

1992

CHAPTER 25

An Act to amend The Crown Minerals Act and to make consequential amendments to certain other Acts resulting from the enactment of this Act

(Assented to July 31, 1992)

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

SHORT TITLE

Short title

1 This Act may be cited as *The Crown Minerals Amendment Act, 1992*.

AMENDMENTS TO *THE CROWN MINERALS ACT*

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.

Section 2 amended

3(1) Subsection 2(1) is amended:

(a) in clause (i), by striking out “, or sand or gravel that belongs to the owner, other than the Crown, of the surface of the land” and substituting “or sand or gravel”;

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

“(l.1) ‘**tax**’ means a tax however it is described”; **and**

(c) by repealing clause (m).

(2) The following subsections are added after subsection 2(1):

“(1.1) A reference in this Act or the regulations to a royalty is deemed to include a reference to a tax.

“(1.2) Every provision in this Act or the regulations respecting the imposing, taking, calculating, collecting, fixing, enforcing the payment of or paying a royalty applies, with any necessary modification, to the imposing, taking, calculating, collecting, fixing, enforcing the payment of or paying of a tax”.

Section 3 amended

4(1) Subsection 3(3) is repealed and the following substituted:

“(3) Notwithstanding subsections (1) and (2), the Lieutenant Governor in Council may make regulations exempting from the application of this Act the sale, assignment, transfer or other disposition of any right to or interest in any Crown mineral or any Crown mineral lands owned or held by Crown corporations designated in the regulations”.

(2) The following clause is added after clause 3(4)(b):

“(c) for the purpose of assisting Her Majesty the Queen in right of Canada to satisfy or discharge any obligations or undertakings of Her Majesty in right of Canada to Indian Bands in Saskatchewan”.

Section 10 amended

5 Section 10 is amended by adding “pursuant to section 9” after “Where the cancellation”.

New section 10.1

6 The following section is added after section 10:

Cancellation for environmental concerns

"10.1(1) In this section, 'development' means a development as defined in *The Environmental Assessment Act*.

(2) The minister shall cancel all or those portions of Crown dispositions where:

(a) either:

(i) the Crown dispositions or portions of Crown dispositions are within an area affected by a development if:

(A) an environmental assessment and review process conducted under *The Environmental Assessment Act* determines that the development should not proceed; and

(B) the Lieutenant Governor in Council, on the recommendation of the minister responsible for the administration of *The Environmental Assessment Act*, directs the minister to cancel all or those portions of a Crown disposition within the area affected by the development; or

(ii) the minister is directed by the Lieutenant Governor in Council to cancel the Crown dispositions or portions of Crown dispositions for the purposes of environmental protection; and

(b) the holders of the Crown dispositions consent in writing to the cancellation.

(3) If the minister cancels all or a portion of a Crown disposition pursuant to this section, the minister shall:

(a) notify, in any manner the minister considers appropriate, the holder of the Crown disposition of the cancellation or partial cancellation;

(b) provide any compensation or financial assistance that may be prescribed in the regulations to compensate holders of Crown dispositions that are wholly or partly cancelled; and

(c) withdraw from disposition, in accordance with section 21, those Crown mineral lands with respect to which a Crown lease has been cancelled or partially cancelled pursuant to this section.

(4) If the minister cancels only a portion of a Crown disposition pursuant to this section and the holder of the Crown disposition wishes to retain the uncanceled portion of the Crown disposition, the holder shall comply with any directions of the minister respecting restaking and any other matters that the minister considers necessary.

(5) Notwithstanding any other Act or law, no person has a right of action against the Crown, the minister, the department, the minister responsible for the administration of *The Environmental Assessment Act*, the department over which that minister presides or any officer, agent or employee of the Crown for any loss resulting from or related to the cancellation of all or a portion of a Crown disposition other than for any compensation or financial assistance that may be prescribed in the regulations for the purpose of compensating the holders of cancelled Crown dispositions.

(6) Notwithstanding any other Act or law, the Crown's only obligations with respect to a Crown disposition that has been wholly or partially cancelled pursuant to this section are the obligations mentioned in subsection (3)".

Section 16 amended

7 Subsection 16(1) is amended by adding "or except if that determination is the determination of a price for the purpose of calculating the royalties payable under Crown leases and is made by or pursuant to the regulations made under clause 22(1)(f.2)" before "within 90 days".

