

This Act is current to 30 November 2016.

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

## **PETROLEUM AND NATURAL GAS ACT**

[RSBC 1996] CHAPTER 361

### Contents

#### Part 1 — Definitions

##### 1 Definitions

#### Part 2 — General Rules

##### 2 Forms

##### 3 Expenditure for roads

##### 4 Entry on location

##### 5 Employees prohibited from investing

##### 5.1 Delegation

#### Part 3

##### 6-13 Repealed

##### 14 Repealed

##### 15-22 Repealed

##### 23—24 Repealed

##### 25-26 Repealed

##### 27 Repealed

##### 28-31 Repealed

#### Part 4

##### 32-36 Repealed

#### Part 5 — Permits

##### Division 1

##### 37 Repealed

##### Division 2 — Rights, Issue, Fees, Rental

##### 38 Rights conferred by permit

##### 39 Application for permit

##### 40 Fees and rent

##### 41 Minister's powers and duties

##### Division 3 — Drilling Restrictions and Work Requirements

##### 42 Classes of permits

##### 43 Work requirements

##### 44 Payment in place of work

##### 45 Default

##### 46 Grouping

##### Division 4 — Term and Renewal

##### 47 Renewal of exploration permit

##### 48 Excess work

##### 49 Right to reduce permit

#### Part 6 — Leases

##### Division 1 — Rights Under Leases, Applications and Issue

##### 50 Leases and their rights

##### 51 Application

##### 52 Application by permittee

##### 53 Minister's powers and duties

##### Division 2 — Rentals

##### 54 Rentals

##### Division 3

##### 55 Repealed

##### Division 4

##### 56-57 Repealed

## Division 5 — Term and Continuation

- 58 Expiration and continuation of leases
- 59 Stratigraphic reversion in relation to section 58 lease continuations
- 59.1 Continuation of previous reversion rules for older leases
- 60 Notice to drill
- 61 Continuation of lease for well drilling
- 61.1 Continuation of leases for certain disposal well purposes
- 62 Continuation with penalty
- 63 Default in rental or work
- 64 Surrender of leases

## Part 7 — Spacing Areas

- 65 Normal spacing areas
- 65.1 Other than normal spacing
- 66 Ministerial designations
- 67 No production unless other than normal spacing areas pooled with adjoining areas

## Part 8 — Pooling of Locations

- 68 Pooling of locations to operate spacing areas
- 69 Pooling by board order

## Part 9 — Crown Reserves

- 70 Crown reserves
- 71 Disposal of Crown reserves by public auction or tender
- 72 Withdrawal from disposition under section 71 and alternative disposition

## Part 10 — Royalty

- 72.1 Appointments
- 73 Royalties
- 74 Duty to pay, penalty for breach and refund in cases of overpayment
- 75 Enforcement
- 76 Books and records
- 77 Attachment
- 78 Agreement establishing royalty
- 78.1 Royalty agreements
- 79 Obligation to pay royalty

## Part 11 — Freehold Production Tax

- 80 Freehold production tax
- 80.1 Nisga'a exemption
- 80.2 Treaty first nation exemption
- 81 Application of Part 10 to freehold production tax

## Part 12

82-109 Repealed

## Part 13 — General

- 110 Prohibition
- 111 Production
- 112 Saving
- 113 Affidavits
- 114 Unit agreement
- 115 Unitization order
- 116 Repealed
- 117 Transfers and assignments
- 118 Prohibition against equipment removal
- 119 Cancelled, reverted or abandoned locations
- 120 Abandonment
- 121 Survey of lease
- 122 Reports and other instruments
- 123 Repealed
- 124 Boundaries
- 125 Oil sand

125.1	Electronic form
125.2	Relief respecting rental payments
Part 14 — Underground Storage	
126	Exploration licence for underground storage area
127	Designation of storage area
128	Vesting of storage reservoir
129	Compensation
130	Lease of storage reservoir
131	Repealed
132	Regulations for this Part
Part 15 — Regulations and Penalties	
133	Regulations and orders
133.1	Production and allocation
134	Offence and penalty
135	Cancellation
136	Appeal
137	Repealed
Part 16 — Entry on Restricted Land or Unoccupied Crown Land	
138	Entry on unoccupied Crown land
139	Development roads
140	Entry on restricted land
Part 17 — Entry on Private Land and the Surface Rights Board	
Division 1 — Interpretation	
141	Interpretation for Part
Division 2 — Authority to Enter Private Land	
142	Authority to enter, occupy or use land
143	Rent and compensation
144	Authority to enter, occupy or use land for geophysical exploration
145	Exclusion from application of Part
Division 3 — Surface Rights Board	
146	Surface Rights Board
147	Jurisdiction of board
Division 4 — Operations of the Board	
148	Application of Administrative Tribunals Act
149	Powers of board
150	Form and service of application
151	Completion of application and scheduling proceedings
152	Mediation and arbitration
153	Consent orders
154	Considerations in determining amount
155	Reconsideration by board
156	Waiver of service requirements
Division 5 — Authority to Enter Land	
157	Interpretation for Division
158	Application for mediation and arbitration
159	Right of entry order
160	Security deposit
161	Order when landowner does not participate
162	Determination of money payable and security
Division 6 — Board Orders Relating to Rights of Entry	
163	Application relating to loss or damage caused by right of entry
164	Board orders relating to surface leases
165	Negotiation of amendment to surface lease or order
166	Parties do not agree to amendment of surface lease or order
167	Termination of surface lease or order
Division 7 — Costs	

168	Interpretation for Division
169	Advance costs
170	Costs
Division 8 — Provisions Relating to Board Orders	
171	Registration of order
172	Certified copy as evidence
173	Assignment of order
174	Enforcement of right of entry
175	Enforcement of orders
176	Failure to pay
177	Compliance with orders
Division 9 — Surface Lease Information	
178	Submission of surface lease information
179	Administrative penalty
180	Suspension of right of entry under surface lease
Division 10 — Regulations for Part	
181	Regulations
Schedule	
Part 1 — Definitions	

## Definitions

### 1 In this Act:

"board" means the Surface Rights Board continued under section 146 (1);

"boundary" means a location's surface boundary and its vertical extension;

"certificate of restoration" means a certificate of restoration issued by the commission under section 41 of the Oil and Gas Activities Act;

"commission" means the commission continued under section 2 of the Oil and Gas Activities Act;

"commissioner" means the commissioner appointed under section 2 of the Oil and Gas Activities Act;

"Crown land" means ungranted Crown or public land that belongs to the government, whether or not any water flows over or covers it;

"Crown reserve" means petroleum and natural gas reserved to the government under section 70;

"cubic metre" means, for a volume of

(a) natural gas, that volume measured at 101.325 kPa and 15°C, and

(b) petroleum, that volume measured at 15°C;

"director" means an officer or employee of the ministry who is designated as the Director of Petroleum Lands by the minister;

"division" means the Energy Resources Division of the ministry;

"division head" means the assistant deputy minister designated in writing by the minister as having charge of the division;

"field" means

(a) the surface area underlaid or appearing to be underlaid by one or more pools, and

(b) the subsurface regions vertically beneath that surface area;

"freehold land" means land, including land comprising a right of way, station ground, yard or terminal of a railway but not including Crown land, in respect of which

(a) petroleum and natural gas is, or may be, situated, or

(b) a person has the right to work, win or carry away petroleum or natural gas;

"gas well" means a well in which casing is run and that, in the opinion of the commission, is producing or is capable of producing from a natural gas bearing zone;

"geophysical exploration" means investigation of the subsurface by seismic, gravimetric, magnetic, electric and geochemical operations and by any other method approved by the commission, but does not include the use of geophysical well logs, vertical seismic profile surveys or other surveys obtained from a well;

"holder of a location" means, in accordance with the context, a permittee, licensee or lessee;

"interest" means an undivided interest in a location;

"lease" means a subsisting lease issued under this Act;

"lessee" means a person in whose name a lease is recorded in the division records;

"licence" means, in accordance with the context, a drilling licence or a licence to explore for a storage reservoir under this Act;

"licensee" means a person in whose name a licence is recorded in the division records;

"location" means the land described in a permit, licence or lease;

"natural gas" means all fluid hydrocarbons, before and after processing, that are not defined as petroleum, and includes hydrogen sulphide, carbon dioxide and helium produced from a well;

"officer of the division" means a person employed in the division and authorized by the division head to give an approval under this Act;

"oil and gas activity" has the same meaning as in the Oil and Gas Activities Act;

"oil sand" means sand or other petroliferous substance from which oil sand products can be produced and includes any other substance defined by the Lieutenant Governor in Council as oil sand;

"oil sand products" or "oil shale products" means petroleum or natural gas and all other minerals and substances that can be produced from oil sand or oil shale in association with the production of petroleum or natural gas;

"oil shale" means shale or other petroliferous substance from which oil shale products can be produced and includes any other substance defined by the Lieutenant Governor in Council as oil shale;

"owner" means, except in Part 17,

(a) the government for land so owned,

(b) a person registered in the land title office as the registered owner of the land surface or as its purchaser under an agreement for sale, and

(c) a person to whom a disposition of Crown land has been issued under the Land Act,

and, in relation to a well, includes a person entitled to produce and dispose of petroleum or natural gas from the well;

"permit" means a subsisting exploration permit issued under this Act;

"permittee" means the person in whose name an exploration permit is recorded in the division records;

"petroleum" means crude petroleum and all other hydrocarbons, regardless of gravity, that are or can be recovered in liquid form from a pool through a well by ordinary production methods or that are or can be recovered from oil sand or oil shale;

"petroleum well" means a well in which casing is run and that, in the opinion of the commission, is producing or is capable of producing from a petroleum bearing zone;

"pipeline" has the same meaning as in section 1 (2) of the Oil and Gas Activities Act;

"pool" means an underground reservoir containing an accumulation of petroleum or natural gas, or both, separated or apparently separated from another reservoir or accumulation;

"production" means the flowing of petroleum fluid, natural gas or brine from a well to the surface for the purpose of sale or trade but does not include the flowing of petroleum fluids, natural gas or brine from a well to the surface for the purpose of evaluation of the fluid or formation properties if the petroleum fluid, natural gas or brine is not gathered and stored or shipped for sale or trade;

"recycling" means the injection and subsequent production of natural gas in a field or pool, if petroleum recovery from the natural gas is the primary mode of liquid hydrocarbon production from the field or pool;

"related activity" has the same meaning as in the Oil and Gas Activities Act;

"restricted land" means any of the following:

(a) Crown land that is used or occupied by or on behalf of the government;

(b) land granted by the government to a railway company under an Act that is used or occupied by or on behalf of the railway company;

(c) Crown land to which access is restricted or prohibited under another Act;

"royalty" means a royalty reserved under section 73 (1) and required to be paid by a regulation under section 73 (2) or an agreement under section 78 or 78.1;

"spacing area" means an area of the land surface or subsurface as prescribed by regulation;

"storage reservoir" means a naturally occurring underground reservoir that is capable of being used for the introduction, disposal, storage or recovery of petroleum, natural gas, water produced in relation to the production of petroleum or natural gas, waste or any other prescribed substance;

"storage well" means a well in which casing is run and that, in the opinion of the commission, is used or is capable of being used to dispose of or produce petroleum or natural gas, water produced in relation to the production of petroleum or natural gas, waste or any other prescribed substance into or from a storage reservoir;

"unitized operation" means

(a) the development or production of petroleum and natural gas, the implementation of a program for the conservation of petroleum and natural gas, or the coordinated management of interests in them, or

(b) the development and operation of a storage reservoir

in, on or under a location, part of a location or a number of locations combined for that purpose under a unitization agreement under this Act;

"unoccupied Crown land" means Crown land, other than restricted land,

(a) in respect of which there has been no disposition of an interest in the surface of the land under the Land Act, or

(b) that is subject to

(i) [Repealed 2015-26-49.]

(ii) a licence under section 39 of the Land Act under which a person is granted

(iii) non-intensive occupation or use of the land, or

(iv) occupation and use of an extensive area of Crown land for commercial recreational purposes;

"waste" in addition to its ordinary meaning, means waste as that term is understood in the petroleum and natural gas industry, and includes wasteful operations and the underground or surface loss of potentially recoverable petroleum or natural gas;

"water source well" means a hole in the ground drilled to obtain water for the purpose of injecting water into an underground formation in connection with the production of petroleum or natural gas;

"well" means a hole in the ground

(a) made or being made by drilling, boring or any other method to obtain petroleum or natural gas,

(b) made or being made by drilling, boring or any other method to explore for, develop or use a storage reservoir for the storage or disposal of petroleum, natural gas, water produced in relation to the production of petroleum or natural gas, waste or any other prescribed substance,

(c) used, drilled or being drilled to inject natural gas, water produced in relation to the production of petroleum or natural gas or other substances into an underground formation in connection with the production of petroleum or natural gas,

(d) used to dispose of petroleum, natural gas, water produced in relation to the production of petroleum or natural gas, waste or any other prescribed substance into a storage reservoir, or

(e) used, drilled or being drilled to obtain geological or geophysical information respecting petroleum or natural gas,

and includes a water source well;

"zone" means a stratum or strata designated by the commission as a zone generally or for a designated area or a specific well, or a stratum or strata designated by the director for the purposes of the administration of petroleum and natural gas rights or storage and disposal rights.

