

# *The Oil Well Income Tax Act*

*Repealed*

by [Chapter 16 of the \*Statutes of Saskatchewan, 2000\*](#)  
(effective June 21, 2000).

*Formerly*

[Chapter O-3.1 of \*The Revised Statutes of Saskatchewan, 1978 \(Supplement\)\*](#) (effective January 1, 1974) as amended by the  
[Statutes of Saskatchewan, 1979, c.48; 1979-80, c.92; 1980-81, c.16 and 83; 1982-83, c.34; and 1984-85-86, c.16.](#)

## **NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER 0-3.1

### An Act to provide for the Taxation of Income from Oil Wells

#### SHORT TITLE

##### Short title

- 1 This Act may be cited as *The Oil Well Income Tax Act*.

#### INTERPRETATION

##### Interpretation

- 2(1) In this Act:

(a) **“assessor”** means the person appointed as assessor for the purposes of this Act;

(b) **“associated persons”** means any two or more persons deemed to be associated persons by a direction of the minister under subsection 35(1);

(c) **“Crown”** means Her Majesty the Queen in right of the province;

(c.1) **“Crown-acquired lands”** means all lands in the province, and all rights thereto and interests therein, that were acquired by the Crown under or by virtue of Part III of *The Oil and Gas Conservation, Stabilization and Development Act*, other than any such lands, rights or interests to which section 34 of such Act applies;

(c.2) **“Crown lands”** means all lands in the province, and all rights thereto and interests therein, that are the property of the Crown and:

(i) that are held under or pursuant to a Crown lease; or

(ii) that were acquired by the Crown under or by virtue of Part III of *The Oil and Gas Conservation, Stabilization and Development Act* and are lands, rights or interests to which section 34 of such Act applies;

but, for greater certainty, does not include any Crown-acquired lands;

(d) **“Crown lease”** means a disposition as defined in *The Mineral Resources Act*;

(d.1) **“Crown oil”** means all oil:

(i) produced from Crown lands;

(ii) allocated to the Crown or to Crown lands under a voluntary pooling arrangement, a pooling order, an agreement for unit operation or a unit operation order made pursuant to *The Oil and Gas Conservation Act* and the regulations thereunder; or

(iii) produced from or allocated to any other lands as may be prescribed from time to time by the regulations;

(e) **“department”** means the department over which the minister presides;

(e.1) **“freehold lands”** means all lands in the province, and all rights thereto and interests therein, that are not Crown lands, and, for greater certainty, includes all Crown-acquired lands;

(e.2) **“freehold oil”** means all oil other than Crown oil;

(f) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(g) **“oil”** includes crude petroleum oil and any other hydrocarbon, regardless of density, that is or is capable of being raised, taken, gained or recovered from an oil well in liquid form and that is not the result of condensation of natural gas;

(h) **“operator”** includes:

(i) the person who has the right to operate an oil well; or

(ii) the person designated by the assessor as operator for the purposes of this Act;

whether he does so himself or through any other person;

(i) **“output”** includes all freehold oil raised, taken, gained or recovered from any oil well in the province;

(j) **“person”** includes an individual, corporation, company, syndicate, trust, firm, partnership, co-owners or party and, where the context permits or requires, includes associated persons, and includes the successors, heirs, executors, administrators or other legal representatives of such person;

(k) **“prescribed”** means prescribed by regulation from time to time by the Lieutenant Governor in Council;

(l) **“taxation year”** means the taxation year of the taxpayer for the purposes of the *Income Tax Act* (Canada) or, if the taxpayer does not have a taxation year for the purposes of the *Income Tax Act* (Canada), means the calendar year or such other period not exceeding fifty-three weeks as may be approved by the minister upon application by the taxpayer;

(m) **“taxpayer”** means any person liable for any taxes imposed under this Act;

(n) **“well”** or **“oil well”** includes any opening in the ground within the province, except seismic shot holes or structure test holes, from which oil is, has been or is capable of being raised, taken, gained or recovered from a reservoir, and includes:

(i) collectively, all wells located within a unit area in respect of which there is in effect either an agreement for unit operation or a unit operation order made pursuant to *The Oil and Gas Conservation Act* and the regulations thereunder;

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(ii) all reserves of oil in such reservoir and all rights thereto and interests therein; and

(iii) where the context permits or requires, the well site;

(o) “**well site**” means the property upon, in or under which an oil well is situate.

(2) For the purposes of this Act:

(a) related persons, as determined in accordance with the *Income Tax Act* (Canada), shall be deemed not to deal with each other at arm’s length; and

(b) it is a question of fact whether persons not related to each other, as determined in accordance with the *Income Tax Act* (Canada), were at a particular time dealing with each other at arm’s length.

(3) In this Act, any reference to any other statute or to an enactment of the Parliament of Canada includes a reference to any regulations, orders or other statutory instruments made pursuant thereto, and any reference to any enactment of the Parliament of Canada shall be deemed to be a reference thereto as re-enacted, amended, revised or consolidated as at December 1, 1977.

R.S.S. 1978 (Supp.), c.O-3.1, s.2; 1979, c.48, s.3;  
1980-81, c.16, s.3, 4 and 15; 1984-85-86, c.16,  
s.22.

## INCOME TAX

**Income tax**

**3(1)** Every person shall be liable for and shall pay a tax, at the prescribed rate or rates, on his oil well income for each taxation year ending after December 31, 1973.

(2) For the purposes of subsection (1), any associated persons shall be deemed to be and shall be dealt with as one and the same person and not as separate persons.

(3) This Act shall not apply to any person in respect of his oil well income for any period after December 31, 1982.

R.S.S. 1978 (Supp.), c.O-3.1, s.3; 1982-83, c.34,  
s.4.

**Oil well income**

**4** For the purposes of this Act, the oil well income of a taxpayer for a taxation year is the amount by which the aggregate of all amounts received or receivable by him in the taxation year as, on account of or in lieu of payment of, or in satisfaction of, any revenue derived from the production of freehold oil from all oil wells exceeds the outlays and expenses made or incurred by him in the taxation year for the purpose of gaining or producing such amounts so received or receivable by him.

R.S.S. 1978 (Supp.), c.O-3.1, s.4; 1980-81, c.16,  
s.15.

