

BILL 13

2002

ADMINISTRATIVE PENALTIES AND RELATED MATTERS STATUTES AMENDMENT ACT, 2002

(Assented to _____, 2002)

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

Environmental Protection and Enhancement Act

Amends RSA 2000 cE-12

1(1) The *Environmental Protection and Enhancement Act* is
amended by this section.

(2) Section 70 is amended by adding the following after
subsection (3):

(4) Without limitation to subsection (3)(b), the Director may
cancel or suspend an approval or registration if the approval or
registration holder is indebted to the Crown.

(3) Section 74(6) is amended by striking out “70(3)(b)” and
substituting “70(3)(b) or (4)”

(4) Section 91(1)(c) is amended by striking out “70(3)(b)” and
substituting “70(3)(b) or (4)”.

(5) The following is added after section 188:

Refusal for unpaid debts

188.1 The Director may refuse to issue a personal
identification number where the applicant is indebted to the
Government.

(6) Section 190 is repealed and the following is substituted:

Cancellation or suspension of personal identification number

190 The Director may cancel or suspend a personal
identification number

- (a) if the holder of the personal identification number is indebted to the Government, or
- (b) if for any other reason the Director considers it appropriate to do so.

(7) Section 237(2) is repealed and the following is substituted:

- (2) A notice of administrative penalty may require the person to whom it is directed to pay either or both of the following:
- (a) a daily amount for each day or part of a day on which the contravention occurs and continues;
 - (b) a one-time amount to address economic benefit where the Director is of the opinion that the person has derived an economic benefit directly or indirectly as a result of the contravention.

(8) The following is added after section 237:

Publication of information

237.1 Subject to the regulations, the Director shall publish particulars of enforcement action taken under this Act.

(9) Section 238 is amended by adding the following after clause (c):

- (d) governing the publication of particulars of enforcement action for the purposes of section 237.1 including, without limitation, what information must or may be published and the times at which and the manner in which it is to be published.

(10) Section 239(f) is repealed and the following is substituted:

- (f) prescribing contraventions in respect of which an administrative penalty may be imposed and prescribing the amounts, or the manner of determining the amounts, of the administrative penalties that may be imposed, but in the case of an administrative penalty referred to in section 237(2)(a), the administrative penalty may not exceed \$5000 for each contravention or for each day or part of a day on which the contravention occurs and continues, as the case may be;

Forests Act

Amends RSA 2000 cF-22

2(1) The *Forests Act* is amended by this section.

(2) Section 1(n) is amended by adding “or volume” after “area”.

(3) Section 4 is amended

(a) in clause (l) by striking out “prescribing” and substituting “respecting the determination of administrative”;

(b) by adding the following after clause (l):

(1.1) providing, with respect to any provision of the regulations, that its contravention constitutes an offence;

(1.2) prescribing penalties, including imprisonment, in respect of offences created under clause (1.1);

(4) Section 25 is amended

(a) by repealing subsection (2)(c);

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

(4.1) The Minister may cancel or suspend a timber disposition or timber quota where the holder of the timber disposition or timber quota is indebted to the Crown.

(5) Section 50 is amended by striking out “\$1000” and substituting “\$5000”.

(6) Sections 53 to 57 are repealed and the following is substituted:

Administrative penalties

53(1) Where the Minister is of the opinion that a person has contravened a provision of this Act or the regulations, the Minister may, subject to the regulations, by notice in writing served on the person personally or by mail require that person to pay to the Government an administrative penalty in the amount set out in the notice for each contravention.

(2) A person who contravenes a provision referred to in subsection (1) is liable for the administrative penalty for each day or part of a day on which the contravention occurs and continues.

(3) A person who pays an administrative penalty in respect of a contravention may not be charged under this Act with an offence in respect of that contravention.

(4) A notice under subsection (2) may not be issued more than 2 years after

- (a) the date on which the contravention occurred, or
- (b) the date on which evidence of the contravention first came to the attention of a forest officer,

whichever occurs later.

