

1997 BILL 12

First Session, 24th Legislature, 46 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 12

MINES AND MINERALS AMENDMENT ACT, 1997

MR. BOUTILIER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 12

1997

MINES AND MINERALS AMENDMENT ACT, 1997

(Assented to , 1997)

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

Amends RSA
1980 cM-15

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

2 Section 1(1) is amended

(a) by adding the following after clause (s.1):

(s.2) “registered” means

- (i) registered under Division 1 of Part 8, in relation to a transfer, or
- (ii) registered under Division 2 of Part 8, in relation to a security notice or any other document registrable under that Division;

(b) by repealing clause (u);

(c) by repealing clause (u.4) and substituting the following:

(u.4) “transfer”, in relation to an agreement, means

- (i) a transfer of the agreement, a part of the location of the agreement or a specified undivided interest in the agreement made by the lessee of the agreement or the interest, as the case may be,
- (ii) a transfer of the agreement or a specified undivided interest in the agreement made by the Minister pursuant to section 24(3), or

Explanatory Notes

1 Amends chapter M-15 of the Revised Statutes of Alberta 1980.

2 Section 1(1) presently reads in part:

1(1) In this Act,

(u) “spacing unit” means

(i) repealed 1994 c22 s2,

(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;

(u.4) “transfer” means, in relation to an agreement, a specified undivided interest in an agreement or part of the location contained in an agreement, a transfer in the prescribed form and capable of registration under Division 1 of Part 8;

- (iii) a transfer of the agreement, a part of the location of the agreement or a specified undivided interest in the agreement made by the Minister pursuant to a judgment or order of a court;

(d) by repealing clause (v.2).

3 Section 5(1) is amended

(a) by repealing clause (f)(iv) and substituting the following:

- (iv) the circumstances under which, and the persons to whom, the deposits or security may be refunded or returned, and

(b) in clause (g) by striking out “cancellation, expiry or forfeiture” and substituting “cancellation or expiry”;

(c) by repealing clauses (g.1), (m) and (m.1);

(d) by repealing clause (o) and substituting the following:

- (o) respecting transfers or surrenders of agreements or of parts of the locations of agreements, and divisions or consolidations of agreements;
- (o.1) respecting reviews of decisions of the Minister under this Act or an agreement;

(e) by repealing clause (p.1);

(f) by adding the following after clause (t):

- (u) respecting any matter related to a provision of this Act where the provision
 - (i) is expressed to be subject to the regulations or to exceptions provided for by the regulations, or
 - (ii) contemplates the making of regulations for purposes related to that provision.

- (v.2) “unit operation” means an operation authorized by a unit agreement or by a unit operation order;

3 Section 5(1) presently reads in part:

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

- (f) respecting deposits or forms of security to the Government furnished or to be furnished under this Act and providing for*
 - (i) the form and amounts of the deposits or other security, or the fixing of those amounts by the Minister,*
 - (ii) the circumstances under which the deposits or security become payable or forfeited,*
 - (iii) the purposes for which the deposits or security so paid or forfeited may be expended by the Government,*
 - (iv) the circumstances under which the deposits or security may be returned or refunded, and*
 - (v) any other matter relating to the deposits or other security;*
- (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, the amendment of agreements by the Minister and the grouping, surrender, cancellation, expiry or forfeiture of agreements;*
- (g.1) respecting the exercise of the Minister's powers under section 27.2;*
- (m) respecting the determination of compensation on the surrender of, cancellation of or refusal to renew an agreement pursuant to section 8(1)(c);*
- (m.1) respecting the determination of compensation for the purposes of section 27.1;*
- (o) respecting the matters provided for in section 27;*

4(1) Section 8 is amended

(a) in subsection (1)

(i) in clause (e)

(A) by striking out “, that has been surrendered, cancelled or forfeited” **and substituting** “that has been surrendered or cancelled”;

(B) by repealing subclause (i) and substituting the following:

(i) an application for reinstatement is received in the Department within 60 days after the prescribed effective date of the surrender or cancellation,

(ii) in clause (g) by adding “or permits” **after** “requires”;

(iii) in clause (h) by striking out “not exceeding 10 years in the aggregate” **and substituting** “, whether or not the term has expired when the extension is agreed to”;

(b) in subsection (4) by striking out “a petroleum and natural gas lease, petroleum lease or natural gas lease” **and substituting** “a lease granting rights to petroleum or natural gas or both”.

(2) Section 8(1)(e) of the *Mines and Minerals Act* as amended by subsection (1)(a)(i) of this section applies only to applications for reinstatement received in the Department of Energy after the coming into force of subsection (1)(a)(i) of this section.

5 Section 18(2) is amended by adding “or the Alberta Energy and Utilities Board” **after** “the Crown in right of Alberta”.

(p.1) prescribing or authorizing the Minister to prescribe persons who may make a request under section 39 and persons who may make an objection under section 39.01;

4 Section 8 presently reads in part:

8(1) The Minister may

(e) reinstate an agreement, a part of the location of an agreement or a zone in the location of an agreement, that has been surrendered, cancelled or forfeited, if

(i) an application for reinstatement is received in the Department within 90 days after the date of the surrender, cancellation or forfeiture,

(ii) the Minister has not already issued another agreement in respect of the location, the part of the location or the zone in the location, as the case may be, in respect of which the application is made, and

(iii) the Minister considers that the circumstances warrant the reinstatement;

(g) if any provision of this Act, the regulations or an agreement requires the doing of any act within a fixed period or at a fixed time, extend that period or fix another time by or at which that act is to be done, whether the period within which or the time by or at which the act ought to be done has or has not expired or arrived, as the case may be;

(h) if he is satisfied that it is in the public interest to do so, agree from time to time with the lessee to extend the term of the lessee's agreement for an additional period or periods not exceeding 10 years in the aggregate;

(i) determine the form of any document to be used in connection with the administration of this Act, or adopt a variation of any form so determined that he considers applicable to any special case;

(4) For the purpose of applying subsection (1)(h) to a petroleum and natural gas lease, petroleum lease or natural gas lease, the expression "term" in that clause includes the period during which the lease is continued under Part 5.