**Revenue derived from production of freehold oil**

**5(1)** For the purposes of section 4, the revenue derived from the production of freehold oil from an oil well in a taxation year is the aggregate of:

- (a) to the extent that output of the oil well has been disposed of as such in the taxation year, the aggregate of all amounts received or receivable, or deemed by subsection 31(1) to have been received, as, on account of or in lieu of payment of, or in satisfaction of, the proceeds of disposition of such output;
  - (b) to the extent that output of the oil well has not been disposed of as such but has been wholly or partially treated or refined and the products of such treatment, partial treatment or refining have been disposed of in the taxation year, the amount of the fair market value at the well head of such output as at the time it was raised, taken, gained or recovered from the oil well; and
  - (c) to the extent that output of the oil well has been used or consumed in the taxation year by the taxpayer or by any other person or persons at the direction or with the concurrence of the taxpayer, the fair market value at the well head of such output as at the time it was raised, taken, gained or recovered from the oil well.
- (2) For the purposes of clause (1)(b), but subject to subsection (3), it shall be conclusively presumed that any output of the oil well not disposed of as such has been wholly or partially treated or refined and that all products of the treatment, partial treatment or refining of such output have been disposed of not later than six months following the time when such output was raised, taken, gained or recovered from the well.
- (3) Where, upon application made to the assessor by a taxpayer, it is demonstrated to the satisfaction of the assessor that less than all of the output of the oil well not disposed of as such has been wholly or partially treated or refined or that less than all of the products of the treatment, partial treatment or refining of any such output have been disposed of within six months following the time when such output was raised, taken, gained or recovered from the well, the assessor shall determine:
- (a) the proportion, if any, of such output the products of the treatment, partial treatment or refining of which have been disposed of within such period of six months for the purposes of clause (1)(b); and
  - (b) the date or dates not later than which all products of the treatment, partial treatment or refining of the remaining proportion of such output shall be conclusively presumed to have been disposed of for the purposes of clause (1)(b);

and any determination made by the assessor under clause (b) of this subsection may be varied by him from time to time where, upon further application made by the taxpayer, it is demonstrated to the satisfaction of the assessor that less than all of the products of the treatment, partial treatment or refining of such remaining proportion of the output mentioned in clause (b) of this subsection have been disposed of within the further period or periods determined by the assessor under that clause.

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(4) Any determination made by the assessor under subsection (3), and any variation thereof made by the assessor from time to time, may be appealed by the taxpayer to the Board of Revenue Commissioners within thirty days after the day on which notice of the determination or of the variation thereof is given or delivered to or served on the taxpayer, and the provisions of section 18 apply, *mutatis mutandis*, to appeals under this subsection.

(5) For the purposes of clause (a) of subsection (1), the proceeds of disposition of any output of an oil well shall include any amount received or receivable from the Government of Canada or the Government of Saskatchewan after 1981 as or on account of a price supplement in respect of that output.

R.S.S. 1978 (Supp.), c.O-3.1, s.5; 1980-81, c.16, s.15; 1982-83, c.34, s.4.

**Taxpayer's revenue derived from production of freehold oil**

**6** For the purposes of section 4, amounts received or receivable by a taxpayer as, on account of or in lieu of payment of, or in satisfaction of, any revenue derived from the production of freehold oil from an oil well shall include all amounts received or receivable by him as, on account of or in lieu of payment of, or in satisfaction of, rentals, royalties, fees, and all other payments of any kind whatsoever and howsoever calculated that in any way relate to or are derived from the well or the production of freehold oil therefrom or the output thereof.

R.S.S. 1978 (Supp.), c.O-3.1, s.6; 1980-81, c.16, s.15.

**Limitations on deductions of outlays and expenses**

**7(1)** Notwithstanding section 4, in determining the oil well income of a taxpayer for a taxation year, no deduction shall be made in respect of:

- (a) any amount transferred or credited to a reserve account, contingent account or sinking fund, other than a reasonable reserve for doubtful debts;
- (b) any outlay or expense made or incurred for goods or services provided by a person in excess of the fair market value of such goods or services;
- (c) any amounts paid or payable as, on account of or in lieu of payment of, or in satisfaction of, any income, profit or other similar taxes;
- (d) the amount of any interest or penalties assessed or payable under this Act;
- (e) any amount paid or payable to the Crown under a Crown lease or with respect to Crown-acquired lands as, on account of or in lieu of payment of, or in satisfaction of, any royalty relating to a well or the production of oil therefrom or the output thereof; or
- (f) any deduction that is not reasonable in the circumstances.

(2) Notwithstanding section 4, in determining the oil well income of a taxpayer for a taxation year, no deduction shall be made in respect of:

- (a) an outlay, loss or replacement of capital, a payment on account of capital or an allowance in respect of depreciation or obsolescence;

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- (b) any overhead or administrative expense, or any amount paid or payable as, on account of or in lieu of payment of, or in satisfaction of, interest;
- (c) any exploration, development or pre-production expense; or
- (d) depletion in the value of any reserves of oil by reason of exhaustion or partial exhaustion thereof;

except as, or to the extent, expressly permitted from time to time by the regulations.

R.S.S. 1978 (Supp.), c.O-3.1, s.7; 1980-81, c.16, s.5 and 6.

**Limitation on deduction of royalties**

8(1) For the purposes of section 4, in determining his oil well income for a taxation year, a taxpayer may deduct any amount paid or payable by him in the taxation year as, on account of or in lieu of payment of, or in satisfaction of, any royalty, and any other payment in the nature of a royalty, relating to freehold lands (other than Crown-acquired lands) or the production of freehold oil therefrom or the output thereof, but only to the extent that such amount is included in determining the oil well income of the recipient thereof for the taxation year or would be so included but for the operation of section 37.

(2) Notwithstanding section 4, subsection 7(1), and subsection (1) of this section, in determining the oil well income of a taxpayer for each taxation year commencing prior to the first day of January, 1981, a deduction may be made in respect of any amount paid or payable by him to the Crown in the taxation year as, on account of or in lieu of payment of, or in satisfaction of, any net royalty or farmout share payable under a net royalty lease or a farmout agreement, relating to an oil well or the production of oil therefrom or the output thereof but, notwithstanding subsection 12(1), such amount of net royalty or farmout share shall not be deductible from the tax otherwise payable under this Act.

