THE CROWN AS CONTRACTING PARTY AS AFFECTED BY MINISTERIAL DISCRETION

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INTRODUCTORY

It has been stated that: "Judicial review of statutory discretion is at once the most elusive and the most controversial aspect of English administrative law. It is elusive inasmuch as the discretionary powers that are now omnipresent in our public law are of an almost infinite variety. Only against the background of an elaborate classification and tabulation of the main classes of discretions (which has never been attempted in this country) would it be possible to present a full and accurate statement of the scope of judicial review."[1] It is not the purpose of this paper to present an elaborate classification and tabulation of the classes of discretions or a full and accurate statement of the scope of judicial review. Rather, an attempt will be made to analyze the discretionary powers granted to and exercisable by a Minister of the Crown under a petroleum and natural gas lease granted by Her Majesty the Queen in the light of existing principles of judicial review with a view to determining whether such powers, if improperly exercised, are reviewable by a court.

The paper will be confined to an examination of ministerial powers; no attempt will be made to deal with the discretionary powers of a board or tribunal granted under legislation which is incorporated by reference into the lease.

When "discretionary powers exercisable under the lease" are referred to, it is necessary to keep in mind that these discretionary powers are mainly powers granted to the Minister by statute or regulation incorporated by reference into the lease. The following lease provision is illustrative:[2]

> 1. The lessee shall comply with the provisions of The Mines and Minerals Act, 1962, and any Act passed in substitution therefor, and any regulations that at any time may be made under the authority of the said acts, and all such provisions and regulations that prescribe ,relate to or affect the rights and obligations of lessees of petroleum and natural gas rights, the property of the Crown, shall be deemed to be incorporated into this lease and shall bind the lessee in the same manner and to the same extent as if the same were set out herein as covenants on the part of the lessee. Each and every provision or regulation hereafter made shall be deemed to be incorporated into this lease and shall bind the lessee as and from the date it comes into force, but in the event of conflict between any regulation hereafter made and any regulation previously made the regulation last made shall prevail.

There can be no doubt that clauses such as the foregoing effectually incorporate into the lease any and all powers vested in the Minister by the statute or regulations referred to in such clauses.[3]

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1 S. A. De Smith, *Judicial Review of Administrative Action.*

2 Form 145. Petroleum and Nautral Gas Lease — Alberta
See also: Clause 2—Petroleum and Natural Gas Lease — Saskatchewan
Clause 6—Oil and Gas Lease—Federal
Petroleum and Natural Gas Lease — British Columbia

3 Halsbury's *Law of England,* (3rd ed.), vol. 8, p. 96.

A perusal of the Mines and Minerals Act reveals that the Minister is for example granted the following powers:

> 37. (1) If for any reason the Minister *considers it necessary* or *advisable* to have a survey or re-survey made of any location to determine the exact position of the location, or in order to settle any dispute that may arise respecting the same, he may direct that such a survey or re-survey be made by an Alberta land surveyor.
> (2) The Minister *may require* payment in advance of the costs of the survey or re-survey to be made by the lessee of the location to be surveyed in whole or in part, or the Minister *may require* such portion of the payment of the costs as seem to him just.
> (3) If the lessee fails to make such payment in advance when informed to do so by the Minister, the Minister in *his discretion* may cancel the lease.
> (4) The surveyor shall file with the Department plans, notes and any other information that may be required to determine the exact position of the location and the Department shall forward a copy of such information to the lessee.
> 38. (1) As soon as any area of land that includes a location, or any part thereof, becomes surveyed, the Minister after consultation with the lessee *may amend* the description by describing the area as surveyed lands.
> (2) The decision of the Minister as to the surveyed lands to be included in the lease is conclusive and final and there is no appeal therefrom.[4]
> [*emphasis added*]

Phraseology such as: "if the Minister considers it necessary or desirable", "the Minister may", or "in his (the Minister's) discretion" has always been judicially interpreted as vesting discretionary powers in the recipient.

Let us assume the case of a Crown lessee in whose lease, by virtue of incorporation by reference, the foregoing sections are included. Let us further assume that the Minister considers it necessary or advisable to have a re-survey of the location of the lease made to determine the exact position of the location. There is no dispute between the lessee and the Minister respecting the location. (The following is deliberately exaggerated.) The Minister directs an Alberta land surveyor to re-survey the location; he also requests the lessee, prior to the survey being made, to pay $X.00 to cover the costs of the survey. The lessee can see no reason for a re-survey of the location of the lease, and therefore refuses to pay the money as requested. The Minister then cancels the lease.