Payment of penalty

54 A person who has been served with a notice of administrative penalty pursuant to section 53 shall pay the amount of the penalty within 30 days from the date of service of the notice.

Enforcement in Court of Queen's Bench

55 Subject to the right to appeal a notice of administrative penalty, where a person fails to pay an administrative penalty in accordance with the notice of administrative penalty and the regulations, the Minister may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench and, on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

Liability of directors and officers

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

Vicarious responsibility

57 For the purposes of this Act, an act or thing done or omitted to be done by a director, officer, official, employee or agent of a corporation in the course of that person's employment or in the exercise of that person's powers or the performance of that person's duties is deemed also to be an act or thing done or omitted to be done by the corporation.

Publication of information

58 Subject to the regulations, the Minister shall publish particulars of enforcement action taken under this Act.

Regulations

59 The Minister may make regulations

- (a) respecting the publication of particulars of enforcement action for the purposes of section 58 including, without limitation, what information must or may be published and the times at which and the manner in which it is to be published;
- (b) respecting appeals from notices of administrative penalty issued under section 53 including, without limitation, regulations respecting
 - (i) the composition and manner of appointment of the appeal body;
 - (ii) the evidence to be considered by the appeal body and the factors that the appeal body is to consider in reaching its decision;
 - (iii) the powers of the appeal body to confirm or reverse a notice of administrative penalty and to vary the amount of an administrative penalty;
 - (iv) the procedure to be followed in the appeal and the procedure before the appeal body.

(7) This section comes into force on Proclamation. Mines and Minerals Act

Amends RSA 2000 cM-17

3(1) The *Mines and Minerals Act* is amended by this section.

(2) Section 63 is amended

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

Offences

63(1) A person who contravenes

- (a) section 47, 48(3), 50, 52(2), 53, 54, 79 or 107, or
- (b) a regulation made under section 5(1)(j)

is guilty of an offence and is liable to a fine of not more than \$100 000.

(1.1) A person who is guilty of an offence under the regulations is liable to a fine of not more than \$100 000.

(b) in subsections (3) and (4) by striking out “section” and substituting “Act”.

(3) The following is added after section 63:

Vicarious responsibility

63.1 For the purposes of this Act, an act or thing done or omitted to be done by a director, officer, official, employee or agent of a corporation in the course of that person’s employment or in the exercise of that person’s powers or the performance of that person’s duties is deemed also to be an act or thing done or omitted to be done by the corporation.

(4) Section 108 is amended

(a) in clause (m) by adding “administrative” before “penalties”;

(b) by adding the following after clause (m):

- (m.1) respecting appeals from notices of administrative penalty issued under section 112 including, without limitation, regulations respecting
 - (i) the composition and manner of appointment of the appeal body;
 - (ii) the evidence to be considered by the appeal body and the factors that the appeal body is to consider in reaching its decision;
 - (iii) the powers of the appeal body to confirm or reverse a notice of administrative penalty and to vary the amount of an administrative penalty;
 - (iv) the procedure to be followed in the appeal and the procedure before the appeal body;

(b) by adding the following after clause (n):

- (o) providing, with respect to any provision of the regulations under this section, that its contravention constitutes an offence.

(5) Section 109(1) is repealed and the following is substituted:

Powers of Minister

109(1) The Minister may refuse to grant an exploration approval or to issue an exploration licence or exploration permit

- (a) where the applicant is indebted to the Crown, or
- (b) where the Minister considers that for any other reason it would be appropriate to refuse to grant the exploration approval or issue the exploration licence or exploration permit.

(1.1) The Minister may make an exploration approval, exploration licence or exploration permit subject to any conditions the Minister prescribes.

(6) Section 110 is amended

(a) by adding the following after subsection (2):

(2.1) The Minister may cancel or suspend a licence or permit if the licensee or permittee is indebted to the Crown.

(2.2) Where the Minister suspends a licence or permit under subsection (2.1), the Minister may exercise the same powers that the Minister has under subsections (3) and (4).

