "issued to".*

## Explanatory Notes

**1** This Bill will amend chapter M-15 of the Revised Statutes of Alberta 1980.

**2** Section 1(1)(u) presently reads:

*1(1) In this Act,*

*(u) "spacing unit" means*

*(i) in Alberta,*

*(A) a production spacing unit within the meaning of the Oil and Gas Conservation Act, when used with respect to a well producing petroleum or natural gas, or*

*(B) a drilling spacing unit within the meaning of that Act, when used in any other case,*

*and*

*(ii) outside Alberta, the area allocated to a well for the purpose of drilling for or producing petroleum or natural gas;*

**3** Section 11 presently reads:

*11 No disposition shall be made of an estate in a mineral owned by the Crown in right of Alberta unless the disposition is specifically authorized by this or another Act.*

**4** Section 24(5) presently reads:

*(5) No agreement shall be issued to an unincorporated syndicate or association or other unincorporated group of persons in the name of the syndicate, association or group.*

5 *Section 65 is amended by renumbering it as section 65(1) and by adding the following after subsection (1):*

(2) The Minister, on the recommendation of the Energy Resources Conservation Board that it is necessary to do so for safety or conservation reasons, may authorize the lessee of a coal lease to recover natural gas contained in a coal seam in the location of the coal lease.

6 *Sections 90 to 112 are repealed and the following is substituted:*

**90(1)** In this Part,

(a) “Board” means the Energy Resources Conservation Board;

(b) “deepest productive zone”, with reference to a spacing unit containing a location or part of a location approved for continuation pursuant to section 95(1), means the deepest of the zones in the spacing unit to which the approval extends under section 95(2);

(c) “finished drilling date”, with respect to a well, means the finished drilling date of the well according to the records of the Board;

(d) “freehold well”, in relation to the continuation of a lease, means a well that, in the opinion of the Minister, is capable of producing

(i) petroleum in paying quantity from the same zone as that in which petroleum rights are granted under the lease, or

(ii) natural gas in paying quantity from the same zone as that in which natural gas rights are granted under the lease,

if the title to all the petroleum or natural gas, as the case may be, in the spacing unit for the well is not owned by the Crown in right of Alberta;

(e) “lease” means a petroleum and natural gas lease, petroleum lease or natural gas lease issued under this Act or the former Act;

(f) “producing well”, in relation to the continuation of a lease, means a well that, in the opinion of the Minister, is capable of producing

(i) petroleum in paying quantity from a zone in which petroleum rights are granted under the lease, or

(ii) natural gas in paying quantity from a zone in which natural gas rights are granted under the lease;

(g) “term”, in relation to a lease, means the period of years stated in the lease as its term.

(2) In this Part and in an agreement granting rights to petroleum or natural gas or both,

(a) “natural gas” means the production from any well that, in the opinion of the Board, initially produces gas either alone

**5** Section 65 presently reads:

*65 A coal lease grants the right to the coal that is the property of the Crown in the location in accordance with the terms and conditions of the lease.*

**6** Sections 90 to 112 presently read:

*90 In this Part,*

*(a) "5-year lease" or "5-year petroleum and natural gas lease" means a lease of petroleum and natural gas rights granted after July 1, 1976 and having an initial term of 5 years;*

*(b) "freehold well" means a well that produces petroleum or natural gas from a spacing unit, the petroleum or natural gas in which is not owned by the Crown in right of Alberta;*

*(c) "licence" or "petroleum and natural gas licence" means a licence of petroleum and natural gas rights;*

*(d) "producing well" means a well that is, in the opinion of the Minister, capable of production of petroleum or natural gas in paying quantity;*

*(e) "10-year lease" means a lease of petroleum and natural gas rights granted*

*(i) during the period commencing on June 1, 1962 and ending on June 30, 1976, or*

*(ii) out of a reservation or permit of petroleum and natural gas rights issued during the period commencing on June 1, 1962 and ending on June 30, 1976,*

*and having an initial term of 10 years;*

*(f) "21-year lease" or "21-year petroleum and natural gas lease" means a lease of petroleum and natural gas rights granted*

*(i) under the former Act, or*

*(ii) out of a reservation of petroleum and natural gas rights issued before June 1, 1962;*

*(g) repealed 1983 c36 s19.*

*91(1) This Part applies to petroleum rights and natural gas rights that are the property of the Crown in right of Alberta.*

*(2) An agreement granting rights to petroleum and natural gas or either of them, whether granted before, on or after July 1, 1978, does not grant the right to oil sands.*

*92 and 93 Repealed 1983 c36 s21.*

*Petroleum and Natural Gas Leases Rental*

*94(1) The annual rental for a petroleum and natural gas lease shall be \$2.50 per hectare payable yearly in advance.*

*(2) The prescribed fee and the rental for the first year shall accompany an offer or application for a lease.*

*(3) The fee and rental shall be refunded if the granting of the lease is refused.*

or with oil at a gas-oil ratio of 1800:1 or higher, but does not include any production that may be obtained from any well that, in the opinion of the Board, initially produces gas with oil at a lower gas-oil ratio;

(b) "petroleum" means the production from any well that, in the opinion of the Board, initially produces oil either alone or with gas at a gas-oil ratio of less than 1800:1, but does not include any production that may be obtained from any well that, in the opinion of the Board, initially produces oil with gas at a higher gas-oil ratio.

(3) Subsection (2) does not apply for any purpose related to royalties or to section 92(5).