Or suppose that the lessee pays the money asked for, the re-survey is made, the Minister consults with the lessee, and that despite the lessee's protest, he amends the lease. The amendment of the lease causes a loss to the lessee of a portion of land that he particularly desired to be included in his lease.

In neither of the assumed situations is the lessee satisfied and he therefore seeks recourse through the Minister. He requests either reinstatement of the lease or inclusion of the lease of the lands excluded due to the re-survey and amendment of the lease. The Minister promptly refuses. Can the lessee obtain the help of the courts?

Judicial Review of Ministerial Discretion

In order to arrive at a solution to the problem posed it will be necessary first to identify and classify the discretionary powers exercisable by the Minister into generally accepted categories. To do so, a close perusal of

[4] The Mines and Minerals Act, 1962 c.49 (Alta.)

the wording of the empowering section, coupled with the following questions or similar ones is necessary: [5]

1. Does the wording of the empowering section impose any restriction on the Minister's power, or is the Minister able to exercise the power granted in a completely unfettered and absolute fashion?
2. If the power is restricted, is it restricted (a) as to things the Minister should or should not do, (b) things he should or should not take into consideration before coming to a decision; i.e. with respect to procedural aspects?
3. If the power is not restricted as to procedual aspects, is it restricted in respect of the honesty or fairness of the Minister's decision insofar as it affects the lessee?
4. If the power is restricted as to procedural aspects, is it also restricted in respect of the honesty or fairness of the decision insofar as it affects the lessee?[6]

Depending upon the answers to these questions, an improper decision of the Minister may or may not be reviewable in the courts. Of course, to decide whether or not a power is exercised properly is not an easy task and can only be determined by looking at the result of the decision, i.e. by an objective analysis after the exercise of the power.

The following categories can then be set up, and when the law is applied, a decision can be made whether or not the exercise of the power is reviewable. Deliberately, no attempt is made to classify the powers into categories such as "ministerial power, administrative power, judicial power, or quasi-judicial power" as has been the practice in the courts.

1. When the power granted is not restricted in any way, or when the power granted appears to be restricted, but actually conveys the right to the Minister to form an opinion, the decision will not be reviewable.[7] The Minister's opinion under this category is really an exercise of a "subjective" discretionary power or unfettered discretionary power since the Minister only, is given the right to form an opinion and it is left to him how to form his opinion.[8]

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5 S. A. DeSmith, *Judicial Review of Administrative Action*, at p. 29.
"The scope of judicial review of administrative action, and the remedies available to persons aggrieved, frequently depend upon the appropriate classification of a particular statutory function."
See also: *Copithorne* v. *Calgary Power Ltd. and Halmrast* [1959] SCR 24.
Grevas v. *R* (1957), 23 WWR (N.S.) 577.

6 Cf. the classification set up by De Smith *ante* at pp. 242 to 246.
(1) Where the connection between the subject-matter of the power to be exercised and the purposes prescribed by statute is expressed to be determinable to the satisfaction of the competent authority.
(2) Where the competent authority is empowered to take a prescribed course of action, if it is satisfied that it is necessary in the public interest.
(3) Where the competent authority is empowered to take a prescribed course of action when it "is satisfied" or when "it appears" to it, or when "in its opinion," a given state of affairs exists which the High Court would be capable of investigating independently on the basis of evidence or legal argument.
(4) Where the competent authority is empowered to take such action or to impose such conditions as it thinks fit in relation to a subject-matter.
Number 2 may not be applicable to this analysis, except with respect to sections contained in conservation legislation.

7 De Smith, at pp. 243, 244. See also *Giese* v. *Williston* (1943), 41 WWR 331. His decision was attacked by certiorari where Sheppard J.A. dismissing the application, said at p. 333:
"The words "may grant the right" indicate that the minister does not merely ascertain a right previously existing but, by the powers of the section, creates the right, and the words "on such terms and conditions as he sees fit" indicate that, in so doing, he acts not upon principles binding upon him but on a matter within his discretion. Hence, under this section the function of the minister is not merely to ascertain those legal rights and liabilities which are created by pre-existing fixed legal principles binding upon the minister and the parties, but his function is to create the rights, and, in so doing, he applies his own discretion."