R.S.S. 1978 (Supp.), c.O-3.1, s.8; 1980-81, c.16, s.7 and 8.

**RETURNS AND RECORDS****Notices of active operations**

9(1) The operator of every oil well from which any oil has been raised, taken, gained or recovered at any time on, from and after January 1, 1974 shall, within sixty days after the day this Act is proclaimed in force, deliver written notice to the assessor stating:

- (a) the period or periods during which the well was in active operation; and
- (b) the name and address for service of the operator of the well and of each person who has received or is entitled to receive any amount as, on account of or in lieu of payment of, or in satisfaction of, any revenue derived from time to time from the production of oil from the well and the amount that each such person has received or is entitled to receive;



and, in the case of any such well that has ceased active operation on or before the day this Act is proclaimed in force, such written notice shall be delivered to the assessor by the person who was the operator of the well at the time it ceased active operation.

(2) The operator of every oil well from which any freehold oil is being raised, taken, gained or recovered shall deliver written notice of active operation to the department, in the form and at the times required by the regulations, setting forth such information as may be prescribed.

(3) The operator of every oil well shall deliver written notice to the department, in the form and at the times required by the regulations, of any change in any of the information set forth in any notice previously delivered pursuant to subsection (1) or (2).

(4) Any notice delivered to the department under this section shall be signed by the operator of the oil well, and the operator shall immediately deliver a copy of any such notice to each person named therein.

(5) Any notice or demand required or provided for by this Act shall be deemed to have been properly and sufficiently given or delivered to or served on any person named in any notice delivered to the department under this section if mailed to any address for service for such person stated in such notice and, where no address for service is stated as required under this section or the regulations, then any notice or demand required or provided for by this Act is sufficiently given, delivered or served if the same is mailed to any address that the official or person sending the notice or demand considers likely to bring the notice or demand to the attention of the person to whom it is directed.

R.S.S. 1978 (Supp.), c.O-3.1, s.9; 1980-81, c.16, s.9.

#### **Books of account**

**10(1)** Every operator of an oil well shall keep in the province proper books of account with respect to the operation of the oil well, together with such further books, records, information and particulars as may be prescribed.

(2) Every taxpayer shall keep in the province proper books of account with respect to all amounts received or receivable by him as, on account of or in lieu of payment of, or in satisfaction of, any revenue derived from the production of freehold oil from an oil well, together with such further books, records, information and particulars as may be prescribed.

(3) Notwithstanding subsections (1) and (2), the assessor may, upon application by an operator or a taxpayer, permit books and records to be kept at a location outside the province, provided that the operator or taxpayer undertakes to make such books and records available to the assessor upon terms and conditions satisfactory to the assessor.

R.S.S. 1978 (Supp.), c.O-3.1, s.10; 1980-81, c.16, s.15.

**c. O-3.1****OIL WELL INCOME TAX****Returns by taxpayers and others**

**11(1)** Each taxpayer shall, within ninety days after the day this Act is proclaimed in force or within such longer period as may be prescribed, deliver to the minister without notice or demand a return in prescribed form containing an estimate of the tax for which he is liable for each taxation year ending after December 31, 1973 and before the day this Act is proclaimed in force, and the return shall be verified by a certificate signed by the taxpayer stating that the information included in the return is true and complete.

(2) Each taxpayer shall, within nine months after the end of each taxation year ending on or after the day this Act is proclaimed in force, deliver to the minister without notice or demand a return in prescribed form containing an estimate of the tax for which he is liable for such taxation year, and the return shall be verified by a certificate signed by the taxpayer stating that the information included in the return is true and complete.

(3) The assessor, or any officer of the department who is authorized by the minister to do so, may demand, in writing, from any taxpayer or from any other person believed to have knowledge relevant to the proper assessment of tax under this Act, that such taxpayer or other person make a return to the assessor containing any information necessary to enable the assessor to make a full and complete assessment under this Act or a proper estimate of any tax that may be payable under this Act, and every such taxpayer or other person, upon receipt of the demand, shall immediately make and deliver the return to the assessor or officer of the department, as the case may be.

R.S.S. 1978 (Supp.), c.O-3.1, s.11; 1980-81, c.16, s.10.

**DEDUCTION FROM TAX****Deduction from tax otherwise payable**

**12(1)** There may be deducted from the tax otherwise payable under this Act by a taxpayer for a taxation year all amounts paid in respect of the taxation year to the Crown as, on account of or in lieu of payment of, or in satisfaction of, any royalty relating to a well or the production of oil therefrom or the output thereof that were so paid:

(a) under a Crown lease in respect of taxation years commencing prior to the first day of January, 1981; or

(b) in respect of Crown-acquired lands.

(2) For the purposes of subsection (1), “**tax otherwise payable under this Act**” means the amount that, but for subsection (1), would be the tax payable under this Act for the taxation year.

R.S.S. 1978 (Supp.), c.O-3.1, s.12; 1980-81, c.16, s.11.

## WITHHOLDING AND PAYMENT OF TAX

**Instalments on account of tax**

**13(1)** Every taxpayer shall be liable for and shall pay instalments on account of his liability for the taxes imposed by this Act in such monthly or other amounts as may be prescribed from time to time, and shall remit such instalments to the minister, to the operator or to such other person or persons as may be prescribed for such purpose in the manner and at the times required by this section and the regulations.

(2) Any taxpayer who fails to remit any instalment amount pursuant to subsection (1) on or before the day by which such amount is required to be remitted shall be liable for and shall pay interest thereon at prescribed rates until such amount is remitted, and shall remit such interest to the minister, to the operator or to such other person or persons as may be prescribed for such purpose in the manner and at the times required by this section and the regulations.

(3) All instalment amounts mentioned in subsection (1), and any interest thereon mentioned in subsection (2), are a debt due to the Crown and may be recovered in any manner provided in this Act for the recovery or collection of tax.