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

(3) If a permittee or any person authorized by a permittee to operate exploration equipment contravenes this Part or a regulation under this Part, or fails to comply with a condition of an exploration approval, the Minister may, with or without conditions and either indefinitely or for a specified period, suspend the permittee's permit

- (a) generally with respect to all programs of exploration being conducted under the authority of the permit or with respect to one or more specified programs, or

(b) with respect to all or specified exploration equipment being operated under the authority of the permit.

(4) If a licensee or any person performing an operation or function under the authority of the licensee's licence contravenes this Part or a regulation under this Part or fails to comply with a condition of an exploration approval, the Minister may, with or without conditions and either indefinitely or for a specified period, suspend the licensee's licence generally with respect to all programs of exploration being conducted under the authority of the licence or with respect to one or more specified programs.

(5) The Minister may, with or without conditions and either indefinitely or for a specified period, suspend a licence if no exploration has been conducted under the licence for a period of 2 years or more.

(6) The Minister may reinstate a licence or permit that was cancelled or suspended under this section, subject to any conditions the Minister considers appropriate.

(7) Section 112 is amended

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

Administrative penalty

112(1) If a person

- (a) contravenes this Part or the regulations, or
- (b) fails to comply with any condition of an exploration approval,

the Minister may order that person to pay to the Crown an administrative penalty not exceeding the maximum amount prescribed by the regulations in relation to that contravention or failure to comply.

(b) in subsection (2) by striking out “the penalty” and substituting “the administrative penalty”;

(c) in subsection (3) by striking out “a penalty” and substituting “an administrative penalty” and by striking out “registered”;

(d) in subsection (4) by striking out “penalty” and substituting “administrative penalty”;

(e) by repealing subsection (5) and substituting the following:

(5) Subject to the right to appeal a notice of administrative penalty, where a person fails to pay an administrative penalty in accordance with the notice of administrative penalty and the regulations, the Minister may file a copy of the notice of administrative penalty with the clerk of the Court of Queen’s Bench and, on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

(6) A notice of administrative penalty may not be issued more than 2 years after the later of

- (a) the date on which the contravention to which the notice relates occurred, or
- (b) the date on which evidence of the contravention first came to the notice of the Minister.

(8) The following is added after section 112:

Publication of information

112.1 Subject to the regulations, the Minister shall publish particulars of enforcement action taken in respect of this Part.

Regulations

112.2 The Minister may make regulations governing the publication of particulars of enforcement action for the purposes of section 112.1 including, without limitation, what information must or may be published and the times at which and the manner in which it is to be published.

**(9) This section comes into force on Proclamation.
Public Lands Act**

Amends RSA 2000 cP-40

4(1) The *Public Lands Act* is amended by this section.

(2) Section 9 is amended by adding the following after clause (j):

- (j.1) respecting appeals from notices of administrative penalty issued under section 49 including, without limitation, regulations respecting
 - (i) the composition and manner of appointment of the appeal body;
 - (ii) the evidence to be considered by the appeal body and the factors that the appeal body is to consider in reaching its decision;
 - (iii) the powers of the appeal body to confirm or reverse a notice of administrative penalty and to vary the amount of an administrative penalty;
 - (iv) the procedure to be followed in the appeal and the procedure before the appeal body;
- (j.2) respecting the publication of particulars of enforcement action for the purposes of section 50.4 including, without limitation, what information must or may be published and the times at which and the manner in which it is to be published;

(3) The following is added after section 15:

Refusal for unpaid debts

15.1 The Minister may refuse to issue or renew a disposition where the applicant is indebted to the Crown.

(4) Section 26 is amended by adding the following after subsection (2):

(2.1) The Minister may cancel or suspend a disposition where the holder of the disposition is indebted to the Crown.

(5) Sections 48 to 50 are repealed and the following is substituted:

Administrative penalty

48(1) Where a person

- (a) without proper legal authority makes use of public land,
- (b) as a holder of a disposition, without the consent of the Minister, makes use of the public land contained

in the disposition for any purpose other than that for which the disposition was granted, or

(c) contravenes a term or condition of the disposition,

the Minister may require the person to pay to the Government an administrative penalty in an amount prescribed by the Minister.

