

1988, chapter 9
AN ACT TO AMEND THE MINING ACT

Bill 5

Introduced by Mr Raymond Savoie, Minister for Mines and Native Affairs

Introduced 23 March 1988

Passage in principle 11 May 1988

Passage 15 June 1988

Assented to 15 June 1988

Coming into force: on the dates fixed by the Government

- 6 July 1988: s. 48
G.O., 1988, Part 2, p. 3147
- 24 October 1988: ss. 1 to 47 and 49 to 66
G.O., 1988, Part 2, p. 3521

Act amended:

Mining Act (1987, chapter 64)





CHAPTER 9

An Act to amend the Mining Act

[Assented to 15 June 1988]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1987, c. 64,
s. 1, am.

1. The English text of section 1 of the Mining Act (1987, chapter 64) is amended

(1) by replacing the words “igneous or metamorphic” in the first and second lines of the definition of “surface mineral substances” by the words “igneous, metamorphic or”;

(2) by replacing the words “argillaceous limestone, sandstone and” in the fifth and sixth lines of the said definition by the words “limestone, sandstone and argillaceous”.

1987, c. 64,
Chapter II,
heading
replaced

2. The said Act is amended by replacing the heading of Chapter II by the following heading: “OWNERSHIP OF RIGHTS IN OR OVER MINERAL SUBSTANCES AND UNDERGROUND RESERVOIRS”.

1987, c. 64,
s. 3, English
text replaced

3. The English text of section 3 of the said Act is replaced by the following:

Public
domain

“**3.** Subject to sections 4 and 5, rights in or over mineral substances, other than those of the tilth, form part of the public domain. The same rule applies to rights in or over underground reservoirs situated in lands of the public domain granted or alienated by the Crown for purposes other than mining purposes.”

1987, c. 64,
s. 4, English
text am.

4. The English text of section 4 of the said Act is amended by replacing the words “The right to mineral substances listed below does”

in the first line of the first paragraph by the words “Rights in or over mineral substances listed below do”.

1987, c. 64,
s. 4, am.

5. Section 4 of the said Act is amended by replacing the second paragraph by the following paragraph:

Gold and
silver

“In lands granted before 24 July 1880, however, rights in or over gold and silver deposits form part of the public domain.”

1987, c. 64,
s. 5, English
text am.

6. The English text of section 5 of the said Act is amended by replacing the words “Rights to” in the first line by the words “Rights in or over” and by replacing the words “rights to” in the fourth line and in the eleventh line by the words “rights in or over”.

1987, c. 64,
s. 5, French
text am.

7. The French text of section 5 of the said Act is amended by inserting the words “la tourbe,” after the word “foulon,” in the tenth line.

1987, c. 64,
s. 7, am.

8. Section 7 of the said Act is amended

(1) by replacing the words “Tailings belong” in the first line of the first paragraph by the words “Rights in or over tailings belong”;

(2) by replacing the words “tailings belong” in the third line of the second paragraph by the words “rights in or over the tailings belong”;

(3) by replacing the word “they” in the third line of the second paragraph by the words “the tailings”.

“Prospector’s licence”
changed to
“prospec-
ting licence”

9. The English text of the said Act is amended by replacing the words “prospector’s licence” wherever they appear in the heading of Division II of Chapter III and in sections 19, 20, 23, 24, 36, paragraph 4 of section 44, paragraph 5 of section 51 and paragraph 6 of section 306 by the words “prospecting licence”.

1987, c. 64,
s. 42, am.

10. Section 42 of the said Act is amended by striking out the words “or designated on a map” in the second line of the first paragraph.

1987, c. 64,
s. 43,
English
text am.

11. The English text of section 43 of the said Act is amended by inserting the word “range” before the word “lines” in the second line of paragraph 1.

1987, c. 64,
s. 43, am.

12. Section 43 of the said Act is amended by replacing the word “and” in the second line of paragraph 2 by the word “or”.

1987, c. 64,
s. 44,
French text
am.

13. The French text of section 44 of the said Act is amended by striking out the word “indicateur” in the first line of paragraph 6.

1987, c. 64,
s. 44,
English
text am.

14. The English text of section 44 of the said Act is amended by replacing the word “apex” in the second line of paragraph 11 by the words “apices”.

1987, c. 64,
s. 45,
English text
replaced

15. The English text of section 45 of the said Act is replaced by the following:

Prohibitions

“**45.** Except with the Minister’s authorization issued under section 58, no person may move, alter or replace a post outlining a claim or alter the inscriptions on the post or on its tag.”

1987, c. 64,
s. 46, am.

16. Section 46 of the said Act is amended by adding the words “in the public register of real and immovable mining rights” at the end of the first paragraph.