(4) Every operator of an oil well, and every other person prescribed for such purpose pursuant to subsections (1) and (2), is hereby designated an agent of the Crown for the purpose of receiving any instalment amount mentioned in subsection (1) and any interest thereon mentioned in subsection (2), and every such operator and other person shall remit any such amount with any such interest to the minister in the manner and at the times required by the regulations.

1980-81, c.16, s.12

**Operator to withhold amounts payable to taxpayer**

**13.1(1)** Every operator of an oil well shall withhold, from all amounts payable by him to each taxpayer as, on account of or in lieu of payment of, or in satisfaction of, any revenue derived from the production of freehold oil from the oil well, such amounts as may be prescribed.

(2) All amounts withheld by an operator pursuant to subsection (1) shall be remitted to the minister on or before the last day of the month in which they were withheld.

(3) Every remittance by an operator pursuant to subsection (2) shall be accompanied by a return in prescribed form.

(4) All amounts withheld by an operator pursuant to subsection (1) shall be deemed to have been received by the taxpayer at the time they were withheld.

(5) Every operator of an oil well is hereby designated an agent of the Crown for the purpose of withholding and remitting, on account of the taxes imposed by this Act, the amounts mentioned in this section.

1980-81, c.16, s.12.

**Amounts held in trust**

**13.2(1)** All amounts received by an operator or other person pursuant to section 13 or withheld by an operator pursuant to section 13.1 shall be deemed to be held in trust for the Crown until such amounts are remitted to the minister, and any such amount so held in trust by such person shall not form part of his estate or property for any purpose but shall be and remain the property of the Crown, whether or not any such amount is in fact kept separate and apart from his own estate or property.

(2) Without limiting the liability of any taxpayer for the taxes imposed by this Act or for any instalment amounts mentioned in section 13, and in addition to any other liability under this Act, any operator or other person who fails to remit any amount as required by section 13, and any operator who fails to withhold, to remit, or to withhold and remit, any amount as required by section 13.1, is personally liable for and shall pay an amount equal to the aggregate of all amounts that he failed so to withhold, to remit, or to withhold and remit, and for interest thereon at prescribed rates, and shall remit that amount with such interest to the minister in the manner required by the regulations, and that amount with such interest is a debt due to the Crown and may be recovered in any manner provided in this Act for the recovery or collection of tax.

(3) The Lieutenant Governor in Council may prescribe the manner in which any instalment amount mentioned in section 13 or any amount withheld and remitted pursuant to section 13.1 is to be credited to or on account of the liability of the taxpayer for the taxes imposed by this Act and the liability for such taxes of any other taxpayer having an interest in the well or in the production of freehold oil therefrom or in the output thereof, and the extent to which any such amount is to be so credited.

1980-81, c.16, s.12.

**Relief from liability to pay instalment amounts**

**13.3** Notwithstanding section 13, a taxpayer shall be relieved of his liability thereunder to pay instalments in respect of any particular month on account of his liability for the taxes imposed by this Act to the extent of the aggregate of all amounts withheld by operators for that month pursuant to section 13.1 on account of his liability for the taxes imposed by this Act or credited to his liability for such taxes under any regulations made pursuant to subsection (3) of section 13.2.

1980-81, c.16, s.12.

**Payment of proceeds of disposition to operator**

**14** Except as expressly permitted from time to time by the regulations:

- (a) no contract, agreement or other arrangement of any kind made from and after December 1, 1977, shall provide for the payment to any person other than the operator of the oil well of any amount as, on account of or in lieu of payment of, or in satisfaction of, any proceeds of disposition of freehold oil produced from the oil well;

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- (b) no contract, agreement or other arrangement of any kind in existence on December 1, 1977, shall be amended or varied in any way to provide for the payment to any person other than the operator of the oil well of any amount as, on account of or in lieu of payment of, or in satisfaction of, any proceeds of disposition of freehold oil produced from the oil well; and
- (c) any contract, agreement or other arrangement or any amendment or variation made in contravention of this section is null and void and shall have no force or effect.

R.S.S. 1978 (Supp.), c.O-3.1, s.14; 1980-81, c.16, s.15.

**Payment of tax**

**15** At the time each return required by section 11 is or ought to have been delivered by a taxpayer to the minister, the taxpayer shall pay to the minister the full amount of the tax estimated in the return less all amounts paid or remitted to the minister on account of the taxpayer's liability for the taxes imposed by this Act for the taxation year.

R.S.S. 1978 (Supp.), c.O-3.1, s.15.

## ASSESSMENT AND REASSESSMENT

**Assessment by assessor**

**16(1)** The assessor shall examine the returns delivered under section 11 and any other information furnished under this Act, and shall send to every taxpayer a notice of assessment in prescribed form confirming or altering the amount of tax that the taxpayer has estimated to be payable by him, and any amount of tax assessed by the assessor to be payable by the taxpayer in excess of the amount paid or remitted to the minister on account of tax for the taxation year shall be paid within thirty days after the mailing of the notice of assessment, whether or not an appeal of the assessment is taken.

(2) Where the amount of the tax assessed is less than the amount paid or remitted to the minister on account of tax for the taxation year, the amount that has been paid or remitted to the minister in excess of the tax assessed shall be refunded to the taxpayer.

(3) Where an assessment is not appealed within the time provided by this Act, the amount of tax shown in the notice of assessment is the amount of tax for which the taxpayer is liable and which he is required to pay, and the minister may immediately take all remedies available to him under this Act or at law to recover all taxes, interest and penalties imposed under this Act, and all taxes, the assessment of which has not been appealed within the time provided for by this Act, and all interest and penalties imposed under this Act are a debt due to the Crown and may be recovered in any manner provided in this Act.

(4) Liability for the taxes imposed under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

R.S.S. 1978 (Supp.), c.O-3.1, s.16.

**c. O-3.1****OIL WELL INCOME TAX****Assessment and reassessment by minister**

**17(1)** The minister may at any time assess tax, interest or penalties under this Act or notify in writing any person by whom a return has been filed that no tax is payable for the taxation year, and may:

- (a) at any time, if the taxpayer or person filing the return:
  - (i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing the return or in supplying any information under this Act; or
  - (ii) has filed with the minister a waiver in prescribed form within four years from the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a taxation year; and
- (b) within four years from the day mentioned in subclause (a)(ii), in any other case;

reassess or make additional assessments, or assess tax, interest or penalties under this Act, as the circumstances require.