(4) An order of the Minister granting an extension of time under section 96(6) or 98(5) is not a regulation within the meaning of the *Regulations Act*.

**91** This Part applies to petroleum rights and natural gas rights that are the property of the Crown in right of Alberta.

### **Rights Granted**

**92(1)** A petroleum and natural gas lease grants in accordance with the terms and conditions of the lease the right to the petroleum and natural gas in the location that are the property of the Crown.

(2) Notwithstanding subsection (1), a petroleum and natural gas lease may except from the rights granted

(a) the petroleum rights in all or part of the location or in 1 or more zones in all or part of the location, or

(b) the natural gas rights in all or part of the location or in 1 or more zones in all or part of the location.

(3) A reference in this Part to a petroleum and natural gas lease includes a petroleum and natural gas lease from which rights to petroleum or natural gas are excepted pursuant to subsection (2).

(4) An agreement granting rights to petroleum or natural gas or both, whether granted before, on or after July 1, 1978, does not grant the right to oil sands.

(5) An agreement granting rights to which this Part applies does not grant the right to natural gas in a coal seam that the Minister has authorized the lessee of a coal lease to recover under section 65(2).

### **Duration of Leases**

**93(1)** The term of a petroleum and natural gas lease issued under this Act after July 1, 1976 shall be 5 years.

(2) Subsection (1) does not apply to a petroleum and natural gas lease having a term of 10 or 21 years and issued after July 1, 1976

#### *Size and Boundaries*

95 *In the case of a 10-year lease,*

- (a) the maximum area of a location in the form of a square shall be 9 sections,*
- (b) the maximum area of a location in the form of a rectangle shall be 8 sections and shall not exceed 4 sections in length, and*
- (c) when the tract applied for consists of adjoining or cornering parcels, the outer boundaries of the square or rectangle that would encompass the tracts that may be included in one lease shall not exceed the boundaries of the maximum areas prescribed by clauses (a) and (b).*

96 *If*

- (a) a petroleum and natural gas lease was issued by the Minister for the purpose of enabling the lessee to acquire the rights to the petroleum or natural gas in the whole or part of a drilling spacing unit,*
- (b) the location of the lease consists of or includes a portion of a quarter section,*
- (c) the rights to the petroleum or natural gas in all or part of the remainder of the quarter section are not owned by the Crown in right of Alberta (the remainder or part thereof being hereinafter referred to as the "freehold area"), and*
- (d) the lessee fails at any time thereafter to satisfy the Minister that he has the right to the petroleum or natural gas in the freehold area,*

*the Minister may cancel the lease or cancel the lease as to the part of the location within the quarter section, as the case may be.*

#### *Rights Granted*

*97(1) A petroleum and natural gas lease grants the right to the petroleum and natural gas that are the property of the Crown in the location in accordance with the terms and conditions of the lease.*

*(2) Notwithstanding subsection (1), a petroleum and natural gas lease may except from the rights granted*

- (a) the petroleum rights in all or part of the location or in 1 or more zones in all or part of the location, or*
- (b) the natural gas rights in all or part of the location or in 1 or more zones in all or part of the location.*

#### *Duration of Leases*

*98(1) Subject to subsection (2), the initial term of a petroleum and natural gas lease granted after July 1, 1976 under this Part or pursuant to a petroleum and natural gas licence shall be 5 years.*

*(2) The initial term of a lease granted out of a reservation or permit of petroleum and natural gas rights issued during the period commencing on June 1, 1962 and ending on June 30, 1976 shall be 10 years.*

*99(1) Subject to sections 101 to 103, 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;*
- (b) as to any part of the location that is subject to a unit operation until 6 months after it is no longer subject to a unit operation;*

- (a) as a result of a division of a lease or the registration of a transfer of part of the location of a lease, or
- (b) pursuant to a reservation or permit of petroleum and natural gas rights issued before July 1, 1976.

(3) When the term of a lease expires, the lease continues only to the extent that it is approved for continuation under section 95, 96 or 97.

**94(1)** A lessee may, in accordance with the regulations and within the 120-day period prior to the expiration of the term of his lease, apply to the Minister for the Minister's approval of the continuation of the lease pursuant to section 95 or 96 or both.

(2) If the Minister disagrees in whole or in part with an application under subsection (1), the Minister shall give a notice to the lessee advising him of the disagreement and specifying the period of time within which the lessee is entitled to respond to the notice.

(3) The Minister, in accordance with the regulations, shall make his decision respecting the continuation of a lease pursuant to section 95 or 96 or both, whether or not an application is made in accordance with subsection (1) in respect of the lease, but the Minister shall not approve the continuation of the lease pursuant to section 95(1)(d)

- (a) as to any part of the location, if no application is made under subsection (1) in respect of the lease, or

- (b) as to any part of the location not included in an application made under subsection (1).

(4) The Minister shall not make his decision under subsection (3)

- (a) until after the expiration of the term of the lease, or

- (b) if a notice was given under subsection (2), until after the expiration of the term of the lease or the expiration of the period specified in the notice, whichever event occurs later.

(5) On making his decision under subsection (3), the Minister shall give written notice of the decision to the lessee and, on his giving the notice,

- (a) the Minister's decision under this section with respect to the lease is final and is effective as of the expiration of the term of the lease, and

- (b) subject to section 97, the lease after the expiration of its term ceases to include any part of the location or any zones underlying all or part of the location not approved for continuation by reason of the decision.