8 De Smith, at 200, 241.

2. When the power granted restricts the Minister in what he should or should not do, or should or should not take into consideration before making his decision, the decision will not be reviewable unless these procedural aspects are mandatory rather than dicertory.[9] Furthermore, the courts seem to have taken the attitude that the mandatory or directory nature of the procedural requirements is to be determined by an objective analysis of how the failure to comply with the procedure affects the person against or in favour of whom the decision is rendered. A breach of a procedural requirement will be reviewed by the court when the Minister has "declined" or "exceeded" his power and has therefore either declined or exceeded his jurisdiction.[10]

   Particularly, provisions relating to the furnishing of notice to the person affected, have been held by the courts to be mandatory and therefore a decision made without compliance as to notice is reviewable. Numerous cases could be cited to support this proposition, so well established in our legal systems that further comment is unnecessary.

3. Even though the power granted may not be restricted as to procedural aspects still the court will imply that the Minister's decision must be rendered fairly and honestly and if it is not, his decision will be reviewed.[11] Honesty and fairness are in themselves rather vague standards and

   > by giving powers to Ministers and other statutory bodies in terms so broad that it becomes difficult for a court ever to hold that hey have been exceeded,[12]

   it is an almost impossible task to determine whether these requirements have been met and even if not whether the legislature intended to exclude these principles in favour of expendiency and more efficient administration.

   As a consequence, a category of review based on breaches of principles of natural justince where a Minister makes a disretionary decision in favour of one, and not another individual due to bias, or a decision that is manifestly unjust in that it was not made after giving proper considerations to the rights of the persons against whom it is directed, is almost a category without meaning, it is submitted, due to the almost insuperable difficulties involved in proving such breach. Occasionally, a case arises where the Minister's decision is reviewed on grounds of natural justice; but these cases are exceptional.[13]

4. When the power granted is restricted by both procedural requirements and by the principles of natural justice, then a breach of either or both restrictions will generally result in review by the court, though it seems that breach of procedural requirements appears to be employed more than the breach of principles of natural justice as a basis for review. Basically this category is only an extension of category No. 2.

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9 De Smith, at 200.
10 De Smith, at 94.
11 De Smith, at 201.
12 De Smith, at 240.
13 See, for example *Re Otjes* v. *General Supplies Ltd.* (1964), 49 WWR (N.S.) 488 where it was held that whereas the Minister's decision was not reviewable had he acted on his own, as he was empowered to do, it was reviewable on principles of natural justice once he decided to hold a hearing.

Significance of Incorporation by Reference

To this point the power of the courts to review administrative decisions generally has been discussed. However, since the power we are principally concerned with is one which is incorporated by reference into the lease, an additional factor has to be considered, namely, contractual consent. If the consent of the lessee should loom as a significant consideration, then it may well be that a court would be extremely reluctant to interfere with the Minister's decision, since under the law of contract it is most unusual for the court to interfere with a decision provided for in the contract.

It would appear that the Supreme Court of Canada is prepared to accept that the lease may provide for future changes in rates of royalty, and that the lessee would be bound contractually, if proper language were used to express such intention.[14] Why should this view not be accepted when the lease provides for the incorporation by reference of a statutory power in a Minister to make a decision which might, as substantially as variation of the royalty provision discussed, alter the lessee's position under the lease. In connection with restrictions as to reasonableness and honesty on one of the contracting parties, Egbert, J. in *Hudson's Bay Oil and Gas Company Limited* v. *Dynamic Petroleums Ltd.*, expressed the following view:[15]

> The Company's covenant was to
> "undertake a seismic survey over the lands covered by the reservation sufficient in scope to adequately evaluate the reservation to Hudson's Bay's satisfaction."
> The learned Judge held that:
> "The exact meaning of such a covenant is an interesting speculation—does it mean that the covenantor by a mere declaration that the land has been evaluated to its satisfaction perform its covenant even though there has been a completely inadequate survey, or does it mean that the covenantor's expression of satisfaction must be an honest expression based on a survey which it reasonably considers adequate? I am inclined to think that the latter is the correct answer, but in this case it is not necessary for me to come to a conclusion on this point, because *Hudson's Bay itself declared the survey not to be to its entire satisfaction.*" [*emphasis added*]

In result where the lessee's obligations are required under statutory authority to be "to the satisfaction of the Minister", or some such other standard, it may very well be that the lessee could not dispute such requirements at all, due to the obligation being, in actual fact, contractual.

