



This Act is Current to July 5, 2017

MINISTRY OF ENERGY AND MINES ACT

[RSBC 1996] CHAPTER 298

Contents

- 1 Ministry of Energy, Mines and Petroleum Resources
- 2 Deputy and employees
- 3 Restrictions on employees
- 4 Duties and powers
- 5 Purpose and functions of ministry
- 6 Minister's powers on energy
- 7 Emergency demand restraint measures
- 7.1 Definitions for sections 8 to 8.5
- 8 Investigations and inquiries
- 8.1 Application of sections 8.2 to 8.5
- 8.2 Power to compel persons to answer questions and order disclosure
- 8.3 Maintenance of order at hearings
- 8.4 Contempt proceeding for uncooperative person
- 8.5 Immunity protection
- 9 Right of entry, etc.
- 10 Right to information
- 11 Privileged records
- 12 Agreements with other jurisdictions
- 13 Roads and other works to facilitate exploration and development
- 13.1 Cost recovery for roads and other works used for resource exploration and development
- 14 Definitions for sections 14 to 21
- 15 Assayer examinations
- 16 Certification
- 17 Certification without examination
- 18 Certificate
- 19 Offence
- 20 Board of examiners
- 21 Appeal from board
- 22 Repealed
- 22.1 Offence
- 22.2 *Offence Act*
- 23 Power to make regulations
- 24 Power of minister to make road use rules

Ministry of Energy, Mines and Petroleum Resources

- 1 (1) There is to be a ministry of the public service called the Ministry of Energy and Mines.
- (2) The minister is to preside over and be responsible to the Lieutenant Governor in

Council for the direction of the ministry.

(3) The minister may establish within the ministry any branches or divisions the minister considers advisable.

Deputy and employees

2 (1) A deputy minister of the ministry and other employees required to carry out the proper business of the ministry may be appointed under the *Public Service Act*.

(2) The minister may contract with any person to provide consultant, specialist or temporary services to the ministry.

Restrictions on employees

3 (1) A deputy minister or other employee in the ministry must not acquire, directly or indirectly, any interest in any mining or petroleum resource property, or the controlling interest in any corporation carrying on a business relating to mining or petroleum resources in British Columbia.

(2) A deputy minister or other employee in the ministry must not, without the minister's consent, hold any authority from the government for a mineral or petroleum resource or their use, or engage or acquire any interest in a business in British Columbia having as one of its objects the exploration, development, production, storage or sale of minerals or petroleum resources.

(3) Despite subsections (1) and (2) or any Act, if the government has a controlling interest in a corporation, a deputy minister or employee of the ministry who is appointed by the corporation as a director or officer of the corporation may, with the minister's consent, act as a director or officer of that corporation.

(4) A person referred to in subsection (3) must not accept remuneration from the corporation other than reasonable travelling and out of pocket expenses necessarily incurred in discharging duties.

(5) Remuneration to which a director or officer of the corporation is entitled as a director or officer must be paid by the corporation to the consolidated revenue fund.

Duties and powers

4 The duties, powers and functions of the minister extend to and include all matters relating to energy, mineral resources and petroleum resources that are assigned to the minister by any Act or by the Lieutenant Governor in Council, and that are not, by law or by the Lieutenant Governor in Council, assigned to another minister, ministry, branch or agency of the government.

Purpose and functions of ministry

5 The purpose and functions of the ministry are, under the direction of the minister:

(a) to prepare and develop comprehensive policies on energy, mineral and petroleum resources in British Columbia, and to make reports and recommendations for their implementation;

(b) to initiate and carry out any investigation, research, study or inventory respecting mineral and petroleum resources, and on energy facilities and future requirements for British Columbia;

- (c) to collect and circulate the information acquired;
- (d) to administer Acts and regulations assigned to the minister under section 4, and discharge other duties assigned to the minister by the Lieutenant Governor in Council;
- (e) to regulate all mining activity;
- (f) to establish energy services for ministries of the government, and for that purpose to obtain from them information about their projects, programs and requirements involving energy.

Minister's powers on energy

6 To carry out duties, functions and powers relating to energy, the minister may

- (a) acquire and dispose of property, and
- (b) expend capital sums required for the purpose of this section out of money appropriated by the Legislature for the purpose.

