



Province of Alberta

# **PETROLEUM MARKETING ACT**

Revised Statutes of Alberta 2000  
Chapter P-10

Current as of November 1, 2010

Office Consolidation

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## Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

## Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2009 c20 s9(2)(b) and (d) amend s1, s9(15) repeals and substitutes s16, s9(18) adds s19.1.

## Regulations

The following is a list of the regulations made under the *Petroleum Marketing Act* that are filed as Alberta Regulations under the Regulations Act.

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Petroleum Marketing Act</b>		
Petroleum Marketing.....	174/2006	..... 254/2007, 168/2010

# PETROLEUM MARKETING ACT

## Chapter P-10

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

#### **Definitions**

**1** In this Act,

- (a) "agreement" has the same meaning as in the *Mines and Minerals Act*;
- (a.1) "Commission" means the Alberta Petroleum Marketing Commission;

- (b) “Department” means the Department administered by the Minister;
- (b.2) “hydrocarbon substance” means any substance that is composed primarily of one or more types of hydrocarbons, and includes any other substance specified as a hydrocarbon substance in the regulations;
- (b.3) “lessee” means the holder of an agreement according to the records of the Department;
- (c) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

RSA 2000 cP-10 s1;2009 c20 s9

**Alberta Petroleum Marketing Commission**

**2(1)** There is hereby created a corporation with the name “Alberta Petroleum Marketing Commission” that shall consist of not more than 3 members appointed by the Minister.

**(2) The Minister**

- (a) shall designate one of the members of the Commission as chair and another as vice-chair;
- (b) may prescribe the term of office of any member or the term of office of the chair or vice-chair;
- (c) may prescribe the rates of remuneration to be paid by the Commission to the members of the Commission.

**(3)** The members of the Commission may be paid by the Commission their reasonable travelling and living expenses while absent from their ordinary place of residence and in the course of their duties as members of the Commission, in accordance with a resolution of the Commission.

**(4)** The vice-chair of the Commission shall exercise and perform the powers and duties of the chair in the event of the absence or inability to act of the chair or a vacancy in the office of chair.

RSA 2000 cP-10 s2;2009 c20 s9

**Commission meetings**

**3(1)** Subject to subsection (2),

- (a) if there are 3 members of the Commission in office, 2 members constitutes a quorum at a meeting of the Commission, and

(b) if there are one or 2 members of the Commission in office, one member constitutes a quorum at a meeting of the Commission.

(2) If one or 2 vacancies occur in the membership of the Commission the remaining members or member, as the case may be, may exercise all the powers of the Commission.

(3) At its meetings, the Commission may exercise any of its powers by resolution except when some other mode of exercising the power is prescribed in this or any other Act.

RSA 2000 cP-10 s3;2009 c20 s9

#### **Offices**

4 The Commission may establish offices in any locations that it considers appropriate for the purpose of conducting its business and affairs.

RSA 2000 cP-10 s4;2009 c20 s9

#### **Bylaws**

5(1) The Commission may make bylaws respecting the calling of meetings of the Commission and the conduct of business at them, the duties and conduct of members and generally as to the conduct of the business and affairs of the Commission.

(2) Repealed 2009 c20 s9.

RSA 2000 cP-10 s5;2009 c20 s9

#### **Officers and employees**

6(1) The Commission may appoint any officers and employees it considers necessary and prescribe their duties and their salaries or remuneration.

(2) The Commission may engage the assistance of any persons it considers necessary for the purpose of conducting its business and affairs.

RSA 2000 cP-10 s6;2009 c20 s9

#### **Delegation**

7 The Commission may in writing delegate any power, duty or function conferred or imposed on it by this Act or any other Act or any regulation to any person.

1995 c13 s5

**Commission as Crown agent**

**8(1)** The Commission is for all purposes an agent of the Crown in right of Alberta and its powers may be exercised only as an agent of the Crown in right of Alberta.

**(2)** An action or other legal proceeding in respect of any right or obligation acquired or incurred by the Commission on behalf of the Crown in right of Alberta, whether in its name or in the name of the Crown in right of Alberta, may be brought or taken by or against the Commission, in the name of the Commission, in any court that would have jurisdiction if the Commission were not an agent of the Crown.

