

1990
CHAPTER 13

An Act to amend The Crown Minerals Act

(Assented to June 22, 1990)

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

Short title¹ This Act may be cited as The Crown Minerals Act, 1990.

S.S. 1984-85-86, c.C-50.2 amended

² The Crown Minerals Act is amended in the manner set forth in this Act.

New section 18.13 The Following section is added after section 18:

Reciprocal agreements"18.1(1) The minister may enter into agreements on behalf of the Government of Saskatchewan with:

- (a) the Government of Canada; or
- (b) the government of any other province or territory of Canada;

respecting a reciprocal exchange of information relevant to the administration of this Act or similar legislation of a government mentioned in clause (a) or (b).

"(2) Subject to subsection (3), where the minister has entered into an agreement pursuant to subsection (1), the minister may:

- (a) authorize the release of any information or the contents of any record or return;
or
- (b) allow inspection of or access to any information, record or return;

to any person employed by the government that has entered into the agreement with the minister.

"(3) No release shall be authorized and no inspection or access shall be allowed pursuant to subsection (2) unless the government mentioned in that subsection:

- (a) agrees to communicate or make accessible to the minister on a reciprocal basis the information, records and returns obtained by that government for the purposes of any legislation mentioned in subsection (1); and

- (b) agrees that it will not use any information, records or returns communicated or made accessible by the minister for any purpose other than the administration and enforcement of any legislation mentioned in subsection (1) of that government".

Section 22 amended⁴ Subsection 22(1) is amended by striking out "prescribing":

- (a) in clause (f); and
 - (b) in clause (g);
- and in each case substituting "respecting".

New section 22.15 The following section is added after section 22:

Regulations prevail over agreements, etc.

"22.1(1) Notwithstanding anything contained in:

- (a) an agreement for unit operation; or
- (b) a unit operation order made pursuant to The Oil and Gas Conservation Act;

Whether made before or after the coming into force of this section, the royalties payable with respect to production from the unit shall be determined and calculated in accordance with the regulations and, if the regulations conflict or are inconsistent with the unit agreement or unit operation order, the regulations prevail.

"(2) Notwithstanding anything contained in a Crown lease, whether issued before or after the coming into force of this section, the rents payable with respect to a Crown lease shall be determined and calculated in accordance with the regulations and, if the regulations conflict or are inconsistent with the Crown lease, the regulations prevail".

Section 23 amended⁶(1) Clause 23(3)(c) is amended by striking out "payment of" and substituting "subject to section 23.1, payment of".

(2) Clause 23(4)(a) is amended by striking out "payment of" and substituting "subject to section 23.1, payment of".

(3) The following subsection are added after subsection (4):

"(4.1) Compensation payments pursuant to this section, other than lump sum payments:

- (a) are to be:
 - (i) calculated on the basis of the estimated production from the well or wells mentioned in this section during each month; and
 - (ii) paid in the second month following the month for which each payment is calculated; and

(b) may be adjusted pursuant to subsection (4.2) on verification by the minister of actual production.

"(4.2) If an overpayment of compensation is made:

(a) the minister may:

(i) deduct the amount of the overpayment from the compensation payable in succeeding months; or

(ii) require the recipient of the overpayment to refund the amount of the overpayment to the minister; and

(b) the recipient of the overpayment shall, if required to do so pursuant to subclause

(a)(ii), immediately pay the amount of the overpayment to the minister.

"(4.3) No interest is payable by the minister or the recipient with respect to any overpayment or underpayment of compensation".

New sections 23.1 to 23.9

7 The following sections are added after section 23:

Compensation limited"23.1(1) In this section, 'production year' means:

(a) the period commencing on February 1, 1990 and ending on March 31, 1991; or

(b) any period commencing on April 1, 1991 or any subsequent year and ending on March 31 in the year next following.

"(2) Notwithstanding section 23, on and after the coming into force of this section, the maximum compensation payable to any person pursuant to section 23 or The Oil and Gas Conservation, Stabilization and Development Act for all oil and gas rights acquired by the Crown pursuant to this Act or The Oil and Gas Conservation, Stabilization and Development Act is \$50,000 per production year.