Emergency demand restraint measures

7 (1) In this section:

"energy resources" includes electricity, petroleum products and natural gas;

"petroleum products" means petroleum, gasoline, naphtha, benzene, kerosene, lubricating oils, stove oil, fuel oil, furnace oil, paraffin, aviation fuels, butane, propane and other liquefied petroleum gas, and all derivatives of petroleum and all products obtained from petroleum, whether or not blended with or added to other things.

(2) If the minister considers that actual or anticipated shortages of energy resources or disturbances in the energy resources markets affect or may affect the social and economic well being of British Columbia, the minister may declare in writing that an emergency under this section exists.

(3) If the minister has made a declaration under subsection (2), the minister may make regulations the minister considers necessary or advisable for the purpose of controlling and regulating the use and supply of, and the demand for, energy resources in British Columbia.

(4) The power given by subsection (3) includes but is not limited to the power to make regulations referred to in section 41 of the *Interpretation Act*.

(5) A declaration under subsection (2) is a regulation under the *Regulations Act*.

Definitions for sections 8 to 8.5

7.1 In sections 8 to 8.5:

"investigation or inquiry" means an investigation or inquiry authorized under section 8;

"investigator" means a person employed under section 8 (2) (a) to initiate and carry out an investigation or inquiry.

Investigations and inquiries

8 (1) For the purposes of this section, **"administrative costs of carrying out the**

investigation or inquiry" means

- (a) costs incurred by the person carrying out the investigation or inquiry for the services of counsel, consultants and experts engaged by the person in connection with the investigation or inquiry,
- (b) the remuneration of the person carrying out the investigation or inquiry in an amount or at a rate that does not exceed an amount or rate specified by the Lieutenant Governor in Council, and
- (c) any other necessary expenses, attributable to the investigation or inquiry, that the Lieutenant Governor in Council specifies.

(2) The Lieutenant Governor in Council may make regulations authorizing the minister, on prescribed terms, to

- (a) employ persons necessary to initiate and carry out investigations and inquiries
 - (i) under section 5 (b),
 - (ii) into any government corporation, government society or government agency specified in the order, or
 - (iii) into any matter arising under any Act administered by the minister,
- (b) for the purposes of an investigation or inquiry, confer on investigators
 - (i) the powers set out in sections 8.2 to 8.4, and
 - (ii) the protection set out in section 8.5,
- (c) order, in connection with an investigation or inquiry under paragraph (a), that a corporation, society or agency of the government specified in the order or its employee or any employee of the government or any public officer answer questions and supply information relevant to the investigation or inquiry, and
- (d) impose limits on the amounts that may be expended on an investigation or inquiry by a person employed under paragraph (a).

(3) The Lieutenant Governor in Council may, in an order under subsection (2),

- (a) authorize the minister or person carrying out the investigation or inquiry to determine by whom, to whom, in what amount and at what time the costs incidental to the investigation or inquiry, including the administrative costs of carrying out the investigation or inquiry, are to be paid, and
- (b) prescribe limits on, and the manner of determining the amount of, the costs referred to in paragraph (a).

Application of sections 8.2 to 8.5

8.1 Sections 8.2 to 8.5 apply to an investigator only if

- (a) a regulation has been made under section 8 (2) (b) authorizing the minister to confer on investigators the powers and protection referred to in that section, and
- (b) the minister confers those powers and that protection on the investigator.

Power to compel persons to answer questions and order disclosure

8.2 (1) For the purposes of conducting an investigation or inquiry, an investigator may make an order requiring a person, other than a person described in section 8 (2) (c), to do either or both of the following:

- (a) attend, in person or by electronic means, before the investigator to answer questions on oath or affirmation, or in any other manner;
- (b) produce for the investigator a record or thing in the person's possession or control.

(2) An investigator may apply to the Supreme Court for an order

- (a) directing a person to comply with an order made under subsection (1), or
- (b) directing any directors and officers of a person to cause the person to comply with an order made under subsection (1).