RSA 1980 cP-5 s7

**Fiscal year**

**9** The fiscal year of the Commission is the calendar year, unless otherwise prescribed by the Lieutenant Governor in Council.

RSA 1980 cP-5 s9

**Auditor**

**10** The Auditor General is the auditor of the Commission.

RSA 1980 cP-5 s10

**Annual report**

**11(1)** The Commission shall annually, after the end of its fiscal year, prepare a general report summarizing its transactions and affairs during its last fiscal year and showing the revenues and expenditures during that period, an audited balance sheet and any other information required by the regulations.

**(2)** Repealed 2009 c20 s9.

RSA 2000 cP-10 s11;2009 c20 s9

**Financing**

**12(1)** The Minister of Finance and Enterprise shall pay to the Commission the money voted by the Legislature for the purposes of the Commission in equal monthly instalments unless otherwise agreed between the Commission and the Minister of Finance and Enterprise.

**(2)** If the money voted by the Legislature for the purposes of the Commission is not sufficient for the Commission to meet its obligations as they become due, the Lieutenant Governor in Council may authorize the Minister of Finance and Enterprise to make payments to the Commission from the General Revenue Fund.

- (3) The Commission, with the approval of the Minister and to the extent permitted by the Minister,
- (a) may from time to time borrow money from any person or enter into overdraft arrangements with a bank or treasury branch, for the purpose of meeting its obligations as they become due, and
  - (b) may give security for the repayment of that money.
- (4) The Lieutenant Governor in Council may authorize the Minister of Finance and Enterprise to guarantee on behalf of the Crown in right of Alberta the repayment of any money borrowed by the Commission pursuant to subsection (3) and interest on that money.
- (5) The Commission shall, when requested to do so by the Minister of Finance and Enterprise, pay to the Minister of Finance and Enterprise for deposit in the General Revenue Fund the net profit of the Commission for a fiscal year or a part of that net profit specified by the Minister of Finance and Enterprise.

RSA 2000 cP-10 s12;2009 c20 s9

**General powers**

**13(1)** The Commission has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

(2) Repealed 2009 c20 s9.

RSA 2000 cP-10 s13;2009 c20 s9

**Definition**

**14(1)** In section 16, “crude oil” means the crude oil component of petroleum.

(2) This section is repealed on Proclamation.

RSA 2000 cP-10 s14;2009 c20 s9

**Dealing with Crown’s royalty share**

**15** Subject to the regulations, the Commission shall

- (a) accept delivery of the Crown’s royalty share of a hydrocarbon substance required to be delivered to the Commission pursuant to an agreement, a contract under section 9(a) of the *Mines and Minerals Act* or an enactment, and

- (b) deal with the Crown's royalty share of the hydrocarbon substance in a manner that is, in the Commission's opinion, in the public interest of Alberta.

RSA 2000 cP-10 s15;2009 c20 s9

**Direction to transmit or store crude oil**

**16(1)** When the Commission wishes to arrange for the storage of crude oil delivered to it pursuant to section 15, the Commission may

- (a) direct the operator of a pipeline to transmit the crude oil by the operator's pipeline to a storage facility in Alberta designated by the Commission or to a point in Alberta designated by the Commission that is en route to a storage facility, or
- (b) subject to subsection (2), direct the owner of any storage facility in Alberta to accept the crude oil for storage and to store it in that storage facility,

subject to the payment of compensation for it by the Commission in accordance with subsection (3) or (4).

**(2)** The Commission shall not make a direction under subsection (1)(b) in respect of a storage facility consisting of an underground formation unless an approval has been previously obtained from the Energy Resources Conservation Board pursuant to section 39(1)(d) of the *Oil and Gas Conservation Act*.

**(3)** When a direction is made by the Commission under subsection (1)(a) and the Commission is unable to reach an agreement with the owner or operator of the pipeline as to the just and reasonable charges to be paid by the Commission for the transmission of the crude oil by that pipeline, section 110 of the *Public Utilities Act* applies.

