

1991 BILL 5

Third Session, 22nd Legislature, 40 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 5

MINES AND MINERALS AMENDMENT ACT, 1991

MRS. BLACK

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 5
Mrs. Black

BILL 5

1991

MINES AND MINERALS AMENDMENT ACT, 1991

(Assented to , 1991)

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- 2 Section 1(1)(r.1) is repealed.*
- 3 Section 5(1) is amended*
 - (a) in clause (g) by adding “, the amendment of agreements by the Minister” after “locations of agreements”;*
 - (b) by adding the following after clause (g):*
 - (g.1) respecting the exercise of the Minister’s powers under section 27.2;*
 - (c) in clause (m.1) by striking out “92(6)” and substituting “27.1”.*

Explanatory Notes

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

2 Section 1(1)(r.1) presently reads:

1(1) In this Act,

(r.1) "quarriable mineral" means

(i) a mineral that can be quarried and used in its natural state for building, construction, industrial, manufacturing or agricultural purposes including, without limitation, anhydrite, bentonite, diatomite, gypsum, granite, limestone, marble, mica, potash, quartz rock, rock phosphate, sandstone, shale, slate, talc or volcanic ash, or

(ii) a mineral that can be quarried and cut or polished for use as an ornament, a decoration or for personal adornment,

but does not include coal or oil sands;

3 Section 5(1)(g) and (m.1) presently read:

5(1) The Lieutenant Governor in Council may make regulations

(g) providing for any matter relating to the duration and extension of the terms of agreements, renewals of agreements, the size, shape and boundaries of the locations of agreements and the grouping, surrender, cancellation, expiry or forfeiture of agreements;

(m.1) respecting the determination of compensation for the purposes of section 92(6);

4 The following is added after section 27:

27.1 If, in the opinion of the Minister, an agreement contains a misdescription of a zone, the Minister may

- (a) with the consent of the lessee, amend the agreement to correct the description without the payment of compensation to the lessee, or
- (b) if the lessee does not consent as provided in clause (a), cancel the agreement subject to the payment of compensation in accordance with the regulations.

27.2(1) Subject to regulations under section 5(1)(g.1), where, as a consequence of the enactment of regulations under section 5(1) after the coming into force of this section (in this section called the “new regulations”), any mineral comes under the administration of the new regulations, the Minister may, without compensation, cancel an agreement granting rights to that mineral and shall issue a replacement agreement to the same lessee in conformity with the new regulations.

(2) This section does not apply to agreements granting rights to coal, petroleum, natural gas or oil sands.

5 The following is added after section 56:

56.1(1) If during operations under an agreement granting mineral rights in a road allowance the road allowance is damaged in any way, the lessee shall immediately remedy the damage and is responsible for the damage and any other loss arising from it.

(2) If the lessee fails to remedy the damage immediately, the Minister may have any repairs made that the Minister considers necessary, and the cost of the repairs constitutes a debt payable by the lessee to the Crown in right of Alberta on demand by the Minister.

56.2(1) A lessee shall, without compensation, at all times during the term of an agreement granting mineral rights in a road allowance, comply with the orders or directions of the Minister of Transportation and Utilities or a person appointed by that Minister and, without limitation, those orders or directions may require the construction and maintenance of a temporary road and any reconstruction and surfacing of the road allowance that the Minister of Transportation and Utilities considers necessary.

4 Misdescription of zone, cancellation and replacement of mineral agreements.

5 Duties of lessee with respect to operations in road allowances.

(2) A lessee shall, without compensation, at all times during the term of an agreement granting mineral rights in a road allowance, comply with the orders and directions of the Minister affecting underground operations and, without limitation, those orders or directions may require any measures that the Minister considers necessary to prevent any subsidence.