Maintenance of order at hearings

8.3 (1) At an oral hearing, the investigator may make orders or give directions that he or she considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any order or direction, the investigator may call on the assistance of any peace officer to enforce the order or direction.

(2) A peace officer called on under subsection (1) may take any action that is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose.

(3) Without limiting subsection (1), the investigator, by order, may

- (a) impose restrictions on a person's continued participation in or attendance at a hearing, and
- (b) exclude a person from further participation in or attendance at a hearing until the investigator orders otherwise.

Contempt proceeding for uncooperative person

8.4 (1) The failure or refusal of a person subject to an order under section 8.2 to do any of the following makes the person, on application to the Supreme Court by an investigator, liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court:

- (a) attend before the investigator;
- (b) take an oath or make an affirmation;
- (c) answer questions;
- (d) produce records or things in the person's possession or control.

(2) The failure or refusal of a person subject to an order or direction under section 8.3 to comply with the order or direction makes the person, on application to the Supreme Court by an investigator, liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.

(3) Subsections (1) and (2) do not limit the conduct for which a finding of contempt may be made by the Supreme Court.

Immunity protection

8.5 (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against an investigator, or a person acting on behalf of or under the direction of an investigator, because of anything done or omitted

(a) in the performance or intended performance of any duty under section 8, or

(b) in the exercise or intended exercise of any power under sections 8.2 to 8.4.

(2) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.

Right of entry, etc.

9 (1) The minister, and each employee in the ministry authorized by the minister, may enter any mining or petroleum resources property, and any plant, office or facility relating to it, to make inquiries and examinations, to inspect property and records and to take samples required for the purpose of this Act.

(2) A person who is an owner, holder, occupant or user of a mining or petroleum resources property, and the person's managers and agents, must admit to all parts of the property and every plant, office and facility relating to it the minister and any employee of the ministry for the purpose of this section.

(3) A person who contravenes subsection (2) or refuses or neglects to do anything to enable the minister or an employee of the ministry to make an entry, inquiry, examination or inspection, make copies of records or to take samples required for the purpose of this Act, commits an offence and is liable on conviction to a fine of not less than \$50 and not more than \$500 for each day the offence continues.

Right to information

10 (1) In this section, "**petroleum resources**" includes petroleum products as defined by section 7.

(2) A person who is an owner, holder, occupant or user of a mining or petroleum resources property, a person engaged in exploration for, development, production, processing, refining, transporting, marketing and selling of mineral or petroleum resources, and the person's agent, must promptly supply data and answer in writing, to the best of the person's knowledge and belief, official inquiries about the property or work from the minister or a person authorized by the minister.

(3) A person who contravenes this section commits an offence.

Privileged records

11 (1) A record prepared or submitted by the deputy minister or another employee of the ministry under the direction of the minister or under the regulations is absolutely privileged.

(2) No action or proceeding may be brought against the deputy minister, other employee or another person employed or acting under this Act in respect to a record referred to in subsection (1).

Agreements with other jurisdictions

12 With the consent of the Lieutenant Governor in Council, the minister may enter into arrangements or agreements with Canada, with another province or state or with their

departments or agencies, that the minister considers necessary or advisable to carry out the minister's powers and duties, to exchange information and statistics or for any other joint action.

Roads and other works to facilitate exploration and development

13 With the approval of the Lieutenant Governor in Council, the minister may authorize loans, investments and the expenditure of money for the design, construction, reconstruction and repair of bridges, roads, rails, trails, utilities or other structures or works to facilitate exploration and development of energy, mineral and petroleum resources in British Columbia.

Cost recovery for roads and other works used for resource exploration and development

13.1 (1) In this section, "**vehicle**" means a device in, on or by which a person or thing is or may be transported or drawn on a bridge, rail, road, trail, utility or other structure or work except a device exempted from this definition under the regulations.

(2) The minister may establish and administer a system of cost recovery for the use of bridges, roads, rails, trails, utilities or other structures or works administered by the ministry that are used during the exploration and development of energy, mineral and petroleum resources in British Columbia by one or both of the following methods:

- (a) a system of tolls under the regulations;
- (b) a system of charges by contract with individual users.