(2) The amount of an administrative penalty in a case referred to in subsection (1)(c) may not exceed \$5000.

Notice of administrative penalty

49(1) Where the Minister requires a person to pay an administrative penalty under this Act, the Minister shall serve on the person personally or by mail a notice of administrative penalty demanding payment of the penalty within 30 days of the date of service of the notice.

(2) The notice of administrative penalty must state the grounds on which the penalty was assessed.

Daily penalty

50 A person is liable for an administrative penalty for each day or part of a day on which the contravention occurs and continues, and where this Act prescribes the maximum amount of an administrative penalty, the maximum is the maximum for each day or part of a day on which the contravention occurs and continues.

Protection from prosecution

50.1 A person who pays an administrative penalty in respect of a contravention may not be charged under this Act with an offence in respect of that contravention.

Limitation period

50.2 A notice of administrative penalty may not be issued more than 2 years after the later of

- (a) the date on which the contravention to which the notice relates occurred, or
- (b) the date on which evidence of the contravention first came to the notice of the Minister.

Enforcement in Court of Queen's Bench

50.3 Subject to the right to appeal a notice of administrative penalty, where a person fails to pay an administrative penalty in

accordance with the notice of administrative penalty and the regulations, the Minister may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench and, on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

Publication of information

50.4 Subject to the regulations, the Minister shall publish particulars of enforcement action taken under this Act.

(6) The following is added before section 55:

Liability of directors and officers

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

Vicarious responsibility

54.2 For the purposes of this Act, an act or thing done or omitted to be done by a director, officer, official, employee or agent of a corporation in the course of employment or in the exercise of powers or the performance of duties is deemed also to be an act or thing done or omitted to be done by the corporation.

(7) This section comes into force on Proclamation.

Water Act

Amends RSA 2000 cW-3

5(1) The *Water Act* is amended by this section.

(2) The following is added after section 37:

Refusal for unpaid debts

37.1 The Director may refuse to issue an approval where the applicant is indebted to the Government.

(3) Section 43(1)(a)(iv) is repealed and the following is substituted:

(iv) the approval holder is indebted to the Government,

(4) The following is added after section 49:

Refusal for unpaid debts

49.1 The Director may refuse to issue a licence where the applicant is indebted to the Government.

(5) Section 55(1)(d) is repealed and the following is substituted:

(d) if the licensee is indebted to the Government,

(6) Section 60(3) is amended by adding the following after clause (a):

(a.1) the licensee is indebted to the Government,

(7) The following is added after section 66:

Refusal for unpaid debts

66.1 The Director may refuse to issue a preliminary certificate where the applicant for the preliminary certificate is indebted to the Government.

(8) Section 71(1)(c) is repealed and the following is substituted:

(c) if the preliminary certificate holder is indebted to the Government,

(9) Section 78(1)(d) is repealed and the following is substituted:

(d) if the registrant is indebted to the Government;

(10) Section 152 is amended

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

Administrative penalties

152(1) Where the Director is of the opinion that a person has contravened a provision of this Act that is specified for the purposes of this section in the regulations, the Director may, subject to the regulations, by notice in writing given to that person, require that person to pay to the Government an administrative penalty in the amount set out in the notice for each contravention.

(1.1) A notice of administrative penalty may require the person to whom it is directed to pay either or both of the following:

- (a) a daily amount for each day or part of a day on which the contravention occurs and continues;
- (b) a one-time amount to address economic benefit where the Director is of the opinion that the person has derived an economic benefit directly or indirectly as a result of the contravention.