"(3) If, in any production year, a person would have been entitled pursuant to section 23 or The Oil and Gas Conservation, Stabilization and Development Act to compensation in excess of \$50,000:

(a) the right of that person to the amount in excess of \$50,000 is extinguished on the coming into force of this section; and

(b) that person is not entitled to claim the amount in excess of \$50,000 in any subsequent production year, even if the compensation payable to that person with respect to the subsequent production year is less than \$50,000.

"(4) Subsections (2) and (3) apply whether or not the person:

- (a) is:
 - (i) the person from whom the oil and gas rights were acquired; or
 - (ii) the transferee, assignee, heir, executor or administrator of the person mentioned in subclause (i); or
- (b) has any obligation relating directly or indirectly to, or arising out of, the oil and gas rights mentioned in subsection (2) to pay any amount to any other person.

"(5) On and after the coming into force of this section, where a person entitled to compensation pursuant to section 23 or The Oil and Gas Conservation, Stabilization and Development Act transfers or relinquishes, voluntarily or involuntarily, the right to that compensation, the transfer or relinquishment extinguishes:

- (a) the obligation of the Crown to pay the compensation to that person or any person claiming through that person; and
- (b) the right of that person or any person claiming through that person to claim the compensation.

"(6) Subject to subsection (7), subsection (5) does not apply to the transfer to one transferee of a person's entire right to the total amount of compensation to which the person is entitled.

"(7) The total compensation payable to a transferee mentioned in subsection (6) with respect to:

- (a) the right to compensation described in subsection (6); and
- (b) any other rights of the transferee to compensation pursuant to section 23 or The Oil and Gas Conservation, Stabilization and Development Act;

shall not exceed \$50,000 per production year.

"(8) On and after the coming into force of this section, when a lease described in subsection (9) expires, is cancelled or for any other reason is terminated:

- (a) the right of any person to compensation with respect to the oil and gas rights covered by the lease is extinguished; and
- (b) the obligation of the Crown to pay compensation is extinguished, even if the oil and gas rights covered by the lease are subsequently disposed of pursuant to this Act and the regulations.

- "(9) Subsection (8) applies to leases with respect to oil and gas rights mentioned in subsection (2) that:
- (a) were in existence at the day of acquisition of the oil and gas rights by the Crown;
or
 - (b) were issued pursuant to subsection 23(8) or section 34 of The Oil and Gas Conservation, Stabilization and Development Act.
- "(10) Notwithstanding any other Act or law, no person has a right of action against the Crown or any past or present minister, officer, agent or employee of the Crown for:
- (a) the recovery of compensation pursuant to section 23 or The Oil and Gas Conservation, Stabilization and Development Act in excess of the maximum amount set out in this section; or
 - (b) any rights to compensation extinguished by this section.

Registration directed by minister

"23.11(1) In this section and in section 23.2:

- (a) `registered' means registered within the meaning of The Land Titles Act;
- (b) `registrar' means a registrar within the meaning of The Land Titles Act;
- (c) `registration district' means a registration district within the meaning of The Land Titles Act.

"(2) Where:

- (a) oil and gas rights were transferred to and vested in Her Majesty in right of Saskatchewan pursuant to The Oil and Gas Conservation, Stabilization and Development Act; and
- (b) either:
 - (i) no new certificate of title was issued, or no memorandum was entered on certificate of title, as the case may require, to register the transfer to and vesting of the oil and gas rights in the Crown; or
 - (ii) a new certificate of title was issued, or a memorandum was entered on a certificate of title and, in the opinion of the minister, the certificate of title or memorandum requires an amendment;

the minister may, by order, direct the registrar of the registration district in which are situated the lands with respect to which the oil and gas rights pertain to issue a new certificate of title, enter a memorandum on a certificate of title or amend a certificate of title or memorandum, as the case may require, to register the transfer to and vesting of the oil and gas rights in the Crown.

"(3) On the filing of an order pursuant to subsection (2), the registrar:

- (a) shall issue a new certificate of title, enter a memorandum on a certificate of title or amend a certificate of title or memorandum, as the case may require, in accordance with the order; and
- (b) may require any person whose title is affected by this section to surrender the affected duplicate certificate of title for cancellation or endorsement.