**95(1)** Subject to section 94 and subsections (2) to (5) of this section, the Minister, in accordance with the regulations, shall approve the continuation of a lease after the expiration of its term to the extent that the location is within any or all of the following:

- (a) the spacing unit for a producing well;



*(c) as to any part of the location that is within a spacing unit in respect of which the period for the drilling of an offset well is then extended under the regulations, until 6 months after the freehold well concerned ceases production;*

*(d) as to all or any part of the location not contained under clause (a), (b) or (c) that is then considered by the Minister to be capable of production of petroleum or natural gas in paying quantity.*

*(2) When a lease continues as to all or any part of the location pursuant to subsection (1)(b) or (c) then, subject to sections 101 and 103, the lease further continues as to that part of the location that would continue under subsection (1)(a) and (d) if the expiration of the 6-month period referred to in clause (b) or (c), as the case may be, were the expiration of the term.*

*(3) For the purposes of this section and sections 100 to 102, a reference to the term of a lease shall be deemed to be a reference to*

*(a) its initial term, in the case of a 5-year lease or a 10-year lease, or*

*(b) its 21-year term, in the case of a 21-year petroleum and natural gas lease whether or not it is a renewal of a previous 21-year lease.*

*(4) For the purposes of this Part,*

*(a) if a 10-year lease was being continued on June 30, 1976 as to all or any part of the location pursuant to*

*(i) section 126(1)(a) of RSA 1980 cM-15 as it stood on that date, or*

*(ii) section 127 of RSA 1980 cM-15 as it stood on that date in so far as the location or part thereof is within the spacing unit for the well,*

*the lease shall be deemed to continue as to the location or part thereof, as the case may be, under subsection (1)(a) of this section;*

*(b) if a 10-year lease was being continued on June 30, 1976 as to all or any part of the location pursuant to section 128 of RSA 1980 cM-15 as it stood on that date, the lease shall be deemed to continue as to the location or part thereof, as the case may be, under subsection (1)(b) of this section;*

*(c) if a 10-year lease was being continued on June 30, 1976 as to all or any part of the location pursuant to section 129 of RSA 1980 cM-15 as it stood on that date, the lease shall be deemed to continue as to the location or part thereof, as the case may be, under subsection (1)(c) of this section;*

*(d) if a 10-year lease was being continued on June 30, 1976 as to all or any part of the location pursuant to*

*(i) section 126(1)(b) of RSA 1980 cM-15 as it stood on that date, or*

*(ii) section 127 of RSA 1980 cM-15 as it stood on that date in so far as the location or part thereof is outside the spacing unit for the well,*

*the lease shall be deemed to continue as to the location or part thereof, as the case may be, under subsection (1)(d) of this section.*

*100(1) Subject to section 101, if at the expiration of the term of a lease or at the expiration of the 6-month period referred to in section 99(1)(b) or (c), a well is being drilled on a spacing unit comprising the whole or part of the location, the lease continues during the period that drilling is being conducted diligently and continuously to the satisfaction of the Minister*

- (b) the area of a unit operation to which the lease is subject;
- (c) a spacing unit laterally adjoining the spacing unit for a freehold well if the lessee, in accordance with the regulations and before the expiration of the term of the lease, has notified the Minister in writing that the lessee elects to pay compensatory royalty in respect of the location or the part of the location within the spacing unit;
- (d) a spacing unit if all or part of the spacing unit is considered by the Minister at the time of the approval to be capable of producing
  - (i) petroleum or natural gas in paying quantity from a zone in the location of the lease in which rights to that petroleum or natural gas are granted, if the lease grants rights to petroleum and natural gas,
  - (ii) petroleum in paying quantity from a zone in the location of the lease, if the lease grants rights to petroleum only, or
  - (iii) natural gas from a zone in the location of the lease, if the lease grants rights to natural gas only.

(2) The Minister's approval under subsection (1), in relation to a spacing unit containing the location or any part of the location, shall be granted down to the base of whichever of the zones described in the following clauses is stratigraphically the deepest in that spacing unit:

- (a) the zone or the deeper or deepest of the zones from which the producing well is, in the opinion of the Minister,
  - (i) capable of producing petroleum or natural gas in paying quantity, in the case of a lease granting rights to petroleum and natural gas,
  - (ii) capable of producing petroleum in paying quantity, in the case of a lease granting rights to petroleum only, or
  - (iii) capable of producing natural gas in paying quantity, in the case of a lease granting rights to natural gas only,

if continuation is approved under subsection (1)(a) in relation to that spacing unit;

- (b) the zone or the deeper or deepest of the zones that is subject to a unit operation, where continuation is approved under subsection (1)(b) in relation to that spacing unit;
- (c) the zone or the deeper or deepest of the zones from which the freehold well is, in the opinion of the Minister,
  - (i) capable of producing petroleum or natural gas in paying quantity, in the case of a lease granting rights to petroleum and natural gas,
  - (ii) capable of producing petroleum in paying quantity, in the case of a lease granting rights to petroleum only, or