5 Section 18(2) presently reads:

(2) Without restricting the generality of subsection (1)(a), the Minister may refuse to issue an agreement to a person who is indebted to the Crown in right of Alberta.

6 Section 20 is amended

- (a) by repealing subsections (1), (2) and (3) and substituting the following:**

Agreements

20(1) An agreement shall be issued in the manner and in the medium provided for in the regulations.

(2) An agreement issued in accordance with subsection (1) is binding on the Crown in right of Alberta and the lessee.

(3) The date of commencement of the term of an agreement shall, subject to the regulations, be the date specified by the Minister.

- (b) in subsection (4)(a) by striking out “the date of issue” and substituting “the term commencement date”;**

- (c) in subsection (5)**

(i) by adding “that is required to be executed by the holder” before “is issued”;

(ii) by striking out “the date of issue” and substituting “the prescribed date”.

7 Section 22 is repealed.

8 Section 24 is amended

- (a) by repealing subsection (1) and substituting the following:**

Ineligible
persons

24(1) Subject to the regulations, an individual under the age of 18 years is ineligible to be the lessee or one of the lessees of an agreement.

- (b) in subsection (2) by striking out all that portion of the subsection preceding clause (a) and substituting the following:**

(2) A corporation is ineligible to be the lessee or one of the lessees of an agreement unless the corporation is

6 Section 20 presently reads:

20(1) An agreement shall be issued in accordance with the regulations.

(2) An agreement shall bear the date on which it is issued.

(3) The date of commencement of the term of an agreement shall be its date of issue unless otherwise specified by the Minister.

(4) When an agreement that is required to be executed by the holder is issued, the person in whose favour it is made

(a) subject to subsection (5), is deemed to be the holder of it as against the Crown and all other persons as of the date of issue, and

(b) is bound by the agreement as if it were fully executed.

(5) When an agreement is issued and the holder does not execute the agreement and return it to the Minister within 90 days from the date of issue,

(a) the Minister may cancel the agreement in the records of the Department, and

(b) the holder is deemed to have been the holder of the agreement only as to any liability incurred under it by him.

7 Section 22 presently reads:

22 For the purposes of an agreement, a section, quarter-section and legal subdivision of land are deemed to contain 256 hectares, 64 hectares and 16 hectares respectively.

8 Section 24 presently reads in part:

24(1) A person under the age of 18 years is ineligible to become the lessee or 1 of the lessees of an agreement by offer, application or transfer.

(2) A corporation is ineligible to become the lessee or 1 of the lessees of an agreement by offer, application or transfer unless the corporation is

(a) registered under the Companies Act,

(b) registered, incorporated or continued under the Business Corporations Act,

(c) by repealing subsections (3) and (4) and substituting the following:

(3) If the lessee or one of the lessees of an agreement is a person who is ineligible under subsection (1) or (2), the Minister may, subject to subsections (4) and (4.1),

(a) where the ineligible person is the sole lessee of the agreement or one of the lessees otherwise than as the holder of a specified undivided interest in the agreement,

(i) cancel the agreement, or

(ii) transfer the agreement to an eligible person who, in the opinion of the Minister, is entitled to it;

(b) where the ineligible person is the holder of a specified undivided interest in the agreement, transfer the interest to an eligible person who, in the opinion of the Minister, is entitled to it or, in the absence of such a person,

(i) to the holder of the other specified undivided interest if that holder is then an eligible lessee, or

(ii) proportionately to those eligible persons who are the holders of the other specified undivided interests in the agreement,

as the case may be.

(4) The Minister may not exercise any of the powers under subsection (3) unless

(a) the Minister gives a notice in accordance with subsection (4.1) to the ineligible person and to any persons or class of persons specified in the regulations,

(b) if the ineligibility is the result of the dissolution of a corporation, the Minister gives a notice in accordance with subsection (4.1) and the regulations, and

(c) the notice has not been complied with before the deadline specified in the notice.

(4.1) A notice referred to in subsection (4)

- (c) *incorporated or continued under the Bank Act (Canada),*
 - (d) *a railway company incorporated under an Act of Canada,*
 - (e) *a loan corporation or trust corporation,*
 - (f) *an insurance company licensed under the Insurance Act, or*
 - (g) *in any other case, approved by the Minister as a corporation that may hold an agreement.*
- (3) *If a person who is ineligible under this section becomes the lessee or 1 of the lessees of an agreement, the Minister may, subject to subsection (4),*
- (a) *cancel the agreement, where the ineligible person is the sole lessee of the agreement or 1 of the lessees other than as the holder of a specified undivided interest in the agreement, or*
 - (b) *if the ineligible person is the holder of a specified undivided interest in the agreement, cancel the interest and transfer it to any person, in any manner the Minister considers warranted in the circumstances.*
- (4) *The Minister may not cancel an agreement or an interest in any agreement pursuant to subsection (3) unless*
- (a) *he has given the lessee notice requiring*
 - (i) *that the agreement or the interest be transferred to a person who is not ineligible under this section, and*
 - (ii) *that the transfer be registered under Part 8, within the time specified in the notice, and*
 - (b) *the notice is not complied with within the time specified.*

- (a) must be given in a prescribed manner,
- (b) must describe the powers that may be exercised by the Minister under subsection (3) if the notice is not complied with, and
- (c) must state that the Minister may exercise those powers unless, before the deadline specified in the notice, either
 - (i) the agreement or the specified undivided interest in the agreement, as the case may be, is transferred to an eligible person and the transfer is registered under Division 1 of Part 8, or
 - (ii) there is provided to the Minister proof satisfactory to the Minister that the person concerned has ceased to be ineligible under subsection (1) or (2), as the case may be.

9 Section 25 is repealed.

10 Section 26 is repealed.

11 Section 27 is repealed.

9 Section 25 presently reads:

25 The Minister may refuse to issue an agreement if any of the lessees would hold less than a 1% undivided interest under the agreement.

10 Section 26 presently reads:

26(1) An agreement issued and executed under this Act is deemed to be executed under seal notwithstanding that a seal is not used.

