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MINING ACT

Bill 161

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

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Acts amended:

Civil Code of Lower Canada

Act respecting the acquisition of farm land by non-residents (R.S.Q., chapter A-4.1)

Act respecting land use planning and development (R.S.Q., chapter A-19.1)

Mining Companies Act (R.S.Q., chapter C-47)

Act respecting the Roman Catholic cemetery corporations (R.S.Q., chapter C-69)

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

Act respecting municipal taxation (R.S.Q., chapter F-2.1)

Mining Act (R.S.Q., chapter M-13)

Act to authorize municipalities to collect duties on transfers of immoveables (R.S.Q., chapter M-39)

Act to preserve agricultural land (R.S.Q., chapter P-41.1)

Act respecting public agricultural lands (R.S.Q., chapter T-9.1)

Mining Towns Act (R.S.Q., chapter V-7)





CHAPTER 64

Mining Act

[Assented to 23 June 1987]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

APPLICATION AND INTERPRETATION

- 1.** In this Act,
- Interpretation
"brine" **"brine"** means any natural aqueous solution containing more than 4% by weight of dissolved solids;
- "mineral substances"
 "mineral substances" means natural mineral substances in solid, gaseous or liquid form, except water, and fossilized organic matter;
- "natural gas"
 "natural gas" means all hydrocarbons and other substances which can be extracted from the ground in gaseous form;
- "petroleum"
 "petroleum" means crude oil and other hydrocarbons which can be extracted from the ground in liquid form;
- "to prospect"
 "to prospect" means to examine a territory for the purpose of searching for mineral substances without holding real and immovable mining rights in respect of the territory searched, except in the case of an exploration licence or a lease to produce petroleum, natural gas or brine or to operate an underground reservoir;
- "surface mineral substances"
 "surface mineral substances" means peat, sand, gravel; igneous or metamorphic sedimentary rock used as dimension stone or crushed stone; limestone and dolomite mined, among other purposes, for the

preparation of industrial lime and the improvement of soils; sandstone and quartzite mined as silica ore; argillaceous limestone, sandstone and schist mined for the preparation of cement; common clay and argillaceous schist used for the making of clay products; inert tailings used for construction purposes;

“tailings” **“tailings”** means rejected mineral substances, sludge and water, except the final effluent, from extraction operations and ore treatment, and slag from pyrometallurgy operations;

“well head value” **“well head value”** means the average retail price, excluding all taxes less the average transportation costs from the well to the retail outlets, measurement costs and, where such is the case, purification costs.

Binding effect **2.** This Act binds the Government, its departments and the agencies that are mandataries thereof.

CHAPTER II

OWNERSHIP OF MINERAL SUBSTANCES AND UNDERGROUND RESERVOIRS

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

Exceptions **4.** The right to mineral substances listed below does not form part of the public domain if the substances are found

— in mining concessions for which letters patent were issued before 1 July 1911;

— in lands granted in a township before 24 July 1880 or granted by location ticket for agricultural purposes for which letters patent or other titles were not issued before or were issued after that date but which, until 1 January 1921, could be deemed to have been issued on 24 July 1880;

— in lands granted under seigniorial tenure where mining rights were not vested in the Crown:

(1) mineral substances contained in a parcel of land where a deposit in operation on 6 May 1982 was situated, provided a declaration according to law was filed in the office of the registrar within 180 days after 15 September 1982;

(2) mineral substances contained in a parcel of land containing an ore deposit serving as a reserve necessary to the carrying on of a mining, petroleum or gas enterprise in operation in Québec on 6 May 1982, provided that the operator, within the meaning of section 218, was the holder of the rights in those mineral substances, that he established the existence of indicators of the presence of a workable deposit and that he filed a declaration according to law in the office of the registrar within 180 days after 15 September 1982;

(3) mineral substances covered by an option, a promise of sale or a lease on 6 May 1982, provided that the original or an authentic copy of the document was filed in the office of the registrar within 180 days after 15 September 1982.

Right to
gold and
silver

The right to gold and silver forms part of the public domain even in lands granted before 24 July 1880.

Surrender
of rights

5. Rights to the following mineral substances are surrendered to the owner of the soil where they are found in lands granted or alienated by the Crown for purposes other than mining purposes before 1 January 1966 or in lands wherein the rights to mineral substances were revoked in favour of the Crown on or after 1 January 1966: sand, gravel, building stone and stone used for sculpture, limestone, calcite used as flux, millstones and grindstones, gypsum, common clay used in making building materials, firebrick, pottery, ceramic substances, mineral waters, infusory earths or tripoli, fuller's earth, peat, marl, ochre or soapstone, provided that, in their natural state, they are isolated from other mineral substances, as well as rights to mineral substances of the tilth.