- (a) *as to that part of the location comprising the spacing unit for the well, and*
  - (b) *as to any other part of the location contained in the section in which the well is being drilled.*
- (1.1) *If a lease is continued pursuant to this section as to part of the location, the Minister may divide the lease so that the part of the location so continued becomes the location of one of the leases resulting from the division.*
- (2) *When the well referred to in subsection (1) is completed as a producing well then, subject to section 103, the lease further continues*
- (a) *as to that part of the location that is within the spacing unit for the producing well, and*
  - (b) *as to any other part of the location contained in the section in which the producing well was drilled and that is considered by the Minister to be capable of production of petroleum or natural gas in paying quantity.*
- (3) *When the well referred to in subsection (1) is completed as a producing well, the lease further continues for a period of 90 days from the finished drilling date of the well as to any part of the location that is contained in the section in which the producing well was drilled but is not qualified to continue under subsection (2)(b).*
- (4) *If 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.*
- (5) *When the lease is continued as to part of the location for 90 days pursuant to subsection (3), 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 (3) 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.*
- (6) *When the lease is continued for 90 days pursuant to subsection (4), 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), if a well drilled pursuant to this subsection is not completed as a producing well, subsections (1) and (4) 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) *on the completion of a well drilled pursuant to this subsection as a producing well, subsections (1), (2), (3) and (8) 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.*

(iii) capable of producing natural gas in paying quantity, in the case of a lease granting rights to natural gas only,

if continuation is approved under subsection (1)(c) in relation to that spacing unit;

(d) the zone or the deeper or deepest of the zones considered by the Minister to be capable of producing

(i) petroleum or natural gas in paying quantity, in the case of a lease granting rights to petroleum and natural gas,

(ii) petroleum in paying quantity, in the case of a lease granting rights to petroleum only, or

(iii) natural gas in paying quantity, in the case of a lease granting rights to natural gas only,

if continuation is approved under subsection (1)(d) in relation to that spacing unit.

(3) Notwithstanding subsection (2), if a location or part of a location of a lease approved for continuation under subsection (1)(b) is less than the whole of the spacing unit for the zone or the deeper or deepest of the zones that is subject to a unit operation, then, subject to subsection (4),

(a) the location or the part of the location, and

(b) the remainder of the spacing unit,

shall each be deemed to be a spacing unit for the purposes of applying subsection (2) of this section and sections 90(1)(b), 97 and 98(2)(b) and (3)(b) to the lease in relation to that spacing unit.

(4) If an application is made for continuation pursuant to subsection (1)(d) as to the remainder of the spacing unit referred to in subsection (3)(b), the Minister may consider the whole of the actual spacing unit in deciding whether to approve that remainder for continuation under subsection (1)(d).

(5) If the Minister approves the continuation of a lease after the expiration of its term under section 96 as to all or part of the location, this section does not apply to the lease or to the part of the location, as the case may be, while the lease is continued under section 96.

**96(1)** Subject to section 94 and subsections (2) and (3) of this section, if at the expiration of the term of a lease

(a) a well is being drilled in a spacing unit containing the location or part of the location of the lease, or

(b) a well has been drilled in a spacing unit containing the location or part of the location of the lease but the 90-day period following the finished drilling date for the well has not yet expired,

the Minister shall approve the continuation of the lease after the expiration of its term as to that part of the location in which, in his opinion, petroleum or natural gas, the rights to which are granted by the lease, will be evaluated by the well.

(7) *The Minister may extend a 90-day period within which the drilling of a well pursuant to subsection (5) or (6) 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 on the granting of the extension, a reference in subsection (5) or (6) 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.*

(8) *When due to mechanical or other difficulties encountered in the drilling of a well referred to in subsection (1), (5) or (6) the well cannot be completed but within 30 days from the date of cessation of those drilling operations the drilling of another well is commenced on the location, the drilling of that well shall be deemed to be a continuation of the drilling of the uncompleted well.*

(9) *For the purposes of this Part, if a lease was being continued on June 30, 1976 as to all or any part of the location pursuant to section 130 or 132 of RSA 1980 cM-15 as those sections stood on that date, the lease shall be deemed to continue as to the location or part thereof, as the case may be, under subsections (1) and (5) of this section respectively.*

101(1) *Subject to subsection (2), a lessee may*

*(a) within the 90-day period prior to the expiration of the term of his lease, apply to the Minister to continue the lease as to that part of the location that is, at the expiration of the term, qualified to continue under sections 99 and 100, and*

*(b) within the 90-day period prior to the expiration of any 6-month period referred to in section 99(1)(b) or (c), apply to the Minister to further continue the lease as to that part of the location that is, at the expiration of the 6-month period, qualified to further continue under those clauses.*

(2) *If the lessee fails to make an application under subsection (1) within the time prescribed in that subsection, the Minister shall decide the part or parts of the location to be continued or further continued under the lease, as the case may be.*

(3) *When any part of the location is not continued or is no longer further continued under section 99, 100 or 102,*

*(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.*

102(1) *When an application is made under section 101(1)(a) to continue a lease as to all or part of the location pursuant to section 99(1)(d), the Minister may allow the lease to continue in accordance with this section as to all or any part of the location that is the subject of the application notwithstanding the fact that he considers that it is not then capable of production of petroleum or natural gas in paying quantity.*

(2) *In this section "unproven area" means the whole or part of a location that the Minister allows to continue under a lease pursuant to subsection (1).*

(2) The Minister shall not approve the continuation of a lease pursuant to subsection (1) as to any part of the location outside the section of land in which the well is being or has been drilled if no application is made under section 94 for approval of the continuation of the lease as to that part of the location.

(3) If continuation is approved as to all or part of the location pursuant to subsection (1), the lease expires with respect to the location or the part of the location so continued

(a) at the end of the 90-day period following the finished drilling date for the well referred to in subsection (1)(a) or (b), as the case may be, or

(b) at the end of any extension of that period granted under subsection (6),

subject to being further continued pursuant to subsection (4) or (8).

