

1995

CHAPTER 18

An Act to amend *The Crown Minerals Act*

(Assented to May 18, 1995)

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

Short title

1 This Act may be cited as *The Crown Minerals Amendment Act, 1995*.

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 16 amended

3 **Section 16 is amended:**

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

“(1) A person who is required to pay a royalty and who objects to any determination made by the minister of the amount of royalty payable, or of any factor or component that must be determined in order to calculate that amount, may appeal the determination within 90 days after the day on which the notice of the determination is mailed to that person pursuant to the regulations.

“(1.1) Before appealing, the person who objects to the determination must pay to the minister the amount required to be paid as a result of the determination.

“(1.2) A person may appeal by delivering to the Board of Revenue Commissioners, either personally or by registered mail, written notice of the appeal setting out:

(a) the reasons for the objections to the determination; and

(b) the allegations of fact and law on which the person appealing relies to support the objections to the determination.

“(1.3) A person may not appeal any part of a determination respecting the price of a mineral made by or pursuant to the regulations made pursuant to clause 22(1.1)(g) for the purpose of calculating the royalty”; **and**

(b) **by repealing subsection (4) and substituting the following:**

“(4) In any appeal pursuant to this section by a person who is required to pay a royalty, that person has the onus of proof of the allegations of fact and law on which he relies to support his objections to the determination”.

New sections 16.01 to 16.04

4 **The following sections are added after section 16:**

“Collection of royalties

16.01(1) Where a determination mentioned in subsection 16(1) is made and no appeal is commenced within the appeal period and the amount of royalty required to be paid as a result of that determination is still owing, or a person who is required to pay a royalty has acknowledged in a return or any other document filed with the minister or the department that he or she is required to pay an amount of royalty specified in that return or other document and that amount has remained unpaid for at least 30 days since the acknowledgement, the minister may:

- (a) certify that amount, plus any penalty or interest owing respecting that amount, in a certificate in the prescribed form; and
 - (b) file that certificate at any judicial centre with the local registrar of the Court of Queen's Bench.
- (2) A certificate filed pursuant to subsection (1):
- (a) is to be served, within 30 days of filing, on the person who is the subject of the certificate, but failure to serve the certificate within 30 days does not affect the validity of the certificate; and
 - (b) has the same force and effect as if it were a judgment obtained in the Court of Queen's Bench for the recovery of a debt in the amount specified in the certificate, together with any reasonable costs and charges respecting its filing.

“Collection from third parties

16.02(1) In this section, 'third party' means a person who is, or is about to become, indebted to or liable to pay money to a person liable to pay or remit a royalty.

- (2) Where a certificate has been filed pursuant to section 16.01, the minister may serve a notice of intention in the prescribed form on the person liable to pay or remit a royalty advising that person of the minister's intention to serve a demand on a third party.
- (3) No sooner than seven days after serving the notice of intention, the minister may serve a demand in the prescribed form on a person who is a third party in relation to the person who is the subject of the certificate requiring that all or any part of the money payable by the third party to that person be paid to the minister immediately on it becoming payable to that person.
- (4) A demand does not apply to any amount payable by a third party where that amount is payable:
- (a) after 30 days following the day on which the demand is served; or
 - (b) after a period not greater than six months following the day on which the demand is served that the minister may specify in the demand.

(5) Payment to the minister by a third party of an amount pursuant to this section discharges the liability of the third party to the person who is the subject of the certificate to the extent of that amount.

(6) Where a third party is served with a demand pursuant to this section and subsequently discharges any liability to the person who is the subject of the certificate or fails to comply with the demand, that third party is liable to the Crown to the extent of the lesser of:

- (a) the amount of liability discharged to the person who is the subject of the certificate; and
- (b) the amount specified in the demand.

“Collection of rent, fees, dues or other charges

16.03(1) Sections 16.01 and 16.02 apply, with any necessary modification, to any rent, fees, dues or other charges, other than royalties, owing pursuant to this Act or the regulations.

(2) Where the minister files a certificate mentioned in section 16.01 respecting any rent, fees, dues or other charges, other than royalties:

- (a) the minister shall serve the certificate on the person who is the subject of the certificate within 30 days of filing; and
- (b) the person who is the subject of the certificate may appeal the certificate to a judge of the Court of Queen's Bench at any time within 30 days after the certificate is served.