Remedies

Assuming that the decision of the Minister is reviewable by the court, by what judicial remedy will the lessee obtain review? Certiorari would seem to be the appropriate remedy in most cases since if the Minister's decision is quashed and thus a nullity, the lessee will, without more, be put back into the position he was in before the Minister rendered his decision.[16] The lessee could also proceed by way of mandamus requiring the Minister to exercise his discretion properly, or he may be able to obtain a declaratory judgment.

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14 *Spooner Oils Ltd.* v. *Turner Valley Conservation Board,* [1933] S.C.R. 629

15 (1958) 26 W.W.R. 504.

16 See: *Copithorne* v. *Calgary Power Ltd. and Halmrast,* [1959] S.C.R. 24
Rex v. *Nat Bell Liquors Ltd,* [1922] 2 WWR 30
Lee Wing v. *Chang,* (1954), 13 WWR (N.S.) 353
Security Export Co. v. *Hetherington* [1923] SCR 539; D.C.M. Yardley, *The Grounds for Certiorari and Prohibition,* (1959), 37 Can. Bar Rev. 294.

Classification of Minister's Discretion

Attached to this paper is an Appendix which is an attempt to classify the discretionary powers in legislation incorporated into Crown leases of Alberta, Saskatchewan and British Columbia, respectively, into the four categories of discretion earlier set out. Classifying the powers given to a Minister into categories 3 and 4 is rather speculative since it is not until the decision has been rendered that one can determine whether it was made honestly and fairly.

The grouping of these sections into the four categories of discretionary powers, however, does show that the powers are necessary for the better administration of the natural resources of the provinces; that the sections do not of themselves intend a deprivation of individual rights, though on occasion through misinterpretation by the responsible Minister, they may have that result; and finally, that the sections are worded in such a way that where there may be deprivation of individual rights, through Ministerial action, such action may be reviewed by the courts.

How Minister in Fact Exercises His Discretionary Power

One of the considerations which arises from this paper is the practical aspect of how in fact the Minister exercises his power. Of particular interest is the power of cancellation. Thus the following question may be asked: "Is the lessee in everyday dealings with the Crown really subject to the whims of the Minister?" Insofar as Alberta practice is concerned, it is fair to say that generally the Minister's power of cancellation will only be exercised when

(a) the lessee, being in arrears with respect to payment of rentals, fails to pay the same after being served notice to do so,

(b) the lessee surrenders his lease, and

(c) the lessee, under a lease falling within section 164 of The Mines and Minerals Act, 1962, after notice to drill, fails to do so within the time limit, or instead of drilling, fails to pay the deferment penalty specified in section 167.

In instances other than the above the power of cancellation it is submitted will only be exercised in the most exceptional cases and only after careful consideration of all the requisites under the Act and all the circumstances which may permit relief rather than cancellation.

Although it may still appear that a lessee dealing with the Crown is in an entirely different contractual position than a lessee dealing with a freehold petroleum and natural gas owner, this difference resolves itself mainly to the fact that the Crown is a mineral owner which leases materials only on its own terms and condition, in the same way as does the Hudson's Bay Company and the Canadian Pacific Railway Company. Anyone who does not want to deal under those conditions does not need to do so, and will not do so.

APPENDIX

I—Alberta Statutes and Regulations

Statutory provisions giving power of decision to Minister grouped according to the following categories:

Category 1—decision not reviewable by court.

Category 2—decision reviewable by court when statutory procedural restriction not followed.

Category 3—decision reviewable by court on breach of requirement of natural justice.

Category 4—decision reviewable by court because of both statutory procedural and natural justice requirements.