(2) An agreement entered into under this Act with a corporation is deemed to be sufficiently executed by that corporation if it is signed by 1 officer or 2 directors of the corporation, notwithstanding anything to the contrary contained in the corporation's instrument of incorporation, its by-laws or articles of association or legislation applicable to the corporation.

11 Section 27 presently reads:

27 Subject to the regulations, a lessee may

- (a) surrender an agreement;*
- (b) transfer or dispose of an interest in an agreement;*
- (c) with the consent of the Minister,*

12 Section 27.2(1) is amended by striking out “regulations under section 5(1)(g.1)” and substituting “the regulations”.

13(1) Section 31 is repealed and the following is substituted:

Representa-
tive of lessee

30.1(1) Where an agreement is held by 2 or more lessees, those lessees shall, in accordance with the regulations,

- (a) designate one of their number or any other person as their representative for the purposes of this Act in relation to that agreement, and
- (b) give a notice of the designation to the Minister.

(2) Where an agreement is held by only one lessee, the lessee

- (a) may, in accordance with the regulations, designate another person as the lessee’s representative for the purposes of this Act in relation to that agreement, and
- (b) on doing so shall give a notice of the designation to the Minister.

(3) The lessee or lessees of an agreement are bound by the acts and omissions of their designated representative with respect to all matters arising under the agreement, or under this Act in relation to the agreement, while the designation is in effect.

(4) A designation of a representative under this section in relation to an agreement remains in effect until

- (a) it is replaced in accordance with the regulations by another designation under this section and a notice

- (i) *surrender any part of the location in an agreement;*
- (ii) *transfer any part of the location in an agreement;*
- (iii) *divide an agreement into 2 or more agreements;*
- (iv) *consolidate 2 or more agreements into 1 agreement.*

12 Section 27.2(1) presently reads:

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.

13 Section 31 presently reads:

31(1) When an offer or application is made for an agreement, the offeror or applicant shall file with the Department an official address for service for the agreement in the event it is issued.

(2) An official address for service filed under this section or section 136(2)(d) shall provide for only 1 address for service regardless of the number of persons holding the agreement.

(3) An official address for service filed under this section or section 136(2)(d) shall be signed by all of the holders of the agreement either personally or by an authorized agent.

(4) A lessee who wishes to change the official address for service for the agreement shall file a notice of change of the official address for service in the prescribed form with the Department.

(5) The giving of a notice under this Act or an agreement personally at or by mail to the official address for service for the agreement filed with the Department under this section or section 136(2)(d) is deemed to be service of the notice to the lessee or, if there is more than 1 holder of the agreement, to all of them.

of the replacement designation is given to the Minister, or

- (b) in the case of a designation under subsection (2), it is revoked in accordance with the regulations without being replaced and a notice of the revocation is given to the Minister.

Official service
address

31(1) If a person

- (a) is designated as a representative in relation to an agreement pursuant to section 30.1, or
- (b) is the sole lessee of one or more agreements and has not designated a representative in relation to any of those agreements pursuant to section 30.1,

that person shall, in accordance with the regulations, give to the Minister a notice containing that person's official service address for the purposes of this Act.

(2) The address shown in a notice given by a person under this section continues to be that person's official service address for the purposes of this Act until it is replaced by another notice given under subsection (1).

(3) The address shown in a notice given by a person under this section does not cease to be that person's official service address for the purposes of this Act merely because that person subsequently ceases to be within either of the classes of persons described in subsection (1)(a) or (b).

Giving of
notices

31.1(1) Except as otherwise provided by the regulations, any notice or other document that the Minister is required or authorized to give or furnish to a lessee pursuant to this Act or the lessee's agreement may be given or furnished

- (a) to the person who is designated under section 30.1 as the representative of the lessee or lessees in relation to that agreement according to the records of the Department at the time the notice or other document is given or furnished, or
- (b) to the person who is the lessee of the agreement, if that person is the sole lessee of the agreement and, according to the records of the Department at the time the notice or other document is given or furnished, the lessee either

- (i) has not given a notice under section 30.1(2) of the designation of a representative in relation to that agreement, or
- (ii) has revoked the lessee's last designation made pursuant to section 30.1(2) in relation to that agreement.

(2) Any notice or other document that is required or authorized to be given or furnished to the Minister or any other person pursuant to this Act or an agreement may be given or furnished in any manner provided for in the regulations.

(2) In this subsection and subsections (3) to (5),

- (a) "Act" means the *Mines and Minerals Act*;
- (b) "initial representative", in relation to an agreement, means the person who is the initial representative of the lessee or lessees in relation to the agreement by reason of subsection (3);
- (c) "pre-existing address", in relation to an agreement, means the official address for service for the agreement according to the records of the Department immediately before the coming into force of this section;
- (d) any expression defined in the Act has the meaning given to it by the Act.

(3) The person whose address is shown in the records of the Department immediately before the coming into force of this section as the official address for service for an agreement shall, when this section comes into force, be shown in the records of the Department as the initial representative of the lessee or lessees in relation to the agreement for the purposes of section 30.1 of the Act.

(4) Subsection (3) does not apply in relation to an agreement held by a sole lessee whose address is shown in the records of the Department immediately before the coming into force of this section as the official address for service for the agreement.

(5) If on the coming into force of this section a person is the initial representative or the sole lessee in relation to one or more agreements, the following rules apply in determining that person's initial official service address for the purposes of section 31 of the Act on the coming into force of this section:

- (a) if the person is the initial representative or the sole lessee in respect of one agreement only, the pre-existing address for the agreement is deemed to be that person's initial official service address for the purpose of section 31(1) of the Act;
- (b) if the person is the initial representative in respect of 2 or more agreements and the pre-existing address is the same for all of those agreements, the pre-existing address is deemed to be that person's initial official service address for the purposes of section 31(1) of the Act;
- (c) if the person is the sole lessee of 2 or more agreements and not also an initial representative in respect of any agreement, and the pre-existing address is the same for all of those agreements, the pre-existing address is deemed to be that person's initial official service address under section 31(1) of the Act;
- (d) if the person is the initial representative or the sole lessee in respect of 2 or more agreements and the pre-existing address is not the same for all of those agreements,
 - (i) the Minister may request that person to give to the Minister, within the period specified in the request and in accordance with the regulations, a notice under section 31(1) of the Act setting forth one of those addresses or some other address as that person's initial official service address, and
 - (ii) if the request is not complied with, the pre-existing address chosen by the Minister is deemed to be that person's initial official service address for the purposes of section 31(1) of the Act, and the Minister shall notify the person of the address so chosen.