Domestic
needs

6. The owner of the soil and the lessee of land granted, alienated or leased by the Crown for purposes other than mining purposes on or after 1 January 1966 may use and displace, for their domestic needs, any mineral substances listed in section 5.

Ownership
of tailings

7. Tailings belong to the holder of the mining lease or mining concession.

Ownership
of tailings

At the expiry of the mining lease or of a right under section 239 or on the abandonment or revocation of the mining lease or mining

concession, the tailings belong to the owner of the soil on which they have been deposited with his consent.

Real rights

8. The mining rights conferred by the following titles are immovable real rights:

- claims;
- mining exploration licences;
- mining leases;
- mining concessions;
- seabed exploration licences;
- seabed mining leases;
- exploration licences for surface mineral substances;
- leases to mine surface mineral substances;
- exploration licences for petroleum and natural gas;
- exploration licences for brine;
- exploration licences for underground reservoirs;
- leases to produce petroleum and natural gas;
- leases to produce brine;
- leases to operate an underground reservoir.

Separate property

9. Every real and immovable mining right constitutes a separate property.

Exemption from registration

10. The following mining rights are exempt from registration in the registry office of the registration division:

- claims;
- mining exploration licences;
- seabed exploration licences;
- exploration licences for surface mineral substances;
- non-exclusive leases to mine surface mineral substances;

- exploration licences for petroleum and natural gas;
- exploration licences for brine;
- exploration licences for underground reservoirs.

Public
register

11. A public register of real and immovable mining rights granted under this Act shall be kept at the Ministère de l'Énergie et des Ressources.

Duplicate

12. The public register of real and immovable mining rights shall be kept in duplicate: a copy in writing and a computerized reproduction of the copy in writing.

Divergence

Where the two copies of the register differ, the copy in writing prevails.

Duties of
registrar

13. The registrar appointed by the Minister of Energy and Resources shall

- (1) keep the public register of real and immovable mining rights;
- (2) make in the register a summary entry of such rights and their renewal, transfer, surrender, abandonment, revocation or expiry, and keep in the register the titles evidencing those rights;
- (3) register therein any other instrument relating to those rights.

Registration

14. Every transfer or other instrument relating to a real and immovable mining right shall be registered by depositing a copy of the instrument evidencing it in the public register of real and immovable mining rights and paying the fee prescribed by regulation.

Effect of
registration

15. No instrument may be set up against the Crown unless it is entered in the public register of real and immovable mining rights.

Certificate
of entry

16. Upon payment of the fee prescribed by regulation, the registrar shall issue to any interested person a certificate of any entry in the public register of real and immovable mining rights.

CHAPTER III

MINING RIGHTS OF THE PUBLIC DOMAIN

DIVISION I

OBJECT AND SCOPE

Object **17.** The object of this Act is to promote prospection, mineral exploration and development and the development and operation of underground reservoirs, taking into account other possible uses of the land in the territory.

Applicability **18.** This chapter applies to mineral substances and underground reservoirs and to mining drifts designated as underground reservoirs by ministerial order which are situated in lands of the public domain and in lands of the private domain where they form part of the public domain.

DIVISION II

PROSPECTOR'S LICENCE

Prospection **19.** No person, on his own behalf or on behalf of another, may prospect on any land unless he is the holder of a prospector's licence issued by the Minister.

Staking **20.** No person, on his own behalf or on behalf of another, may stake any land in view of obtaining a claim unless he is the holder of a prospector's licence issued by the Minister.

Inapplicability **21.** Sections 19 and 20 do not apply to an officer or employee of the department acting in the performance of his duties or to any other person acting on behalf of the Crown.

Designation on a map **22.** A person who is not a licence holder may, in view of obtaining a claim, designate on a map a parcel of land situated in the territory described in Schedule I for map designation or in land referred to in section 123, 267 or 288.

Issue of permit **23.** A prospector's licence is issued to a natural person who meets the conditions and pays the fee prescribed by regulation.

Untransferability A prospector's licence is not transferable.

