

1990, chapter 36
**AN ACT TO AMEND THE MINING ACT AND
THE MINING DUTIES ACT**

Bill 77

Introduced by Madam Lise Bacon, Minister of Energy and Resources

Introduced 31 May 1990

Passage in principle 18 June 1990

Passage 16 October 1990

Assented to 18 October 1990

Coming into force: 18 October 1990

Acts amended:

Mining Duties Act (R.S.Q., chapter D-15)

Mining Act (R.S.Q., chapter M-13.1)



CHAPTER 36

An Act to amend the Mining Act and the Mining Duties Act

[Assented to 18 October 1990]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. M-13.1,
s. 24.1,
added

1. The Mining Act (R.S.Q., chapter M-13.1) is amended by inserting, after section 24, the following section:

Revocation

“24.1 No person whose prospecting licence is revoked under paragraph 4 of section 281 may file a new application for such a licence before the expiry of a period of two years from the date of revocation.”

c. M-13.1,
s. 80, am.

2. Section 80 of the said Act is amended

(1) by striking out the words “, at half value” in the last line of the first paragraph;

(2) by striking out the second paragraph.

c. M-13.1,
s. 133, am.

3. Section 133 of the said Act is amended by adding, at the end, the following paragraph:

Area

“In a surveyed territory, the licence must cover the entire area of one or several lots or blocks. However, if the total area of the lots or blocks is less than 100 hectares, part of a lot or block may complete the area.”

c. M-13.1,
s. 142, am.

4. Section 142 of the said Act is amended

(1) by inserting the words “, subject to the fourth paragraph,” after the word “or” in the fourth line of the second paragraph;

(2) by adding, at the end, the following paragraph:

Application refused “The Minister may refuse an application for an exclusive lease where he considers it necessary to reserve the land in order to guarantee the supply required for the carrying out of a non-exclusive lease already granted or other non-exclusive leases which may be granted subsequently.”

c. M-13.1,
s. 145, am. **5.** Section 145 of the said Act is amended by inserting the words “, as determined by the Minister,” after the word “area” in the second line of the first paragraph.

c. M-13.1,
s. 146, am. **6.** Section 146 of the said Act is amended by inserting, after paragraph 1, the following paragraph:

“(1.1) the lessee, in the case of sand, gravel or common clay, establishes to the satisfaction of the Minister that the increase is necessary in order to carry on industrial activity during the current term of his lease;”.

c. M-13.1,
s. 147, am. **7.** Section 147 of the said Act is amended by replacing the last four lines of the third paragraph by the following: “the land concerned was, during the preceding term of the lease, subject to a mining lease held by a third person.”

c. M-13.1,
s. 148, am. **8.** Section 148 of the said Act is amended

(1) by replacing the words “is five years” in the first line of the first paragraph by the words “, as fixed by the Minister, shall not exceed five years”;

(2) by replacing the words “the same term” in the first line of the second paragraph by the words “a term not exceeding five years”;

(3) by replacing the words “one year” in subparagraph 2 of the second paragraph by the words “one-fifth of the term of his lease”;

(4) by inserting, after the second paragraph, the following paragraphs:

Renewal “Notwithstanding the foregoing, an exclusive lease for the production of peat shall be renewed for a period of fifteen years.

Power of the Minister Upon renewing an exclusive lease for the extraction or mining of sand, gravel or common clay, the Minister may alter the area covered by the lease if he considers it necessary in order to reserve an area of land to guarantee the supply required for the purposes of non-exclusive leases which may be granted subsequently, provided the alteration does not, during the period of renewal of the exclusive

lease, adversely affect the carrying on of the industrial activity of the lessee under an exclusive lease.”;

(5) by replacing the words “Notwithstanding the foregoing, the” at the beginning of the third paragraph by the word “The”.

c. M-13.1,
s. 151.1,
added

9. The said Act is amended by inserting, after section 151, the following section:

Exclusive
lease

“151.1 No exclusive lease may be granted in respect of land that is subject to one or several non-exclusive leases at the time the application is made, unless the person applying for the exclusive lease has, beforehand, reached an agreement with each lessee under a non-exclusive lease as to the amount of and the terms and conditions applicable to the compensation he is entitled to receive.

Agreement
with lessee

When an agreement has been reached with every lessee under a non-exclusive lease concerned, the Minister shall transmit to each lessee a notice informing him that, notwithstanding section 147, his lease expires 90 days after the date of the notice. The Minister shall grant the exclusive lease at the expiry of the period of 90 days.

Dispute

Any dispute concerning the determination of the amount of and the terms and conditions applicable to the compensation shall be submitted to arbitration at the request of the person applying for the exclusive lease or of a lessee under a non-exclusive lease, in accordance with the provisions of Book VII of the Code of Civil Procedure (R.S.Q., chapter C-25). The decision of the arbitrator shall have the effect of an agreement between the parties.”

c. M-13.1,
s. 207, am.

10. Section 207 of the said Act is amended

(1) by replacing the words “or a lease” in the second line of the first paragraph by the words “or lease, or for an authorization under section 31, 32 or 33”;

(2) by replacing the third paragraph by the following paragraphs:

Order of
admission

“Notices of map designation and applications for a licence or lease or for an authorization under section 31, 32 or 33 received on the same day with respect to the same land shall be admitted in the order established by a drawing of lots. Every person who intends to take part in the drawing of lots shall, beforehand, pay the duties fixed by regulation.