A. The Mines and Minerals Act, 1962

Category No. 1

General:
Sections

4(2)	Minister's decision whether a well is a well to which this Act or The Oil and Gas Conservation Act applies.
9	Minister or other authorized officer may execute agreements on behalf of the Crown.
11	Minister may grant or refuse to grant agreements or may cancel agreement granted in error.
37(1)&(2)	Minister, for any reason he considers necessary or advisable, may order re-survey of lease location and may require lessee to pay for re-survey.
44	Minister may approve syndicate, association of persons, or corporation incorporated under Act of the Province to be capable of holding an agreement.
52	Minister may extend the six month period after cancellation of agreement, after which installations and fixtures in connection therewith become vested in the Crown.
57	Minister, when in his opinion it is deemed necessary, may require lessee or owner to furnish cash deposit to insure satisfactory operations. Deposit may be held until work is completed to the satisfaction of the Minister. Minister may use any or all of deposit to insure the proper carrying out of the work.

Petroleum and Natural Gas:
Sections

122	Lease to be in the form determined by Minister and may contain such other provisions as the Minister may prescribe.
124	Minister may reduce rental with respect to spacing unit of commercially producing natural gas well.
129	Continuation of lease after continuous drilling for producing well to the satisfaction of the Minister.
130	Continuation of lease after well abandoned. Drilling to commence within ninety days and to continue to the satisfaction of the Minister.
131	Minister may increase period within which to continue drilling of uncompleted well.
132	Notice re continuation of lease and decision of Minister as to what parts of location shall continue under lease.
133	Minister may defer offset drilling requirement where heavy crude oil is produced. Consent of Minister to drilling of offset on different part of location.
134	Minister to prescribe payment of compensatory royalty.
137	Consent of Minister to surrender part of location.
138	Consent of Minister to transfer part of location.

139	Consent of Minister to division of lease.
140	Consent of Minister to consolidation of two or more leases.
141	Collection of royalty to be as prescribed by the Minister.
Natural Gas: Sections	
150	Reduction of rental in sole discretion of Minister where, in his opinion, there is no adequate market for gas.
152	Lease to be in the form determined by Minister and may contain such other provisions as the Minister may prescribe.
153	Lessee to commence and continue drilling to the satisfaction of the Minister within six months after Minister gives notice to drill.
Petroleum: Sections	
158	Lease to be in the form determined by Minister and to contain such other provisions as the Minister may prescribe.
Agreements under Previous Acts: Sections	
164	Lessee to commence and to continue drilling to the satisfaction of the Minister within one year after Minister serves notice.
165	Consent of Minister to suspend drilling of a well on grouped leases.
166	Minister may increase period for continuation of drilling of abandoned well.
167	Minister may defer drilling requirement on lessee paying deferment penalty.
Transfers: Sections	
176	Minister may register transfers but may, in his discretion, refuse to register a transfer in certain instances. Minister may require satisfactory proof of authority of an attorney.
180	Minister may register bank assignment.
Unit Agreements: Sections	
183	Minister may provide for terms he deems necessary or advisable in unit agreements. Minister may enter into royalty agreements.
184	Minister may require division of location partly within unit operation.

Category No. 2

General: Sections	
34	Minister may cause the seizure and sale of goods and chattels on land from which minerals are taken without agreements under the Act.
37(3)	Minister may cancel lease on failure of lessee to pay for survey.
38	Minister, after consultation with lessee subsequent to survey, may amend lease. No right of appeal from Minister's decision as to what lands are to be included or excluded in lease amended after survey.
49	Minister may cancel agreement if lessee fails to comply with provisions of Act, regulations or agreement.
Petroleum and Natural Gas: Sections	
109(b)	Minister may decide what, in his opinion, is a producing well (probably restricted by definitions of "petroleum" and "natural gas" in sections 155 and 148 respectively).
115	Minister may cancel lease as to part of legal subdivision in the lease unless lessee satisfies him that lessee has the right to petroleum and natural gas in remainder of legal ubdivision outside the lease.

Agreements under Previous Acts: Sections

168	Minister may cancel lease under notice to drill where well is not drilled in location or properly grouped, or consent of Minister to suspension of drilling is not obtained.

Category No. 3

General: Sections

32(2)	Minister may authorize removal of goods and chattels to which lien for unpaid royalty attaches.
33	Minister may authorize seizure and sale of goods to which lien for unpaid royalty attaches.

Category No. 4

See sections 32(2), 33 and 34.