(4) If continuation is approved as to all or part of the location pursuant to subsection (1), the lease further continues after its expiration under subsection (3)(a) or (b) with respect to the location or part of the location so continued if 1 or more additional wells are drilled in accordance with the following:

(a) the drilling of the first well must be commenced before the end of the period referred to in subsection (3)(a) or (b), as the case may be;

(b) the drilling of each subsequent well must be commenced within 90 days after the finished drilling date of the previous well;

(c) each well must be drilled in a spacing unit containing the location or part of the location continued under subsection (1).

(5) If a lease is further continued pursuant to subsection (4), the lease expires with respect to the location or part of the location so continued

(a) at the end of the 90-day period following the finished drilling date of the last of the wells drilled pursuant to that subsection, or

(b) at the end of any extension of that period granted pursuant to subsection (6),

subject to being further continued pursuant to subsection (8).

(6) The Minister may extend the 90-day period referred to in subsection (1)(b) or a 90-day period within which the drilling of a well must be commenced pursuant to subsection (4) if

(a) an application for the extension is made 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

(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 term of the lease and on the 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.*

(3.1) *Without limiting the powers of the Minister to prescribe conditions under subsection (3), the Minister may, in the case of*

(a) *a 5-year lease, or*

(b) *a 10-year lease or a 21-year lease that has a term that expires after January 1, 1983,*

*prescribe as conditions of allowing the continuation of the lease under subsection (1) that the lease shall not continue as to that portion of the unproven area that is stratigraphically below the base of the zone specified by the Minister for the purpose and that the lease be amended accordingly.*

(3.2) *If the Minister allows a lease to continue under subsection (1) as to an unproven area that consists of part of the location only, the Minister may divide the lease so that the unproven area becomes the location of one of the leases resulting from the division.*

(4) *If the drilling of a well is commenced during the one-year period referred to in subsection (3), the Minister may allow the lease to continue as to all or part of the unproven area for not more than 2 further periods of one year each on payment of the annual rental and on the terms and conditions the Minister prescribes in each case including the furnishing of additional security in a form and in an amount that the Minister prescribes.*

(5) *If during any continuation period allowed under subsection (3) or (4) one or more wells have been drilled*

(a) *in the unproven area, or*

(b) *in land in the vicinity of the unproven area,*

*in accordance with the terms and conditions, if any, prescribed by the Minister, the Minister may return or refund all or part of the security furnished under this section.*

(6) *On the expiration of each one-year continuation period allowed under subsection (3) or (4), the lease further continues with respect to the part, if any, of the unproven area that would continue under section 99 if the expiration of that continuation period were the expiration of the term of the lease.*

(7) *If a lease further continues pursuant to subsection (6) as to all or part of the location but the Minister had prescribed a condition in respect of the lease pursuant to subsection (3.1), the Minister may, after the expiration of any of the continuation periods allowed under subsection (3) or (4),*

(a) *if there are 1 or more zones in the location or the part of the location so continued under subsection (6) that are capable of producing petroleum or natural gas in paying quantity and the zone or the deeper or deepest of the zones, as the case may be, extends throughout that location or that part of the location but is not the zone specified in subsection (3.1),*

(i) *notify the lessee that the rights to petroleum and natural gas in the portion of the location that is stratigraphically below the base of the producing zone or the deeper or deepest of the producing zones, as the case may be, are no longer continued under the*

- (c) the extension does not exceed a further period of 90 days.
- (7) If due to mechanical or other difficulties encountered in the drilling of a well referred to in subsection (1)(a) or (4) the well cannot be completed, but within 30 days from the date of cessation of those drilling operations the drilling of another well is commenced, the drilling of that well shall be deemed to be a continuation of the drilling of the uncompleted well.
- (8) On the expiration of a 90-day period referred to in subsection (3)(a) or (5)(a) or an extension of that period, as the case may be, sections 94 and 95 apply to the location or the part of the location in respect of which the lease is continued under subsection (1) or (4) respectively as though the expiration of the period or the extension were the expiration of the term of the lease.
- (9) Notwithstanding subsections (1) to (8), the Minister may allow 1 application to be made for continuation under subsection (1) in respect of 2 or more leases, whether held by the same lessee or not, if
- (a) 1 of the leases qualifies for continuation under subsection (1) as to all or part of its location,
  - (b) the application is made on a day that is within that part of the 120-day period referred to in section 94(1) applicable to each of the leases, and
  - (c) the application is accompanied by evidence that the well on which the application is based will evaluate the petroleum or natural gas the rights to which are granted by each of the other leases in all or part of the locations of those leases.
- (10) If the Minister allows an application to be made under subsection (9) and approves the application in respect of 2 or more of the leases, including the lease that qualifies for continuation under subsection (1), subsections (1) to (8) apply to all of those leases as if they were 1 lease.