(2) The minister shall send notice of any assessment or reassessment under subsection (1) to the taxpayer in prescribed form, and any amount of tax that is assessed or reassessed by the minister to be payable by the taxpayer shall be paid within thirty days after the mailing of the notice of assessment or reassessment, whether or not an appeal of the assessment or reassessment is taken.

(3) The minister is not bound by a return or information supplied by or on behalf of a taxpayer and, in making an assessment or reassessment, may, notwithstanding a return or information so supplied or if no return has been filed, assess the tax payable under this Act.

(4) An assessment shall, subject to being varied or vacated under this Act and subject to a reassessment, be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

R.S.S. 1978 (Supp.), c.O-3.1, s.17.

**Appeals from assessments and reassessments**

**18(1)** Where a taxpayer objects to any assessment or reassessment of tax, notice of which is sent to him under section 16 or 17, he may appeal the assessment or reassessment within ninety days after the day on which the notice of the assessment or reassessment is mailed but shall, before, and as a condition precedent to, commencing the appeal, pay to the minister the amount of taxes, interest and penalties, if any, required to be paid as a result of the assessment or reassessment and may then commence the appeal by delivering to the Board of Revenue Commissioners, either personally or by registered mail, written notice of his appeal setting out the reasons for his objection to the assessment or reassessment and the allegations of fact and law on which he relies to support his objections to the assessment or reassessment.

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- (2) The appeal to the Board of Revenue Commissioners shall be considered an administrative review, and the board, on review, shall give a decision and may confirm, reduce, increase or vary the assessment.
- (3) The provisions of sections 16, 18, 19 and 20 of *The Department of Revenue, Supply and Services Act* apply, *mutatis mutandis*, to appeals under this section.
- (4) Where the amount of tax that is finally determined to be payable pursuant to an appeal under this Act:
- (a) is less than the amount that has been paid or remitted on account of tax, the difference shall be refunded to the taxpayer;
  - (b) is more than the amount that has been paid or remitted on account of tax, the taxpayer shall pay the difference immediately to the minister.
- (5) In any appeal under this section or in any action under this Act, any person or any officer or servant of any corporation, whether or not the person or corporation is a party to the appeal or to the action, may be examined upon oath and shall make production upon oath of any documents, records or things that may be in the possession or under the control of the person or corporation and may be required to attend for examination and to make production in the same manner as a party to an action in the Court of Queen's Bench may be required to attend for examination and to make production, but this subsection does not apply to the minister or to any officer or servant of the Crown other than the assessor, an assistant assessor or a special assessor.
- (6) In any appeal by a taxpayer under this section, the onus of proof of the allegations upon which the taxpayer relies to support his objection to the assessment or reassessment is upon the taxpayer.

R.S.S. 1978 (Supp.), c.O-3.1, s.18.

## INTEREST

**Interest**

- 19(1)** Where the amount paid or remitted on account of the taxes imposed by this Act for a taxation year before the expiration of the time allowed for delivering the return for such taxation year to the minister is less than the amount of tax for which the taxpayer is liable, the taxpayer shall pay interest at a prescribed rate per annum on the difference between those two amounts from the expiration of the time for delivering the return to the minister to the date of payment.
- (2) Where, in respect of a taxation year ending after the day this Act is proclaimed in force, the amount paid or remitted on account of the taxes imposed by this Act before the expiration of the time allowed for delivering the return for such taxation year to the minister is greater than the amount of tax for which the taxpayer is liable, interest shall be paid to the taxpayer at a prescribed rate per annum on the difference between those two amounts from the expiration of the time for delivering the return to the minister to the date of repayment.

R.S.S. 1978 (Supp.), c.O-3.1, s.19.

## ADMINISTRATION AND ENFORCEMENT

**Assessors, assistant assessors and special assessors**

**20(1)** The minister shall appoint an officer of the department to be the assessor and may appoint one or more officers of the department to be assistant assessors.

(2) The assessor may authorize one or more assistant assessors to exercise any powers or perform any duties of the assessor under this Act.

(3) The minister may from time to time appoint any officer of the department or any other person to be a special assessor and, for a specified time, in a specified locality or in any special matter or case, to perform any duties and exercise any powers of the assessor under this Act, and every special assessor, while he acts in that capacity, shall be deemed to be an officer of the department and it is his duty, under the direction of the minister, to perform the specific duties assigned to him by the minister and to report to the minister at the times and in the manner directed by the minister.

R.S.S. 1978 (Supp.), c.O-3.1, s.20.

**Powers of assessors, assistant assessors and special assessors**

**21(1)** It is lawful at all times for the assessor or any assistant assessor or special assessor to enter upon any premises for the purposes of making enquiries, obtaining information and otherwise performing his duties under this Act, and for any of those purposes he may use all machinery, equipment, appliances and things as he considers necessary or expedient, and he shall be:

(a) given free ingress and egress to, from and over all buildings and structures used in connection with the operation of any oil well or any plant or works at which the output of any oil well is treated or refined in any way or any building or office, whether or not occupied by a taxpayer, at which are kept any books or records pertaining to the operation of any oil well or the treatment or refining of the output of any oil well;

(b) allowed to take, from time to time, from any oil well or from any plant or works mentioned in clause (a), such samples or specimens as he may desire for the purpose of determining the quantity or quality of the output of the well or otherwise; and

(c) given full and complete access to all books of account, records, ledgers and other documents kept or used for or in connection with the work and business of any oil well or with the sale of the output or of the products of the treatment, partial treatment or refining of the output of such oil well, whether maintained in written, typewritten, printed or photographic film form or entered or recorded by any system of mechanical or electronic data processing or information storage, and may examine the same and take copies thereof or extracts therefrom;

but any information of a private or confidential nature acquired by him under this section shall not be communicated or disclosed to anyone except insofar as it is necessary to do so for the purposes of this Act.



(2) Any person designated as operator by the assessor may appeal to the Board of Revenue Commissioners to have the designation revoked, but such person shall continue to perform the duties and be subject to the liabilities and obligations of an operator under this Act until the final disposition of the appeal.