(b) by repealing subsection (3) and substituting the following:

(3) Subject to the right to appeal a notice of administrative penalty to the Environmental Appeal Board, where a person fails to pay an administrative penalty in accordance with the notice of administrative penalty and the regulations, the Minister may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench and, on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

(11) The following is added after section 152:

Publication of information

152.1 Subject to the regulations, the Director shall publish particulars of enforcement action taken under this Act.

(12) Section 169 is amended

(a) in subsection (2) by adding the following after clause (aa):

- (aa.1) governing the publication of particulars of enforcement action for the purposes of section 152.1 including, without limitation, what information must or may be published and the times at which and the manner in which it is to be published;

(b) in subsection (3) by repealing clause (f) and substituting the following:

- (f) prescribing contraventions in respect of which an administrative penalty may be imposed and prescribing the amounts, or the manner of determining the amounts, of the administrative penalties that may be imposed, but in the case of an administrative penalty referred to in section 152(1.1)(a), the administrative penalty may not exceed \$5000 for each contravention or for each day or

Explanatory Notes
Environmental Protection and
Enhancement Act

1(1) Amends chapter E-12 of the Revised Statutes of Alberta 2000.

(2) Section 70 presently reads:

70(1) On application by an approval or registration holder, the Director may, in accordance with the regulations,

- (a) amend a term or condition of, add a term or condition to or delete a term or condition from an approval, or*
- (b) cancel an approval or registration,*

if the Director considers it appropriate to do so.

(2) An application under subsection (1) must be made in the manner provided for in the regulations.

(3) If the Director considers it appropriate to do so, the Director may on the Director's own initiative in accordance with the regulations

- (a) amend a term or condition of, add a term or condition to or delete a term or condition from an approval*
 - (i) if in the Director's opinion an adverse effect that was not reasonably foreseeable at the time the approval was issued has occurred, is occurring or may occur,*
 - (ii) if the term or condition relates to a monitoring or reporting requirement,*
 - (iii) where the purpose of the amendment, addition or deletion is to address matters related to a temporary suspension of the activity by the approval holder, or*

(iv) *where the approval is transferred, sold, leased, assigned or otherwise disposed of under section 75,*

(b) *cancel or suspend an approval or registration, or*

(c) *correct a clerical error in an approval or registration.*

(3) Consequential to amendment in subsection (2). Section 74(6) presently reads:

(6) The Director shall immediately on cancelling or suspending an approval under section 70(3)(b)

(a) *give notice in writing of the cancellation or suspension to the approval holder, and*

(b) *provide notice of the cancellation or suspension in the manner provided for in the regulations.*

(4) Consequential to amendment in subsection (2). Section 91(1)(c) presently reads:

91(1) A notice of appeal may be submitted to the Board by the following persons in the following circumstances:

(c) *where the Director cancels or suspends an approval under section 70(3)(b), the approval holder may submit a notice of appeal;*

(5) Refusal of personal identification number for unpaid debts.

(6) Section 190 presently reads:

190 The Director may cancel a personal identification number where the Director considers it appropriate to do so.

(7) Section 237(2) presently reads:

(2) A person who contravenes a provision referred to in subsection (1) is liable for the administrative penalty for each day or part of a day on which the contravention occurs and continues.

(8) Publication of enforcement action.

(9) Minister's power to make regulations.

(10) Section 239(f) presently reads:

239 The Lieutenant Governor in Council may make regulations

(f) prescribing contraventions in respect of which an administrative penalty may be imposed and prescribing the amounts, or the manner of determining the amounts, of the administrative penalties that may be imposed, not to exceed \$5000

(i) for each contravention, or

(ii) for each day or part of a day on which the contravention occurs and continues,

as the case may be;

Forests Act

2(1) Amends chapter F-22 of the Revised Statutes of Alberta 2000.

(2) Section 1(n) presently reads:

(n) "timber quota" means a share of the allowable cut of coniferous timber within a forest management unit and may also include an allocation by area of deciduous timber within a forest management unit.

(3) Section 4 presently reads in part:

4 The Lieutenant Governor in Council may make regulations

(1) prescribing penalties for contraventions of the provisions of this Act or the regulations;

(4) Section 25 presently reads in part:

(2) The Minister may act under subsection (1) if the holder of a timber quota, timber licence or timber permit

(a) fails to cut the authorized volume of timber or the timber on the authorized amount of forest land during a quadrant,

(b) harvests more timber than is authorized during a quadrant,

(c) fails to pay Crown charges as they become due,

(d) fails to comply with any term or condition of the quota, licence or permit,

(e) fails to carry on operations in accordance with the holder's approved operating plan,

(f) contravenes this Act or the regulations, or

(g) fails to comply with an order of the Minister made pursuant to this Act, the Forest and Prairie Protection Act or the Public Lands Act.