New section 16.1

8 The following section is added after section 16:

Termination of deeper rights

"16.1(1) In this section:

- (a) **`deeper rights'** means the petroleum, natural gas or petroleum and natural gas rights in a Crown lease below the base of the deepest productive zone;
- (b) **`deepest productive zone'** means the deepest zone, as determined by the minister, within a Crown lease from which, in the opinion of the minister, petroleum, natural gas or petroleum and natural gas:
- (i) is being produced in commercial quantities; or
 - (ii) is capable of being produced in commercial quantities, as determined by the minister in accordance with the regulations;
- (c) **`primary term'** means the initial term of a Crown lease as set out in the Crown lease, exclusive of any extensions for that term set out in that Crown lease.
- (2) This section applies to all Crown leases that grant the right to extract, recover or produce petroleum, natural gas or petroleum and natural gas, whether those Crown leases were issued before, on or after the coming into force of this section.
- (3) Notwithstanding any other provision of this Act, the regulations, any other Act or law or any term or condition of a Crown lease, following the expiry of the later of five years from the coming into force of this section and the primary term of a Crown lease, the minister, in accordance with the regulations, may terminate all or part of the Crown lease covering the deeper rights granted by the Crown lease.
- (4) Notwithstanding subsection (3) but subject to subsection (5), the holder of a Crown lease may apply to the minister for approval to have the deeper rights continue as part of the Crown lease.
- (5) An application pursuant to subsection (4) shall:
- (a) be made in the manner prescribed in the regulations;
 - (b) contain the information prescribed in the regulations; and
 - (c) be made not less than 60 days before the April 1 of the year in which the deeper rights may be terminated pursuant to this section.
- (6) On receipt of an application pursuant to subsection (4), if the minister considers it appropriate, the minister may declare that the deeper rights are not terminated but are continued as part of the Crown lease subject to any terms and conditions that the minister considers appropriate.
- (7) The provisions of this section and the regulations made for the purposes of this section prevail in the case of any conflict between:
- (a) this section and the regulations made for the purposes of this section; and
 - (b) the terms and conditions of a Crown lease or any advertisement, notice, agreement or other document pursuant to which a Crown lease was offered or made available for disposition.
- (8) The minister is not required to provide the holder of any Crown lease with any notice that deeper rights may be terminated or have been terminated pursuant to this section".

Section 22 amended

9 Section 22 is amended:

(a) by adding "defining," before "enlarging" in clause (a);

(b) by adding the following clauses after clause (1)(f):

"(f.1) for the purposes of clause (f), authorizing the minister to make orders determining any factors to be used in calculating the rate or rates of royalties;

"(f.2) respecting the determination of a price received or receivable for the purpose of calculating the royalties payable under Crown leases including:

(i) establishing a minimum price of a mineral or the fair market value price of a mineral; or

(ii) requiring that amounts received or receivable, other than the price, be included in that price;

"(f.3) respecting the determination of allowances, credits or other deductions that may be made or taken in calculating the royalties payable under Crown leases";

(c) by adding the following clauses after clause (1)(i):

"(i.1) respecting the duties and obligations of the holders of Crown dispositions and the terms

and conditions applicable to Crown dispositions and, for that purpose, may establish different classes of Crown dispositions and may impose different duties, obligations, terms and conditions for different classes of Crown dispositions;

"(i.2) requiring holders of Crown dispositions to comply with the duties, obligations, terms and conditions prescribed pursuant to clause (i.1), and prescribing the consequences of any non-compliance;

"(i.3) prescribing compensation or financial assistance, in any form that the Lieutenant Governor in Council considers appropriate, to compensate holders of Crown dispositions that have been wholly or partially cancelled pursuant to section 10.1;

"(i.4) respecting remedies available to the minister to collect unpaid rents, royalties or other amounts owing under this Act, the regulations or a Crown disposition, including:

(i) providing that unpaid amounts constitute a lien or other charge in favour of the Crown in priority to all other claims, interests and encumbrances;

(ii) providing that the person liable to pay the unpaid amount is deemed to hold the unpaid amounts in trust for the Crown, in priority to all other claims, interests and encumbrances;

(iii) providing for the realization by the minister of the lien, charge or trust in favour of the Crown;

"(i.5) prescribing the manner in which and conditions under which the minister may terminate deeper rights under section 16.1;

"(i.6) prescribing the manner in which applications may be made pursuant to section 16.1 by holders of Crown leases, and the information to be contained in those applications, for the purposes of continuing deeper rights as part of the Crown leases"; **and**

(d) by adding ` (f.1), (f.2) or (f.3)' after `(f)' in subsection (3).