## Part 2 — General Rules

### Forms

2 The director may establish forms to be used for the purposes of this Act.

### Expenditure for roads

3 (1) The minister may, with the approval of the Lieutenant Governor in Council, authorize the spending of money appropriated by statute to construct, reconstruct or repair trails, roads and bridges to facilitate exploration, development or production of petroleum or natural gas, or both.

(2) to (5) [Repealed RS1996-361-3 (5).]

### Entry on location

4 (1) An employee of the ministry authorized by the minister may enter a location to examine and inspect for the purposes of this Act.

(2) A person must admit to a location an employee of the ministry, authorized under subsection (1), to examine or inspect, and must provide that employee with the means and assistance necessary for the purpose.

### Employees prohibited from investing

5 (1) A member of the ministry must not have a monetary interest of any description, directly or indirectly, in any petroleum or natural gas property in British Columbia or in any business engaged in any phase of the petroleum and natural gas industry carried on in British Columbia.

(2) A person continuously employed by the ministry must not, directly or indirectly, have a monetary interest of a kind described in subsection (1) other than shares of a company that are regularly quoted and dealt in on a recognized stock exchange.

#### Delegation

5.1 (1) The director may

(a) delegate the exercise of any power or performance of any duty conferred or imposed on the director under this Act to an employee of the ministry of the minister, and

(b) provide, in making a delegation, directions that are binding on the delegate respecting the exercise of the power or the performance of the duty.

(2) A delegation under subsection (1) may be made by name or by designation of the office.

#### Part 3

Repealed

6-13 [Repealed 2010-9-50.]

Repealed

14 [Repealed 2004-45-143.]

Repealed

15-22 [Repealed 2010-9-50.]

Repealed

23—24 [Repealed 2004-45-150.]

Repealed

25-26 [Repealed 2010-9-50.]

Repealed

27 [Repealed 2004-45-152.]

Repealed

28-31 [Repealed 2010-9-50.]

#### Part 4

Repealed

32-36 [Repealed 2008-36-160.]

#### Part 5 — Permits

##### Division 1

Repealed

37 [Repealed 2014-10-21.]

##### Division 2 — Rights, Issue, Fees, Rental

###### Rights conferred by permit

38 (1) Subject to subsection (2), the holder of a permit has the exclusive right to apply under the Oil and Gas Activities Act to do exploratory drilling for petroleum or natural gas, or both, owned by the government and within the boundaries of the location of the permit.

(2) The issue or existence of a permit does not prohibit a person other than the holder of the permit from carrying out geological work or geophysical exploration in accordance with the Oil and Gas Activities Act.

###### Application for permit



39 An application for a permit must be made in writing in the form prescribed, to the director at Victoria, accompanied by the prescribed fee and rental.

#### Fees and rent

40 (1) A permittee must pay a rent prescribed by the Lieutenant Governor in Council for the permit and renewal of the permit, and the rent may be different for different classes of permits and for different years while the permit or renewal of the permit is in force.

(2) The Lieutenant Governor in Council may prescribe fees for obtaining a permit or renewal of a permit.

#### Minister's powers and duties

41 (1) The minister may issue or refuse to issue a permit, whether or not the requirements of this Act have been complied with, and the minister's refusal is final.

(2) If the minister refuses to issue a permit under this section, the fees that accompanied the application for it may, and the rental that accompanied the application must, be refunded to the applicant.

#### Division 3 — Drilling Restrictions and Work Requirements

#### Classes of permits

42 (1) The director must classify each permit, when it is issued, as a Class A, Class B, Class C or Class D permit.

(2) The director must, in classifying each permit, have regard for the comparative accessibility of the location for which the permit is to be issued, and the terrain of the location as it is likely to affect exploration for petroleum and natural gas.

(3) A permit must not be classified as a Class D permit unless not less than 3/4 of the area of the location is continually covered by water.

(4) An appeal lies to the minister from a classification by the director, and the minister may confirm the classification or give the permit a different classification.

(5) A confirmation or classification by the minister under this section is final.

#### Work requirements

43 (1) The Lieutenant Governor in Council may prescribe that permittees must do or cause to be done, subject to the Oil and Gas Activities Act, work consisting of geological work, geophysical exploration or exploratory drilling, and may make regulations respecting

(a) the approval, performance and recording of that work, or

(b) the performance of other work in place of that work.

(2) The regulations may prescribe the monetary value of the work, and that value may be different for different classes of permits and for different years while the permit or renewal of the permit is in force.

#### Payment in place of work

44 (1) A permittee who has not done or caused to be done the work required by the regulations may have his or her permit renewed as if he or she had done the work if the permittee

(a) pays to the director an amount equal to the value of the work not done, or

(b) submits to the director a written undertaking to do the work not done together with the work required to be done for the next year, together with a deposit of money or securities, or both, equal to the value of the work not done and satisfactory to the director.

(2) When a permittee has done the work that he or she has undertaken to do under this section, and the work is approved, the permittee is entitled to a refund of the money or securities, or both, deposited by the permittee.

#### Default

45 (1) Subject to subsections (3) to (7), if a permittee fails to do work that he or she has undertaken in writing to do under section 44, the director may cause to be forfeited to the government all or part of the deposit of money or securities, submitted under that section.

(2) The amount to be forfeited under subsection (1) must be decided by the director in his or her sole discretion.

- (3) A permittee who has not done work that he or she has undertaken under section 44 to do may pay to the director cash in an amount equal to the sum of the value of the work not done and a penalty equal to 1/10 of that value.
- (4) The permit of a permittee referred to in subsection (3) may, on making the payment under that subsection, be renewed as if the permittee had done or caused to have been done the work not done.
- (5) For the purpose of obtaining a lease, a permittee who has not done the work that he or she has undertaken under section 44 to do may pay to the director cash in an amount equal to the amount deposited under that section and forfeit the rental for the period elapsed since the last anniversary of the date of issue of his or her permit.
- (6) For the purposes of section 52, the permit is, on the making of the payment under subsection (5), deemed to be valid, and the lease or leases must be dated and begin as of the last anniversary of the date of issue of the permit.
- (7) For the purpose of obtaining a lease, a permittee who has not done work required under conditions imposed by the minister under section 47 (5) may forfeit to the director the rental for the period referred to in subsection (5) of this section with the effect provided in subsection (6) of this section.

#### Grouping

46 (1) If a grouping notice in the form prescribed is recorded, work done in accordance with the regulations on the location of a permit may be considered to have been done in that location and locations of other permits not exceeding 30 blocks in area and that are contiguous or each of which lies partially or wholly within a circle having a radius of 80 km, or whatever greater area or radius may be approved by the minister before the commencement of the work to be done.

- (2) A location must not be included in more than one grouping notice during the period that elapses between anniversaries of the date of issue of the permit.
- (3) Subsection (1) does not apply after the permit holder whose location is comprised in a notice under that subsection notifies the director that the notice is no longer effective.

#### Division 4 — Term and Renewal

##### Renewal of exploration permit

47 (1) A permit expires at the end of the anniversary of the date of issue or of its last renewal.

- (2) An application for renewal must be made to the director who must not accept the application unless
- (a) it is accompanied by the prescribed fee and rental for the location of the permit for the next year, and
  - (b) it is received by the director before the expiration of the permit or within the time set out in subsection (7) and is accompanied by the fee established by that subsection.
- (3) An application is also not acceptable unless accompanied by
- (a) a signed statement setting out expenditures made for work done under this Part and having as attachments a report and map displaying the detailed factual data obtained from the geological or geophysical examination, detailed logs, well history report and other information as may be required on all exploratory work referred to in the signed statement,
  - (b) a signed statement setting out estimated expenditures made for work done under this Part together with an undertaking satisfactory to the director to file with the director, in the time he or she sets, the documents that would otherwise have been attachments under paragraph (a), or
  - (c) a payment of money under section 44 (1) or a written undertaking and deposit under that subsection.
- (4) A permit in Class A or Class B must not be renewed
- (a) more than 4 times except on the authorization of the minister, or
  - (b) more than 7 times under any circumstances.
- (5) A permit in Class C or Class D must not be renewed more than 7 times except on the authorization of the minister and in accordance with the rentals, terms and conditions the minister may impose.
- (6) The minister may authorize a renewal under subsection (4) (a) or (5) for a period of less than one year, in which case the fee and rental must be prorated.
- (7) A permit must not be renewed or converted to a lease under section 51 after the anniversary of the date of issue or of its last renewal except on payment of a prescribed penalty.
- (a) and (b) [Repealed 2014-10-23.]

#### Excess work

48 If a permittee has, in any year, done or caused to be done and recorded work in excess of that required under the regulations, and details of expenditure made for it have been included in a signed statement filed under section 47, the excess work is deemed to have been done in one or more of the 3 years immediately following the year in which it was done.

#### Right to reduce permit

49 At the request in writing of a permittee, on renewal of a permit the location may be reduced to an area approved by the minister.

(a) and (b) [Repealed 2014-10-24.]

### Part 6 — Leases

#### Division 1 — Rights Under Leases, Applications and Issue

##### Leases and their rights

50 (1) A lease shall be a petroleum and natural gas lease.

(2) The holder of a petroleum and natural gas lease has

(a) the exclusive right to produce, in accordance with this Act and the Oil and Gas Activities Act, both the petroleum and natural gas referred to in the lease, and

(b) subject to any rights conferred under a storage lease issued under section 130 before the lease under this section is issued, the right to store or dispose of natural gas, water produced in relation to the production of petroleum or natural gas or other substances associated with petroleum or natural gas exploration, production or processing into an underground formation in the location of the lease.

(3) The issue of a lease terminates the validity of a permit or drilling licence for the location of the lease.

##### Application

51 An application for a lease must be made to the director in the form prescribed and is not valid unless

(a) the application is accompanied by the prescribed fee and rental,

(b) the applicant provides the information the minister requires,

(c) the applicant has complied with this Act, and

(d) the application is approved by the director.

##### Application by permittee

52 (1) A permittee who meets the prescribed requirements may apply, during the term of the permit, for a lease respecting all or part of the location of the permit.

(2) A permittee who, in the opinion of the minister has discovered petroleum in the course of drilling a well, when instructed by the minister to do so, must apply, on or before a date set by the minister, which must not be earlier than 3 months after the date of the instruction, for a lease, the location of which is to include the well site.

##### Minister's powers and duties

53 (1) The minister may issue and continue leases only in accordance with this Act and the regulations, and may refuse to issue a lease to a person other than a permittee or licensee who has complied with this Act and the Oil and Gas Activities Act.

(2) The minister's refusal under subsection (1) is final.

(3) The minister must not issue or continue a lease to or for an applicant who, in the belief of the minister, is indebted to the government for royalties, taxes or rental with respect to petroleum or natural gas or to the commission for any reason under the Oil and Gas Activities Act.

(4) If the minister refuses to issue or continue a lease, the fees and rental that accompany the application must be refunded.

#### Division 2 — Rentals

##### Rentals

54 (1) Without limiting section 133, the Lieutenant Governor in Council may make regulations respecting annual rental payments for leases.

(2) A lessee must pay the prescribed rent in accordance with the regulations.

#### Division 3

Repealed

55 [Repealed 2014-10-29.]

#### Division 4

Repealed

56-57 [Repealed 2014-10-29.]

#### Division 5 — Term and Continuation

Expiration and continuation of leases

58 (1) In this section, "eligible spacing area" means a spacing area that

- (a) contains a petroleum well or a gas well,
  - (b) is subject to a special project designated under section 75 of the Oil and Gas Activities Act,
  - (c) in the opinion of the director, covers, to the extent of at least one half of its area, a pool of petroleum or natural gas that has been delimited, or
  - (d) in the opinion of the director, may be adequately drained by a petroleum well or a gas well situated on a contiguous spacing area.
- (2) A lease issued under section 52 from a Class A permit, or issued in respect of a location situated wholly or partly in a prescribed area, expires on the fifth anniversary of the date it is issued, but any other lease expires on the 10th anniversary of the date it is issued.
- (3) If a lease expires, whether after its initial term or after a continuation by the director under this section or section 61.1, the director must, on application by the lessee made not later than 60 days after the expiry of the lease,
- (a) continue the lease for one year in respect of any eligible spacing area included in the location of the expired lease,
  - (b) if the lease is subject to a unitization agreement under section 114 or to an agreement under section 78 to establish the royalty to be paid, continue the lease for one year in respect of the parts of the location of the lease that are subject to the unitization agreement,
  - (c) if the division head approves a yearly program of exploratory work designed to delimit a pool, or a field of petroleum or natural gas, continue the lease for one year in respect of all or part of its location, or
  - (d) if the drilling of or work on the establishment of a well is incomplete on the expiry date of the lease and the director is satisfied that the drilling or work will continue if the lease is continued, continue the lease for one year.