- Duplicate Upon proof that the licence has been damaged, destroyed, lost or stolen, the Minister shall issue a duplicate thereof upon payment of the fee prescribed by regulation.
- Term **24.** The term of a prospector's licence is five years.
- Renewal The Minister shall renew the licence for the same term, subject to the requirements and on payment of the fee prescribed by regulation.
- Identifica- **25.** The licence holder shall carry the licence on his person while
tion prospecting on or staking a parcel of land.
- Identifica- The licensee shall, on request, produce his licence, to any officer
tion of the department.
- Access **26.** No person may prohibit or hinder access to any land containing mineral substances forming part of the public domain to any person entitled to engage in prospecting or staking on that land under this division if the person identifies himself on request and, in the case of a licence holder, if he produces his licence.
- Prospection **27.** No person may prospect on land that is subject to a claim,
prohibited a mining exploration licence, a mining concession or a mining lease.
- Staking pro- **28.** No person may stake land situated within the limits of the
hibited territory described in Schedule I for map designation.
- Designation No person may designate on a map any land that is not situated
prohibited within the limits of the territory described in Schedule I for map designation or that is not referred to in section 123, 267 or 288.
- Staking or **29.** Subject to section 92, no person may stake or designate on
designation a map any land that is subject to a mining exploration licence, a mining
prohibited concession or a mining lease or an application for a mining lease.
- Staking or **30.** No person may stake or designate on a map any parcel of land
designation withdrawn from staking, map designation, mining exploration or mining
prohibited by ministerial order.
- Authoriza- **31.** Except in the case described in section 92, no person may stake
tion a parcel of land lying north of the fifty-second degree of latitude without
required the prior authorization of the Minister.
- Authoriza- **32.** No person may, without the prior authorization of the Minister,
tion stake or designate on a map any land
required

(1) situated within the limits of urban territories indicated by the Minister and shown on maps kept in the office of the registrar;

(2) contemplated in section 4, where only gold and silver form part of the public domain;

(3) where mineral substances contemplated in section 5 are or have been mined, except in the case of sand or gravel;

(4) reserved by ministerial order for any mining exploration and inventory work or for the development and utilization of water power.

Authoriza-
tion
required

33. No person may, without the prior authorization of the Minister, prospect on, stake, or designate on a map any land

(1) situated in an Indian reserve;

(2) designated as a migratory bird sanctuary under the Migratory Birds Convention Act (Revised Statutes of Canada, 1970, chapter M-12).

Conditions
and require-
ments

34. The Minister may subject his authorization to conditions and requirements which may, among other matters and notwithstanding sections 72 to 81, concern the work to be performed on the land that will be subject to the claim.

Staking and
designation
prohibited

35. No person may stake or designate on a map any land

(1) where proceedings for the revocation of a claim are pending, from the date on which the registrar is notified thereof;

(2) where a second notice of staking has been filed, from the date on which the registrar receives it.

Existing
claim

36. The holder of a prospector's licence may stake land that is already subject to a claim registered in favour of a third person.

Contestation
of claim

In such a case, the holder of the prospector's licence or the person on whose behalf the staking is made shall contest the claim within the time and on any of the grounds set forth in paragraphs 1 to 3 of section 280.

Maximum
number of
claims

37. No person may, by way of a notice of map designation, register more than 200 claims in any thirty-day period.

Abandoned
or revoked
claim

38. No person may stake or designate on a map any land that is subject to a claim the registration of which has been refused or an abandoned, revoked, unrenewed or expired claim, before 07:00 a.m.

on the thirty-first day after, as the case may be, the date on which the refusal to register or to renew or the revocation of the claim became executory, after the date of receipt by the registrar of the written notice of abandonment or after the date of expiry.

Waiting
period

Notwithstanding the first paragraph, in no case may the holder of the abandoned, revoked, unrenewed or expired claim or any person who had an interest therein, or any person whose application for the registration of a claim has been refused, stake or designate on a map, on his own behalf, the parcel of land that was subject thereto before an additional thirty-day period.

Waiting
period

Where the interested person withdraws an appeal relating to a refusal to register, a refusal to authorize work, a refusal to renew or a revocation, the period begins to run from the day a notice of discontinuance is filed in the office of the Provincial Court.

Ore discov-
ery by
government
employee

39. Every officer or other employee of the department acting in the performance of his duties or any other person acting on behalf of the Crown who makes a discovery of ore shall stake or designate on a map the parcel of land containing the ore, in favour of the Crown, in accordance with Division III.

DIVISION III

CLAIMS

§ 1.—*Acquisition*

Staking or
designation

40. A claim may be obtained by staking or map designation in accordance with this division.

Tags

Staking shall be done with tags issued by the Minister. Tags shall be issued to any person applying therefor at the price, on the conditions and for the period prescribed by regulation.

Area and
shape

41. In a lot of 500 hectares or less situated in a township or seigniory or in a block that was previously subject to a mining lease or mining concession, the area of the land staked or designated on a map must cover an entire lot or block according to the original survey or, failing that, according to the cadastre, unless the land consists of

(1) the total residual area, not exceeding 50 hectares, of several parts of contiguous lots or of the residual area of a single lot, and unless part of the lots or lot is already subject to a mining lease or mining concession or is under a restriction mentioned in sections 30 to 33;

(2) several contiguous whole lots of a total area not in excess of 50 hectares.