**(4)** When a direction is made by the Commission under subsection (1)(b) and the Commission is unable to reach an agreement with the owner or operator of the storage facility as to the just and reasonable charges to be paid by the Commission for the storage of the crude oil, the Alberta Utilities Commission may, on the application of the Commission or the other party to the dispute, fix those storage charges.

**(5)** A person who does not comply with a direction given to the person by the Commission under subsection (1) is guilty of an offence and liable to a fine not exceeding \$5000 for each day that the failure of compliance continues.

**(6)** If a person does not comply with a direction given to the person by the Commission under subsection (1), then, whether or not the person has been convicted of an offence under subsection (5), the Commission may apply to the Court of Queen's Bench for an order requiring that person to comply with the direction.

RSA 2000 cP-10 s16; 2007 cA-37.2 s82(21);2009 c53 s130

**17** Repealed 2009 c20 s9.

#### **Discharge of lessee's liability**

**18(1)** Subject to this section and the regulations, the delivery to the Commission of the Crown's royalty share of a hydrocarbon substance recovered pursuant to an agreement operates to discharge the lessee with respect to the lessee's liability to pay that royalty to the Crown in right of Alberta.

**(2)** Where money is paid to the Commission pursuant to regulations made under section 19(1)(e) as provided for under section 19(2)(a),

- (a) the money is deemed to be payable under an agreement and is for all other purposes deemed to be a money royalty payable on the hydrocarbon substance under an agreement, and
- (b) the payment of the money operates to discharge the lessee of an agreement with respect to the lessee's liability to pay royalty on the hydrocarbon substance to the Crown in right of Alberta to the extent that the money represents the value of the royalty on the hydrocarbon substance as determined under the regulations.

RSA 2000 cP-10 s18;2009 c20 s9

#### **Regulations**

**19(1)** The Lieutenant Governor in Council may make regulations

- (a) specifying substances or classes of substances as hydrocarbon substances for the purposes of this Act;
- (b) respecting other information that must be shown in a general report referred to in section 11;
- (c) respecting information to be furnished to the Commission, the persons required to furnish that information, the form in which that information must be furnished and the time within which the information must be furnished;

- (d) respecting the imposition of pecuniary penalties payable to the Commission, the circumstances in which the penalties may be imposed, the persons liable to pay the penalties and the time by which the penalties must be paid;
- (e) respecting the respective rights, powers, liabilities and obligations of the Commission, lessees and others in the event that the quantity of a hydrocarbon substance delivered to the Commission in a month is less than or greater than the Crown's royalty share of the hydrocarbon substance actually payable in respect of that month;
- (f) providing for any matter in connection with or incidental to the administration of sections 15 to 18.

**(2)** Without limiting the powers of the Lieutenant Governor in Council under subsection (1)(e), regulations may be made under that subsection

- (a) respecting the powers of the Commission, in the event of a deficiency in deliveries of the quantity of the Crown's royalty share of a hydrocarbon substance under an agreement in a month, notwithstanding any provision to the contrary in the *Mines and Minerals Act* or a regulation under that Act,
  - (i) to accept the payment of money instead of delivery of the deficient quantity, or
  - (ii) to direct the payment to the Commission of an amount of money determined by it in accordance with the regulations as the value to the Crown of the deficient quantity;
- (b) respecting the powers of the Commission, in the event of deliveries of a hydrocarbon substance to the Commission in a month in excess of the quantity of the Crown's royalty share of the hydrocarbon substance for that month, to act as the agent of the owner of the excess quantity for the disposition and delivery of the excess quantity to a purchaser in accordance with the regulations.

**(3)** A failure to comply with the regulations under this section in respect of an agreement is, for the purposes of section 45(1)(c)(i) of the *Mines and Minerals Act*, deemed to be a failure to comply with that Act in relation to the agreement, whether or not the lessee has been convicted of an offence in respect of the contravention.

**(4)** Reports and other information supplied to the Commission pursuant to regulations under this section are, for the purposes of

section 38 of the *Mines and Minerals Act*, deemed to be supplied under that Act.

RSA 2000 cP-10 s19;2009 c20 s9