B. Petroleum and Natural Gas Royalty Regulations

Category No. 1

Sections

1(b)	Royalty to be no less than ¾c per 1,000 cu. ft. of natural gas or residue gas unless, where the gas is processed, the Minister directs otherwise.
2	Sale of products unless otherwise ordered by the Minister, shall include the Crown's royalty share.
4	The Minister may reduce Crown royalty not less than 20% on a heavy crude well.
6	Interpretation of regulations is function of the Minister and his decision is final and not subject to appeal.

C. The Oil and Gas Conservation Act

Category No. 1

Licences and Permits: Sections

22(2)	A licence granted is null and void if it is proved to the satisfaction of the Minister that the licensee was not entitled to the oil or gas.
22(3)	Minister may cancel licence unless within thirty days from mailing of notice the licensee proves to the satisfaction of the Minister that he has the right to the oil and gas.
24(2)	Minister or other authorized person may grant or refuse licence.
25	Minister may approve company incorporated by Act of the Province to acquire and hold licence.
26(9)	Minister, upon recommendation of the Board, may, on conditions he may prescribe, dispense with licence deposits where gas to be used solely for domestic use.
28	Where licensee is a company struck off the Register, Minister may direct transfer of licence to person who accepts the same if in the opinion of the Minister the person has the right to receive the licence.
29	Cancellation and suspension of licence by Minister on recommendation of the Board in prescribed instances.
30	Minister, upon Board recommendation, may, in his discretion, amend the licence or refuse amendment.
31	Licence to be in form prescribed by Minister.

II—British Columbia Statutes and Regulations

A. Petroleum and Natural Gas Act, 1965

Category No. 1

Leases:
Sections

70(1)	Minister may issue or refuse to issue in accordance with Act and regulations where applicant is other than permittee or licensee who has complied with Act.
71(1) (b)	Rental reduction where exploratory drilling done to satisfaction of Minister or where in the opinion of the Minister there is no adequate market.
76	Grouping of two hundred and eighty-eight units where exploratory drilling preformed to satisfaction of Minister and on units lying partially or wholly within a circle of twelve mile radius.
79	Continuation of ten year primary term so long as drilling or work done to the satisfaction of Minister. Minister may, upon lessee's application, increase ninety day period in which to continue validating drilling where wellabondoned in first instance, and where lessee prevented from normal drilling by extraordinary physical conditions beyond his control.
84	Minister's approval to surrender of lease in whole or part and to issue of new lease instead.

Spacing Areas:
Sections

86	Upon application, Minister may designate other than normal spacing area for natural gas well on Crown reserve acreage.

Pooling of Locations:
Sections

88	Minister may enter into pooling agreement on terms and conditions he deems advisable where two or more owners have locations within a spacing area or part thereof.

Royalty:
Sections

94	Minister may approve transportation allowances where sale of natural gas takes place other than at well-head. Allowance to continue until otherwise directed by Minister.

Conservation:
Sections

117	Approval of Minister to schemes for repressuring of pool, processing of nautral gas and gathering of water.
123	Minister may close area that, in his opinion, constitutes hazards. Order closing area may be on such terms and conditions as Minister considers necessary for prevention of fire. Minister may provide notice of order.
124	Minister may order that whatever necessary be done to control or suspend well or abandon the same if not done in accordance with his order.
125	Further powers of Minister for enforcement of order.

General:
Sections

142	Minister may, subject to conditions in this section, dispose of property forfeited to the Crown on location that has been cancelled, abandoned or has reverted. Minister may use moneys realized from sale of property to settle claims against such property.
144	Lessee shall have lease surveyed by British Columbia land surveyor within one year from the date of petroleum or natural gas discovery when instructed by Minister to do so. Minister may cancel lease if not surveyed unless lessee proves he was unable to obtain surveyor.
145	Certain information may be designated by Minister as confidential and shall not be released except by order of the Lieutenant Governor in Council or in the sole discretion of the Minister with the permission in writing of the lessee.

146 Minister may direct work to be done so as to avoid danger to public where operator of location cannot be found.

Category No. 2

Penalties:
Sections

149 After notice by Minister, he may cancel lease where lessee is guilty of continuing offence under Act.

Category No. 4

Conservation:
Sections

115 Minister may by general or special order restrict the amount of petroluem or natural gas that may be produced in the Province.

116 Minister, in order to prevent waste, may require repressuring, recycling, pressure maintenance or injection for storage.