"(4) A person who receives a request from a registrar pursuant to clause (3)(b) shall immediately provide the duplicate certificate of title to the registrar.

"(5) On and from a prescribed day, any oil and gas rights:

- (a) that were transferred to and vested in the Crown pursuant to The Oil and Gas Conservation, Stabilization and Development Act; and
- (b) with respect to which the transfer and vesting has not been registered by the issuance of a new certificate of title, the entering of a memorandum on a certificate of title or the amendment of a certificate of title or memorandum;

and deemed not to have been transferred to and vested in the Crown pursuant to The Oil and Gas Conservation, Stabilization and Development Act.

Transfer to trust certificate holder of title to trust lands

"23.2(1) In this section and in sections 23.3 to 23.9:

- (a) `administrator' means the officer of the department appointed by the minister as Administrator of Mineral Rights;
- (b) `trust certificate' means a document evidencing a trust where:
 - (i) the subject matter of the trust is trust lands;
 - (ii) title to the trust lands is registered in the name of the Crown;

- (iii) the beneficial owner of the trust lands is not the Crown; and
- (iv) the Crown acts as trustee, whether or not the document evidencing the trust names the Crown as trustee;

But does not include a royalty trust certificate issued pursuant to section 23 or a gross royalty trust certificate;

- (c) `trust certificate holder' means a person who is:
 - (i) named in a trust certificate as a trust member, or the lawful heirs, executors, administrators or assigns of a trust member; and
 - (ii) the owner of the beneficial interest in the trust lands;
- (d) `trust lands' means the mineral interest described in a trust certificate.

"(2) Subject to subsection (3), where the minister is satisfied as to the ownership of a trust certificate, the minister may:

- (a) in the prescribed manner;
- (b) with or without the consent of the trust certificate holder; and
- (c) notwithstanding anything contained in the trust certificate;

transfer to the trust certificate holder the title to the trust lands.

"(3) Where trust lands are contained in a subsisting disposition issued pursuant to this Act, the minister shall not transfer the title to those trust lands pursuant to subsection (2) unless the consent of each person named in the disposition is first obtained.

"(4) Notwithstanding subsection (3), the minister may transfer the title to trust lands without the consent of a person named in the disposition where the minister considers it appropriate to do so.

"(5) On the registration of the transfer of the title to trust lands pursuant to this section, the trust terminates without further act.

Minister to deal with trust lands

"23.3 Where:

- (a) the minister is unable to locate a trust certificate holder;
- (b) the consents required pursuant to subsection 23.2(3) for the transfer of the title to the trust lands to the trust certificate holder have not been obtained; or
- (c) a person claiming to be a trust certificate holder is unable to prove to the satisfaction of the minister that the person is a trust certificate holder;

the minister may deal with and administer the trust lands as if they were Crown mineral lands and may dispose of the trust lands in accordance with this Act and the regulations.

Allocation to trust certificate holder

"23.4(1) The administrator shall allocate to the trust certificate holder all:

- (a) proceeds from the disposition; and
- (b) revenues derived from the administration;

of trust lands pursuant to section 23.3.

"(2) The administrator shall deduct from any allocation to the trust certificate holder all prescribed fees, charges or expenditures.

Application by trust certificate holder

"23.5(1) Subject to section 23.6, the trust certificate holder may apply to the administrator in accordance with the regulations:

- (a) to have the title to the trust lands transferred to the trust certificate holder; and
- (b) to receive payment of the difference between:

(i) the total of:

(A) the total of all amounts allocated to the trust certificate holder pursuant to subsection 23.4(1); and

(B) interest at the prescribed rate and calculated in the prescribed manner with respect to the amount by which:

(I) the total amount determined pursuant to paragraph (A); exceeds:

(II) the total amount determined pursuant to subclause (ii); and

(ii) the total of all prescribed fees, charges and expenditures deducted from any allocation to the trust certificate holder pursuant to subsection 23.4(2).