Order of
admission

However, in the case of an application for a licence or lease relating to petroleum, natural gas, brine or underground reservoirs,

the order shall be established by a drawing of lots or a call for tenders, as is decided by the Minister.”

c. M-13.1,
s. 215, am.

11. Section 215 of the said Act is amended

(1) by replacing the first paragraph by the following paragraphs:

Examina-
tion of
documents

“**215.** Maps, reports and other documents showing the results of work performed pursuant to section 72, 94 or 137 may be examined by any person upon their acceptance by the Minister.

Examina-
tion of
documents

Maps, reports and other documents showing the results of geophysical surveying or drilling work performed pursuant to section 159 or 162 may be examined by any person two years after their acceptance by the Minister.”;

(2) by adding, at the end of the second paragraph, the following sentence: “After such abandonment, revocation or expiry, the maps, reports and other documents may be examined by any person.”

c. M-13.1,
heading, am.

12. The heading of Division II of Chapter IV of the said Act is amended by replacing the words “PLANTS, REGISTERS AND OTHER DOCUMENTS” by the words “PLANS, REGISTERS, OTHER DOCUMENTS AND ROYALTIES”.

c. M-13.1,
s. 221, am.

13. Section 221 of the said Act is amended by adding, after subparagraph 2 of the first paragraph, the following subparagraph:

“(3) the nature and cost of the rehabilitation and restoration work performed or to be performed.”

c. M-13.1,
s. 223.1,
added

14. The said Act is amended by inserting, after section 223, the following section:

Applicability

“**223.1** Sections 154 and 155, adapted as required, apply to every operator or person engaged in the extraction or mining, for commercial purposes, of surface mineral substances forming part of the public domain.”

c. M-13.1,
s. 281, am.

15. Section 281 of the said Act is amended by inserting, after paragraph 3, the following paragraph:

“(4) at any time, the prospecting licence of a holder who has obtained or renewed a mining right through fraud or misrepresentation.”

c. M-13.1,
s. 306, am.

16. Section 306 of the said Act is amended by inserting, after paragraph 21, the following paragraph:

“(21.1) fix the amount of duties payable for taking part in a drawing of lots under section 207;”.

c. M-13.1,
s. 306.1,
added

17. The said Act is amended by inserting, after section 306, the following section:

Registration
fee

“306.1 The maximum amount of the registration fee exigible pursuant to paragraph 1 of section 306 may be fixed for each instrument in the case of mining rights pertaining to mineral substances other than petroleum, natural gas and brine.”

c. M-13.1,
s. 307, am.

18. Section 307 of the said Act is amended by inserting, after the second paragraph, the following paragraph:

Norms

“The norms with which any report of work performed on a claim must comply, the information which must be contained in the report and the documents which must accompany the report may vary according to the average cost of the work performed on the claim, according to the total value of the work declared in each report, or according to the total value of the work reported in a given period.”

c. M-13.1,
s. 309, am.

19. Section 309 of the said Act is amended by adding, at the end, the following paragraph:

Conditions
of lease

“In the case of sand, gravel, common clay and inert tailings, the rental payable under paragraph 2 or 3 of section 306 and the amount of the royalty fixed under paragraph 14 of the same section may vary according to the nature and quality of the substances, the distance between the site where the substances are found and the market served or the availability of the substances in a given region.”

c. M-13.1,
s. 314, am.

20. Section 314 of the said Act, amended by sections 575 and 576 of chapter 4 of the statutes of 1990, is again amended by striking out the figure “, 160” in the second line of the first paragraph.

c. M-13.1,
s. 315, am.

21. Section 315 of the said Act, amended by sections 575 and 576 of chapter 4 of the statutes of 1990, is again amended by inserting the figure “160,” after the figure “155,” in the second line of the first paragraph.

c. M-13.1,
s. 373,
repealed

22. Section 373 of the said Act is repealed.

c. D-15,
s. 5,
replaced

23. Section 5 of the Mining Duties Act (R.S.Q., chapter D-15) is replaced by the following section:

Payment
of duties

“5. Every operator of a mine in Québec shall pay duties on his annual profit for each fiscal year, except

(1) an operator subject to the payment of royalties under section 204 of the Mining Act (R.S.Q., chapter M-13.1);

(2) from 18 October 1990, an operator who engages in the mining of surface mineral substances, as defined in section 1 of the Mining Act, or the mining of mineral substances the right in or over which was surrendered to the owner of the soil pursuant to section 5 of the said Act.”

Computation of annual profit

24. For the purpose of computing the annual profit from the mining of surface mineral substances, the fiscal year of an operator contemplated in paragraph 2 of section 5 of the Mining Duties Act, replaced by section 23 of this Act, is deemed to end on 17 October 1990.

Claims

25. Every claim renewed under section 347 of the Mining Act (R.S.Q., chapter M-13.1) is deemed to have been registered within the time prescribed under the Mining Act (R.S.Q., chapter M-13).

Pending cases

This section does not affect any case pending on 31 May 1990.

Effect

26. Section 2 has effect from 24 October 1988.

Effect

27. Section 25 has effect from 31 May 1990.

Coming into force

28. This Act comes into force on 18 October 1990.