**97(1)** In this section,

- (a) “potentially productive part of the location” means
    - (i) in relation to any part of the location referred to in subsection (2)(b)(i), the zones down to the base of the potentially productive zone or the deeper or deepest of the potentially productive zones in that part of the location, and
    - (ii) in relation to any part of the location referred to in subsection (2)(b)(ii), the zones lying stratigraphically below the deepest productive zone in the spacing unit containing that part of the location, down to the base of the potentially productive zone or the deeper or deepest of the potentially productive zones in that spacing unit;
  - (b) “potentially productive zone” means a zone referred to in subsection (3)(b).
- (2) The Minister may give written notice to the lessee in accordance with subsection (3) if



lease and have reverted to the Crown as of the date of the notice, and

(ii) amend the lease accordingly,

or

(b) if there are 2 or more zones in the location or part of the location so continued under subsection (6) that are capable of producing petroleum or natural gas in paying quantity but the deeper or deepest of those zones does not extend throughout the location,

(i) divide the lease into 2 or more leases in such a manner that each lease resulting from the division no longer continues to grant the rights to petroleum and natural gas in the portion of its location that is stratigraphically below the base of the producing zone or the deeper or deepest of the producing zones in its location, and

(ii) if necessary, amend accordingly the lease that is not a new lease or one of the new leases resulting from the division.

103(1) For the purposes of this section and section 103.1, the deeper rights reversion date applicable to a lease is, except as provided in subsections (1.1) and (1.2),

(a) with reference to a 5-year lease, the day following the last day of its initial term,

(b) with reference to a 10-year lease, the day following the last day of its initial term or January 1, 1983, whichever is later, or

(c) with reference to a 21-year lease, the day following the last day of its term or January 1, 1983, whichever is later.

(1.1) If a lease is continued as to all or part of its location pursuant to section 100 otherwise than pursuant to subsection (2) of that section, then, for the purposes of this section and section 103.1, the deeper rights reversion date applicable to the lease or the part of the location so continued, as the case may be, is the first day following the expiry of the period during which the drilling of another well could have been commenced under section 100 but was not so commenced.

(1.2) If a 10-year lease or 21-year lease

(a) has a term that expires on or before January 1, 1983, and

(b) is continued as to all or part of its location under section 102 to a date occurring after January 1, 1983,

then, subject to subsection (2.1), the deeper rights reversion date applicable to the lease or the part of the location so continued, as the case may be, is for the purposes of this section and section 103.1 the first day following the expiration of the last of the 1-year continuation periods allowed under section 102.

(2) Subject to subsections (2.1) 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.

(2.1) If at the deeper rights reversion date for a lease or part of the location of a lease to which subsection (1.2) applies there are 2 or more zones in the location capable of producing petroleum or natural gas in paying

- (a) an application is made under section 94, other than by reason of the operation of section 96(8) or 98(8), for approval of the continuation of the lease after the expiration of its term, and
  - (b) the Minister disagrees with the application in whole or in part but considers
    - (i) any part of the location not approved for continuation under section 95(1) or 96 to be potentially productive of petroleum or natural gas from 1 or more zones underlying that part of the location, or
    - (ii) any spacing unit containing all or part of the location approved for continuation under section 95(1) to be potentially productive of petroleum or natural gas from 1 or more zones underlying the deepest productive zone in that spacing unit.
- (3) A notice under this section
- (a) shall state that the lessee may apply for approval by the Minister of the continuation of the lease in respect of the whole of the potentially productive part of the location or, subject to the consent of the Minister, a portion of the potentially productive part of the location;
  - (b) shall specify the zone or zones referred to in subsection (2)(b) that the Minister considers to be potentially productive of petroleum or natural gas and the parts of the location in which, in his opinion, they occur;
  - (c) shall describe the potentially productive part of the location;
  - (d) shall state that the application of the lessee must be accompanied by
    - (i) the annual rental for any part of the location in respect of which the annual rental has not yet been paid, and
    - (ii) security in a form approved by the Minister of a value equal to \$25 for each hectare in the part of the location to which the application relates;
  - (e) may prescribe any drilling requirements and other requirements to be fulfilled by the lessee as a condition to the refund or return of all or part of the security referred to in clause (d) in the event that the continuation is approved under this section;
  - (f) may prescribe any other requirements respecting the application or any conditions on which the Minister may approve continuation under this section;
  - (g) shall be included in or accompany the notice given to the lessee pursuant to section 94(2).
- (4) If an application is made in accordance with a notice given under this section, the Minister may approve the continuation of the lease as to

quantity but, in the opinion of the Minister, the deeper or deepest of those zones does not extend throughout the location, the Minister may

(a) divide the lease into 2 or more leases in such a manner that each lease resulting from the division no longer continues to grant the rights to petroleum and natural gas in the portion of its location that is stratigraphically below the base of the producing zone or the deeper or deepest of the producing zones, as the case may be, in its location, and

(b) amend accordingly the lease that is not a new lease or one of the new leases resulting from the division.

(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) Subject to subsection (2.1), the Minister shall, after the deeper rights reversion date applicable to a lease, amend the lease so as to exclude from it the petroleum and natural gas rights that ceased to continue under the lease and that reverted to the Crown under subsection (2).

103.1(1) In this section, "reversion cut-off zone", with reference to a lease, means the deeper or deepest of the zones referred to in section 103(2) in relation to that lease.

(2) If, at any time after the deeper rights reversion date applicable to a lease, the Minister is of the opinion that any part of the location is not then capable of producing petroleum or natural gas in paying quantity from the reversion cut-off zone, the Minister may give a notice to the lessee in accordance with this section.

(3) A notice given under this section

(a) shall be given in relation to the part of the location which, in the opinion of the Minister, is not then capable of producing petroleum or natural gas in paying quantity from the reversion cut-off zone, and

(b) shall state that, after the period of 1 year from the date of the notice or any extension of that period granted under subsection (5), the Minister may exercise his powers under subsection (4) in relation to the part of the location to which the notice relates.