(3) The provisions of section 18 apply, *mutatis mutandis*, to appeals under subsection (2).

R.S.S. 1978 (Supp.), c.O-3.1, s.21.

#### Penalties

**22(1)** Every person who fails to deliver a return as and when required by section 11, 13 or 13.1, or any regulations made for the purposes of such sections, or who fails to pay any amount as and when required by section 13, 13.1, 13.2 or 15, or any regulations made for the purposes of such sections, is liable for and shall pay to the minister a penalty of:

(a) in the case of any return required by section 11 or of any amount required to be paid by section 15, whether or not the minister has demanded the delivery of such return or the payment of such amount, an amount equal to 5 per cent of the amount payable as or on account of tax under this Act that was unpaid at the time such return was required to be delivered or such amount was required to be paid; and

(b) in any other case, where the minister has demanded the delivery of such return or the payment of such amount and the return has not been delivered or the amount has not been paid within the time specified in such demand, an amount or additional amount equal to 15 per cent of the amount payable as or on account of tax under this Act that was unpaid at such time;

plus an additional amount calculated at a rate of one and one-half per cent of such unpaid amounts for each month, or portion thereof, during which such return continues not to be delivered or such amount continues not to be paid.

(2) Every person who fails to deliver any return, notice or other document that he is required to deliver under this Act is liable for and shall pay to the minister a penalty of:

(a) in the case of any return required by section 11, 13 or 13.1, or any regulations made for the purposes of such sections, \$50 for each day after the day upon which he was required to deliver such return; or

(b) in any other case, \$10 for each day after the day upon which he was required to deliver such return, notice or other document;

unless the minister has waived such penalty or fixed a lesser amount in respect of any particular failure.

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(3) Every person who has failed to complete any information required on any return, notice or other document that he is required to deliver under this Act is liable for and shall pay to the minister a penalty of:

(a) in the case of any return required by section 11, 13 or 13.1, or any regulations made for the purposes of such sections, \$50 for each day after the day upon which he delivered such return until the day upon which complete information is delivered to the minister; or

(b) in any other case, \$10 for each day after the day upon which he delivered such return, notice or other document until the day upon which complete information is delivered to the minister;

unless the minister has waived such penalty or fixed a lesser amount in respect of any particular failure.

(4) Every person who wilfully attempts to evade payment of any taxes imposed under this Act by failing to deliver any return as and when required by section 11, or by knowingly, or under circumstances amounting to gross negligence, failing to complete any information required on any such return, is, in addition to any other penalty that may be imposed under this Act, liable for and shall pay to the minister a penalty in an amount equal to 50 per cent of the amount of the tax sought to be evaded or such lesser amount as the minister may demand.

1980-81, c.16, s.13.

**Idem**

**23(1)** Except as otherwise expressly provided in this Act or the regulations, any penalty provided for in this Act may be imposed notwithstanding that some other penalty may also be imposed in the same or similar circumstances.

(2) Any penalty provided for in this Act may be demanded in any notice of assessment or reassessment provided for in this Act, and any such penalty so demanded is a debt due to the Crown and may be recovered in any manner provided in this Act for the recovery or collection of tax.

1980-81, c.16, s.13.

**Offences**

**24(1)** Every person who knowingly fails to deliver any return, notice or other document that he is required to deliver under this Act, or who knowingly fails to complete any information required on any such return, notice or other document, is guilty of an offence and, in addition to any penalty otherwise provided for in this Act, is liable on summary conviction:

(a) in the case of any return required by section 11, 13 or 13.1, or any regulations made for the purposes of such sections, to a fine of not less than \$1,000 nor more than \$10,000, or to imprisonment for a term of six months, or to both such fine and imprisonment, and, in default of payment of any such fine, to imprisonment for a term, or additional term, of six months; or

(b) in any other case, to a fine of not less than \$100 not more than \$5,000.

(2) Every person who knowingly makes or signs any false statement or furnishes any false or incorrect information to the minister, the assessor, an assistant assessor, a special assessor or to any officer of the department with respect to any matter or thing with respect to which information is required under this Act, or who keeps or causes or permits to be kept any false or incorrect books of account or other records regarding anything required under this Act, is, in addition to any other liability under this Act, guilty of an offence and, in addition to any other penalty provided for in this Act, is liable on summary conviction to a fine of not less than \$100 nor more than \$5,000, or to imprisonment for a term of six months, or to both such fine and imprisonment, and, in default of payment of any such fine, to imprisonment for a term, or additional term, of six months.

(3) Every person who, in any manner whatever, wilfully attempts to evade payment of any taxes imposed under this Act, or conspires with any other person to evade payment of any such taxes, is guilty of an offence, and, in addition to any other liability under this Act, is liable on summary conviction to a fine of not less than 25 per cent nor more than double the amount of tax sought to be evaded, or to imprisonment for a term of six months, or to both such fine and imprisonment, and, in default of payment of any such fine, to imprisonment for a term, or additional term, of six months.

(4) Where a corporation is guilty of an offence under this Act, any director, officer or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence, and is liable on summary conviction to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

1980-81, c.16, s.13.

**Lien for taxes, interest and penalties**

**25** Notwithstanding the provisions of any other statute, all taxes, interest and penalties payable under this Act constitute a lien, charge and encumbrance in favour of the Crown upon the entire estate, real and personal, of the taxpayer, including without limitation any right to or interest in any oil well or any revenue derived from the production of oil therefrom, in priority to every claim, privilege, lien or encumbrance of any other person, whether the right or title of such other person has accrued before or accrues after the attaching of such lien, charge and encumbrance, and the priority of such lien, charge and encumbrance shall not be lost or impaired by any neglect, omission or error of any official, officer or person, or by want of registration, or by the tender or acceptance of any partial payment of such taxes, interest or penalties, and such lien, charge and encumbrance may be realized by the seizure or the seizure and sale of all or any part or parts of such estate of the taxpayer.

R.S.S. 1978 (Supp.), c.O-3.1, s.25.