Stratigraphic reversion in relation to section 58 lease continuations

59 (1) If a lease or part of a lease is continued under section 58 (3) (a) or (b), the petroleum and natural gas rights granted by the lease that are stratigraphically outside the zone or zones known by the director to be capable of production in the lease or part of the lease revert to the government when that continuation begins.

(2) If a lease or part of a lease is continued under section 58 (3) (c) or (d), the petroleum and natural gas rights not continued revert to the government when that continuation begins, subject to the lease or part of the lease being continued under section 58 (3) (a) or (b) and the application of subsection (1) of this section.

Continuation of previous reversion rules for older leases

59.1 (1) Despite section 59, this section continues to apply to a lease

- (a) that was issued under section 64 or 71 before March 29, 2007,
  - (b) that is issued from a permit or a drilling licence that was issued before March 29, 2007, if the location of the lease is within or coincides with the location of the permit or the drilling licence, or
  - (c) that is issued under section 64 from a lease described in paragraph (a) or (b) of this subsection.
- (2) If, at the relevant time referred to in this subsection, a lease is continued under section 58, the petroleum and natural gas rights granted by the lease that are stratigraphically below the base of the deepest zone

known by the director to be capable of production in the lease or the part of the lease revert to the government and do not continue under the lease

- (a) in the case of a 5 year lease, on the expiration of its initial term,
- (b) in the case of a 10 year lease, on the expiration of its initial term,
- (c) in the case of a 10 year lease that is a renewal of a 21 year lease, on the expiration of its term, and
- (d) in the case of a 21 year lease, on the expiration of its initial term.

(3) If, at the relevant time referred to in subsection (2), all or part of the lease is being continued under section 61 or 62, subsection (2) applies to that lease for the part so continued on the date on which the continuation ceases under section 61 or 62, as the case may be.

#### Notice to drill

60 (1) If the minister believes a lease location is not being developed sufficiently, the minister may, except during the 3 years after the date of issue of the lease, require the holder of the lease to submit, within 30 days from the date of the request, a plan for the development of the lease location.

(2) If the holder of a lease does not comply, or if the minister believes that a development plan submitted is not adequate for the purposes of developing a lease location, the minister may give notice to the holder requiring the holder, subject to the Oil and Gas Activities Act, to begin the drilling of a well on the lease location.

(3) A notice under subsection (2) may specify a spacing area in the lease location in which the well is to be drilled, the depth to which the well is to be drilled and the time within which the drilling of the well is to begin but in specifying the period of time to begin the drilling, the minister will give regard to the accessibility of the lease location, and to the availability of drilling equipment, and in no event must the notice be less than 3 months.

(4) On receiving the notice the lease holder must

- (a) begin drilling the well on the location of the lease and in the time specified in the notice and after that continuously and diligently drill the well, or
- (b) surrender all of the location of the lease except eligible spacing areas as defined in section 58 (1) or 61.1 (1).

(5) If a well has been drilled pursuant to a notice and has been abandoned or completed in accordance with the Oil and Gas Activities Act, the minister may at any time, except during the 6 months following the date of the abandonment or completion, order the drilling of another well on the lease location in accordance with the Oil and Gas Activities Act.

#### Continuation of lease for well drilling

61 (1) If, before the expiry of a lease, the lessee undertakes in writing to drill a well on the location of the lease, the director must continue the lease for a further period of one year.

(2) If a lease has been continued under subsection (1), the director may, before it expires and subject to subsection (3), again continue it for a period of one year, beginning at the expiry of the year referred to in subsection (1).

(3) Subsection (2) does not apply if drilling ceases during the one year continuation under subsection (1), unless the lessee undertakes in writing, addressed to the director, to drill another well on the location of the lease.

(4) If the lessee fails to honour an undertaking given under subsection (1) or (3), the director may cancel the lease.

(5) If a well referred to in this section is completed as a petroleum well or a gas well, section 58 (3) applies in respect of the location where the well is situated.

#### Continuation of leases for certain disposal well purposes

61.1 (1) In this section:

"eligible disposal well" means a well that is used or planned to be used to dispose of water, carbon dioxide or other waste fluids associated with petroleum or natural gas exploration, production or processing;

"eligible lease" means a lease for a location that includes all or part of an eligible spacing area;

"eligible spacing area" means a spacing area, other than a spacing area that is subject to a special project under section 75 of the Oil and Gas Activities Act, that

- (a) contains an eligible disposal well,
- (b) is, in the opinion of the director, planned to contain an eligible disposal well, or
- (c) is, in the opinion of the director, likely to be needed in relation to an existing or planned eligible disposal well that is situated on a nearby spacing area.

(2) If an eligible lease expires, whether after its initial term or after a continuation under this section or under section 58, 61 or 62, on application by the lessee made not later than 60 days after the expiry of the lease, the director may continue that lease for one year in respect of one or more zones in the eligible spacing area that the director considers are appropriate in relation to the relevant existing or planned eligible disposal well.

(3) If all or part of an eligible lease is continued under this section, the petroleum and natural gas rights granted by the lease that are stratigraphically outside the zone or zones identified by the director under subsection (2) revert to the government when that continuation begins, subject to any continuation under section 58.

#### Continuation with penalty

62 (1) Subject to regulations, if any, made under section 133 (2) (n.1), the term of a lease not continued under section 58 (3), 61 or 61.1 may be continued, on payment to the government of the prescribed rental and the prescribed penalty, for one year in respect of all or part of its location.

#### (2) A lease

- (a) may not be continued under subsection (1) more than 3 times, and
- (b) may be continued under subsection (1) immediately after
  - (i) the expiry of a previous continuation under that subsection, or
  - (ii) a continuation under section 58 (3), 61 or 61.1.

#### Default in rental or work

63 (1) Despite sections 58, 61, 61.1 and 62, if a lessee fails to pay the rental, the lease expires 60 days after the date the rental was payable unless on or before the 60 days have elapsed, the lessee pays

- (a) the rental, and
- (b) in addition, as a penalty for each 30 day period or portion of a period that he or she is in default, a sum equal to 1.5% of the rental.

(2) If a lease expires under subsection (1), the minister may reinstate the lease if

- (a) the minister is satisfied that the lessee's failure referred to in subsection (1) was inadvertent or the result of circumstances, other than financial circumstances, beyond the control of the lessee,
- (b) there has been, during the period starting on the date of the expiry and ending on the date of the reinstatement, no disposition under this Act of rights to petroleum and natural gas that were subject to the lease, and

(c) the former lessee makes an application under section 51 and pays the prescribed reinstatement fee.

(3) If the minister reinstates a lease under subsection (2), the lease is conclusively deemed not to have expired under subsection (1).

#### Surrender of leases

64 (1) With the approval of the minister, a lease may be surrendered in whole or in part at any time, and a new lease issued.

#### (2) A new lease issued under subsection (1)

- (a) must be for an area that
  - (i) falls within the boundaries identified in the surrendered lease, and
  - (ii) is at least one spacing area in size,
- (b) must have the same expiry date as the surrendered lease, and
- (c) must not result in a spacing area being divided.

#### Part 7 — Spacing Areas

##### Normal spacing areas

65 (1) For the purposes of this Act and the Oil and Gas Activities Act, British Columbia, except where insufficient area exists adjacent to its boundaries, is divided into normal spacing areas for petroleum and natural gas wells as follows:

- (a) the boundaries of a unit, and the vertical planes extending directly beneath each of those boundaries, are the boundaries of a normal spacing area for petroleum wells;
- (b) the boundaries of a spacing area for a natural gas well in the Peace River Block coincide with the boundaries of each section, and the boundaries of a spacing area for a petroleum well coincide with the boundaries of each quarter section;
- (c) in areas other than the Peace River Block
  - (i) the boundary of an area comprising 2 units by 2 units, and the vertical planes extending directly beneath each of the boundaries of that area, are the boundaries of a normal spacing area for a natural gas well, and
  - (ii) the pattern of normal spacing areas for natural gas wells is based on an initial 4 unit area centred on a corner common to any 4 blocks.
- (2) Subsection (1) does not apply to a well drilled only for the exploration, development or use of a storage reservoir.

#### Other than normal spacing

65.1 (1) The minister may make regulations respecting other than normal spacing in an area of British Columbia if the minister is satisfied that the regulations

- (a) would facilitate petroleum or natural gas exploration and development,
- (b) are necessary to promote the conservation of petroleum and natural gas resources, or
- (c) are necessary to protect the environment.
- (2) The commission, by order, may on its own initiative or on application under section 75 (3) of the Oil and Gas Activities Act approve other than normal spacing for a pool or portion of a pool on a parcel of land or a location if
  - (a) the commission is satisfied that it would facilitate drilling and production operations, and
  - (b) the parcel of land or location, as the case may be, is not subject to a regulation made under subsection (1).
- (2.1) Despite any applicable order made under subsection (2), a pool or a portion of a pool on a parcel of land, or a location, must be considered, for the purposes of section 58, to be divided into normal spacing areas in accordance with section 65, unless the minister orders otherwise.
- (3) A regulation under subsection (1) or an order under subsection (2) must specify target areas within each other than normal spacing area and may specify methods of determining and conditions that apply to that spacing.
- (4) [Repealed 2008-36-170.]

#### Ministerial designations

66 If a parcel of Crown reserve that contains other than a normal spacing area for a natural gas well is acquired, the minister, on application by an owner, may designate in that parcel other than a normal spacing area for a natural gas well.

#### No production unless other than normal spacing areas pooled with adjoining areas

67 Production from a natural gas well within a spacing area that is not a normal spacing area may not be taken until the spacing area of the well is pooled with adjacent areas to form a normal spacing area or a spacing area prescribed or ordered under section 65.1.

### Part 8 — Pooling of Locations

#### Pooling of locations to operate spacing areas

68 (1) Two or more holders of locations in a spacing area may pool their locations for purposes of joint development of the spacing area or joint operation of a well in the spacing area, or both.

(2) If locations are not pooled by agreement, the minister, either on the minister's own initiative or on application by a holder, may invite submissions from interested parties for the purpose of determining whether or not the locations should be pooled.

(3) After reviewing the submissions, the minister may refuse to make an order, or the minister may

- (a) order that the locations, or parts of the locations, as the minister may designate, be pooled,
- (b) order, subject to the Oil and Gas Activities Act, that a well be drilled and operated, or, if drilled, that it be operated,

- (c) designate a person the minister considers appropriate for the purpose of carrying out an order, designation or requirement under this section,
  - (d) specify the proportions in which holders share petroleum and natural gas produced,
  - (e) specify the proportions in which holders share the costs of drilling, operating and abandoning the well, and
  - (f) specify the manner and time in which, and the conditions subject to which, petroleum and natural gas produced from the pooled locations must be sold.
- (4) If locations are pooled, the drilling, operating and abandoning of the well, and the production of petroleum and natural gas from the well, are deemed to be carried out, in the proportions referred to in the pooling agreement or order, on the location of each holder.
- (5) The minister may make a pooling agreement on behalf of the government on the terms the minister believes proper.

#### Pooling by board order

69 (1) If petroleum and natural gas in a spacing area is reserved in part to persons other than the government, those persons, or the holder of a location in the same spacing area, may apply to the board for an order that all petroleum or natural gas or both in that spacing area be pooled.

- (2) The board must include in the order terms and conditions respecting the pooling that it considers necessary.

#### Part 9 — Crown Reserves

##### Crown reserves

70 The following petroleum and natural gas is reserved to the government:

- (a) petroleum and natural gas in fractional areas of less size than 2 units by 2 units, except in the Peace River Block;
- (b) petroleum and natural gas in fractional areas of less than a section in the Peace River Block;
- (c) petroleum and natural gas in the location of a permit that does not become included in the location of a lease;
- (d) petroleum and natural gas in the location of a cancelled, reverted or abandoned permit, drilling licence and lease;
- (e) petroleum and natural gas in those areas the Lieutenant Governor in Council may designate;
- (f) petroleum and natural gas in the location of a drilling licence that does not become included in the location of a lease;
- (g) petroleum and natural gas rights that are surrendered, forfeited or escheated to the government.

##### Disposal of Crown reserves by public auction or tender

71 (1) The minister may dispose of Crown reserves of petroleum and natural gas, oil sand, oil sand products, oil shale and oil shale products under terms the minister sees fit.