14 Section 32 is repealed.

14 Section 32 presently reads:

32(1) If

- (a) a corporation that is registered under the Companies Act ceases to be registered under that Act, or*
- (b) a corporation that is registered, incorporated or continued under the Business Corporations Act ceases to be registered, incorporated or continued under that Act,*

15 Section 33 is amended

- (a) in subsection (1) by striking out** “When an agreement expires or is surrendered, cancelled or forfeited” **and substituting** “Except as otherwise provided in the regulations, when an agreement expires or is surrendered or cancelled”;
- (b) by repealing subsection (3).**

16 Section 37 is amended by adding the following after subsection (5):

and the corporation is at that time the sole lessee of an agreement, the Minister may cancel the agreement after giving 60 days' notice of his intention to do so in The Alberta Gazette, unless before the expiration of that 60-day period the corporation

- (c) is restored to the register under the Companies Act,*
- (d) has its registration reinstated or is revived under the Business Corporations Act, or*
- (e) is registered under the Business Corporations Act pursuant to an application under section 266(2) of that Act.*

(2) If a corporation, other than a corporation registered under the Companies Act or registered, incorporated or continued under the Business Corporations Act, is wound up, dissolved or liquidated and dissolved and is at that time the sole lessee of an agreement, the Minister may cancel the agreement.

(3) If a corporation

- (a) ceases to be registered under the Companies Act, or is wound up or dissolved, or*
- (b) ceases to be registered, incorporated or continued under the Business Corporations Act,*

and the corporation is at that time a lessee having a specified undivided interest in an agreement according to the records of the Department, the Minister may cancel that interest and transfer it to any person, in any manner and on any conditions the Minister considers warranted.

15 Section 33 presently reads in part:

33(1) When an agreement expires or is surrendered, cancelled or forfeited, the ownership of

- (a) any well in the location and the installations and equipment, including casing, incidental to the well, and*
- (b) any mine or quarry in the location,*

vests in the Crown in right of Alberta free and clear of all interests, charges and liens.

(3) Subsection (1)(a) does not apply to a well when the spacing unit for the well or part of the spacing unit for the well continues under another agreement.

16 Regulations to be subject to the provisions of section 125.1.

(5.1) If regulations are made under this section with respect to oil sands products to which section 125.1 applies, those regulations operate subject to the provisions of section 125.1.

17 Section 42(1) is repealed and the following is substituted:

Notice to pay
Crown

42(1) In this section, “debtor” means a person indebted to the Crown in right of Alberta for any amount owing under this Act or any other enactment under the administration of the Minister.

18 Section 44 is amended

(a) in subsection (1)

(i) **in clause (a) by adding** “and the breach by its nature is not capable of being remedied” **after** “agreement”;

(ii) **in clause (c) by striking out “or” at the end of subclause (i), by adding “or” at the end of subclause (ii) and by adding the following after subclause (ii):**

(iii) a condition contained in the agreement, where the default in complying with the condition is by its nature capable of being remedied.

(b) in subsection (2)(a) by striking out “he has sent a notice by mail” **and substituting** “the Minister has given a notice”;

(c) by adding the following after subsection (3):

(4) This section does not preclude the making of regulations conferring on the Minister the power to cancel an agreement as to part of its location or as to any zone or subsurface area underlying all or part of its location.

19 Section 45 is amended by adding the following after subsection (3):

17 Section 42(1) presently reads:

42(1) In this section, “debtor” means a person indebted to the Crown in right of Alberta for amounts owing on account of a money royalty or royalty compensation or in respect of the disposal of the Crown’s royalty share of a mineral by an agent.

18 Section 44 presently reads:

44(1) The Minister may cancel an agreement if

- (a) there is a breach of any condition contained in the agreement,*
- (b) the lessee has not complied with a notice given under this Act with respect to the agreement or with a notice given under the agreement, or*
- (c) subject to subsection (2), the lessee has not complied with*
 - (i) this Act or the regulations in relation to the agreement, or*
 - (ii) a covenant under the agreement.*

(2) The Minister may not cancel an agreement pursuant to subsection (1)(c) unless

- (a) he has sent a notice by mail to the lessee stating the nature of the default and that the Minister will cancel the agreement if the default is not remedied before the expiration of the 30-day period following the date on the notice, and*
- (b) the default is not remedied within the 30-day period.*

(3) The right of the Minister to cancel an agreement pursuant to the terms of the agreement is in addition to any power of the Minister to cancel the agreement under this Act.

19 Section 45 provides for certain remedies of the Crown under the Act.

(4) Where any amount is owing by any person to the Crown in right of Alberta under this Act or any other enactment under the administration of the Minister, the Minister may recover that amount by way of set-off against any amount owing to that person by the Crown in right of Alberta pursuant to this Act or any other enactment under the administration of the Minister.

20 Section 51 is repealed.

21 Section 56(1) is amended by striking out “removal” wherever it occurs and substituting “recovery”.

22 Sections 90 to 99, the heading “General” preceding section 90 and the headings preceding sections 92, 93 and 99 are repealed and the following is substituted:

Interpretation

90(1) In this Part,

- (a) “lease” means a lease granting rights to petroleum or natural gas or both and issued under this Act or the former Act;
- (b) “licence” means a licence granting rights to petroleum or natural gas or both issued under this Act
 - (i) before the coming into force of this section, if its term expires on or after the day on which this section comes into force, or
 - (ii) after the coming into force of this section;
- (c) “term” means,

20 Section 51 presently reads:

51 Any notice that may be given by the Minister pursuant to this Act or an agreement may be given by mail.

21 Section 56(1) presently reads:

56(1) Any person who has the right to any mineral or the right to work it in a tract and who has obtained a licence under the Oil and Gas Conservation Act to drill a well for the removal of the mineral may, if the orifice of the well is located outside the tract, work through all minerals outside the tract to the extent necessary to obtain his mineral for the removal of which the licence was granted, without permission from or compensation to any other person for the right to work through the minerals outside the tract, subject, however, to this Act and the provisions of any other Act affecting the exercise of that right.