**c. O-3.1****OIL WELL INCOME TAX****Injunctions and receivers**

**26** In addition to any other remedy for the recovery of any tax, interest or penalty due and owing under this Act, or where the payment of any accrued or future tax, interest or penalty appears to the assessor to be in danger, an application for an injunction or an order in the nature of an injunction, or for the appointment of a receiver with all necessary powers, or for such other relief or remedy as seems necessary or expedient for securing payment thereof, may be made *ex parte* to a judge of Her Majesty's Court of Queen's Bench for Saskatchewan at the instance and in the name of the minister, and, upon such application, the judge may make such order upon such terms and conditions as he considers proper.

R.S.S. 1978 (Supp.), c.O-3.1, s.26; 1979-80, c.92, s.67.

**Order for production**

**27** Where, contrary to this Act, any person refuses or neglects to permit the assessor or any assistant assessor or special assessor to examine, inspect or make copies of any books, records or documents mentioned in section 21 in the custody or under the control of such person, or where any person obstructs the assessor or any assistant assessor or special assessor in the performance of any of his duties under section 21 or otherwise under this Act, the minister may apply *ex parte* to a judge of Her Majesty's Court of Queen's Bench for Saskatchewan, and the judge may order the production and delivery of such books, records or documents for inspection and copying or enjoin such person from such obstruction.

R.S.S. 1978 (Supp.), c.O-3.1, s.27; 1979-80, c.92, s.67.

**Distress and sale**

**28** Where default is made in the payment of any taxes, interest or penalties due and owing under this Act, the taxes, interest and penalties may be levied and collected by distress, together with all costs of distress, upon the goods and chattels, wherever found, of the person or any person liable therefor under a warrant signed by the minister directed to the sheriff having jurisdiction in the area in which the person may have any goods or chattels, and in such case the sheriff shall realize the amount directed to be realized by the warrant, together with all incidental costs, by the sale of the goods and chattels distrained or of so much thereof as may be necessary to satisfy the amount directed to be levied by the warrant together with the costs of the distress and sale.

R.S.S. 1978 (Supp.), c.O-3.1, s.28.

**Action for recovery of tax, interest or penalty**

**29(1)** If any tax, interest or penalty due and owing under this Act is not paid, the same may be recovered with costs from any person liable for payment thereof by an action to be tried without a jury at the suit of the minister in any court of competent jurisdiction.

(2) Any action that may be brought under this Act may be brought by the minister as plaintiff, and it is not necessary to name the minister, and the action does not abate by reason of a change in the person of the minister or by reason of the office being vacant at any time, but the action may proceed as if no change has been made or no vacancy exists.

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(3) The remedies and the rights of action provided in subsections (1) and (2) are in addition to all other rights and remedies that may be exercised under this Act.

R.S.S. 1978 (Supp.), c.O-3.1, s.29.

**Offence and penalty**

**30** Every person who knowingly contravenes any provision of this Act or the regulations is guilty of an offence punishable on summary conviction and, unless otherwise specifically provided, is liable to a fine of not less than \$100 nor more than \$5,000, or to imprisonment for a term of six months, or to both such fine and imprisonment, and, in default of payment of any such fine, to imprisonment for a term, or additional term, of six months.

R.S.S. 1978 (Supp.), c.O-3.1, s.30.

## TAX EVASION AND TAX AVOIDANCE

**Fair market value**

**31(1)** Where any of the output of any oil well has been disposed of in the taxation year for an amount less than the fair market value thereof, the fair market value of such output shall be deemed to have been received as, on account of or in lieu of payment of, or in satisfaction of, the proceeds of disposition of such output.

(2) Where a taxpayer has acquired or agreed to acquire any goods or services for an amount greater than the fair market value thereof, he shall be deemed to have acquired them or agreed to acquire them for an amount equal to that fair market value.

R.S.S. 1978 (Supp.), c.O-3.1, s.31.

**Undue or artificial reduction**

**32** For the purposes of this Act, no deduction may be made in respect of an outlay or expense made or incurred in respect of a transaction or operation that, if allowed, would unduly or artificially reduce the oil well income of a taxpayer for a taxation year.

R.S.S. 1978 (Supp.), c.O-3.1, s.32.

**Conferral of benefits**

**33** Where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatever is that a person confers a benefit on a taxpayer in relation to an oil well or the production of freehold oil therefrom or the output thereof, that person shall be deemed to have made a payment to the taxpayer equal to the amount of the benefit conferred notwithstanding the form or legal effect of the transactions or that one or more other persons were also parties thereto, and, whether or not there was an intention to avoid or evade taxes under this Act, the payment shall be deemed to be an amount received or receivable by the taxpayer as, on account of or in lieu of payment of, or in satisfaction of, revenue derived from the production of freehold oil from the oil well for the taxation year.

R.S.S. 1978 (Supp.), c.O-3.1, s.33; 1980-81, c.16, s.15.

**Improper avoidance of reduction of tax**

**34(1)** Where the minister has determined that one of the main purposes for a transaction or transactions effected before or after the coming into force of this Act was improper avoidance or reduction of taxes that might otherwise have become payable under this Act, the minister may give such directions as he considers appropriate to counteract the avoidance or reduction.

(2) An avoidance or reduction of taxes may be regarded as improper for the purposes of this Act although not otherwise illegal or unlawful.

(3) A direction of the minister under this section may relate to any taxes, interest and penalties payable under this Act by one or more persons and for one or more taxation years.

(4) Where a direction of the minister has been given under this section, tax shall be collected, or assessed or reassessed and collected, notwithstanding any other provision of this Act or any provision of any other Act, in accordance with such direction.

(5) Written notice of a direction by the minister under this section shall be mailed or delivered immediately to the person or persons affected thereby.

R.S.S. 1978 (Supp.), c.O-3.1, s.34.

**Associated persons**

**35(1)** Where the minister is satisfied that, notwithstanding the separate existence of any two or more persons:

(a) their separate existence in a taxation year is not solely for the purpose of carrying out the business of the separate persons in the most effective manner; and

(b) one of the reasons for their separate existence is to reduce the amount of taxes otherwise payable under this Act;

the two or more separate persons, if the minister so directs, shall be deemed to be associated persons for the purposes of this Act.

(2) Written notice of a direction by the minister under subsection (1) shall be mailed or delivered immediately to the persons deemed to be associated persons.