(4) After the expiry of the 1-year period prescribed in a notice given under this section or of any extension of that period granted under subsection (5), the Minister may

(a) having regard to the well or wells, if any, completed during that period, determine the zone or zones in the part of the location described in the notice that are then capable of producing petroleum or natural gas in paying quantity and the areal extent of the zone or zones, and

- (a) the potentially productive part of the location, or
- (b) a portion of the potentially productive part of the location as determined by the Minister, if the application is made in respect of less than the whole of the potentially productive part of the location,

for a period of 1 year from the expiration of the term of the lease and on the terms and conditions the Minister prescribes.

(5) An approval for continuation granted pursuant to subsection (4) is effective as of the expiration of the term of the lease.

(6) If an approval for continuation is granted pursuant to subsection (4) in respect of a lease, sections 94, 95 and 96 apply to the lease with respect to the potentially productive part of the location or the portion of the potentially productive part of the location, as the case may be, as though the expiration of the 1-year period were the expiration of the term of the lease.

**98(1)** In this section, “Crown spacing unit” means a spacing unit containing the location or part of the location of a lease continued pursuant to section 95(1)(c).

(2) The Minister may give a lessee written notice in accordance with this section if

(a) the lease is continued as to all or any part of its location in a spacing unit pursuant to section 95(1)(a) or (d) and the Minister considers that the deepest productive zone in the spacing unit is then no longer capable of producing petroleum or natural gas, as the case may be, in paying quantity,

(b) the lease is continued as to all or part of its location in a spacing unit pursuant to section 95(1)(b) and the deepest productive zone in the spacing unit is then no longer subject to a unit operation, or

(c) the lease is continued as to all or part of its location in a Crown spacing unit pursuant to section 95(1)(c) and

(i) the freehold well concerned has, for a period of at least 6 consecutive months, ceased to produce petroleum or natural gas, as the case may be, from the zone that is the same as the deepest productive zone in the Crown spacing unit, or

(ii) the freehold well has been abandoned or is no longer completed in the zone that is the same as the deepest productive zone in the Crown spacing unit.

(3) A notice under this section shall relate to

(a) the location or the part of the location contained in the spacing unit referred to in subsection (2)(a), where the notice is given pursuant to subsection (2)(a),

(b) the location or the part of the location contained in the spacing unit referred to in subsection (2)(b), where the notice is given pursuant to subsection (2)(b), or

*(b) if the Minister determines under clause (a) that the reversion cut-off zone does not extend throughout the location, divide the lease into 2 or more leases in such a manner that*

*(i) the part of the location throughout which the reversion cut-off zone extends remains as the location of the lease, and*

*(ii) the new lease or each of the new leases resulting from the division no longer continues to grant the rights to petroleum and natural gas in the portion of its location that is stratigraphically below the base of the producing zone or the deeper or deepest of the producing zones, as the case may be, in its location.*

*(5) The Minister may extend the 1-year period under a notice given pursuant to this section if the lessee*

*(a) applies for the extension before the end of the 1-year period, and*

*(b) satisfies the Minister that the drilling of a well was commenced during the 1-year period with a view to being completed before the expiry of that period and that circumstances beyond the control of the lessee have arisen preventing the lessee from completing the well within that period,*

*and any extension so granted shall be reasonably sufficient to enable the lessee to complete the drilling of the well or to commence and complete the drilling of another well in the part of the location to which the notice relates.*

*104 When the lease is continued under section 99(1)(a) or (d) or section 100(2) or (5) as to all or any part of the location and*

*(a) a well on the location is abandoned, or*

*(b) the Minister considers that all or any part of the location is no longer capable of production of petroleum or natural gas in paying quantity,*

*the Minister may, on giving the lessee notice in writing, cancel the lease or cancel the lease as to part of the location at the expiration of 6 months after the date of the notice, unless before then the lessee provides evidence satisfactory to the Minister that the location or the part of the location referred to in the notice, as the case may be, is then capable of production of petroleum or natural gas in paying quantity.*

#### *Regulations Respecting Leases*

*105 The Lieutenant Governor in Council may make regulations*

*(a) prescribing the requirements for the drilling of wells by lessees in the cases where petroleum or natural gas is being produced from a freehold well in a spacing unit directly offsetting a location, and governing the manner in which those drilling requirements may be deferred whether by the payment of penalties or otherwise;*

*(b) prescribing and governing well drilling requirements applicable to lessees of 10-year leases and 21-year leases;*

*(c) prescribing the penalties payable to the Minister on the granting of extensions respecting the fulfilment of requirements prescribed pursuant to clause (b);*

*(d) respecting the division by the Minister of petroleum and natural gas leases pursuant to this Part;*

*(e) respecting the amendment by the Minister of petroleum and natural gas leases pursuant to section 102 or 103.*

*106 and 107 Repealed 1983 c36 s23.*

- (c) the location or the part of the location contained in the Crown spacing unit, where the notice is given pursuant to subsection (2)(c).
- (4) A notice under this section shall state that, after the expiration of 1 year following the date on which the notice is given, the lease will expire as to the whole or part of the location to which the notice relates except to the extent that it is continued by reason of subsection (8).
- (5) The Minister from time to time may extend the 1-year period under a notice given pursuant to subsection (2) if
  - (a) the lessee applies for the extension before the expiration of the 1-year period or of the previous extension, as the case may be, and
  - (b) the Minister considers the extension to be in the public interest,
 and on the granting of the extension, a reference in subsection (6), (7) or (8) to a 1-year period shall, in relation to the lease, be deemed to be a reference to the extended period.
- (6) The Minister may withdraw a notice given under this section at any time before the expiration of the 1-year period.
- (7) If a notice is given to a lessee pursuant to this section, then, subject to subsection (8), the lease expires at the end of the 1-year period referred to in the notice as to the whole or part of the location to which the notice relates.
- (8) If a notice is given to a lessee pursuant to this section, sections 94, 95 and 96 apply to the lease with respect to the location or part of the location to which the notice relates as though the expiration of the 1-year period were the expiration of the term of the lease.