22 Sections 90 to 99 presently read:

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) in relation to a lease, the period of years stated in the lease as its term, or
 - (ii) in relation to a licence, the period of years prescribed by the regulations as its term for the purposes of sections 92 and 93.
- (2) Subject to the regulations, 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 Minister, initially produces gas either alone or with oil at a gas-oil ratio of 1800:1 or higher, but does not include any production that may be recovered from any well that, in the opinion of the Minister, 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 Minister, 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 recovered from any well that, in the opinion of the Minister, initially produces oil with gas at a higher gas-oil ratio.
- (3) Subsection (2) does not apply for any purpose related to royalties.

Petroleum and Natural Gas Leases

Lease tenure

- 91(1)** The term of a lease issued under this Act after July 1, 1976 shall be 5 years.
- (2) Subsection (1) does not apply to a lease having a term of 10 or 21 years and issued after July 1, 1976
- (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.

Continuation
of lease or
licence

- 92(1)** When the term of a lease or licence expires, the lease or licence continues beyond its term only to the extent that it is approved for continuation by the Minister under the regulations.

(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 Minister, initially produces gas either alone 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 Minister, 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 Minister, 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 Minister, 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.*

(2) Where a lease or licence is approved for continuation pursuant to subsection (1), the Minister may, subject to the regulations and after the giving of notice to the holder of the lease or licence in accordance with the regulations,

(a) cancel the lease or licence if the whole of its location has ceased to qualify for continuation under the lease or licence in accordance with the regulations, or

(b) cancel the lease or licence as to

(i) any part of its location, or

(ii) any zone or any subsurface area underlying all or part of its location,

that has ceased to qualify for continuation under the lease or licence in accordance with the regulations.

Regulations
respecting
petroleum and
natural gas
agreements

93(1) The Lieutenant Governor in Council may make regulations

(a) respecting applications for approval of the continuation of leases or licences beyond their terms, the Minister's powers and duties in relation to those applications and the Minister's powers and duties where an application is not made within the prescribed time;

(b) respecting the circumstances in which and the extent to which

(i) the location of a lease or licence,

(ii) any part of the location of a lease or licence, or

(iii) any zone or any subsurface area underlying the location or part of the location of a lease or licence,

may be approved or refused for continuation beyond the term of the lease or licence;

(c) respecting the fees payable in connection with the granting of approvals for the continuation of leases or licences;

(d) respecting the circumstances in which and the conditions on which the Minister may exercise powers of cancellation under section 92(2) and

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).

(7) It is hereby declared that, subject to any adverse claim of which the Minister has notice before the commencement of this subsection, a lease whose term expired before July 1, 1985 did not continue after the expiration of its term or of any subsequent period of continuation

- (a) as to the whole of its location if the records of the Department in existence at the commencement of this subsection show that no part of the location continued under the lease after the expiration of its term or of that continuation period, and*
- (b) as to any part of its location or as to any zones underlying all or any part of its location, if the records of the Department in existence at the commencement of this subsection show that the part of the location or the zones, as the case may be, did not continue under the lease after the expiration of its term or of that continuation period.*

respecting the notices required to be given under that subsection;

(e) respecting the obligations of lessees and the powers of the Minister 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 or licence;

(f) defining “freehold well” and “spacing unit” for the purposes of regulations under clause (e).

(2) Regulations made under this section respecting the continuation of leases or licences shall not provide for the reversion to the Crown of rights to petroleum or natural gas in any subsurface area of any part of the location of a lease or licence unless the reversion is referable to the portion of that subsurface area lying stratigraphically below the base of the deepest of the zones to which the approval for continuation extends in that part of the location.

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

(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

(a) the 120-day period prior to the expiration of the term of the lease, or

(b) with the consent of the Minister, that part of the last year of the term of the lease that precedes the 120-day period referred to in clause (a),

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;*
- (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

(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.

(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 petroleum or natural gas rights in the location or part of the location continued under subsection (1), and

(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 within the 120-day period referred to in section 94(1)(a) that applies to the lease that qualifies for continuation under subsection (1) as to all or part of its location,

(b.1) the terms of each of the other leases expire within the same 120-day period, 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*
- (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*
- (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*
- (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

23 Section 116 is amended by striking out “Energy Resources Conservation Board” wherever it occurs and substituting “Alberta Energy and Utilities Board”.

(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.

23 Section 116 presently reads in part:

(3) If there is an inconsistency between

24 Section 121 is repealed.

25 Section 124(1) is repealed.

26 The following is added after section 125:

Royalty on oil
sands

125.1(1) In this section,

(a) “blended bitumen”, “cleaned crude bitumen”, “crude bitumen”, “development area”, “diluent”, “gross revenue”, “month”, “net revenue”, “oil sands product”, “pre-payout Period”, “post-payout Period”, “Project”, “Project payout date”, “Project substances” and “royalty calculation point” have the meanings prescribed by regulation;

(b) “Crown” means the Crown in right of Alberta.

(2) The royalty reserved to the Crown, under each agreement granting oil sands rights in the development area of a Project, on each oil sands product recovered from the development area during each month of a pre-payout Period is 1% of the quantity of the oil sands product so recovered that is delivered at a royalty calculation point for the product.

(3) The royalty reserved to the Crown, under each agreement granting oil sands rights in the development area of a Project, on each oil sands product recovered from the development area during a post-payout Period, is the greater of

(a) a regulation made under subsection (1) or (2), and

(b) an order of the Energy Resources Conservation Board made under the Oil and Gas Conservation Act,

in so far as it is inconsistent, the regulation under subsection (1) or (2), as the case may be, prevails.

(4) *In this section,*

(c) “pool” means a pool designated by the Energy Resources Conservation Board under the Oil and Gas Conservation Act.