(5) Section 50 presently reads:

50 A person who contravenes the regulations made pursuant to Part 3 is guilty of an offence and liable to a fine of not more than \$1000 and in default of payment to imprisonment for a term of not more than 60 days.

(6) Sections 53 to 57 presently read:

53(1) Subject to sections 50 and 51, a person who contravenes any provision of this Act or the regulations is liable to a penalty in an amount prescribed by the regulations.

(2) Subject to subsection (3), the Minister shall determine the amount of the penalty that any person may be ordered to pay and shall serve on that person a notice demanding payment of the stated amount of the penalty and stating the grounds on which the penalty was assessed.

(3) A notice under subsection (2) may not be issued more than 2 years after

(a) the date on which the contravention occurred, or

(b) the date on which evidence of the contravention first came to the attention of a forest officer,

whichever occurs later.

54 A person who has been served by ordinary mail with a notice pursuant to section 53 shall pay to the Minister the amount of the penalty within 30 days from the date of service of the notice.

55 When a person fails to pay a penalty in accordance with a notice under section 54, the Minister may bring an action for the recovery of the penalty and in the action it is the duty of the court

(a) to determine whether that person is liable to a penalty under section 53(1),

(b) if it is determined that the person is liable to a penalty, to confirm or vary the amount claimed by the Minister,

(c) to give any judgment that it may decide, and

(d) to make any order as to costs or otherwise that it may decide.

56(1) If a corporation

(a) commits an offence under this Act, or

(b) contravenes any provision of this Act or the regulations,

any officer, director, employee or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the offence or contravention is guilty of the offence or liable under section 53 to a penalty for the contravention, as the case may be.

(2) Subsection (1) applies whether or not the corporation has been

(a) prosecuted for or convicted of the offence, or

(b) assessed a penalty for the contravention.

57 If a person has been served with a notice under section 53 respecting a contravention of this Act or the regulations, the Minister must disclose to the public the name of the person, the municipality in which the person resides, a description of the contravention and the amount of the penalty.

(7) Coming into force.

Mines and Minerals Act

3(1) Amends chapter M-17 of the Revised Statutes of Alberta 2000.

(2) Section 63 presently reads:

63(1) Notwithstanding and in addition to any other penalty provided for by this Act or the regulations, a person who contravenes section 47, 48(3), 50, 52(2), 53, 54 or 79 or a regulation made under section 5(1)(j) is guilty of an offence and liable to a fine of not more than \$100 000.

(2) Every person who, under this Act, files or submits any report, return, estimate, declaration, plan, map, survey, record or other information or makes any statement or answers any question, whether in connection with an agreement or otherwise, knowing that the report, return, estimate, declaration, plan, map, survey, record, other information, statement or answer is false or misleading or misrepresents or fails to disclose a material fact, is guilty of an offence and liable

(a) to a fine of not more than an amount of money equal to the value of the Crown's royalty share of a mineral or the amount of money, as

the case may be, of which the Crown in right of Alberta was deprived by reason of the commission of the offence, or

(b) to a fine of not more than \$100 000,

whichever is the greater.

(3) In any prosecution for an offence under this section, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the accused's knowledge or consent and that the accused took all reasonable measures to prevent its commission.

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

(5) A prosecution for an offence under section 54(1) may be commenced within 60 months from the date on which the subject-matter of the prosecution arose, and not afterwards.

(3) New provisions covering vicarious liability.

(4) Lieutenant Governor in Council may make regulations.

(5) Section 109 presently reads:

109(1) The Minister may

(a) refuse to grant an exploration approval or refuse to issue a licence or permit, or

(b) make an exploration approval, licence or permit subject to any conditions the Minister prescribes.

(2) The Minister may exempt from this Part any equipment used or employed in exploration.