- (2) A disposition under this section must be by public auction or public tender, not sooner than 2 weeks after publication of a notice of the intended disposal in the Gazette.
- (3) Unless otherwise directed by the minister,
  - (a) a lease issued under this section is subject to the terms of this Act as though it had been applied for and issued under Part 6, and
  - (b) a permit issued under this section is subject to the terms of this Act as though it had been issued under Part 5.

##### Withdrawal from disposition under section 71 and alternative disposition

72 (1) The minister may, by order, withdraw Crown reserves referred to in section 71 (1) from disposition under that section.

- (2) Crown reserves withdrawn under subsection (1)
  - (a) remain withdrawn until the withdrawal order is cancelled by the minister, and
  - (b) may be
    - (i) developed, managed or disposed of by the minister in accordance with the terms and for the price approved by the Lieutenant Governor in Council, or
    - (ii) disposed of in accordance with regulations under subsection (3).



(3) The Lieutenant Governor in Council may make regulations for the purposes of subsection (2) (b) (ii), including regulations respecting one or more of the following:

- (a) who is authorized to make a disposition;
- (b) the process by which all or part of a reserve is to be offered for disposition;
- (c) criteria that must or may be applied in making dispositions, including criteria respecting
  - (i) environmental values,
  - (ii) technological innovation,
  - (iii) community interests,
  - (iv) First Nations considerations,
  - (v) long-term economic planning,
  - (vi) the purpose for which the spacing area is to be used, and
  - (vii) other matters that the Lieutenant Governor in Council considers are in the public interest;
- (d) the manner and form of dispositions;
- (e) the price to be recovered by the government from a disposition or how that price is to be determined;
- (f) restrictions and conditions on which the authority to make dispositions may be exercised;
- (g) terms and conditions that must or may be included in the disposition.

(4) Regulations under subsection (3) may do one or more of the following:

- (a) confer a discretion;
- (b) provide authority for a person authorized under subsection (3) (a) to delegate that authority to another person;
- (c) be different for different areas, types of reserves, zones, proposed purposes of a spacing area and proposed uses of a reserve.

#### Part 10 — Royalty

##### Appointments

72.1 (1) The minister must appoint an employee of the ministry as the royalty administrator.

(2) The Minister of Finance must appoint an employee of his or her ministry as the royalty collector.

##### Royalties

73 (1) Royalties are reserved to the government on petroleum and natural gas produced from any location held under this Act.

(2) The Lieutenant Governor in Council may prescribe the royalty that is payable to the government for petroleum and natural gas and, without limiting that power, the Lieutenant Governor in Council may make regulations respecting

- (a) royalties in different amounts for different classes of petroleum or natural gas,
- (b) the person or class of person required to pay the royalty,
- (c) the assessment and reassessment of royalty,
- (d) appeals from assessment or reassessment of royalty,
- (e) refunds of royalty,
- (f) exemptions from payment of royalty,
- (g) time limits and time periods related to royalties including assessments, reassessments, appeals, refunds or exemptions and including different time limits and time periods for different classes of persons,
- (h) the classification of petroleum or natural gas by any factors or characteristics including qualities, locations or dates of initial production, and
- (i) the calculation and payment of interest on overpayment of royalty.

(3) For the purposes of the regulations made under subsection (2), the Lieutenant Governor in Council may delegate powers to, and confer discretionary powers on, one or both of the following:

- (a) the royalty administrator;
- (b) the royalty collector.

(4) Section 16 of the Financial Administration Act does not apply to refunds of petroleum and natural gas royalty payments.

##### Duty to pay, penalty for breach and refund in cases of overpayment

74 (1) Every person required to pay royalty must, on or before a prescribed date,

- (a) pay any royalty due, and

(b) file and complete a report in the form and manner required by the director.

(2) A person required to pay royalty who fails to pay royalty when it is due must pay interest on the amount of the unpaid royalty as prescribed by the Lieutenant Governor in Council.

(3) If a person pays more money by way of royalty than the person is required to pay under this Part, the government may calculate interest on the overpayment as prescribed and may

(a) refund the overpayment plus interest to the person, or

(b) credit the person's royalty account with the amount of the overpayment plus interest.

(4) Interest under subsection (3) (a) may be paid out of the consolidated revenue fund.

(5) If a person required to pay royalty fails to comply with subsection (1) (b), the person must, in addition to any royalty payable, pay the prescribed penalty.

#### Enforcement

75 (1) A person authorized by the deputy minister for any purpose related to the administration or enforcement of this Act may, by registered letter or by a demand served personally, require from any person any information or additional information, or the production of any records, within any reasonable time he or she stipulates, if it is reasonable to make the demand in order to determine liability or possible liability to pay the royalty under this Act.

(2) If it is shown to the satisfaction of a justice on information in writing sworn by a person authorized under subsection (1), that

(a) there are reasonable grounds to believe that any records relating to the determination of the royalty payable under this Act are kept at a place identified in the sworn information, or

(b) any other thing that affects the royalty payable under this Act is kept or used or to be found at such place, and that

(c) a demand under subsection (1) has not been complied with or has not been fully complied with or is, if made, likely to be refused, or likely to defeat the object of the demand, or

(d) the records contain or the thing will provide or constitute evidence of an offence under this Act, then the justice may by warrant under his or her signature in the form under the Schedule to this Act authorize that person to enter that place and to search for and seize those records, and to inspect, examine, measure and evaluate that thing.

(3) A warrant issued under this section continues in force until the purpose for which the entry is required has been satisfied.

(4) An officer so authorized may take with him or her on or into the place to be searched those other persons and equipment as may be necessary.

#### Books and records

76 (1) Every person carrying on business in British Columbia who is required under this Act to pay royalties or other amounts, must keep books or records at his or her place of business in Canada or at another place designated by the minister, in a form and including information that will enable the royalties payable under this Act to be calculated.

(2) If, in the opinion of the royalty collector, a person has failed to keep adequate books or records for the purposes of this Act or the regulations, the minister may require the person to keep books or records the minister specifies, and that person must after that keep the books or records so required.

(3) Every person required by this Act to keep books or records must, until written permission for their disposal is obtained from the minister, retain every book or record and every account or voucher necessary to verify the information in the books or records.

#### Attachment

77 (1) If the royalty collector has knowledge or suspects that a person is or is about to become indebted or liable to make a payment to a producer, the royalty collector may demand that the person pay all or part of the money otherwise payable to the producer to the royalty collector on account of the producer's liability under this Act.

(2) Without limiting subsection (1), if the royalty collector has knowledge or suspects that a person is about to advance money to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by a producer, the royalty collector may demand that the person pay to the royalty collector on account of the producer's liability under this Act the money that would otherwise be advanced or paid.

- (3) If under this section the royalty collector demands that a person pay to the royalty collector, on account of the liability under this Act of a producer, money otherwise payable by that person to the producer as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the demand
- (a) applies to all of those payments to be made by the person to the producer until the liability under this Act is satisfied, and
- (b) operates to require payments to the royalty collector, out of each payment, of the amount stipulated by the royalty collector in that demand.
- (4) Money or a beneficial interest in money in a savings institution
- (a) on deposit to the credit of a producer at the time a demand is served, or
- (b) deposited to the credit of a producer after a demand is served
- is money for which the savings institution is indebted to a producer within the meaning of this section, but money on deposit or deposited to the credit of a producer as described in paragraph (a) or (b) does not include money on deposit or deposited to the credit of a producer in the producer's capacity as a trustee.
- (5) A demand under this section continues in effect until
- (a) the demand is satisfied, or
- (b) 90 days after the demand is mailed or served,
- whichever is earlier.
- (6) Despite subsection (5), a demand made in respect of a periodic payment referred to in subsection (3) continues in effect until it is satisfied unless no periodic payment is made or is liable to be made within 90 days after the demand is mailed or served, in which case the demand ceases to have effect on the expiration of that period.
- (7) A person who fails to comply with a demand under subsection (1) or (3) is liable to pay to the government an amount equal to the amount that the person was required under subsection (1) or (3), as the case may be, to pay to the royalty collector.
- (8) A person who fails to comply with a demand under subsection (2) is liable to pay to the government an amount equal to the lesser of
- (a) the aggregate of the money advanced or paid, and
- (b) the amount that the person was required under subsection (2) to pay to the royalty collector.
- (9) The receipt of the royalty collector for money paid under this section is a good and sufficient discharge of the original liability to the extent of the payment.
- (10) Money paid by any person to the royalty collector in compliance with a demand under this section is deemed to have been paid by that person to the producer in respect of which the demand was made.
- (11) If a person carries on business under a name or style other than the person's own name, a demand under subsection (1), (2) or (3) may be addressed to the name or style under which the person carries on business and, in the case of personal service, is deemed to be validly served if it is left with an adult person employed at the addressee's place of business.
- (12) If persons carry on a business in partnership, a demand under subsection (1), (2) or (3) may be addressed to the partnership in its name and, in the case of personal service, is deemed to be validly served if served on one of the partners or left with an adult person employed at the partnership's place of business.

#### Agreement establishing royalty

78 Despite section 73 and the regulations under that section, the minister may make an agreement establishing the royalty to be paid to the government, and the method of calculating the royalty, on petroleum and natural gas produced from a unitized operation or as the result of a conservation plan or a special project under section 75 of the Oil and Gas Activities Act.

#### Royalty agreements

78.1 (1) Despite section 73 and the regulations made under that section and subject to subsection (2) of this section, the minister may, with the approval of the Lieutenant Governor in Council, enter, with a person, into an agreement establishing the royalty to be paid by the person to the government, and the method of calculating the royalty, on petroleum or natural gas produced from a specified location or class of locations.

(2) The approval of the Lieutenant Governor in Council is not required for the minister to enter into an agreement under subsection (1)

- (a) in the prescribed circumstances, or
- (b) in respect of a prescribed class of agreements.

(3) The minister must, as soon as practicable, publish an agreement entered into under subsection (1) but may withhold from publication anything in the agreement that could be refused to be disclosed under the Freedom of Information and Protection of Privacy Act, if a request were made under that Act for disclosure of the agreement.

(4) An agreement under subsection (1) may be for a term the minister considers advisable, but not for a term exceeding the prescribed number of years, and may also include any or all of the following:

(a) a requirement that the person pay to the government a charge respecting periods, specified in the agreement, during which

(i) petroleum or natural gas, or both, are not produced, or

(ii) a minimum level of petroleum or natural gas production, specified in the agreement, is not achieved;

(b) a specification of locations or classes of locations that are subject to a royalty established under subsection (1);

(c) terms respecting required petroleum or natural gas production levels from specified locations or classes of locations;

(d) terms respecting investments in the exploration, development or processing of petroleum or natural gas, or both;

(e) terms respecting penalties the person must pay or actions the minister may take if the person fails to comply with a term or condition of the agreement;

(f) a specification of regulations under this Act that apply to the person in respect of the agreement;

(g) any other terms and conditions the minister considers necessary or advisable.

(5) If an agreement under subsection (1) specifies regulations for the purposes of subsection (4) (f), those regulations apply to the person in respect of the agreement.

(6) Sections 73 (4) and 74 to 77 apply to an agreement under subsection (1) of this section.

(7) A person who enters into an agreement under subsection (1) must comply with the agreement.

Obligation to pay royalty

79 (1) In this section:

"contract" means a contract for the sale and delivery of natural gas in which the corporation is the purchaser;

"corporation" means the British Columbia Petroleum Corporation dissolved and disestablished under section 2 of the Petroleum Corporation Repeal Act.

(2) Despite the terms of a contract entered into before July 1, 1985, the corporation is not obliged to pay or satisfy any royalty levied by or on behalf of the government against or in respect of natural gas produced on or after July 1, 1985.

(3) Compensation or damages are not payable by the government or the corporation, and proceedings must not be commenced or maintained to claim compensation or damages from, or to obtain a declaration that compensation or damages are payable by, the government or the corporation as a direct or indirect consequence of the enactment of this section.

(4) A contract affected by this section must not be held by a court to have been frustrated by the operation of this section.

#### Part 11 — Freehold Production Tax

##### Freehold production tax

80 (1) Every owner of freehold land must pay to the government a freehold production tax calculated as a prescribed percentage of the value of the petroleum and natural gas produced and disposed of from freehold land.

(2) For the purpose of subsection (1), the Lieutenant Governor in Council may make regulations prescribing a percentage, which percentage must not exceed 30%, and may prescribe a different percentage for different classes of petroleum or natural gas.

##### Nisga'a exemption

80.1 (1) In this section, "Taxation Agreement" has the same meaning as in section 6.1 of the Nisga'a Final Agreement Act.

(2) Despite section 80, a person is not subject to tax under this Act if and to the extent that the Taxation Agreement provides that the person is not subject to tax under this Act.

Treaty first nation exemption

80.2 (1) [Repealed 2011-11-63.]