1987, c. 64,
s. 48
French text
am.

17. The French text of section 48 of the said Act is amended by replacing the word “requérant” in paragraphs 3 and 4 by the word “demandeur”.

1987, c. 64,
s. 49,
French text
am.

18. The French text of section 49 of the said Act is amended by replacing the word “requérant” in the first line of paragraph 2 by the word “demandeur”.

1987, c. 64,
s. 56, am.

19. Section 56 of the said Act is amended by replacing the word “register” at the end of the first and second paragraphs by the words “public register of real and immovable mining rights”.

1987, c. 64,
s. 58,
English text
am.

20. The English text of section 58 of the said Act is amended by replacing the word “removed” in the second line of the second paragraph by the word “moved”.

1987, c. 64,
s. 72,
English text
am.

21. The English text of section 72 of the said Act is amended by replacing the words “examination of title” in the fifth line of the first paragraph by the words “property examination”.

1987, c. 64,
s. 78,
replaced

22. Section 78 of the said Act is replaced by the following section:

Renewal of
claim

“**78.** Any amount disbursed in excess of the prescribed requirements in respect of a claim by its holder or any work performed in respect of a mining lease or mining concession by its holder may be applied, in accordance with section 76 or 77 as the case may be, towards the renewal of another claim in respect of which he has made a promise to purchase by way of a deed registered in the public register of real and immovable mining rights.

Renewal of
claim

Where the amount is disbursed or the work is performed by a person who is not the holder of the mining rights in question but has made a promise to purchase as in the preceding paragraph, the amount disbursed or the work may be applied, with the written consent of the holder of the rights, towards the renewal of a claim of which the said person is the holder or in respect of which he has made a promise to purchase as in the preceding paragraph."

1987, c. 64,
s. 80,
English text
am. **23.** The English text of section 80 of the said Act is amended by replacing the words "examination of title" in the second line of the first paragraph by the words "property examination".

1987, c. 64,
s. 83,
English text
am. **24.** The English text of section 83 of the said Act is amended by replacing the words "of abandonment" in the second line by the words "to that effect".

1987, c. 64,
s. 88,
English text
am. **25.** The English text of section 88 of the said Act is amended by replacing the words "not open to mining exploration" in the fifth line of the second paragraph by the words "of land which are not subject to the granting of a mining exploration licence".

1987, c. 64,
s. 94,
English text
am. **26.** The English text of section 94 of the said Act is amended by replacing the words "examination of title" in the fourth line of the first paragraph by the words "property examination".

1987, c. 64,
s. 109, am. **27.** Section 109 of the said Act is amended by replacing the words "may use, for his" in the first line by the words "and a grantee may use, for their".

1987, c. 64,
s. 119,
English text
am. **28.** The English text of section 119 of the said Act is amended by replacing the words "examination of title" in the fifth line of the first paragraph by the words "property examination".

1987, c. 64,
s. 132, am. **29.** Section 132 of the said Act is amended by replacing the words and figures "sections 30, 32 and 33" in the second line of the first paragraph by the words and figures "section 30, paragraphs 1 and 4 of section 32 and section 33".

1987, c. 64,
s. 137,
English text
am. **30.** The English text of section 137 of the said Act is amended by replacing the words "examination of title" in the fourth line of the first paragraph by the words "property examination".

1987, c. 64,
s. 144, am. **31.** Section 144 of the said Act is amended by replacing the words and figures "sections 30, 32 and 33" in the second line of the first paragraph by the words and figures "section 30, paragraphs 1 and 4 of section 32 and section 33".

1987, c. 64,
s. 159, am. **32.** Section 159 of the said Act is amended by replacing the words “six months” in the first line of the second paragraph by the words “one year”.

1987, c. 64,
s. 163, am. **33.** Section 163 of the said Act is amended by replacing the word “abandon” in the second line by the word “close”.

1987, c. 64,
s. 164, am. **34.** Section 164 of the said Act is amended

(1) by replacing the words “The licensee may abandon a well” in the first line by the words “A person exploring for or producing petroleum, natural gas or brine or exploring for or operating an underground reservoir may discontinue operations in respect of a well”;

(2) by replacing the word “abandoned” in the second line of paragraph 4 by the word “closed”.

1987, c. 64,
s. 175, am. **35.** Section 175 of the said Act is amended by adding, after the first paragraph, the following paragraph:

Trial period “The Minister may extend the trial period for another period of the same duration on the same conditions, provided that the holder

(1) applies therefor in writing;

(2) has complied with the conditions prescribed by regulation throughout the previous trial period.”