24 Section 121 presently reads:

121 This Part applies to oil sands rights that are the property of the Crown in right of Alberta.

25 Section 124(1) presently reads:

124(1) The Minister may prohibit the conduct of any operation to recover oil sands that would, in his opinion, preclude or render more difficult the recovery of other oil sands recoverable by practical and reasonable operations.

26 Amount of oil sands royalty.

- (a) 1% of the quantity of the oil sands product so recovered that is delivered at a royalty calculation point for the product, or
- (b) the percentage of the quantity of the oil sands product so recovered and delivered, calculated in accordance with the following formula:

$$R\% = \frac{25 \text{ NR}}{\text{GR}}$$

where

R% is the Crown's royalty share of the oil sands product, expressed as a percentage of the oil sands product on which royalty is payable;

NR is the net revenue of the Project for the Period;

GR is the gross revenue of the Project for the Period.

(4) If crude bitumen or cleaned crude bitumen obtained pursuant to a Project

- (a) is delivered to a royalty calculation point for the crude bitumen or cleaned crude bitumen, and
- (b) when delivered to the royalty calculation point is contained in a blend with diluent,

the royalty reserved under subsections (2) and (3) shall, subject to the regulations, be calculated on the volume determined by deducting from the volume of blended bitumen, the volume of diluent contained in the blended bitumen.

(5) Notwithstanding subsections (2) and (3), if a unit agreement provides for the recovery of Project substances, the royalty payable to the Crown under this section on oil sands products recovered from the development area during a month of a pre-payout Period, or during a post-payout Period, shall, subject to the regulations, be in the same proportion as the quantity of those oil sands products allocated by the unit agreement to the tracts in which the oil sands rights are vested in the Crown is to the total quantity of those oil sands products.

(6) The return allowance rate for any month used in the determination under the regulations as to whether the Project payout date of a Project has occurred shall be the rate calculated in accordance with the following formula:

$$mr = (1 + LTBR)^{(1/12)} - 1$$

where

mr is the return allowance rate for the month;

LTBR is the simple average of the Selected Government of Canada long term benchmark yields, published as a percentage and for the purposes of this formula expressed in a decimal format, specified for the Wednesdays of the preceding month in the *Weekly Financial Statistics* next published by the Bank of Canada after the last of those Wednesdays of that preceding month.

(7) The return allowance rate for a period of time used under the regulations in determining the net revenue of a Project is the simple average of the Selected Government of Canada long term benchmark yields specified for the last Wednesday of each month of the period in the *Weekly Financial Statistics* next published by the Bank of Canada after each of those Wednesdays.

(8) If the long term benchmark yields referred to in subsections (6) and (7) cease to be published by the Bank of Canada, the Minister may designate a comparable substitute and that substitute shall be used for the purposes of subsections (6) and (7) in the place of those long term benchmark yields.

27 Section 135 is repealed.

28 Section 136 is amended

- (a) in subsection (1) by adding “if the regulations respecting registration of the transfer are complied with and” after “registered by the Minister”;

27 Section 135 presently reads:

135 In this Division, “registered” means registered under this Division.

28 Section 136 presently reads in part:

136(1) A transfer with respect to an agreement that the lessee is not prohibited from transferring or agreeing to transfer by any provision of this Act or any regulation or by the terms of the

(b) by repealing subsection (2) and substituting the following:

(2) A transfer made by the Minister pursuant to section 24(3) or a judgment or order of a court

(a) shall be registered by the Minister, and

(b) is as effective as if it were a valid transfer registered under subsection (1).

(2.1) The Minister may cancel any registration made under this Division if the registration was made in error.

29 Section 136.1 is amended

(a) by repealing subsections (1) and (2) and substituting the following:

Judgment or
order directing
transfer

136.1(1) If in a proceeding before a court a claim is made for an order or judgment relating to the ownership of an agreement, any interest in an agreement or part of the location of an agreement, the claimant shall give written notice of the claim to the Minister at least 14 days before the date on which the claim is heard by the court.

(2) A notice referred to in subsection (1) shall be accompanied by copies of all documents filed with the court before the notice is given.

(b) by adding the following after subsection (4):

(5) The Minister is not bound by any order or judgment of the court in a proceeding referred to in subsection (1) unless

(a) the order or judgment directs the Minister to make a transfer that conveys the whole of the agreement, a specified undivided interest in the agreement or part of the location of the agreement to the person named in the order or judgment, and

agreement, may be registered by the Minister if the transfer conveys

- (a) the whole of the agreement,*
- (b) a specified undivided interest in the agreement, or*
- (c) a part of the location contained in the agreement.*

(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 a manner and accompanied by proof of execution satisfactory to the Minister,*
- (b) an undivided interest conveyed is less than a 1% undivided interest in the agreement,*
- (c) the prescribed fee is not paid, or*
- (d) 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 the prescribed form.*

29 Section 136.1 presently reads:

136.1(1) If, in a proceeding, a claim is made for a judgment or order of the court

- (a) directing the Minister to transfer an agreement or any interest in an agreement, or*
- (b) vesting an agreement or any interest in an agreement in a person,*

no judgment or order may be made unless 14 days' written notice of the proceeding has been given to the Minister.

(2) The notice shall give reasonable particulars of the proposed argument.

(3) The Minister is entitled to be heard, notwithstanding that the Crown is not a party to the proceeding.

(4) If the Minister appears in a proceeding referred to under subsection (1), the Minister is deemed to be a party to the proceeding for the purposes of an appeal from the adjudication in respect of the proceeding and has the same rights with respect to an appeal as any other party to the proceeding.

- (b) the transfer would, if made by the lessee concerned, be registrable under section 136.

30 Section 137 is repealed.

31 Section 139.1(1) is amended

- (a) by repealing clause (c);**
- (b) by repealing clause (g) and substituting the following:**
 - (g) “security notice” means a security notice in the form determined by the Minister.