(2) Despite section 80, a person is not subject to tax under this Act if and to the extent that a tax treatment agreement provides that the person is not subject to tax under this Act.

Application of Part 10 to freehold production tax

81 Sections 73, 74, 75, 76, 77 and the Schedule to this Act respecting royalties apply, in the same manner and to the same extent, to the freehold production tax under this Part.

## Part 12

Repealed

82-109 [Repealed 2008-36-182.]

## Part 13 — General

Prohibition

110 A person must not, except under this Act and the Oil and Gas Activities Act,

(a) do or cause to be done any geological or geophysical work or drilling by way of or incidental to exploration for petroleum or natural gas that is the property of the government, or

(b) produce or cause to be produced or do or cause to be done anything for the purpose of producing petroleum or natural gas that is the property of the government.

Production

111 With the approval of the minister, a permittee or licensee may produce, subject to the Oil and Gas Activities Act, petroleum or natural gas from one or more wells on his or her location in accordance with whatever terms are specified.

Saving

112 The inclusion in a location of petroleum or natural gas that does not belong or is not reserved to the government does not invalidate a permit, drilling licence or lease for the remainder of the location.

Affidavits

113 An affidavit required under this Act may be made before

(a) a person authorized under the Evidence Act, or

(b) any commissioner appointed under this Act.

Unit agreement

114 (1) The minister may, on behalf of the government, enter into a unitization agreement for the unitized operation of a field, pool or storage reservoir, or a part of any of them, and on its execution the unitization agreement is, subject to compliance with any applicable requirements under section 75 of the Oil and Gas Activities Act, and other relevant provisions of this Act, binding on all parties to it, including the government.

(2) Section 117 does not apply to an agreement entered into under this section.

Unitization order

115 (1) On receiving an application for a unitization order from a working interest owner or group of working interest owners who have agreed in writing to a proposed plan of unit operations, the minister may invite submissions from interested persons to consider the advisability or necessity for an agreement.

(2) After reviewing the submissions, the minister may reject the application or make a unitization order requiring that the plan of unitized operations proposed by the applicant be applicable to all of the proposed unit area, or any smaller area the minister determines, and on the making of the order it is binding on all owners of interests in the unit area.

Repealed

116 [Repealed 2008-36-187.]

Transfers and assignments

117 (1) A transfer, assignment, agreement or instrument affecting the title to a location must not be recorded or is not effective unless

- (a) the transfer or other instrument does not conflict with this Act, and
- (b) the transfer or other instrument is made by or on behalf of the recorded holder of the location.
- (2) A transfer or other instrument affecting the title to a location is deemed to be recorded and be effective from the time that the application to record it is received by the director.
- (3) Failure to record a transfer or other instrument affecting the title to a location does not invalidate it as between the parties to it, but subsection (2) governs its effectiveness for any other person.
- (4) [Repealed 2014-10-35.]
- (5) Each transfer or other instrument affecting title to a location when made by an individual under this Act must be witnessed by a witness who must sign his or her name and address, and when made by a corporation must be properly executed under the seal of the corporation or its authorized attorney.
- (6) [Repealed 2014-10-35.]
- (7) A holder of a location may make a valid transfer of his or her permit, drilling licence or lease directly to himself or herself or jointly with another person and if the permit, drilling licence or lease is held by more than one person, they may make a transfer directly to one or more of their number either alone or jointly with another person and a trustee or personal representative may make a valid transfer of a location to himself or herself individually if the making of the transfer is otherwise within his or her power.

Prohibition against equipment removal

118 A person who has in any way failed to comply with

- (a) this Act, the regulations under this Act, the Oil and Gas Activities Act or the regulations under that Act,
  - (b) a notice given or order made under this Act, or
  - (c) a term, promise or condition of his or her permit, drilling licence or lease,
- must not remove or allow to be removed equipment from a location or former location without permission in writing from the commission.

Cancelled, reverted or abandoned locations

119 (1) When a location has been cancelled, reverted or abandoned, and all requirements under this Act and under the Oil and Gas Activities Act have been satisfied, any property on the location may be removed by the owner of it within one year after the cancellation, reversion or abandonment, but nothing from the location may be used for producing petroleum or natural gas on the location during that period.

- (2) The director may extend the period for removal for not more than one year.
- (3) If property has not been removed from the location of a permit, licence or lease by the end of the period specified in subsection (1) or (2), it vests in the government.
- (4) Subsections (1) to (3) apply to anything remaining on a location at the time of its cancellation, reversion or abandonment under any former petroleum and natural gas legislation.
- (5) The minister may dispose of property vested in the government under this section,
  - (a) if, in the minister's opinion, its value is not more than \$500, as the minister sees fit,
  - (b) if, in the minister's opinion, its value is more than \$500, by sale or lease by public tender after an advertisement of the intention to sell or lease the property by public tender has been posted for 14 days in the office of the director and published in not less than 2 issues of a newspaper circulating in the district in which the location is or was situated, or
  - (c) if the property is not sold or leased under paragraph (a) or (b), as the minister sees fit.
- (6) The minister may use the proceeds of any sale or lease under this section to settle, in the manner that in his or her sole discretion the minister sees fit, just claims made against the property or the owner before the date of the sale or lease.

Abandonment

120 A person may abandon a permit, drilling licence or lease by surrendering it to the director and after the surrender, the permittee, licensee or lessee has, subject to section 119, no further interest in it and he or she is not entitled to a refund of rental payments or fees.

#### Survey of lease

121 (1) The location of each lease on which petroleum or natural gas has been discovered or a storage reservoir is being operated must be surveyed by a British Columbia land surveyor within one year from the date of instructions by the minister to do so, and any location not surveyed within that time may be cancelled, unless the lessee can prove to the minister that, through no fault on his or her part, the lessee has been unable to obtain a British Columbia land surveyor to survey the location.

(2) A survey under this section must be made in accordance with the requirements of the Surveyor General and the rules made under subsection (3).

(3) The Association of British Columbia Land Surveyors may make rules under section 75 of the Land Surveyors Act that the association considers necessary or advisable for surveys, and all matters that relate to surveys, required under this Act.

#### Reports and other instruments

122 (1) Subject to subsection (2), all records and instruments relating to petroleum and natural gas title or a storage reservoir lease recorded under this Act must, during normal office hours, be open to public inspection free of charge.

(2) Geological, geophysical and reports other than well reports and well data received by the ministry in the course of the administration of this Act, and designated by the minister as confidential, must not be released except under an order of the Lieutenant Governor in Council.

(3) With the permission in writing of the person who holds the licence, permit or lease for a location dealt with in the report, the minister may, however, at his or her sole discretion, release information contained in the report.

(4) The Lieutenant Governor in Council may release factual information considered confidential when it is considered in the public interest to do so.

#### Repealed

123 [Repealed 2008-36-192.]

#### Boundaries

124 Despite anything in this Act, the boundaries of a location in any area where the boundaries of units and blocks do not coincide with surveyed boundaries of sections, townships or other existing district lot system may be established to coincide with the surveyed boundaries of sections, townships or other district lot system.

#### Oil sand

125 A disposition of petroleum or natural gas made under this Act or the former Act, before or after the coming into force of this section, is deemed not to include petroleum or natural gas recoverable from oil sand or oil shale unless the disposition otherwise specifically states.

#### Electronic form

125.1 A permit, lease and drilling licence may be issued in electronic form.

#### Relief respecting rental payments

125.2 (1) On application under subsection (2), the minister may exempt a person from an obligation under this Act to make a rental payment, or relieve the person from a consequence under this Act on failure to make a rental payment, if the minister is satisfied that the person is in the prescribed circumstances.

(2) An application for a reduction under subsection (1) must be made in accordance with the regulations.

#### Part 14 — Underground Storage

#### Exploration licence for underground storage area

126 (1) A person must not explore for a storage reservoir unless

(a) either

(i) the person is licensed by the division head under subsection (3), or

(ii) the exploration consists only of geophysical exploration, and

(b) the exploration is carried out in accordance with the Oil and Gas Activities Act.

(2) An applicant for a licence under subsection (3) must make the application to the division head in a form suitable to the division head.

(3) The division head may grant a licence to a person to explore for a storage reservoir, grant the licence for a period of time he or she determines and subject to conditions he or she determines, or the division head may refuse to grant the licence.

(4) A licensee under this section must not carry out exploration under the licence within 3 km of a mine as defined in the Mines Act or of a storage reservoir unless the commission authorizes that exploration under the Oil and Gas Activities Act.

#### Designation of storage area

127 (1) On the recommendation of the minister, the Lieutenant Governor in Council may by regulation designate land as a storage area.

(2) Notice of the designation under subsection (1) must be published in 2 consecutive issues of a newspaper circulated in the area in which the storage area is situated.

#### Vesting of storage reservoir

128 (1) Ninety days after designation of land as a storage area, a right, title and interest in a storage reservoir in or under the storage area and in any water inside the storage reservoir is vested in the government free of encumbrances unless, before the expiry of the 90 days, the Lieutenant Governor in Council rescinds the designation.

(2) A right, title or interest in anything other than water that is found, naturally occurring, inside the storage reservoir is not vested in the government merely because of the vesting under subsection (1).

(3) If a right, title or interest in land has vested in the government under subsection (1), that interest, for the purposes of the application of section 23 (2) (a) of the Land Title Act, is deemed to be held by the government pursuant to a subsisting exception and reservation contained in the original grant of that land from the government.

#### Compensation

129 (1) A person who had a right, title or interest in land that vested in the government under section 128 may apply to the board for arbitration in respect of compensation for the loss of that right, title or interest.

(2) Part 17 applies to an application under subsection (1).

#### Lease of storage reservoir

130 (1) The holder of a petroleum or natural gas permit, drilling licence or lease or an exploration licence granted under section 126 may apply to the minister for a lease of a storage reservoir that is owned by the government.

(2) An applicant for a lease under subsection (3) must make the application to the minister in a form suitable to the minister.

(3) The minister may lease a storage reservoir that is owned by the government to a person who applies under subsection (1), and the minister may grant a lease that is different than the one applied for or may refuse to grant a lease.

#### Repealed

131 [Repealed 2008-36-194.]

#### Regulations for this Part

132 Without limiting section 133, the Lieutenant Governor in Council may make regulations respecting

(a) [Repealed 1998-39-54.]

(b) and (c) [Repealed 2008-36-194.]

(d) licences and conditions that may attach to licences,

(e) the form and content of leases or classes of leases,

(f) applications for licences or leases including the publication of applications,

(g) rents charged under a lease and the payment or collection of rents,



- (h) the non-application of any or all of the provisions of this Part to land or to a person or operation or to a class of land, person or operation, and
  - (i) the application of any or all of the provisions of the Fire Services Act or of regulations made under the Fire Services Act to a storage reservoir or to a person who explores for, develops or uses a storage reservoir.
- Part 15 — Regulations and Penalties

#### Regulations and orders

133 (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 do the following:
  - (a) make regulations to meet any difficulties that may arise by reason of the repeal of the former Act and the substitution of this Act;
  - (b) order a cancellation of a reserve of petroleum or natural gas, or both, effective not earlier than one week after publication in the Gazette of notice to that effect signed by the minister;
  - (c) by regulation cancel rental and work requirements on a permit or a portion of a permit, subject to conditions and for a period the Lieutenant Governor in Council may prescribe;
  - (c.1) prescribe penalties for the purposes of section 47 (7);
  - (d) extend the time in which work required to be done on the location specified in a permit, licence or lease may be done if the permittee, licensee or lessee has been prevented from doing work by extraordinary physical conditions which are completely beyond his or her control and could not be foreseen by him or her;
    - (d.1) [Not in force.]
    - (d.2) make regulations respecting the dimensions of locations of permits and leases;
    - (d.3) prescribe requirements for the purposes of section 52 (1);
    - (d.4) prescribe rents for the purposes of section 54 (2);
    - (d.5) prescribe special projects for the purposes of section 58 (1) (b);
  - (e) despite section 71, make regulations
    - (i) governing the exploration on Crown reserves of petroleum and natural gas under a form of title to be known as a drilling licence, and
    - (ii) setting the conditions under which that title may be converted to a lease with the power to adopt or amend the provisions of Part 6 to suit the circumstances of conversion;
  - (f) and (g) [Repealed 2008-36-195.]
  - (h) [Repealed 2003-1-24.]
  - (i) make regulations requiring a person or a class of persons who operate a storage reservoir or who produce, process, transport, acquire or offer to acquire, use, inject or dispose of petroleum or natural gas or sulphur, or a class of petroleum or natural gas or sulphur, to provide the information, relating to petroleum or natural gas or sulphur or a class of petroleum or natural gas or sulphur, that is required in the regulations or by a person or class of persons identified in the regulations
    - (i) to the person or class of persons specified in the regulations, and
    - (ii) at the time and in the form and manner specified in the regulations or by a person or class of persons identified in the regulations;
  - (j) make regulations respecting the amendment of, or limitations on the amendment of, information or a class of information required by a regulation prescribed under paragraph (i);
  - (k) make regulations defining, for the purpose of this Act or the regulations, any word or expression not defined in this Act;
  - (l) make regulations defining or describing the Peace River Block;
  - (m) make regulations defining the petroleum and natural gas grid by means of a set of universal transverse mercator map projection coordinates;
  - (n) for the purpose of section 58 (2), prescribe an area;
    - (n.1) make regulations respecting eligibility for continuation under section 62;
    - (n.2) prescribe rentals and penalties for the purposes of section 62, including different penalties for different continuations;
    - (n.3) prescribing circumstances and classes of agreements for the purposes of section 78.1 (2) and a number of years for the purposes of section 78.1 (4);