(6) Section 110 presently reads:

110(1) The Minister may cancel an exploration licence or an exploration permit if the licensee or permittee, as the case may be, or any person performing any operation or function under the authority of a licence or permit,

- (a) contravenes this Part or the regulations, or*
- (b) fails to comply with any condition of an exploration approval, licence or permit.*

(2) The Minister may cancel a licence or permit

- (a) if the licence or permit was issued in error, or*
- (b) if the licensee or permittee, as the case may be, requests the cancellation.*

(3) If a permittee or any person authorized by the permittee to operate exploration equipment

- (a) contravenes this Part or the regulations, or*
- (b) fails to comply with any condition of an exploration approval, licence or permit,*

the Minister may, with or without conditions, order the suspension of the permit of that permittee with respect to all or any specified exploration equipment of the permittee, either indefinitely or for a specified period.

(4) The Minister may

- (a) reinstate a licence or permit cancelled pursuant to subsection (1) on any conditions the Minister may prescribe, or*
- (b) terminate a suspension made under subsection (3).*

(7) Section 112 presently reads:

112(1) If a person

- (a) contravenes this Part or the regulations, or*

(b) fails to comply with any condition of an exploration approval, licence or permit,

the Minister may order that person to pay to the Crown a penalty not exceeding the maximum penalty prescribed by the regulations in relation to that contravention or failure to comply.

(2) When the contravention or failure to comply is of a continuing nature, the penalty ordered to be paid under subsection (1) may, subject to the regulations, be a penalty payable for each day on which the contravention or failure to comply occurs.

(3) When the Minister orders a person to pay a penalty under subsection (1), the Minister shall serve on that person personally or by registered mail a notice demanding payment of the amount of the penalty and stating the grounds on which the penalty was ordered.

(4) A person who has been served with a notice pursuant to subsection (3) shall pay to the Minister the amount of the penalty within 30 days from the date of the service of the notice on the person.

(5) If a person fails to pay a penalty in accordance with subsection (4), the Minister may recover the penalty by an action in debt and in the action the court shall

(a) determine whether the person is liable to a penalty under subsection (1),

(b) if it is determined that the person is liable to a penalty, confirm or vary the amount of the penalty ordered by the Minister, and

(c) give judgment for the amount of the penalty so confirmed or varied.

(8) Publication of enforcement action.

(9) Coming into force.

Public Lands Act

4(1) Amends chapter P-40 of the Revised Statutes of Alberta 2000.

(2) Lieutenant Governor in Council may make regulations.

(3) Refusal of disposition for unpaid debts.

(4) Section 26 presently reads:

26(1) The Minister may cancel a disposition when

- (a) the holder of the disposition fails to comply with this Act, the regulations or the disposition, or fails to comply with a notice given under this Act,*
- (b) the holder acquired the disposition in error or through fraud, misrepresentation, personation or improvidence, or*
- (c) the holder of the disposition is convicted of an offence against this Act or the regulations that relates to the use of the land contained in the holder's disposition.*

(2) The Minister may cancel a disposition if the Minister is requested in writing by the holder to do so.

(3) The Minister may cancel a disposition containing a clerical error, misnomer or wrong or defective description of land and issue a correct disposition in its place.

(5) New provisions respecting administrative penalties. Sections 48, 49 and 50 presently read:

48(1) The Minister may require a person who without authority

- (a) makes use of public land, or*

- (b) *as a holder of a disposition, makes use of the public land contained in that disposition for any purpose other than that for which the disposition was granted without the consent of the Minister,*

to pay a sum of money that the Minister prescribes in addition to the regular rate prescribed for that use.

- (2) *The sum of money prescribed by the Minister pursuant to subsection (1) is a debt payable to the Crown on demand by the Minister.*

49(1) The Minister may require a person who holds a disposition or an authorization under section 20(1) and who contravenes a term or condition of the disposition or authorization to pay to the Minister a penalty in an amount prescribed by the Minister, not to exceed \$5000.