B. Drilling and Production Regulations

Category No. 2

Conservation:
Sections

4(4) (a) The Minister may, of his own motion, request a hearing, and upon application in writing of any interested person he shall, unless he considers the application to be frivolous or vexatious, order the Committee to hold a hearing with respect to any matter.

(b) The hearing referred to in clause (a) may include appeals from any decision made by an officer of the Branch and may or may not be heard in camera, as, in the opinion of the minister, circumstances warrant.

(c) An applicant under clause (a) shall furnish the Minister with data, information, and material as he may require.

(d) Subsequent to any such hearing the Committee shall make recommendations to the Minister, and the Minister, at his discretion, may make such order as he deems necessary, and the Minister's decision shall be final.

C. Royalty Regulations

Category No. 1

Sections

1 Crown royalty portion except that lost without fault on the part of the operator as determined by the Minister shall be part of production obtained from well.

2 Location holder shall file production reports and such other information as the Minister may from time to time require.

3 Sale of petroleum and natural gas until otherwise ordered by Mnister shall include Crown royalty share.

III—Saskatchewan Statutes and Regulations

A. The Mineral Resources Act, 1959

Category No. 1

Powers of Minister:
Sections

9 Minister may do such things as he deems necessary for the recovery, development and conservation of mineral resources.

Disposition of Minerals:
Sections

14 Minister, upon such terms as he deems just, may relieve from forfeiture or loss of right of mineral disposition.

Miscellaneous:
Sections

18 Minister may warn prospective investor where it appears to him that mining company shares or properties are misrepresented to induce investment therein.

B. Petroleum and Natural Gas Regulations

Category No. 1

Leases of Crown Lands: Sections

47	No expenditures for additional drilling within three and one-half mile square area to be used for rent refunds where a well in the centre of that area in the opinion of the Minister is capable of producing petroleum and natural gas on paying quantities.
48	Minister may approve one year's drilling expenditures as credits for one subsequent year's rent.
50	Minister may approve grouping of Crown lease lands on consideration, among other things, of size, shape and location of wells in group.
51	Minister may, in writing, approve period of longer than ninety days in which, after notice, lessee may upon drilling of a well to the deepest formation, lease all formations down to and including deepest formation in a five mile square area.
52(1)	Continuous drilling by lessee with reasonable diligence to the satisfaction of the Minister within six months after notice.
53	Offset drilling requirement on written request of Minister on location designated by Minister to test freehold producing zone. Royalty payable as if production from freehold well was production from offset well where Minister gave notice in writing to drill offset. Minister may refund royalty paid where well abandoned proved non-productive, or offset requirement waived by Minister within fourteen months of Minister's notice to drill offset.

Category No. 2

52(2)	Cancellation of lease or group in the discretion of Minister if lessee fails to drill on sixty days further notice. Minister may extend first six month period.

Category No. 3

45	Lease term to continue after expiration of primary ten year term where drilling operations conducted continuously and diligently without cessation for more than thirty days to the satisfaction of the Minister.

C. The Oil and Gas Conservation Act

Category No. 1

Administration: Sections

7	Power of Minister to make or issue orders and take any action he deems necessary or expedient for the better exploration of oil or gas in the Province.

Licences: Sections

12	Minister may issue licence to applicant who has complied with provisions of Act.
13	Consent of Minister to assignment of licence.

Category No. 2

Regulations and Orders: Sections

18	Minister may make orders for the better conservation of oil and gas in the Province.

Oil and Gas Production: Sections

28	Minister may make order permitting well to be drilled off prescribed target area.
29	Minister may vary established drainage units.

31	In absence of voluntary pooling Minister may, upon application, make order that a hearing be held by Board. Minister may make pooling order upon Board recommendation.
Unit Operations: Sections	
35	Minister, on his own or on application, may order Board to have hearing for unit operation. Application to be in form and contain such information and be in such number of copies as Minister may require.
Practice and Procedure Relating to Hearing: Sections	
49	Minister on his own or upon application of interested persons, shall order Board to hold hearing with respect to any matter unless Minister considers application to be frivolous or vexatious.

Category No. 4

Miscellaneous: Sections	
52	Approval of Minister for certain plans (pressure maintenance schemes).
Prohibitions Offences and Penalties: Sections	
55	Authorization of Minister to consumption of gas in the Province.
56	Export of gas without Minister's permit prohibited.
63	Minister may commence and maintain action to enjoin the committing of waste.