32 Section 140 is amended

- (a) in subsection (2)**
 - (i) by repealing clause (a);**
 - (ii) in clause (b) by striking out “otherwise”;**
- (b) by repealing subsection (7) and substituting the following:**
 - (7) A security notice shall provide for an address for service for the secured party named in it for the purposes of this Division.
- (c) by adding the following after subsection (10):**
 - (10.1)** If a security notice is registered against an agreement and
 - (a) a transfer of part of the location of the agreement is registered and a new agreement is issued for the part of the location so transferred,
 - (b) the agreement is divided into 2 or more agreements and one or more new agreements are issued to effect the division, or

30 Section 137 presently reads:

137 If a deposit or security is deposited with or furnished to the Minister or the Provincial Treasurer under this Act, on the registration of the transfer of the agreement or of a specified undivided interest in the agreement, the transferee becomes entitled to the transferor's right to the deposit or security.

31 Section 139.1(1) presently reads in part:

139.1(1) In this Division,

(c) "registered" means registered under this Division;

(g) "security notice" means a security notice in the form prescribed by the regulations.

32 Section 140 presently reads in part:

(2) The Minister shall register a security notice submitted to him for registration unless

(a) it is not in the form prescribed in the regulations,

(b) the regulations are not otherwise complied with, or

(c) it shows on its face that it relates to a security interest acquired by a person other than a bank prior to the coming into force of this Division.

(7) The form of a security notice prescribed by the regulations shall provide for an address for service for the secured party named in it for the purposes of this Division.

(10) If a security notice is registered against an agreement and the Minister, as a consequence of the exercise by the lessee of a right of lease selection conferred on him, issues one or more leases for all or part of the location of the agreement, the registration of the security notice shall be continued in respect of the lease or leases as though the security notice referred to them and as though they had been issued prior to the registration of the security notice.

- (c) the agreement and one or more other agreements are consolidated into one agreement,

the registration of the security notice shall be continued in respect of each of the new agreements or the consolidated agreement, as the case may be, as though the security notice referred to it and as though the issuance of the agreement or the consolidation had occurred prior to the registration of the security notice.

- (d) **in subsection (11) by striking out** “surrendered, cancelled or forfeited” **wherever it occurs and substituting** “surrendered or cancelled”;

- (e) **by adding the following after subsection (11):**

(12) When the term of an agreement is extended pursuant to section 8(1)(h) after the expiration of the term, the agreement is subject to all security notices registered against the agreement immediately before the expiration of the term so extended as though the term had not expired.

33 Section 141 is amended

- (a) **in subsection (1) by striking out “or” at the end of clause (a) and by adding the following after clause (b):**

- (c) a notice of the postponement of a registered security notice, or
- (d) a notice of the discharge or partial discharge of a postponement that is the subject of a registered notice of postponement.

- (b) **by repealing subsection (2) and substituting the following:**

(2) The Minister shall register a notice submitted for registration under subsection (1) unless the regulations are not complied with.

- (c) **in subsection (3) by striking out** “The form of a notice of assignment prescribed by the regulations” **and substituting** “A notice of assignment”.

34 Section 142(9)(b) is repealed and the following is substituted:

(11) When an agreement is reinstated pursuant to section 8(1)(e), the agreement is subject to all the security notices registered against the agreement when it was surrendered, cancelled or forfeited, as though the agreement had not been surrendered, cancelled or forfeited.

33 Section 141 presently reads:

141(1) There may be submitted to the Minister for registration

(a) a notice of the discharge or partial discharge of the security interest that is the subject of a registered security notice, or

(b) a notice of the assignment of all or part of the security interest that is the subject of a registered security notice.

(2) The Minister shall register a notice submitted for registration under subsection (1) unless

(a) the notice is not in the form prescribed by the regulations, or

(b) the regulations are not otherwise complied with.

(3) The form of a notice of assignment prescribed by the regulations shall provide for an address for service for the assignee named in it for the purposes of this Division.

34 Section 142(9) presently reads:

- (b) make a further order directing the Minister to cancel the registration of the security notice of the secured party in its entirety or in relation to the agreement or agreements specified in the order.

35 Section 143 is amended

(a) by repealing subsection (2) and substituting the following:

(2) A person within any of the classes enumerated in subsection (3) may

- (a) serve on the secured party under a registered security notice a notice directing that person to commence an application by originating notice in the Court of Queen's Bench, returnable within 60 days after the date on which the notice is served, for an order substantiating the security interest that is the subject of the registered security notice either

- (i) in its entirety, or

- (ii) in relation to any specified agreement or agreements to which it applies,

or

- (b) apply to the Court of Queen's Bench by originating notice requiring the secured party under a registered security notice to show cause why

- (i) the registration of the security notice should not be cancelled, or

- (ii) the registration of the security notice against any specified agreement or agreements should not be cancelled.

(b) in subsection (3)(c) by striking out "named in" and substituting "under";

(c) by repealing subsections (8) and (9) and substituting the following:

(8) If the Minister is provided with a statutory declaration satisfactory to the Minister showing

(9) If a secured party fails to comply with an order of the Court under subsection (8), the Court may, on the application of the person who obtained the order,

- (a) make any further order the Court considers necessary to ensure compliance with the order made under subsection (8), or*
- (b) make a further order directing the Minister to cancel the registration of the security notice of the secured party.*

35 Section 143 presently reads in part:

(2) A person within any of the classes enumerated in subsection (3) may

- (a) serve on the person named in a registered security notice as the secured party a notice to take proceedings directing that person to commence an application by originating notice in the Court of Queen's Bench returnable within 60 days after the date on which the notice is served, for an order substantiating the security interest that is the subject of the registered security notice, or*
- (b) apply to the Court of Queen's Bench by originating notice requiring the secured party under a registered security notice to show cause why the registration of the security notice should not be cancelled.*

(3) A person may serve a notice to take proceedings or apply under subsection (2)(b) if he is

- (c) the secured party named in another security notice registered against the same agreement that is the subject of the notice to take proceedings or the show-cause notice,*

(8) The Minister shall cancel the registration of a security notice if he is provided with an affidavit satisfactory to him showing

- (a) that a notice to take proceedings was served in accordance with this section on the secured party under the security notice, and*
- (b) that no application was commenced in accordance with the notice or that an application so commenced was dismissed or discontinued.*

(9) If the registration of a security notice is cancelled pursuant to subsection (8), the person who was named as the secured party

- (a) that a notice to take proceedings was served in accordance with this section on the secured party under a registered security notice, and
- (b) that no application was commenced in accordance with the notice to take proceedings or that an application so commenced was dismissed or discontinued,

the Minister shall cancel the registration of the security notice in its entirety or in relation to the agreement or agreements specified in the notice to take proceedings, as the case may be.