- (o) make regulations to extend the term and cancel the rental and work requirements for a permit, drilling licence or lease, or a portion of a permit, drilling licence or lease, if the holder of the location is prevented from doing work during a Provincial land use study, evaluation or planning process;
- (p) prescribe fees for
  - (i) name changes and other required purposes,
  - (ii) [Repealed 2008-36-195.]
  - (iii) under Part 14, applications or classes of applications,
  - (iv) under Part 14, licences or leases or classes of licences or leases, and
  - (v) a provision of this Act that refers to a fee or a prescribed fee;
- (q) [Repealed 2008-36-195.]
- (r) [Repealed 2002-26-36.]
- (s) make regulations for the unitization of a pool, field or reservoir for drilling, producing, storing or disposing;
- (t) prescribe the amount and disposition of deposits required under this Act;
- (u) make regulations respecting
  - (i) the designation under section 139 of portions of Crown land for development roads, and
  - (ii) the layout, design, construction, operation, use, maintenance and deactivation of development roads or classes of development roads;
- (u.1) make regulations prescribing, for development roads, annual rentals referred to in section 139 (3);
- (v) prescribing substances for the purposes of the definitions of "storage reservoir" and "storage well" in section 1, including water required for the storage, recovery or disposal of another prescribed substance;
- (w) prescribing areas of the land surface or subsurface for the purposes of the definition of "spacing area" in section 1;
- (x) prescribe circumstances for the purposes of section 125.2 (1) and make regulations respecting applications under section 125.2 (2);
- (y) make regulations exempting, with or without conditions, a person or a class of persons from a provision of this Act or the regulations.
- (3) [Repealed 2014-10-37.]

#### Production and allocation

133.1 (1) To promote the efficient use of the petroleum and natural gas reserves in British Columbia, the minister, by regulation, may limit the total amount of petroleum or natural gas that may be produced from a well, field or pool to an amount specified in the regulation or order.

(2) If satisfied that it is necessary to do so because of an emergency or a disruption of service, the minister, by order, may determine

- (a) the maximum amount of petroleum or natural gas that may be produced from a well, field or pool and distributed through gathering and processing facilities, and
- (b) the method by which the production and distribution referred to in paragraph (a) must be carried out.

(3) The commission may, by order, allocate the amount of petroleum or natural gas that may be produced from a pool in a manner among the wells in the pool so that each owner may produce or receive a share of the petroleum or natural gas that is fair in the opinion of the commission.

#### Offence and penalty

134 (1) Every person who contravenes a provision of this Act or the regulations commits an offence and is liable on conviction to a fine of not less than \$5 000 or more than \$100 000.

(2) If an offence against this Act or the regulations continues for more than one day, each day the offence continues is deemed to be a separate offence.

(3) If a corporation is convicted of an offence under this section, an officer, director or agent of a corporation who authorized, permitted or acquiesced in the offence also commits the offence and is liable to the punishment provided under subsection (1).

(4) Every person who

- (a) makes or participates in, assents to or acquiesces in the making of false or deceptive statements in books or records in a return, certificate, statement or answer filed or made as required under this Act,
- (b) destroys, alters, mutilates, secretes or otherwise disposes of books or records to evade payment of a royalty imposed under this Act,

(c) makes, or assents to or acquiesces in the making of, false or deceptive entries in books or records required under this Act,

(d) omits, or assents to or acquiesces in the omission of, entries in books or records required under this Act, or

(e) wilfully, in any manner, evades or attempts to evade compliance with this Act or the regulations or payment of royalties imposed under this Act

commits an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to (f) a fine of not less than 25% and not more than double the amount of the royalty that was sought to be evaded, or

(g) both the fine described in paragraph (f) and imprisonment for a term not exceeding 2 years.

(5) A person does not commit an offence under subsection (3) or (4) (a) or (c) in respect of a false or deceptive statement or entry if the person did not know that the statement or entry was false or deceptive and, in the exercise of reasonable diligence, could not have known that the statement or entry was false or deceptive.

#### Cancellation

135 If a holder of a permit, licence or lease fails to comply with a provision of

(a) this Act, the regulations or a notice or an order under this Act or the regulations,

(b) the Oil and Gas Activities Act or the regulations under that Act, or

(c) a term, promise or condition of the holder's permit, licence or lease,

the minister may, after giving 60 days' notice to the holder of the location, cancel the permit, licence or lease.

#### Appeal

136 (1) If the minister cancels a permit, licence or lease under section 135, the holder, not more than 30 days after the date of the cancellation, may appeal the minister's decision to the Supreme Court.

(2) An appeal from a decision of the Supreme Court lies to the Court of Appeal with leave of a justice of the Court of Appeal.

#### Repealed

137 [Repealed 2008-36-199.]

### Part 16 — Entry on Restricted Land or Unoccupied Crown Land

#### Entry on unoccupied Crown land

138 (1) Subject to subsection (2), on application by a person who is

(a) a permit holder as defined in the Oil and Gas Activities Act, or

(b) an applicant for a permit under the Oil and Gas Activities Act,

and on submission by the person of plans or other information required by the commission, the commission, subject to any terms or conditions the commission considers appropriate, may authorize the person to enter, occupy or use unoccupied Crown land

(c) to carry out an oil and gas activity,

(d) to carry out a related activity, or

(e) to comply with an order of the commission.

(2) The Lieutenant Governor in Council may make regulations respecting the criteria the commission must use in exercising its discretion under subsection (1).

#### Development roads

139 (1) The commission, subject to any terms or conditions the commission considers appropriate, may designate portions of unoccupied Crown land, whether or not they are in a location, to be a development road for the purposes of exploring for, developing or producing petroleum or natural gas or exploring for, developing or using a storage reservoir.

(2) A holder of a location may apply for a designation under subsection (1).

(3) An application must be accompanied by the application fee, prepayment of the prescribed annual rental, if any, and further information required by the commission.

(4) A person may not construct or use a development road except in accordance with the regulations and the terms that apply to it.

(5) Despite section 73 of the Assessment Act, a development road designated under subsection (1) must not, under another Act, be assessed or taxed as an improvement or as land or property.

#### Entry on restricted land

140 (1) Unless authorized under subsections (2) to (4), a person may not enter, occupy or use restricted land

- (a) to carry out an oil and gas activity,
- (b) to carry out a related activity, or
- (c) to comply with an order of the commission.

(2) For the purposes of subsection (1), a person is authorized to enter, occupy or use land described in paragraph (a) of the definition of "restricted land" in section 1, if the person has been authorized for that entry, occupation or use by the minister responsible for the administration of the Act under which the land is administered.

(3) For the purposes of subsection (1), a person is authorized to enter, occupy or use land described in paragraph (b) of the definition of "restricted land" in section 1, if the person has entered into an agreement with the railway company, authorizing the entry, occupation or use of the land.

(4) For the purposes of subsection (1), a person is authorized to enter, occupy or use land described in paragraph (c) of the definition of "restricted land" in section 1, if the person has been authorized for that entry, occupation or use by the minister responsible for the administration of the Act that restricts or prohibits access to the land.

#### Part 17 — Entry on Private Land and the Surface Rights Board

##### Division 1 — Interpretation

##### Interpretation for Part

141 (1) In this Part:

"flow line" has the same meaning as in the Oil and Gas Activities Act;

"land" means the surface of land other than restricted land or unoccupied Crown land;

"landowner" means the owner of land that is subject to a right of entry or a proposed right of entry;

"occupant" means a person who is entitled to possess or occupy land under an agreement, other than a surface lease, with an owner of land;

"owner", in relation to land, means either of the following:

- (a) a person registered in the land title office as the registered owner of the land or as its purchaser under an agreement for sale;
- (b) a person to whom a disposition of the land has been issued under the Land Act, but does not include the government;

"rental provision" means a provision of a surface lease or order of the board dealing with rent or compensation payable by a right holder to a landowner;

"right holder" means a person who holds a right of entry;

"right of entry" means an authorization under section 142 (d) or (e) to enter, occupy or use land for a purpose described in section 142 (a) to (c);

"surface lease" means a lease, easement, right of way or other agreement authorizing the entry, occupation or use of land for a purpose described in section 142 (a) to (c).

(2) For the purposes of this Part,

- (a) an order of a designated mediator referred to in section 152 (3) is an order of the board, and
- (b) a mediation meeting with a designated mediator referred to in section 152 (3) is a board proceeding.

## Division 2 — Authority to Enter Private Land

### Authority to enter, occupy or use land

142 Subject to section 39 of the Oil and Gas Activities Act, a person may not enter, occupy or use land

- (a) to carry out an oil and gas activity,
  - (b) to carry out a related activity, or
  - (c) to comply with an order of the commission,
- unless the entry, occupation or use is authorized under
- (d) a surface lease with the landowner in the form prescribed, if any, or containing the prescribed content, if any, or
  - (e) an order of the board.

### Rent and compensation

143 (1) In this section:

"orphan site" has the same meaning as in section 44 of the Oil and Gas Activities Act;

"termination date", in relation to a right of entry, means

- (a) if the right of entry has not been exercised, the date of termination of the right of entry under section 167 (3) (c) or section 176 (1) (c),
  - (b) if the right of entry relates to an orphan site, the date determined by the commission under section 45 (5) (c) of the Oil and Gas Activities Act, and
  - (c) in all other cases, the date on which the commission has issued, under the Oil and Gas Activities Act, a certificate of restoration for the land.
- (2) Subject to subsections (3) and (4), a right holder is liable
- (a) to pay compensation to the landowner for loss or damage caused by the right of entry, and
  - (b) except where the right of entry relates to a right of way for a flow line, to pay rent to the landowner for the duration of the right of entry.
- (3) If the term of a surface lease or order of the board granting a right of entry ends before the termination date, the rental provisions of the surface lease or order continue to apply until the termination date unless the landowner and the right holder otherwise agree or the board otherwise orders under this Part.
- (4) Subsection (3) applies despite the terms of the surface lease or order granting the right of entry, whether made before or after the coming into force of this section, and subsection (3) and this subsection are retroactive to the extent necessary to give effect to their provisions.

### Authority to enter, occupy or use land for geophysical exploration

144 A person may not enter, occupy or use land to carry out geophysical exploration unless the person has entered into an agreement with the owner of the land authorizing the entry, occupation or use.

### Exclusion from application of Part

145 (1) This Part, except section 144, does not apply to the entry, occupation or use of land relating to geophysical exploration.

(2) This Part does not apply to the entry, occupation or use of land relating to a pipeline, other than a flow line.

## Division 3 — Surface Rights Board

### Surface Rights Board

146 (1) The Mediation and Arbitration Board is continued as the Surface Rights Board consisting of up to 9 individuals appointed as follows by the Lieutenant Governor in Council after a merit-based process:

- (a) one member designated as the chair;
  - (b) one member designated, after consultation with the chair, as the vice chair;
  - (c) other members appointed after consultation with the chair.
- (2) An order, authorization, decision or rule made under Part 3, before its repeal, by
- (a) the Mediation and Arbitration Board,

- (b) a mediator, or
- (c) an arbitrator

that was in effect immediately before the coming into force of this section is deemed to be an order, authorization, decision or rule of the Surface Rights Board.

(3) A reference to the Mediation and Arbitration Board in any record, including, without limitation, any surface lease, lease, licence, permit, authorization or other contract, instrument, document or certificate is deemed to be a reference to the Surface Rights Board.

#### Jurisdiction of board

147 The board has jurisdiction in relation to any or all of the following:

- (a) an application under Division 5 by a person who requires a right of entry or by a landowner;
- (b) an application under Division 6 for mediation and arbitration;
- (c) an order for payment of costs or advance costs under Division 7;
- (d) any other matter in respect of which the board has jurisdiction under this or another Act.