#### **Regulations Respecting Leases**

- 99** The Lieutenant Governor in Council may make regulations
- (a) respecting applications to the Minister and the making of decisions by the Minister under this Part;
  - (b) respecting the obligations of lessees in cases where petroleum or natural gas is being produced from a freehold well in a spacing unit laterally adjoining a spacing unit containing the location or part of the location of a lease;
  - (c) respecting well drilling requirements applicable to lessees of petroleum and natural gas leases having a term of 10 or 21 years and to natural gas leases having a term of 21 years;
  - (d) prescribing the penalties payable to the Minister on the granting of extensions respecting the fulfilment of the requirements prescribed pursuant to clause (c);
  - (e) respecting the amendment of leases by the Minister under this Part.

#### *Natural Gas Leases*

108 Sections 109 to 111 apply only to leases of natural gas rights that are the property of the Crown in right of Alberta issued

- (a) out of a natural gas licence or Crown reserve natural gas licence,
- (b) as the first or a subsequent renewal of a lease issued pursuant to an order of the Lieutenant Governor in Council made before June 1, 1962, or
- (c) pursuant to an order of the Lieutenant Governor in Council made before July 1, 1976.

109 In a natural gas lease, "natural gas", for purposes other than those dealing with the computation, levy and collection of royalties,

- (a) means the production from any well that, in the opinion of the Energy Resources Conservation Board, initially produces gas either alone or with oil at a gas-oil ratio of 1800 to 1 or higher, but
- (b) does not include any production that may be obtained from any well that, in the opinion of the Board, initially produces gas with oil at a lower gas-oil ratio.

110(1) The term of a natural gas lease shall be 21 years.

(2) A natural gas lease continues after the expiration of the 21-year term as to those parts of the location that would continue if

- (a) the natural gas lease were a 21-year petroleum and natural gas lease, and
- (b) the expiration of the 21-year term were the expiration of the term of a 21-year petroleum and natural gas lease,

and for that purpose sections 99 to 104 apply with the necessary modifications to the continuation of the lease.

(3) The annual rental under a natural gas lease is 80¢ per hectare payable yearly in advance.

(4) Subject to this section, the provisions of this Part and the regulations applicable to 5-year petroleum and natural gas leases apply, as far as practicable and with the necessary modifications, to natural gas leases.

111 The Minister may by notice require a lessee under a natural gas lease to commence drilling operations on his location within the time prescribed in the notice and to continue those operations diligently and continuously to the satisfaction of the Minister with a view to the discovery of natural gas.

#### *Petroleum Leases*

112(1) This section applies only to petroleum leases granted before July 1, 1976.

(2) In a petroleum lease "petroleum", for purposes other than those dealing with the computation, levy and collection of royalties,

- (a) means the production from any well that, in the opinion of the Energy Resources Conservation Board, initially produces oil either alone or with gas at a gas-oil ratio of less than 1800 to 1, but
- (b) does not include any production that may be obtained from any well that, in the opinion of the Board, initially produces oil with gas at a higher gas-oil ratio.

(3) The term of a petroleum lease shall not exceed 21 years.

*7 If prior to the commencement of this Act a notice has been given to a lessee pursuant to section 103.1 or 104 of the Mines and Minerals Act but the 1-year or 6-month period, as the case may be, under the notice has not expired at the commencement of this Act,*

*(a) the notice shall be deemed to be a notice given under section 98 of the Mines and Minerals Act as enacted by this Act as though that section had been in force at the time the notice was given, and*

*(b) the expiration of the 1-year or 6-month period, as the case may be, under the notice actually given shall be deemed to be the expiration of the 1-year period of a notice given under section 98 of the Mines and Minerals Act as enacted by this Act.*

*8 If before the commencement of this Act a lease has been allowed to continue pursuant to section 102(3) or (4) of the Mines and Minerals Act (the "former section") and the 1-year period of the continuation expires on or after July 1, 1985, the 1-year period of the continuation under the former section shall be deemed to be the 1-year period of continuation under section 97(4) of the Mines and Minerals Act as enacted by this Act.*

*9 This Act comes into force on July 1, 1985.*



*(4) A petroleum lease continues after the expiration of its term as to those parts of the location that would continue if*

*(a) the petroleum lease were a 21-year petroleum and natural gas lease, and*

*(b) the expiration of the term of the petroleum lease were the expiration of a 21-year petroleum and natural gas lease,*

*and for that purpose sections 99 to 104 apply with the necessary modifications to the continuation of the term.*

*(5) The annual rental under a petroleum lease is 80¢ per hectare, payable yearly in advance.*

*(6) Subject to this section, the provisions of this Part and the regulations applicable to 5-year petroleum and natural gas leases apply, as far as practicable and with the necessary modifications, to petroleum leases.*

**7 Transitional provision.**

**8 Transitional provision.**