1987, c. 64,
s. 184, am. **36.** Section 184 of the said Act is amended by replacing the word “abandonment” in the first line of subparagraph 3 of the first paragraph by the words “discontinuation of operations in respect”.

1987, c. 64,
s. 192, am. **37.** Section 192 of the said Act is amended by replacing the word “abandonment” in the first line of paragraph 2 by the words “discontinuation of operations in respect”.

1987, c. 64,
s. 206, am. **38.** Section 206 of the said Act is amended by replacing the word “abandonment” in the first line of paragraph 3 by the words “discontinuation of operations in respect”.

1987, c. 64,
s. 207, am. **39.** Section 207 of the said Act is amended

(1) by inserting the words “at the office of the registrar or a regional office designated by ministerial order” after the word “received” in the first line of the second paragraph;

(2) by adding the words “at the office of the registrar or a regional office designated by ministerial order” at the end of the fourth paragraph.

1987, c. 64,
s. 210, am. **40.** Section 210 of the said Act is amended by replacing the word “regulation” in the second line of the first paragraph by the words “this Act or the regulations”.

1987, c. 64,
s. 213, am. **41.** Section 213 of the said Act is amended by replacing the second paragraph by the following paragraphs:

Line cutting “However, the rules referred to above do not apply to a person who effects line cutting not exceeding one metre in width.

Trenches
and excava-
tions Similarly, except in the case of the strip of woodland referred to in section 27 of the Forest Act, the rules apply neither to a person cutting trenches or performing other excavations nor to a person carrying out drilling work, provided he has obtained prior authorization from the Minister responsible for the administration of the Forest Act and complies with the following conditions:

(1) the total area of the trenches or other excavations, added, as the case may be, to the total area of excavations already carried out by another holder of a mining right, shall not exceed two percent of the wooded area of the parcel of land in question;

(2) the area affected by the cutting of timber, which is required for drilling work, added, as the case may be, to the area affected by cutting already carried out by another holder of a mining right on the same conditions, shall not exceed two percent of the wooded area of the parcel of land in question.

Conditions
and obliga-
tions The said Minister may make his authorization subject to such other conditions and obligations as he may establish jointly with the Minister responsible for the administration of this Act.

Cutting of
trees Moreover, the rules referred to in the first paragraph do not apply to a person who, in order to stake a parcel of land in accordance with section 44, must cut timber forming part of the public domain.”

1987, c. 64,
s. 215,
English text
am. **42.** The English text of section 215 of the said Act is amended

(1) by replacing the words and figures “sections 72 and 94 to 137” in the second line of the first paragraph by the words and figures “section 72, 94 or 137”;

(2) by replacing the words “examined by” in the fourth line of the first paragraph by the words “communicated to”.

1987, c. 64,
s. 218,
English text
am. **43.** The English text of section 218 of the said Act is amended by replacing the word “working” in the second line of the second subparagraph by the word “mining”.

1987, c. 64,
s. 234,
English text
am. **44.** The English text of section 234 of the said Act is amended by replacing the words “properly recovers” in the first line of the first paragraph by the words “recovers, according to recognized mining practices,”.

1987, c. 64,
s. 239,
English text
am. **45.** The English text of section 239 of the said Act is amended by replacing the word “yard” in the fourth line by the word “site”.

1987, c. 64,
s. 242,
English text
am. **46.** The English text of section 242 of the said Act is amended by inserting the words “, in particular,” after the word “compensation” in the second line of the second paragraph.

1987, c. 64,
s. 259, am. **47.** Section 259 of the said Act is amended by replacing the word “staker” in the second line by the words “person applying for the registration of a claim”.

1987, c. 64,
s. 273, am. **48.** Section 273 of the said Act is amended
(1) by replacing the word “establish” in the second line of the first paragraph by the words “explore for, the right to establish and the right to operate”;

(2) by replacing the second paragraph by the following paragraph:

Under-
ground
reservoirs “Where rights have been revoked, the Government may, subject to the conditions it determines, grant the right to explore for, the right to establish and the right to operate an underground reservoir. Such rights are immovable real rights and the Government may render any provision of this Act applicable to them.”

1987, c. 64,
s. 291, am. **49.** Section 291 of the said Act is amended by inserting the figure “90,” after the figure “74,” in the second line.

1987, c. 64,
s. 304, am. **50.** Section 304 of the said Act is amended by adding, after subparagraph 3 of the first paragraph, the following subparagraph:

“(4) designate a regional office.”