"(2) No trust certificate holder is entitled to a mineral interest or proceeds from the disposition or administration of a mineral interest that is greater than the trust certificate holder's share of the beneficial interest in the trust lands as evidenced in the trust certificate.

Vesting in the Crown"23.6(1) Where a search has been conducted by the minister for a trust certificate holder and 10 years have elapsed after the completion of the search and:

- (a) the trust certificate holder has not made an application pursuant to section 23.5; or
- (b) a person claiming to be a trust certificate holder is unable to prove to the satisfaction of the minister that the person is a trust certificate holder;

all right, title and interest of the trust certificate holder in the trust lands or in amounts allocated to the trust certificate holder vest in and become the property of the Crown on the expiry of the 10-year period without further act.

"(2) Notwithstanding any other Act or law, on the vesting in the Crown of the right, title and interest of the trust certificate holder in the trust lands or in amounts allocated to the trust certificate holder:

- (a) the right, title and interest of the trust certificate holder in the trust lands and in amounts allocated to the trust certificate holder pursuant to section 23.4 is extinguished, both at law and in equity as if the right, title or interest has never existed;
- (b) no claim may be made and no action or proceeding commenced or continued by or on behalf of the trust certificate holder with respect to that right, title or interest; and

(c) any trust created at law or in equity with respect to the trust lands or any amounts allocated to the trust certificate holder that are derived from the trust lands, whether before or after the coming into force of this section, is terminated without further act.

Administrator to determine questions

"23.7 The administrator may determine all questions with respect to the interpretation and application of sections 23.2 to 23.6 including, without limiting the generality of the foregoing:

- (a) whether a document is a trust certificate;
- (b) whether a person is a trust certificate holder;
- (c) whether lands are trusts lands;

- (d) whether title to trust lands may be transferred to a trust certificate holder, including:
 - (i) whether the consents required pursuant to subsection 23.2(3) have been obtained; and
 - (ii) whose consents are required pursuant to subsection 23.2(3);
- (e) whether a trust is terminated pursuant to subsection 23.2(5) or 23.6(2);
- (f) the amount of any payment that a trust certificate holder may be entitled to receive pursuant to section 23.5;
- (g) whether the period mentioned in subsection 23.6(1) has elapsed;
- (h) for the purposes of clause 23.6(1)(a), when a search has been completed.

Exemption and non-liability re certain acts omissions

"23.8(1) The Trustee Act does not apply to anything done or omitted to be done or to any rights, obligations or interests dealt with by or pursuant to sections 23.2 to 23.7.

- "(2) Notwithstanding any other Act or law;
- (a) the Crown and the ministers, officers, agents and employees of the Crown; and
 - (b) any other person who has acted as a trustee pursuant to a trust certificate or has been named as a trustee in a trust certificate;

shall not be liable to a trust certificate holder for anything done or omitted to be done, before or after the coming into force of this section, with respect to any matter that is in any way related to the trust, the trust lands or to sections 23.2 to 23.7, including, without limiting the generality of the foregoing:

- (c) negligence with respect to the exercise of any powers or the performance of any duties as trustee or administrator of trust lands or amounts allocated to trust certificate holders; and
- (d) the substitution of trustees and the transfer and acceptance of trustee obligations.

Regulations"23.9 The Lieutenant Governor in Council may make regulations:

- (a) respecting the manner of transferring title to trust lands to trust certificate holders;
- (b) respecting the administration and disposal of trust lands pursuant to section 23.3;

- (c) prescribing and governing:
 - (i) fees;
 - (ii) charges for activities carried out pursuant to sections 23.2 to 23.7; and
 - (iii) expenditures incurred pursuant to sections 23.2 to 23.7;

that may be deducted from any allocation to a trust certificate holder pursuant to subsection 23.4(2);

- (d) for the purposes of paragraph 23.5(1)(b)(i)(B), prescribing and governing interest rates and the manner of calculating interest;
- (e) respecting applications pursuant to section 23.5".

Coming into force⁸(1) Subject to subsection (2), this Act comes into force on the day of assent.

- (2) Section 23.1 of The Crown Minerals Act, as enacted by section 6 of this Act, comes into force on the day of assent but is retroactive and is deemed to have been in force on and from February 1, 1990.