Section 22.1 amended

10 **Subsection 22.1(2) is amended:**

(a) by adding "and royalties" after "the rents"; and

(b) by adding "or a Crown mineral" after "with respect to a Crown lease".

Section 23 amended

11(1) **Subsection 23(1) is amended by adding "and in sections 23.01, 23.1 and 23.11" after "In this section".**

(2) Subclause 23(4)(a)(i) is amended by striking out "as amended or substituted from time to time" and substituting "as they existed on January 1, 1974,".

(3) Subsection 23(5) is repealed.

New section 23.01

12 **The following section is added after section 23:**

Encumbrance holder's payments limited

"23.01(1) In this section:

(a) `**encumbrance**' means an encumbrance, lien, estate or interest that was registered against the title to oil and gas rights on or before December 10, 1973 and that was in effect on that date or that was protected by a caveat filed on or before that date;

(b) `**encumbrance holder**' means a person who is entitled to a payment of moneys or other consideration under an encumbrance and includes a transferee, assignee, heir, executor or administrator of that person;

(c) `**production year**' means production year as defined in section 23.1.

- (2) Notwithstanding any other provision of this Act, the regulations or any other Act or law, the person entitled to compensation for oil and gas rights under section 23, section 23.1 or *The Oil and Gas Conservation, Stabilization and Development Act* is solely responsible for paying any amounts outstanding with respect to the encumbrance and the Crown is not responsible for paying any of those amounts.
- (3) Subject to subsection (4), the right of an encumbrance holder to a percentage of production or of the value of production is fully satisfied by payment of the percentage specified in the encumbrance calculated on the amounts paid by the Crown to the person entitled to compensation pursuant to subsection (2).
- (4) On and after February 1, 1990, the maximum moneys or other consideration payable by a person described in subsection (2) as entitled to compensation to any encumbrance holder in any way related to oil and gas rights acquired by the Crown pursuant to this Act or *The Oil and Gas Conservation, Stabilization and Development Act* is \$10,000 per production year.
- (5) If in any production year an encumbrance holder would have been entitled to moneys payable or other consideration greater than \$10,000 from a person described in subsection (2) as entitled to compensation:
- (a) the right of that encumbrance holder to the amount greater than \$10,000 is extinguished on the coming into force of this subsection; and
 - (b) that encumbrance holder is not entitled to claim the amount greater than \$10,000 in any subsequent production year, even if the moneys payable or other consideration payable to that encumbrance holder with respect to the subsequent production year is less than \$10,000.
- (6) Subsections (4) and (5) apply whether or not the encumbrance holder:
- (a) is:
 - (i) the encumbrance holder registered on title when the oil and gas rights were acquired; or
 - (ii) the transferee, assignee, heir, executor or administrator of the encumbrance holder 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 (4) to pay any amount to any other person.
- (7) On and after February 1, 1990, where an encumbrance holder entitled to moneys or other consideration transfers or relinquishes, voluntarily or involuntarily, the right to those moneys or other consideration, the transfer or relinquishment extinguishes the right of that encumbrance holder or any person claiming through that encumbrance holder to claim the moneys or other consideration.
- (8) Subject to subsection (9), subsection (7) does not apply to the transfer to one transferee of an encumbrance holder's entire right to the total amount of moneys or other consideration to which the encumbrance holder is entitled or to any transfer of an encumbrance holder's right to money or other consideration when the minister or the minister's designate has consented in writing to the transfer.
- (9) The total moneys or other consideration payable by a person described in subsection (2) as entitled to compensation to a transferee mentioned in subsection (8) with respect to:
- (a) the right to moneys or other consideration described in subsection (8); and
 - (b) any other rights of the transferee to moneys or other consideration pursuant to this section;
- shall not exceed \$10,000 per production year.
- (10) On and after February 1, 1990, when a lease described in subsection 23.1(9) expires, is cancelled or for any other reason is terminated:
- (a) the right of any encumbrance holder to moneys or other consideration with respect to the oil and gas rights covered by the lease is extinguished; and
 - (b) the obligation of the owner to pay moneys or other consideration is extinguished, even if the oil and gas rights covered by the lease are subsequently disposed of pursuant to this Act and the regulations.
- (11) Subsection (10) applies to leases with respect to oil and gas rights mentioned in subsection 23.1(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) of this Act or section 34 of *The Oil and Gas Conservation, Stabilization and Development Act*.