1987, c. 64,
s. 306, am. **51.** Section 306 of the said Act is amended

(1) by replacing the word “register” in the fourth line of paragraph 1 by the words “public register of real and immovable mining rights”;

(2) by replacing the words “the allocation of work” in the first line of paragraph 12 by the words “amendments to an application for renewal”;

(3) by inserting, after paragraph 15, the following paragraph:

“(15.1) determine, for the purposes of section 163, in what circumstances a temporary discontinuation is to be considered permanent;”;

(4) by striking out the word “bore” in paragraph 16.

1987, c. 64,
s. 306,
English text
am.

52. The English text of section 306 of the said Act is amended by striking out the word “operations” in the first line of paragraph 13.

1987, c. 64,
s. 310, am.

53. Section 310 of the said Act is amended by adding, after the first paragraph, the following paragraph:

Royalty

“The amount of the royalty referred to in paragraph 14 of section 306 may vary according to production.”

1987, c. 64,
ss. 313.1,
313.2,
added

54. The said Act is amended by inserting, after section 313, the following sections:

Closing of
well

“**313.1** The conditions prescribed for the closing of a well under paragraph 16 of section 306 may vary according to whether the discontinuation is temporary or permanent.

Protective
measures

“**313.2** The protective measures prescribed under paragraph 26 of section 306 may vary according to the purpose of the mining operations.”

1987, c. 64,
s. 326, am.

55. Section 326 of the said Act is amended

(1) by repealing article 2129*f* of the Civil Code of Lower Canada enacted by it;

(2) by replacing article 2129*g* of the Civil Code of Lower Canada, enacted by it, by the following article:

“**2129g.** In no case may the registrar accept, for registration, a document relating to a mining right if the document does not mention the number of the leaf in the mining register or if it is not accompanied either with a notice showing the correspondence between the document presented for registration and the leaf to be affected by the registration or with a requisition for the opening of a leaf in the mining register.”;

(3) by replacing article 2129*m* of the Civil Code of Lower Canada, enacted by it, by the following article:

“**2129*m***. Every mining right granted by the Crown and every abandonment or revocation of a mining right must be evidenced in a document drafted in the form prescribed jointly by the Minister of Energy and Resources and the Minister of Justice by way of an order published in the *Gazette officielle du Québec*.”;

(4) by repealing article 2129*r* of the Civil Code of Lower Canada enacted by it.

1987, c. 64,
s. 343, am. **56.** Section 343 of the said Act is amended by replacing the words “a mining right” in the first line by the words “mining rights”.

1987, c. 64,
s. 347,
English text
am. **57.** The English text of section 347 of the said Act is amended by replacing the words “in the meantime” in the fourth line and in the eighth and ninth lines of subparagraph 3 of the second paragraph by the words “during this period”.

1987, c. 64,
s. 347, am. **58.** Section 347 of the said Act is amended

(1) by replacing the words “a mining lease, a licence to explore for surface mineral substances or a lease for mining surface mineral substances” in the sixth and seventh lines of subparagraph 3 of the second paragraph by the words “a licence to explore for surface mineral substances, a lease for mining surface mineral substances or, notwithstanding section 140, a mining lease, and he has a right in or over the other mineral substances conferred by the mining lease,”;

(2) by inserting the words “or under a mining lease contemplated in subparagraph 3” before the word “shall” in the second line of subparagraph 5 of the second paragraph.

1987, c. 64,
s. 349, am. **59.** Section 349 of the said Act is amended by replacing the word “paragraph” in the third line of the first paragraph by the words “and third paragraphs”.

1987, c. 64,
s. 351, am. **60.** Section 351 of the said Act is amended by adding, after the first paragraph, the following paragraph:

Decision “Every other application relating to mining rights made before 24 October 1988 is continued and decided in accordance with this Act.”

1987, c. 64,
s. 352, am. **61.** Section 352 of the said Act is amended by replacing the figure “6” in the first line of subparagraph 2 of the second paragraph by the figure “7”.

1987, c. 64,
s. 353,
English text
am. **62.** The English text of section 353 of the said Act is amended

- (1) by replacing the words “the area of each claim” in the fifth line of the first paragraph by the words “their respective area”;
- (2) by replacing the words “schedule of the required work to be performed” in the third line of the second paragraph by the words “distribution of the excess”.

1987, c. 64,
s. 361,
English text
am. **63.** The English text of section 361 of the said Act is amended by replacing the word “on” in the fourth line of the first paragraph by the word “from”.

1987, c. 64,
s. 377,
French text
am. **64.** The French text of section 377 of the said Act is amended by replacing the word “miniers” in the second line by the words “de mine”.

1987, c. 64,
Sched. I,
am. **65.** Schedule I to the said Act is amended by replacing the word “line” in the second line by the words “shore (high water mark)”.

Coming into
force **66.** The provisions of this Act will come into force on the dates fixed by the Government.