#### Division 4 — Operations of the Board

#### Application of Administrative Tribunals Act

148 The following provisions of the Administrative Tribunals Act apply to the board:

- (a) Part 1 [Interpretation and Application];
- (b) Part 2 [Appointments];
- (c) Part 3 [Clustering];
- (d) Part 4 [Practice and Procedure], except the following:
  - (i) section 12 [practice directives tribunal must make];
  - (ii) section 16 [consent orders];
  - (iii) section 22 [notice of appeal (inclusive of prescribed fee)];
  - (iv) section 23 [notice of appeal (exclusive of prescribed fee)];
  - (v) section 24 [time limit for appeals];
  - (vi) section 25 [appeal does not operate as stay];
  - (vii) section 34 (1) and (2) [party power to compel witnesses and order disclosure];
- (e) section 44 [tribunal without jurisdiction over constitutional questions];
- (f) section 46.3 [tribunal without jurisdiction to apply the Human Rights Code];
- (g) section 48 [maintenance of order at hearings];
- (h) section 49 [contempt proceeding for uncooperative witness or other person];
- (i) section 50 [decisions];
- (j) section 51 [final decision];
- (k) section 52 [notice of decision];
- (l) section 53 (1) to (3) and (5) [amendment to final decision];
- (m) Part 8 [Immunities];
- (n) section 57 [time limit for judicial review];
- (o) section 59 [standard of review without privative clause];
- (p) section 59.1 [surveys];
- (q) section 59.2 [reporting];
- (r) section 60 (1) (a) to (c) and (g) to (i) and (2) [power to make regulations];
- (s) section 61 [application of Freedom of Information and Protection of Privacy Act].

#### Powers of board

149 (1) The board may sit at any place in British Columbia.

(2) A member of the board, or an employee of the board authorized by the chair, may, in the performance of the duties of the member or employee, enter and inspect land and improvements, other than a residence, or equipment located on land.

#### Form and service of application

150 (1) Subject to the rules of the board, an application to the board must be made in the form the board requires and must be accompanied by

- (a) proof that a copy of the application has been served in accordance with the rules of the board on

- (i) each person likely to be directly affected by an order,
  - (ii) any other person who, in accordance with the rules of the board under subsection (2), must be served with a copy of the application, and
  - (iii) any other person that the board determines should be a party to the application, and
- (b) if Crown land is likely to be directly affected by an order, an affidavit verifying service of the application by registered mail on the commission and the minister responsible for the administration of the Land Act.
- (2) The board may make rules identifying persons or classes of persons who must be served with a copy of an application.

#### Completion of application and scheduling proceedings

151 (1) If it appears to the board that an application does not contain sufficient information to permit the application to be heard and considered, or that the applicant has not served every person the applicant is required to serve, the application is not complete until the applicant provides the board with the information or submits an affidavit verifying service of the application on every person the applicant is required to serve, as applicable.

(2) Subject to subsection (3), on receipt of a complete application under this Part, the board must schedule proceedings of the board in accordance with its rules.

(3) The board, on its own motion or on application, may make an order staying proceedings of the board if the board determines an approval of the commission is required before the proceedings of the board begin or continue.

#### Mediation and arbitration

152 (1) Subject to subsection (2), the parties to an application to the board must participate in mediation under this section unless

- (a) otherwise ordered by the board, or
  - (b) the rules of the board provide that mediation is not required.
- (2) The parties to an application under section 129 are not required to participate in mediation.
- (3) On receipt by the board of an application under this Part, a member of the board designated by the chair of the board must act as the mediator for the purpose of assisting the parties to resolve the application in accordance with the rules of the board.
- (4) The mediator may make procedural orders relating to the mediation.
- (5) If, after any mediation meeting, an application is not withdrawn or resolved, the mediator may, by order,
- (a) set one or more additional mediation meetings, or
  - (b) if the mediator believes that the application cannot be resolved by mediation, refer the application to the board for arbitration.
- (6) A mediator may not make orders in respect of an application other than those provided for in subsections (4) and (5) of this section and in sections 153, 159 and 160.
- (7) An application must be arbitrated by the board if the application has not been withdrawn and
- (a) mediation is not required in respect of the application under subsection (1) or (2), or
  - (b) the application has been referred by a mediator to the board for arbitration.
- (8) A person who acts as a mediator cannot participate in arbitration by the board with respect to the same application unless all the parties to the application consent.
- (9) A position taken by a party in mediation under this section is without prejudice to the position that the party may take in any other proceeding before the board.
- (10) The board, on its own motion or on application, may at any time refer the parties back to mediation or to another dispute resolution process.

#### Consent orders

153 On the request of the parties to an application under this Part, the board or a designated mediator referred to in section 152 (3) may make a consent order resolving an application.

#### Considerations in determining amount

154 (1) In determining an amount to be paid periodically or otherwise on an application under this Part, the board may consider, without limitation, the following:

- (a) the compulsory aspect of the right of entry;
- (b) the value of the applicable land;

- (c) a person's loss of a right or profit with respect to the land;
  - (d) temporary and permanent damage from the right of entry;
  - (e) compensation for severance;
  - (f) compensation for nuisance and disturbance from the right of entry;
  - (g) the effect, if any, of one or more other rights of entry with respect to the land;
  - (h) money previously paid for entry, occupation or use;
  - (i) the terms of any surface lease or agreement submitted to the board or to which the board has access;
  - (j) previous orders of the board;
  - (k) other factors the board considers applicable;
  - (l) other factors or criteria established by regulation.
- (2) In determining an amount to be paid on an application under section 166, the board must consider any change in the value of money and of land since the date the surface lease or order was originally or last granted.

#### Reconsideration by board

155 (1) The board, on its own motion or on application, may reconsider an order of the board, and may confirm, vary or rescind the order.

(2) The board may make rules as follows:

- (a) specifying the circumstances in which subsection (1) applies;
- (b) respecting practice and procedure relating to the exercise of the authority of the board under subsection (1).

#### Waiver of service requirements

156 The board, on application, may order that the requirements for service of a document on a person under this Part are deemed to have been met if

- (a) the board is satisfied that the applicant has reasonably attempted to serve the person in accordance with the rules of the board but has been unable to serve the person, and
- (b) the applicant has sent a copy of the document by registered mail to the last known address, if any, of the person.

#### Division 5 — Authority to Enter Land

##### Interpretation for Division

157 In this Division, "right of entry order" means an order under section 159 (1).

##### Application for mediation and arbitration

158 A person who requires a right of entry or the landowner may apply to the board for mediation and arbitration if the person and the landowner are unable to agree on the terms of a surface lease.

##### Right of entry order

159 (1) If an application is made under section 158, the board or a designated mediator referred to in section 152 (3) may make an order authorizing a right of entry, subject to the terms and conditions specified in the order, if the board or the mediator, as applicable, is satisfied that an order authorizing the right of entry is required for a purpose described in section 142 (a) to (c).

(2) A mediator who has made an order under subsection (1) may continue mediation in order to assist in resolving any issues between the parties to the mediation.

(3) A right of entry order may be conditional on the person who is seeking the right of entry receiving approval from the commission to undertake an activity for a purpose described in section 142 (a) to (c).

(4) A right of entry order made by a mediator must, as a condition of the order, require the person who is seeking the right of entry to pay to the landowner, on account of rent, if any, or compensation that may be ordered under section 162 (1) (a), an amount of money ordered by the mediator.

(5) If a right of entry order is granted, the right holder must serve a certified copy of the order on the landowner, the occupant, if any, and the commission in accordance with the rules of the board.

(6) If a right of entry order is granted on application by the person seeking the right of entry, the right holder must not exercise the right of entry until

- (a) the right holder has served a certified copy of the order on the landowner under subsection (5), or



(b) the board has made an order under section 156 that the requirements for service of the order on the landowner are deemed to have been met.

#### Security deposit

160 (1) A right of entry order may, as a condition of the order, require the person who is seeking the right of entry to deposit with the board security in the amount, form and manner that the mediator or the board considers necessary for the purpose of ensuring that the landowner will be paid any amount that is subsequently ordered by the board to be paid by the person to the landowner.

(2) In determining the amount, form and manner of security to be deposited under subsection (1), the mediator or the board must consider any practice directive issued by the board with respect to security deposits.

(3) Subject to subsection (4), the board, on application, may determine the disposition of security, or any part of it, as between the person who deposited the security and the current landowner.

(4) If the board is satisfied that a person who deposited security with the board subsequently transferred, in accordance with this Act or the Oil and Gas Activities Act, the right to explore, develop or produce petroleum or natural gas in the land to which the security deposit relates, the board, on application, may determine the disposition of the security, or any part of it, as between the person to whom the right was transferred and the current landowner.

#### Order when landowner does not participate

161 (1) If a landowner does not attend the proceedings in respect of an application under section 158, the board, after hearing representation by or on behalf of the applicant and persons other than the landowner that are likely to be directly affected by an order, may make a right of entry order if

(a) a copy of the application has been served on the landowner in accordance with the rules of the board, or

(b) the board has made an order under section 156 that the requirements for service of the application on the landowner are deemed to have been met.

(2) A landowner whose land is subject to a right of entry order under subsection (1) of this section may apply to the board for an order under subsection 162 (1) (a).

#### Determination of money payable and security

162 (1) Unless the parties to an application otherwise agree, if the board or a mediator has made a right of entry order, the board, by order,

(a) must determine the amount of rent, if any, or compensation to be paid to the landowner, and

(b) may make a determination in relation to security deposited or any portion of it remaining on deposit under section 160, and may distribute the security or a portion of it in accordance with that determination.

(2) An amount determined under subsection (1) (a) may include, without limitation, compensation to the landowner relating to negotiation with the right holder before the application was made to the board.

(3) The board may order that interest is payable on an amount determined under subsection (1) (a).

(4) If a mediator has made an order under section 159 (4), the following apply:

(a) if the amount paid under section 159 (4) is less than or equal to the amount determined under section 162 (1) (a), the landowner is entitled to receive the difference, if any;

(b) if the amount paid under section 159 (4) exceeds the amount determined under section 162 (1) (a), the board, on application, may order the landowner to pay the excess to the right holder.

#### Division 6 — Board Orders Relating to Rights of Entry

##### Application relating to loss or damage caused by right of entry

163 (1) A person may apply to the board for mediation and arbitration if the person

(a) is a landowner or occupant of land that is subject to a right of entry, and the exercise of the right of entry causes damage to the land or other land of the owner or occupant or causes loss to the owner or occupant, or

(b) is the owner or occupant of land immediately adjacent to land that is subject to a right of entry, and the exercise of the right of entry causes damage to the adjacent land or causes loss to the owner or occupant.

(2) On application under subsection (1), the board may order the right holder to pay compensation to the landowner or owner or occupant for damage to the land of the landowner, owner or occupant or loss to the

landowner, owner or occupant as a result of the exercise of the right of entry, including, without limitation, compensation relating to negotiation with the right holder before the application was made to the board.

(3) The board may order that interest is payable on an amount payable under subsection (2).

Board orders relating to surface leases

164 (1) A party to a surface lease may apply to the board for mediation and arbitration in respect of either or both of the following:

(a) a disagreement respecting the operation of or compliance with a term of the surface lease;

(b) a disagreement respecting whether the surface lease should be amended based on a claim by a party that the oil and gas activity or related activity as approved by the commission on the land that is subject to the surface lease is substantially different from the oil and gas activity or related activity that was proposed during the negotiation of the surface lease.

(2) On application under subsection (1) (a), the board may do any or all of the following:

(a) make an order confirming the right of entry under the surface lease, subject to the terms and conditions specified in the order, if any;

(b) if the board is satisfied that a party to the surface lease has failed to comply with an obligation under the surface lease, order that party to pay compensation to the other party for that failure;

(c) order that interest is payable on an amount payable under paragraph (b);

(d) order that compensation awarded under paragraph (b) is payable by a party instead of the party complying with an obligation under the surface lease.

(3) On application under subsection (1) (b), or in making an order under subsection (2) (d), the board may make an order amending the terms of the surface lease from the effective date set out in the order.

Negotiation of amendment to surface lease or order

165 (1) This section and section 166 apply despite

(a) the terms of a surface lease or order containing rental provisions made at any time before or after the coming into force of this section, or

(b) anything done under the surface lease or order before or after that time.

(2) Subject to subsection (3),

(a) a right holder who holds a right of entry under a surface lease or order of the board, or

(b) the landowner whose land is subject to the right of entry

may serve notice on the other party, in the form and manner established by the rules of the board, requiring a negotiation of an amendment to the rental provisions in the surface lease or order.

(3) A notice under subsection (2) may not be served before the 4th anniversary of the later of the following:

(a) the effective date of the surface lease or order to which the notice relates;

(b) the effective date of the most recent amendment to the rental provisions in the surface lease or order agreed to by the parties or ordered by the board, if any.

(4) A person serving notice under subsection (2) must file a copy of the notice with the board in accordance with its rules.

(5) If persons giving and receiving a notice under subsection (2) agree to amend the rental provisions in a surface lease, the right holder must submit a copy of the agreement to the board under section 178 (2).