(12) 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 or any person who is required to pay to an encumbrance holder any payment or other consideration with respect to an encumbrance for:

- (a) the recovery of any payment or other consideration pursuant to section 23, this section, section 23.1 or *The Oil and Gas Conservation, Stabilization and Development Act* in excess of the maximum amount set out in this section;
- (b) any rights to moneys or other consideration to encumbrance holders that are extinguished by this section; or
- (c) any claim to any money, compensation, payment or damages for any rights, interests or other claims taken or limited by this section”.

Section 23.7 amended

13 The following clause is added after clause 23.7(h):

“(i) where there is multiple ownership of a trust certificate, which name shall appear on the certificate of title”.

New sections 27.1 and 27.2

14 The following sections are added after section 27:

“ARTIFICIAL REDUCTION OF ROYALTY

Artificial reduction of royalty

“27.1(1) If, in the opinion of the minister, the result of one or more acts, agreements, arrangements, transactions or operations is to unduly or artificially reduce the liability for royalty payments under this Act, the minister may calculate the royalty as if the act, agreement, arrangement, transaction or operation had not occurred.

(2) For the purposes of subsection (1), the minister may estimate the amount of royalty that would have been payable had the act, agreement, arrangement, transaction or operation not occurred.

“LEASE OF SPACES

Lease of spaces

“27.2(1) In this section, ‘**spaces**’ means the spaces occupied or formerly occupied by a Crown mineral.

(2) Notwithstanding the terms or conditions of any Crown lease, all spaces are the property of the Crown and remain the property of the Crown whether or not a Crown lease is issued for the Crown mineral within the space and whether or not the Crown mineral is produced, recovered or extracted from the space.

(3) The minister may enter into agreements to lease spaces.

(4) An agreement entered into pursuant to subsection (3) may be for any period and contain any terms and conditions that the minister considers appropriate.

(5) All agreements to lease spaces that were made by the minister before, on or after the coming into force of this section are ratified and confirmed”.

CONSEQUENTIAL AMENDMENTS

S.S. 1990-91, c.13, section 8 amended

15 Subsection 8(2) of *The Crown Minerals Amendment Act, 1990* is repealed and the following substituted:

“(2) Sections 6 and 7 of this Act, come into force on the day of assent but are retroactive and are deemed to have been in force on and from February 1, 1990”.

S.S. 1984-85-86, c.M-16.1, section 2 amended

16 Clause 2(1)(f) of *The Mineral Resources Act, 1985* is amended by striking out “, agricultural soil, or sand or gravel that belongs to the owner, other than the Crown, of the surface of the land” and substituting “or agricultural soil”.

R.S.S. 1978, c.P-31, section 2 amended

17 Clause 2(f) of *The Provincial Lands Act* is amended by striking out “, gravel, sand”.

COMING INTO FORCE

Coming into force

18(1) Subject to subsections (2) to (6), this Act comes into force on the day of assent.

(2) Subsection 11(2) 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 January 1, 1974.

(3) Subsection 11(3) of this Act and subsections 23.01(1), (2) and (3) of *The Crown Minerals Act*, as being enacted by section 12 of this Act, come into force on a day to be fixed by proclamation of the Lieutenant Governor but are retroactive and, on proclamation, are deemed to have been in force on and from January 1, 1974.

(4) Subsection 11(1) of this Act and subsections 23.01(4) to (12) of *The Crown Minerals Act*, as being enacted by section 12 of this Act, come into force on a day to be fixed by proclamation of the Lieutenant Governor but are retroactive and, on proclamation, are deemed to have been in force on and from February 1, 1990.

(5) Clause 3(1)(a) and sections 16 and 17 of this Act come into force on a day to be fixed by proclamation of the Lieutenant Governor.

(6) Section 15 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 June 22, 1990.