R.S.S. 1978 (Supp.), c.O-3.1, s.35.

**Appeal of directions**

**36** Any direction of the minister under section 34 or 35 may be appealed by any person or persons affected thereby to the Board of Revenue Commissioners within thirty days after the day on which notice of the making of the direction is mailed or delivered, and the provisions of section 18 apply, *mutatis mutandis*, to appeals under this section.

R.S.S. 1978 (Supp.), c.O-3.1, s.36.

## GENERAL

**Exemption of certain owners**

**37(1)** In this section:

- (a) **“beneficial owner”** of oil and gas rights means a person beneficially entitled thereto, whether or not such person is also the registered owner thereof, and the area beneficially owned by him refers to his net interest therein expressed as a unit of area;
- (b) **“exempt owner”** has the meaning assigned by subsection (2);
- (c) **“nominal section”** means 259 hectares or 640 acres depending on the measurement used to describe the mineral land area in the certificate of title;
- (d) **“oil and gas rights”** means an estate in fee simple in any or all oil, petroleum, natural gas, all other hydrocarbons, except coal and valuable stone, all other gases and minerals and substances, whether liquid or solid and whether hydrocarbon or not, occurring in association with any of the foregoing and the spaces or formations occupied or formerly occupied thereby in all producing tracts in the province;
- (e) **“producing tract”** means a drainage unit, as defined in *The Oil and Gas Conservation Act*:
  - (i) in which or in respect of which is situate a well from which oil:
    - (A) is being produced or is capable of being produced; or
    - (B) is, by virtue of an order of the Lieutenant Governor in Council, deemed to be produced; or
  - (ii) the whole or a portion of which is included in an area in respect of which there exists:
    - (A) a plan;
    - (B) unit operation agreement; or
    - (C) any other arrangement or agreement for the production of oil or oil and natural gas or for the allocation of royalty on that production;

under which oil is being produced or is capable of being produced from the drainage unit.

(2) For the purposes of this section, a person shall be considered to be an exempt owner in respect of an oil well at any particular time if, at that time, he is a beneficial owner of all or any part of the oil and gas rights in the producing tract in which the oil well is situated and if, at that time, the aggregate of:

- (a) the area of oil and gas rights beneficially owned by him in the producing tract;
- (b) the area of oil and gas rights beneficially owned by him in all other producing tracts; and

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(c) the area of oil and gas rights in all producing tracts beneficially owned by all persons associated with him or with whom he does not deal at arm's length;

does not exceed two nominal sections.

(3) Notwithstanding section 4, the oil well income of an exempt owner for a taxation year shall not include the lesser of:

(a) the revenue received or receivable by him from the production of oil from the well in respect of which he is an exempt owner during the part or parts of the taxation year in which he was an exempt owner with respect to that well; and

(b) the proportion of the total of such revenue that was received or receivable by all persons from the production of oil from that well during such part or parts of the taxation year that:

(i) the area of oil and gas rights in the producing tract beneficially owned by him at such time or times;

is of:

(ii) the total area of oil and gas rights in such producing tract.

(4) Notwithstanding any other provision of this Act, in determining the oil well income of an exempt owner for a taxation year, the outlays and expenses made or incurred by him in that taxation year for the purpose of gaining or producing revenue received or receivable by him shall not include any such outlays or expenses attributable to the gaining or producing of revenue that, by virtue of subsection (3), will not be included in determining his oil well income for a taxation year.

1980-81, c.16, s.14.

**Exemption by Lieutenant Governor in Council**

**38** The Lieutenant Governor in Council may, from time to time, by regulation exempt, in whole or in part and on such terms or conditions as he may impose, any person or class or persons from liability for any of the taxes imposed under this Act, and may authorize, in connection therewith, a refund or partial refund of any taxes paid before the exemption is ordered.

R.S.S. 1978 (Supp.), c.O-3.1, s.38.

**Compromise and settlement**

**39** Where it is considered by the Lieutenant Governor in Council to be in the public interest not to demand payment of the whole amount of any taxes, interest or penalties imposed under this Act, the Lieutenant Governor in Council may compromise and settle the matter by accepting such amount as he considers proper and, where the taxes, interest or penalties have been paid, he may refund them or part of them to the person or persons entitled thereto.

R.S.S. 1978 (Supp.), c.O-3.1, s.39.



**Transitional**

**40** If the taxation year of a taxpayer ending in 1974 includes any portion of the 1973 calendar year:

- (a) the oil well income of the taxpayer for his taxation year ending in 1974 shall be deemed to be the portion of his oil well income determined for such taxation year as was received or receivable by him during the portion of the 1974 calendar year falling within his taxation year ending in 1974, such oil well income to be apportioned on a basis acceptable to the minister; and
- (b) amounts paid by the taxpayer in respect of the taxation year to the Crown under a Crown lease as, on account of or in lieu of payment of, or in satisfaction of, any royalty shall be deemed to be the portion of such amounts paid in respect of the portion of the 1974 calendar year falling within his taxation year ending in 1974, such amounts to be apportioned on a basis acceptable to the minister.

R.S.S. 1978 (Supp.), c.O-3.1, s.40.

**Enlargement of time**

**41** The Lieutenant Governor in Council may, from time to time, by regulation enlarge the time for the payment of any tax, interest or penalty under this Act or for doing any other act or thing required to be done under this Act or for filing or delivering any return, notice or other document the filing or delivery of which is required or provided for by this Act.

R.S.S. 1978 (Supp.), c.O-3.1, s.41.

**Regulations**

**42(1)** For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make regulations that are ancillary to and are not inconsistent with this Act, and every regulation made under this section has the force of law and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations:

- (a) defining any word or expression used in this Act but not defined in this Act;
- (b) prescribing anything that is, by this Act, to be prescribed by regulation or is to be determined or regulated by regulation;
- (c) prescribing the form of any return, notice or other document the filing or delivery of which is required or provided for by this Act;
- (d) respecting any other matter that he considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Any regulation made from time to time under this Act may be made retroactive to, and in such case shall have full force and effect on, from and after, January 1, 1974, or such later date as is specified in the regulation.

R.S.S. 1978 (Supp.), c.O-3.1, s.42.