Category No. 2

Licences: Sections	
14	Minister, after notice and upon contravention of Act or regulations, may cancel or suspend licence.

D. Oil and Gas Conservation Regulations

Category No. 1

General: Sections	
9	Minister may order test of content of gas and if, in his opinion, a product is present in economic quantity that justifies extraction, he may order the separation, conservation and utilization of the product.
13	Operator to file any drilling or production information in such manner as Minister may require.
15	Minister, wherever he deems necessary, may seal or cause to be sealed any valve or meter at well, tank or other receptacle for oil or gas.
16	Minister may hold public inquiry for inquiring into any matter or thing under the Act, regulations or orders.
Licensing: Sections	
22	Consent of Minister to transfer of licence.
23	Minister to determine amount of deposit required prior to drilling of well, etc. Minister may use all or part of deposit for work required to condition wells, sites and roadways thereto.
Drilling and Development: Sections	
29	Minister may grant permission to drill outside target area subject to production penalties.

30	Approval of Minister to drilling in water covered area.
31	Approval of Minister to drilling within two miles of subsurface mine.
32	Consent of Minister to variation in drilling program.
33	Use of blow-out prevention equipment unless otherwise ordered by Minister.
36	Equipment or casing to be in good condition and according to specifications in licence and from time to time prescribed or approved by Minister. Operator to adopt such methods and install such equipment in completing well as may be prescribed or approved by Minister. Minister may require equipment which appears to him inadequate to be replaced or reconditioned by satisfactory equipment.
37	Preservation of samples of formations by owner unless otherwise directed by Minister.
39	Consent of Minister to taking of core samples out of Saskatchewan. Minister may require owner to test particular formation in a designated field.
40	Taking of such well logs as may be authorized by Minister. Minister may require owner to take a log or well survey recognized and in practical use in the industry. Owner to supply Department with certain copies of logs, etc. unless otherwise directed by Minister.
41	Owner shall make directional survey of well whenever required to do so by Minister. Minister may order operator to make further prescribed surveys.
42	Minister may release certain confidential information after one year.
43	Directions and orders of Minister to operators with respect to plugging and abandonment of wells.
44c	Minister may use all or part of money deposited for recovery of production casing to defray costs incurred with respect to abandonment of well in respect of which deposit was made.
46	Minister's powers re restoration of surface and operator's liability for improper abandonment.
49	Consent of Minister to repair or abandonment of well damaged by shooting, perforating or chemical treatment.
50	Minister's powers on inadequate well completions.
52	Permissive rates of production and minister's discretion relating to penalties and overproduction.
60	Minister may, after notice to applicant, approve oil field production installation to be closer in distance to each other than specified in regulation.
63	Minister may prescribe standards for measurements.
64	Minister may require surveys of reservoirs to be made in accordance with good oil field practice and at such time and in such manner as he deems advisable.
65	Minister may require bottom-hole pressure surveys.
66	Minister may prescribe manner of computation of gas-oil ratios.
69	Completion of multi-zone wells where applicant satisfies Minister that segregation can be achieved and maintained during lifetime of well.
Records: Sections	
77	Measurement of oil, gas and water in a manner satisfactory to the Minister. Minister may, upon application, permit keeping of records on a battery basis where two or more wells are tied to common storage and treating facilities.
78	Measurement of gas with meter approved by Minister or dispensation of measuring requirement.
Safety Regulations: Sections	
85	Operator's responsibility for carrying out safety regulations unless otherwise directed by Minister.

Category No. 2

Production:	
Sections	
7	Production of gas in accordance with terms and conditions of Minister for conservation purposes.
71	Authorization of salt water disposal.

Catagory No. 4

General:	
Sections	
17	Hearings.
Licensing:	
Sections	
20	Licence shall be issued for operation of a drilling rig unless after notice and inquiry the Minister finds that applicant is not financially able or qualified to operate rig in competent manner. Minister may cancel drilling rig licence where, in his opinion, licensee operated in contravention of Act.
21	Rig licences for servicing wells, etc. See section 20.
Production:	
Sections	
62	Authorization by Minister of vacuum pumps, etc. after application and inquiry.