(6) If persons giving and receiving a notice under subsection (2) agree to an amendment of the rental provisions in an order, the right holder must submit a copy of the agreement to the board and the board may amend the order to reflect the agreement of the parties.

(7) An amendment of the rental provisions in a surface lease or order of the board under this section is effective from the anniversary of the effective date of the surface lease or order immediately preceding the notice under subsection (2) and is retroactive to the extent necessary to give effect to this subsection.

Parties do not agree to amendment of surface lease or order

166 (1) If persons giving and receiving a notice under section 165 (2) do not agree to an amendment of the rental provisions in the surface lease or order to which the notice relates within 60 days after receipt of the notice, either party may apply to the board to resolve the disagreement.

(2) An application under subsection (1) of this section may be accompanied by an application for mediation and arbitration under section 163 (1) (a).

(3) On application under subsection (1) of this section, the board may make an order varying the rental provisions in the surface lease or order.

(4) An order under subsection (3) of this section varying the rental provisions in the surface lease or order of the board is effective from the anniversary of the effective date of the surface lease or order immediately preceding the date of the notice under section 165 (2) and is retroactive to the extent necessary to give effect to this subsection.

#### Termination of surface lease or order

167 (1) A right holder who holds a right of entry under a surface lease or an order of the board may, on not less than 90 days' notice to the landowner, apply to the board for an order terminating the surface lease or order if at least 2 years have expired since the effective date of the surface lease or order.

(2) A landowner whose land is subject to a right of entry under a surface lease or an order of the board may, on not less than 90 days' notice to the right holder, apply to the board for an order terminating the surface lease or order if

(a) at least 2 years have expired since the effective date of the surface lease or order, and

(b) the right holder has not exercised the right of entry in that period.

(3) On application under subsection (1) or (2), the board must hear representation by or on behalf of the applicant and persons likely to be directly affected by an order resulting from the application, and may

(a) make an order dismissing the application with or without terms or conditions,

(b) if the right of entry has been exercised, make an order terminating the right of entry, subject to the terms or conditions specified in the order, including all of the following conditions:

(i) the right holder removing all equipment and facilities used in respect of the exercise of the right of entry;

(ii) the right holder restoring all land directly affected by the exercise of the right of entry;

(iii) the receipt by the right holder of a certificate of restoration by the commission in respect of the land that is subject to the right of entry, or

(c) if the right of entry has not been exercised, make an order terminating the right of entry with or without terms or conditions.

(4) An order under subsection (3) may include an award of money for any or all of the following amounts that have not been received at the time of the order:

(a) rent or compensation for the right of entry that is the subject of the application;

(b) damages in relation to the right of entry;

(c) any other amounts owing under the surface lease or past orders of the board.

(5) An order under subsection (3) may include an order that interest is payable on an amount payable under subsection (4).

(6) The board may order that compensation awarded under subsection (4) is payable instead of rent or compensation provided for under a surface lease or an order of the board.

(7) A hearing is not required in respect of an application under subsection (1) or (2) if all persons likely to be directly affected agree to the termination of the surface lease or order.

(8) If any term or condition in an order under subsections (3) to (5) is not complied with, the board may order that additional money is payable as compensation for that non-compliance.

#### Division 7 — Costs

#### Interpretation for Division

168 In this Division:

"actual costs" includes, without limitation, the following:

(a) actual reasonable legal fees and disbursements;

(b) actual reasonable fees and disbursements of a professional agent or expert witness;

(c) other actual reasonable expenses incurred by a party in connection with a board proceeding;

(d) an amount on account of the reasonable time spent by a party in preparing for and attending a board proceeding;

"landholder" means an owner of land or occupant who is a party to an application under this Part;

"operator" means a party to an application under this Part in relation to a right of entry who

(a) requires but does not hold the right of entry, or

(b) is the right holder in relation to the right of entry.

#### Advance costs

169 (1) Subject to any regulations, the board may, on application, order the operator to pay to the landholder, as advance costs, all or part of the amount that the board anticipates will be the landholder's actual costs awarded by the board under section 170.

(2) If the board is satisfied that an operator has failed to comply with an order under subsection (1), the board may refuse to proceed with the application until the operator complies with the order.

#### Costs

170 (1) Subject to any regulations, the board may order a party to an application under this Part or an intervener to pay any or all of the following:

(a) all or part of the actual costs incurred by another party or intervener in connection with the application;  
(b) part of the actual reasonable legal fees and disbursements and other reasonable costs and expenses incurred by the board in connection with the application, if the board considers the conduct of a party or intervener has been improper, vexatious, frivolous or abusive.

(2) If actual costs are awarded under this section to a landholder who has received an amount as advance costs under section 169, the following apply:

(a) if the amount received as advance costs exceeds the amount of actual costs awarded under this section,

(i) the operator may deduct the difference from any amounts of rent or compensation payable to the landholder in relation to the right of entry, and

(ii) if all rent and compensation, if any, has been paid, the board, on application, may order the landholder to pay the excess to the operator;

(b) if the amount received as advance costs is less than or equal to the amount of actual costs awarded under this section, the landholder is entitled to receive the difference, if any.

#### Division 8 — Provisions Relating to Board Orders

##### Registration of order

171 (1) If the board makes an order authorizing or terminating a right of entry with respect to land that is registered under the Land Title Act, the person whose right of entry is authorized or terminated by the order must file a certified copy of the order with the registrar of the appropriate land title district, who, on payment of the appropriate fees, must endorse the land title records accordingly.

(2) If a person fails to file a certified copy of an order in accordance with subsection (1), on application by the landowner, the board may file a certified copy of the order with the registrar of the appropriate land title district, who, on payment of the appropriate fees by the board, must endorse the land title records accordingly.

(3) If the board files a certified copy of an order under subsection (2), the board may order the person who failed to file the certified copy of the order under subsection (1) to pay to the government

(a) fees paid by the board to the registrar under subsection (2),

(b) reasonable costs incurred by the board with respect to the filing of the certified copy of the order under subsection (2) and the preparation of an order under this subsection, and

(c) a prescribed penalty.

##### Certified copy as evidence

172 A certified copy of an order of the board signed by the chair of the board, or by an employee of the board designated in writing by the chair, must be admitted as evidence of the order by the board.

##### Assignment of order

173 (1) A right holder may assign an order of the board

(a) by serving notice of the assignment on the other parties named in the order,

(b) by filing a certified copy of the assignment with the board, and

(c) if the land that is subject to the order is registered under the Land Title Act, by filing the assignment with the registrar of the appropriate land title district, who, on payment of the appropriate fees, must endorse the assignment against the indefeasible or absolute title of the land that is the subject of the assignment.

(2) An order of the board applies to the current owner or occupant, from time to time, of the land that is the subject of the order.

#### Enforcement of right of entry

174 (1) The following orders of the board may be enforced in the same manner as a writ of possession issued by a court:

- (a) an order under Division 5 granting a right of entry;
- (b) an order under section 164 (2) (a) confirming a right of entry under a surface lease.
- (2) If a landowner whose land is subject to a right of entry under a surface lease or order of the board refuses to allow the right holder to exercise the right of entry, on application by the right holder, the board may make an order permitting the right holder to deduct from any amounts of rent or compensation payable under the surface lease or order, an amount covering the cost of and incidental to enforcing the right of entry, which amount is at the sole discretion of the board.

#### Enforcement of orders

175 A certified copy of an order of the board may be filed at any time with the Supreme Court or Provincial Court, and, if filed, the order has the same force and effect, and all proceedings may be taken on it, as if it were an order of the court.

#### Failure to pay

176 (1) If a right holder fails to pay rent or compensation owing under a surface lease or order of the board granting the right holder a right of entry, on application by the person entitled to receive the rent or compensation, the board, by order, may do any one or more of the following:

- (a) suspend the right of entry with or without terms or conditions;
- (b) determine the unpaid amount and order that interest is payable on that amount;
- (c) terminate the right of entry with or without terms or conditions;
- (d) if the right of entry is terminated under paragraph (c), determine the amount of rent, if any, or compensation owing by the right holder to the date of the termination and order that interest is payable on that amount.
- (2) If the board suspends or terminates a right of entry, the board must, in accordance with the rules of the board, serve notice of the suspension or termination on the right holder, the owner of the land, the occupant, if any, and the commission.
- (3) If a right of entry is suspended under subsection (1) (a) of this section, the obligations of the right holder under the surface lease or order to pay rent, if any, and compensation continue during the period of the suspension.
- (4) A suspension of a right of entry under subsection (1) (a) terminates on the date set by the board.
- (5) If the suspension of a right of entry is terminated under subsection (4), the board must, in accordance with the rules of the board, serve notice of the termination on the persons who received notice under subsection (2).

#### Compliance with orders

177 A person to whom an order of the board applies must comply with the order.

### Division 9 — Surface Lease Information

#### Submission of surface lease information

178 (1) A right holder who holds a right of entry under a surface lease must submit to the board, not more than 90 days after the date the right holder acquires the right of entry,

- (a) the right holder's name and address,
- (b) a description of the land that is subject to the right of entry, and
- (c) a copy of the surface lease, including the terms of the right of entry and any rental provisions.
- (2) A right holder described in subsection (1) must submit to the board a copy of any agreement amending a surface lease not more than 90 days after the date of execution of the amending agreement.
- (3) A surface lease or amending agreement submitted to the board must be available for public inspection at the office of the board during its regular office hours.
- (4) The board may publish prescribed information derived from a surface lease or agreement submitted to the board in a form and manner the board considers appropriate, including on the internet or by other electronic means.

### Administrative penalty

179 (1) Subject to any regulations, if the board is satisfied that a right holder has failed to submit a surface lease or agreement as required under section 178 (1) or (2), the board, without prior notice, may impose an administrative penalty on the right holder in an amount that does not exceed the prescribed amount.

(2) If an administrative penalty is imposed on a right holder, the board must serve notice of the administrative penalty on the right holder in accordance with the rules of the board, and the notice must specify the amount of the penalty and the date by which the penalty must be paid.

(3) A right holder on whom an administrative penalty is imposed must pay the administrative penalty within 30 days after the date on which the notice referred to in subsection (2) is served on the right holder.

(4) An administrative penalty constitutes a debt payable to the government by the right holder on whom the penalty is imposed.

(5) If a right holder fails to pay an administrative penalty in accordance with subsection (3), the board may file with the Supreme Court or Provincial Court a certified copy of the notice imposing the administrative penalty, and, on being filed, the notice has the same force and effect, and all proceedings may be taken on the notice, as if it were a judgment of that court.

(6) The board must pay all amounts derived from administrative penalties into the consolidated revenue fund.

### Suspension of right of entry under surface lease

180 (1) If the board is satisfied that a right holder has failed to submit a surface lease or agreement as required under section 178 (1) or (2), the board, without prior notice, may suspend the right of entry under the surface lease until the surface lease or amending agreement has been submitted to the board.

(2) If the board suspends a right of entry, the board must, in accordance with the rules of the board, serve notice of the suspension on the right holder, the landowner, the occupant, if any, and the commission.

(3) A suspension of a right of entry takes effect 30 days after the date on which the notice referred to in subsection (2) is served on the right holder.

(4) If a right of entry is suspended, the obligations of the right holder under the surface lease to pay rent, if any, and compensation continue during the period of the suspension.

(5) A suspension of a right of entry terminates on the date set by the board, which date must be not later than 30 days after the right holder submits the surface lease or amending agreement to the board.

(6) If a suspension of a right of entry is terminated under subsection (5), the board must, in accordance with the rules of the board, serve notice of the termination on the persons who received notice under subsection (2).

### Division 10 — Regulations for Part

#### Regulations

181 Without limiting section 133, the Lieutenant Governor in Council may make regulations relating to the following:

(a) the form or content of a surface lease for the purpose of section 142 (d), including, without limitation, terms or conditions that must be contained in a surface lease;

(b) factors or criteria to be considered by the board in determining an amount for the purposes of section 154 (1) (l);

(c) costs or advance costs under section 169 or 170;

(d) prescribing the amount of the penalty referred to in section 171 (3) (c);

(e) prescribing information or classes of information that the board may publish under section 178 (4);

(f) the administrative penalty referred to in section 179, including the maximum amount of the penalty.

#### Schedule

(section 75)

#### Warrant to Enter and Search

British Columbia

County of .....

To [name of police constable] and other persons being police constables under the Police Act:

whereas it appears on the oath of [name] ..... that there are reasonable grounds to believe that [describe records and any other things to be searched for and place to be entered and searched].

This is therefore to authorize you [here state any limit on hours of search] to enter and search the said premises to seize the said records and to inspect, examine, measure and evaluate such other things found on the said premises as may relate to royalty under the Petroleum and Natural Gas Act.

Dated [month, day, year]....., at .....

.....

A Justice of the Peace in and for

.....

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