(3) If the minister establishes a system of tolls under subsection (2) for the use of a bridge, road, rail, trail, utility or other structure or work, a person must not

- (a) take or operate a vehicle through a toll station without paying the toll applicable to the vehicle, or
- (b) take a vehicle onto or operate a vehicle on the bridge, rail, road, trail, utility or structure without paying the toll applicable to the vehicle.

(4) Subsection (3) does not apply to a vehicle or class of vehicles exempted by regulation from the application of that subsection.

Definitions for sections 14 to 21

14 In sections 14 to 21:

"assay" means the quantification of an element in a sample of rock, mineral, ore or metallurgical product;

"assayer" means a person who performs an assay;

"board" means the board of examiners appointed under section 20;

"certificate" means a certificate of qualification as an assayer granted under section 16, 17 or 21 (5);

"certified assayer" means a person holding a certificate.

Assayer examinations

15 (1) Twice each year, or more frequently as the minister directs, the board must conduct examinations in the practice of assaying and in other related subjects that the minister

directs.

(2) A candidate for an examination must pay the prescribed fee before being examined.

Certification

16 (1) The minister must grant a certificate to a person who passes the examination required by section 15.

(2) A certificate of efficiency granted under a former enactment, and not revoked or suspended, is deemed a certificate under this Act.

Certification without examination

17 The minister may grant a certificate without examination to a person who, on application and payment of the prescribed fee, satisfies the board

(a) that the person has practical experience in chemical analysis and assaying, and has successfully completed courses in those subjects at a school recognized by the board, and

(b) that the practical experience, courses and examinations at the school are adequate to ensure accurate assaying.

Certificate

18 A certificate granted under section 16 or 17 is evidence that the person named in it is qualified to perform assays.

Offence

19 (1) Unless a person holds a certificate granted under this Act, the person must not do any of the following:

(a) by advertisement or otherwise, offer the person's services as a certified assayer;

(b) ask or receive payment for performing an assay, not performed under the supervision of a certified assayer;

(c) give a written statement of the result of an assay performed by the person.

(2) A person who contravenes this section commits an offence.

(3) This section does not apply to a person

(a) who holds a certificate of efficiency granted under an earlier enactment on assayers, or

(b) who practised as an assayer immediately before September 1, 1979, so long as the person was granted a certificate within one year after that date.

Board of examiners

20 (1) The minister must appoint a board of examiners consisting of a chair and 2 other persons, each of whom the minister believes has the qualifications to act as an examiner under section 15.

(2) A board member is appointed during the pleasure of the minister but for a term not exceeding 3 years.

(3) A board member must be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred in discharging duties, and in addition may be paid remuneration determined by the minister.

Appeal from board

- 21** (1) A candidate who fails an examination or is refused examination by the board may appeal to the minister.
- (2) The candidate must serve the minister and the board with a notice of appeal within 30 days after the decision or refusal.
- (3) The minister must hear the appeal within 60 days after receiving the notice of appeal and must make the decision known to the candidate within 15 days after the hearing.
- (4) The candidate and the board are entitled to attend and be represented at the hearing before the minister.
- (5) On hearing the appeal the minister may do any of the following:
- (a) grant the candidate a certificate;
 - (b) order the board to mark the examination again;
 - (c) order the board to examine or reexamine the candidate;
 - (d) confirm the board's decision.
- (6) The minister's decision on the appeal is final and not subject to review.

Repealed

22 [Repealed 2000-23-43.]

Offence

22 . 1 A person who contravenes section 13.1 (3) commits an offence.

Offence Act

22 . 2 Section 5 of the *Offence Act* does not apply to this Act.

Power to make regulations

- 23** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) establishing a system of tolls to be administered by the minister for the purposes of section 13.1;
 - (b) specifying which vehicles are exempted from the application of section 13.1;
 - (c) respecting contracts entered into under section 13.1;
 - (d) establishing rules governing the use of property administered by the minister;
 - (e) respecting the layout, design, construction, operation, use, maintenance and deactivation of roads and other works designated under section 13.1.

Power of minister to make road use rules

24 The minister may make regulations respecting rules for the operation and use of vehicles on a road or other work developed, operated or maintained under this Act.

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