- (2) *The Minister shall serve on the person referred to in subsection (1) personally or by ordinary mail addressed to the person at the person's address according to the Minister's records, a notice demanding payment of the amount of the penalty within 30 days after the date of service of the notice.*

- (3) *The notice shall state the grounds on which the penalty was assessed.*

- (4) *If the person referred to in subsection (1) fails to pay the amount in accordance with the notice, the Minister has a cause of action for the recovery of it and, in such an action, the court*

- (a) *may make any order it considers just regarding the payment by that person of the amount or any of it, and*
- (b) *may make any other order it considers appropriate, including an order respecting costs.*

50 If a person

- (a) *is required to make payment under section 48 for an unauthorized use of public land, or*
- (b) *has been served with a notice under section 49 with respect to a contravention of a disposition or an authorization,*

the Minister must disclose to the public the name of the person, the municipality in which the person resides, a description of the unauthorized use or contravention and the amount of the payment or penalty, as the case may be.

(6) New sections covering liability of directors and officers and vicarious liability.

(7) Coming into force.

Water Act

5(1) Amends chapter W-3 of the Revised Statutes of Alberta 2000.

(2) Refusal of approval for unpaid debts.

(3) Section 43(1)(a)(iv) presently reads:

43(1) The Director may suspend or cancel an approval

(a) on the Director's own initiative without the consent of the approval holder if

(iv) there is a default in any payment of any fees or other money owing by the approval holder to the Government under this Act,

(4) Refusal of licence for non-payment of debts.

(5) Section 55(1)(d) presently reads:

55(1) The Director may suspend or cancel a licence

(d) if there is a default in any payment of any fees or other money owing by the licensee to the Government under this Act,

(6) Section 60(3) presently reads:

(3) The Director may decide not to renew a licence only if

- (a) *the Director is of the opinion that it is not in the public interest to renew the licence,*
 - (b) *the renewal of the licence would be inconsistent with an approved water management plan,*
 - (c) *the water conservation objective of a natural water body from which the diversion of water will be made is not being met,*
 - (d) *the renewal, in the opinion of the Director, would cause a significant adverse effect on the aquatic environment,*
 - (e) *subject to the regulations, in the opinion of the Director,*
 - (i) *there has been no diversion of any of the water allocated in the licence or there has been a failure or ceasing to exercise the rights granted under the licence over a period of 3 years, and*
 - (ii) *there is no reasonable prospect that the licensee will resume diversion of all or part of the water specified in the licence or resume the exercise of the rights granted under the licence,*
- or*
- (f) *there is a term or condition of the licence that the licence is not renewable.*

(7) Refusal of preliminary certificate for non-payment of debts.

(8) Section 71(1)(c) presently reads:

71(1) The Director may cancel a preliminary certificate

- (c) *if there is a default in any payment of any fees or other money owing by the preliminary certificate holder to the Government under this Act,*

(9) Section 78(1)(d) presently reads:

78(1) The Director may suspend or cancel a registration

(d) if there is a default in any payment of any fees or other money owing by the registrant to the Government under this Act;

(10) Section 152 presently reads:

152(1) If the Director is of the opinion that a person has contravened a provision of this Act that is specified for the purposes of this section in the regulations, the Director may, subject to the regulations, by notice in writing given to that person, require that person to pay to the Government an administrative penalty in the amount set out in the notice for each day or part of a day on which the contravention occurs or continues.

(2) A person who pays an administrative penalty in respect of a contravention may not be charged under this Act with an offence in respect of that contravention.

(3) If a person fails to pay an administrative penalty in accordance with a notice under subsection (1) or a decision of the Environmental Appeal Board under section 98 of the Environmental Protection and Enhancement Act, the amount of the penalty is a debt due to the Government by the person and may be recovered by an action in debt.

(11) Publication of enforcement action.

(12) Changes to Minister's powers to make regulations under section 169(2). Section 169(3)(f) presently reads:

(3) The Lieutenant Governor in Council may make regulations

(f) for the purpose of section 152, specifying contraventions in respect of which an administrative penalty may be imposed and prescribing the amounts, or the manner of determining the amounts, of the administrative penalties that may be imposed, which are not to exceed \$5000 for each contravention;

Explanatory Notes