(9) If the registration of a security notice is cancelled in its entirety or in relation to any specified agreement or agreements pursuant to subsection (8), no person may submit for registration another security notice relating to

- (a) the same security interest or purported security interest that was the subject of the security notice whose registration was cancelled in its entirety, or
- (b) the same security interest or purported security interest in relation to the specified agreement or agreements,

as the case may be, except with leave of the Court of Queen's Bench.

36 Section 143.1(1)(a) is amended by adding “in its entirety or in relation to any specified agreement or agreements against which it is registered” after “the registration of a security notice”.

37 Section 144 is amended

- (a) by repealing clause (c);
- (b) by repealing clause (d)(ii) and substituting the following:
 - (ii) the cancellation pursuant to section 143(8) of the registration of a security notice in its entirety or in

under the security notice as it was originally registered may not submit for registration another security notice relating to the same security interest except with leave of the Court of Queen's Bench.

36 Section 143.1(1) presently reads in part:

143.1(1) The Minister shall

- (a) cancel the registration of a security notice if there is submitted to him for registration a certified copy of an order or judgment of the Court of Queen's Bench directing him to do so whether as a consequence of proceedings under section 142 or 143 or otherwise, or*

37 Section 144 presently reads in part:

144 The Lieutenant Governor in Council may make regulations

- (c) prescribing the form of notices under this Division;*
- (d) prescribing the fees payable to the Minister for*

relation to any specified agreement or agreements,
and

38 Section 146(3)(a) is repealed and the following is substituted:

- (a) for the appointment of a person as the unit operator,

39 Section 147 is amended by striking out “a unit operation” and substituting “a unit agreement or unit operation order”.

40 Section 148 is repealed.

41(1) The *Builders’ Lien Act* is amended by this section.

(2) Section 26.1(2) is repealed and the following is substituted:

- (2) In subsections (3) to (6),
 - (a) “agreement”, “lessee” and “location” have the meanings given to them by the *Mines and Minerals Act*;
 - (b) “Minister” means the Minister of Energy.

(3) If

- (a) a lien is registered against an agreement,
- (b) the Minister, as a consequence of a right of lease selection conferred on the lessee of the agreement,

(ii) cancellation of the registration of a security notice pursuant to section 143(8), and

38 Section 146(3) presently reads in part:

(3) Notwithstanding this Act or an agreement but subject to section 37(5), a unit agreement may provide

(a) for the designation of a person to conduct the unit operation,

39 Section 147 presently reads:

147 Notwithstanding this Act or an agreement, the Lieutenant Governor in Council may authorize the Minister to enter into a contract respecting the royalty on the mineral produced under a unit operation in respect of any tract that is subject to a royalty to the Crown in right of Alberta.

40 Section 148 presently reads:

148 When a location is partly within and partly outside an area that is subject to a unit operation, the Minister may, notwithstanding anything in this Act or the regulations, require the location to be divided so that each location resulting from the division will be as nearly as possible either within or outside that area.

41 This section amends chapter B-12 of the Revised Statutes of Alberta 1980. Section 26.1 of the Builders' Lien Act presently reads:

26.1(1) When a lien attaches to an estate or interest in minerals held directly from the Crown in right of Alberta and the estate or interest

(a) is less than a fee simple estate, and

(b) is not registered under the Land Titles Act,

the statement of lien shall be registered with the Minister of Energy and not with the Registrar and this Act applies to all claims of lien so registered with the Minister of Energy.

(2) When

issues one or more leases for all or part of the location of the agreement, and

- (c) the lien attaches to any part of the location of the agreement that becomes the location of any lease so issued,

the registration of the lien shall be continued in respect of each lease so issued as though the lien referred to it and as though the lease had been issued prior to the registration of the lien.

(4) If a lien is registered against an agreement and

- (a) a transfer of part of the location of the agreement is registered under Division 1 of Part 8 of the *Mines and Minerals Act*, a new agreement is issued for the part of the location so transferred and the lien attaches to the part of the location so transferred,
- (b) the agreement is divided by the Minister into 2 or more agreements pursuant to that Act and the lien attaches to any part of the location of the agreement that becomes the location of a new agreement issued as a consequence of the division, or
- (c) the agreement and one or more other agreements are consolidated by the Minister into one agreement pursuant to that Act,

the registration of the lien shall be continued in respect of the new agreement or the consolidated agreement, as the case may be, as though the lien referred to it and as though the issuance of the agreement or the consolidation had occurred prior to the registration of the lien.

(5) When an agreement is reinstated pursuant to section 8(1)(e) of the *Mines and Minerals Act*, the agreement is subject to all the liens registered against the agreement when it was surrendered or cancelled as though the agreement had not been surrendered or cancelled.

(6) When the term of an agreement is extended pursuant to section 8(1)(h) of the *Mines and Minerals Act* after the expiration of the term, the agreement is subject to all liens registered against the agreement immediately before the expiration of the term so extended as though the term had not expired.

- (a) the estate or interest in a mineral on which a lien attaches arises under an agreement issued in respect of the mineral under the Mines and Minerals Act,*
- (b) the agreement is surrendered, cancelled or forfeited after the lien attaches, and*
- (c) the agreement is subsequently reinstated under section 8(1)(e) of the Mines and Minerals Act,*

the agreement is, for the purposes of the lien, deemed not to have been surrendered, cancelled or forfeited.

42 The *Oil and Gas Conservation Amendment Act, 1991* is amended by repealing section 9(a).

43 This Act comes into force on Proclamation.

42 Repeal of unproclaimed amendment to section 1(1)(u), which is repealed by section 2(b) of this Bill.

43 Coming into force.