“Service of demand or certificate

16.04(1) A certificate mentioned in section 16.01 or 16.03 and a demand or notice mentioned in section 16.02 may be served personally or by registered mail sent to the last known address of the person being served.

(2) A certificate, demand or notice served by registered mail is deemed to have been received on the seventh day following the day of its mailing unless the person to whom it was mailed establishes that, through no fault of his or her own, it was not received or was received on a later date”.

Section 22 amended

5 Section 22 is amended:

(a) in subsection (1):

(i) by repealing clause (c) and substituting the following:

“(c) respecting the granting and administration of Crown dispositions, including, without restricting the generality of the foregoing:

- (i) prescribing the types of dispositions that may be issued;
- (ii) placing restrictions on the issuing of dispositions;
- (iii) prescribing procedures for applying for dispositions;
- (iv) creating the offices of an administrator and a recorder and the duties of those officers;
- (v) governing the recording of dispositions;
- (vi) prescribing the rights, interests, duties and obligations of a holder of a

disposition;

(vii) prescribing terms and conditions to which dispositions are subject and authorizing the minister to issue dispositions subject to additional terms and conditions that the minister considers appropriate, as long as those additional terms and conditions do not create an undue advantage or disadvantage for the disposition holder;

(viii) prescribing rules for determining priority among applicants for dispositions;

(ix) governing the surrender or forfeiture of dispositions;

(x) governing the registration of disputes respecting dispositions; and

(xi) governing the creation of mining districts”;

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

“(d) notwithstanding subsections 3(1) and (2), transferring to any person all or any portion of the Crown’s interest in any Crown mineral or Crown mineral lands”; **and**

(iii) by repealing clauses (f) to (f.3), (i.1), (i.2) and (i.4);

(b) by adding the following subsection after subsection (1):

“(1.1) The Lieutenant Governor in Council, respecting royalties that are excepted and reserved to the Crown under a Crown lease, may make regulations:

(a) defining, enlarging or restricting the meaning of any word or expression used in this Act;

(b) prescribing anything that is, by this Act, to be prescribed by regulation or is to be determined or regulated by regulations;

(c) determining royalty rates and royalties, the manner of calculating royalty rates and royalties and the form and method of payment of royalties;

(d) prescribing formulas to determine royalty rates and royalties;

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- (e) authorizing the minister, by methods prescribed in the regulations, to estimate and set prices for oil and gas to be used in formulas to determine royalty rates;
- (f) respecting the determination of allowances, credits or other deductions that may be made or taken in calculating the royalties payable under Crown leases;
- (g) providing that the price to be used in calculating a royalty may be a price other than the price that has been or will be received for the mineral, including:
- (i) a price equal to a fair market value of the mineral;
 - (ii) where the price is respecting natural gas, an average price;
 - (iii) a minimum price determined in the manner specified in the regulations;
 - (iv) a price determined by including other amounts that have been or will be received;
 - (v) a price determined by deducting fees, charges or other factors specified in the regulations;
- (h) notwithstanding any rule against subdelegation, authorizing the minister to determine, estimate, establish, approve or authorize:
- (i) any price, value, allowance, fee, charge, credit, deduction, exemption, royalty rate or other factor or component to be used in the assessment, calculation or payment of a royalty;
 - (ii) any formula, method of calculation, form or method of payment or period to be used in the assessment, calculation or payment of a royalty;
- (i) respecting remedies available to the minister to collect unpaid rents, royalties or other amounts owing pursuant to 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 amounts 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;
- (j) authorizing the minister to require reports from any person respecting any matter necessary to determine the amount of a royalty;
- (k) determining who is required to pay royalties;
- (l) requiring operators of wells and mines to act as agents of the Crown in the collection and remitting of royalties”;
- (c) in subsection (2) by striking out “subsection (1)” and substituting “subsections (1) and (1.1)”; and**
- (d) in subsection (3) by striking out “under clause (1)(f), (f.1),(f.2) or (f.3)” and substituting “pursuant to clause (1.1)(c), (d), (e), (f), (g) or (h)”.**

Coming into force

6 This Act comes into force on assent.