6 *The following is added after section 58:*

58.1(1) If

- (a) a mineral in, on or under a parcel of land is or was the subject of a certificate of title under the *Land Titles Act* issued to a person other than the Crown in right of Alberta,
- (b) the certificate of title described the parcel by reference to a natural boundary, and
- (c) the area of the parcel, as described in the certificate of title, increased by reason of a natural accretion to the land constituting the parcel,

the area of the accretion is a “mineral accretion” for the purposes of this section.

(2) Where a mineral accretion is or has been the subject of an agreement, no claim or action may be made or brought after January 1, 1991 against the Crown in right of Alberta or the lessee of the agreement to recover

- (a) any royalty or money paid or payable to the Crown in right of Alberta under the agreement in relation to the mineral accretion,
- (b) any mineral recovered by the lessee of the agreement from the mineral accretion or the consideration paid or payable in respect of the sale or other disposition of a mineral so recovered,
- (c) any damages arising out of the Minister’s purported exercise of the power to issue the agreement in respect of the mineral accretion, or
- (d) any damages arising out of the purported exercise by the lessee of rights under the agreement in relation to the mineral accretion,

6 Accreted minerals.

except in respect of royalty or amounts paid or payable, minerals recovered or damages arising, as the case may be, after the first day of the month in which the certificate of title referred to in subsection (1) is amended pursuant to the *Land Titles Act* to reflect the mineral accretion in the description of the parcel.

(3) In this section, a reference to the lessee of an agreement includes

- (a) a former lessee of the agreement, and
- (b) any person claiming through the lessee or a former lessee of the agreement an interest in
 - (i) the agreement,
 - (ii) a mineral recovered pursuant to the agreement or a product obtained by processing a mineral so recovered or by reprocessing such a product, or
 - (iii) any consideration paid or payable in respect of the sale or other disposition of a mineral recovered pursuant to the agreement or of a product obtained by processing a mineral so recovered or by reprocessing such a product.

7 *Section 59 is amended by striking out “89” and substituting “56.2”.*

8 *Section 66 is repealed and the following is substituted:*

66(1) Subject to subsection (2),

- (a) the term of a coal lease other than one granted in respect of a road allowance is
 - (i) 21 years in the case of a coal lease granted before July 1, 1976, and
 - (ii) 15 years in the case of a coal lease granted on or after July 1, 1976,

and

- (b) the term of a coal lease granted in respect of a road allowance is

7 Consequential to the amendment in section 5 of this Bill.

8 Section 66 presently reads:

66(1) Subject to subsection (2), the term of a coal lease shall be 15 years.

(2) The term of a coal lease granted prior to July 1, 1976 shall be 21 years.

(3) A coal lease, whether granted before, on or after July 1, 1976, is renewable for further terms of 15 years each subject to the provisions of this Act and the regulations and, in the case of any particular renewal, to any terms and conditions prescribed by order of the Minister.

- (i) 21 years in the case of a coal lease granted before July 1, 1978, and
- (ii) 15 years in the case of a coal lease granted on or after July 1, 1978.

(2) Regardless of when a coal lease is granted it is renewable for further terms of 15 years each, subject to this Act and, in the case of a particular renewal, to any terms and conditions prescribed by the Minister.

9 Parts 3 and 4 are repealed.

10 Section 92(6) is repealed.

11 Part 7 is repealed.

12 Section 146(2) is repealed and the following is substituted:

(2) The Minister shall cause to be published in The Alberta Gazette a notice respecting the Minister's execution of a unit agreement within 60 days after the date the Minister becomes aware that the unitization provided for in the unit agreement has become effective in respect of minerals of the Crown.

13 Sections 2, 5, 7, 8, 9 and 11 come into force on Proclamation.

9 Repeals Parts relating to the regulation of quarry mineral leases and to agreements in respect of minerals in road allowances.

10 Consequential to amendment in section 4 of this Bill.

11 Repeals Part dealing with agreements in respect of metallic minerals.

12 Section 146(2) presently reads:

(2) The Minister shall, within 60 days after the execution by him of a unit agreement, cause to be published in The Alberta Gazette a notice respecting his execution of the agreement and the agreement itself.

13 Coming into force.