Sides In the last two cases, the sides of the parcel of land must follow the lines of the original survey or, failing that, the lines of the cadastre, unless the Minister decides otherwise.

Stretch of water or right of way If part of the land staked or designated on a map is covered by a stretch of water or encumbered by a right of way, the claim includes the stretch of water or the right of way.

Right of way If a strip of land situated at the limit of a lot with cadastral survey is encumbered by a right of way, the land staked or designated on a map that is situated on the lot includes the adjacent half of that strip of land.

Lot bounded by water If a lot of irregular shape is bounded by a river or a stretch of water, the staker may extend underwater, by witness posts on the shore, the sides of the claim, so as to give it the area and shape that the lot would have had, if it had not bordered on a river or stretch of water.

Area and shape **42.** In any other territory, as nearly as practicable, the area of the claim staked or designated on a map shall be 16 hectares and its sides shall be 400 metres in length; the boundary lines of the claim shall, as far as possible, run north and south and east and west astronomically. The area and shape of a claim designated on a map shall be determined by the Minister and reproduced on the maps kept at the office of the registrar.

Area less than 16 hectares Notwithstanding the first paragraph, any parcel of land of less than 16 hectares, situated between parcels of land that are subject to a claim, a mining exploration licence, a mining lease or a mining concession or not open for staking or map designation may be staked or designated on a map by any of the holders of mining rights or by each of them in the proportions agreed by the Minister, or by a third person authorized by the Minister.

Staking rules **43.** Every person staking a parcel of land referred to in section 41 is required to comply, as nearly as practicable, with the following staking rules:

(1) rules prescribed in section 44, except that he shall indicate only the lines between the posts;

(2) where the sides of the lot do not run in a generally north and south direction, post No.1 may be erected at the northernmost and easternmost corner of the lot;

(3) the staking of a river or stretch of water is made in accordance with the staking rules prescribed in section 44, except in the case provided for in the last paragraph of section 41 or if a stretch of water covers part of the lot;

(4) the staking of a parcel of land situated in the Îles-de-la-Madeleine shall comply with the staking rules prescribed in section 44.

Staking
rules

44. Every person staking a parcel of land referred to in section 42 shall comply, as nearly as practicable, with the following staking rules:

(1) he shall plant or erect a post at each of the four corners of the claim, beginning with post No.1 and ending with post No.4;

(2) the post at the northeast corner shall be marked number 1, that at the southeast corner number 2, that at the southwest corner number 3 and that at the northwest corner number 4;

(3) he shall affix to each post the tag bearing the claim number and the number corresponding to that post;

(4) he shall inscribe, in a legible and durable manner, the date of staking on each tag and, on the tag identifying No.1 post, his name, his prospector's licence number and the time of the staking; where a parcel of land is staked by an officer or any other employee of the department acting in the performance of his duties or by any other person acting on behalf of the Crown, the prospector's licence number shall be replaced by the word "QUÉBEC";

(5) the lines between the four posts must be marked on the land so that the outlines of the claim are clearly visible from one post to the other;

(6) where it is impossible to erect a post at a corner of the claim, the staker shall plant or erect a witness post at the nearest practicable point and inscribe, on the corresponding tag, opposite the letters "P.I." (piquet indicateur), an indication of the distance and direction of the site of the true corner from the witness post and any other information required under paragraph 4;

(7) every post shall stand not less than one metre nor more than 1.5 metres above the ground and have a diameter of approximately 10 centimetres or, if made of metal, 2 centimetres and shall be squared or faced on four sides for at least 30 centimetres from the top; a standing stump or tree of the same dimensions may be used as a post;

(8) where a post cannot be planted or erected in a durable manner, it must be kept in place by a heap of stones or earth of not less than 75 centimetres in diameter and at least 50 centimetres high;

(9) no post used for the staking of a claim may be used to stake another claim;

(10) a staker who begins the staking of a claim must complete it before beginning the staking of another claim;

(11) a staker staking contiguous parcels of land may use a single post at the apex of adjacent corners.

45. Except with the Minister's authorization issued under section 58, no person may remove, alter or replace any post delimiting a claim or change the inscriptions on the post or on the tag.

Removal or
replacement
of post

§ 2.—*Registration and validity*

46. No claim obtained by the staking of land remains valid unless a notice of staking is filed in the office of the registrar or in a regional office designated by ministerial order within twenty days of the staking and is subsequently registered.

Registration

Notwithstanding the first paragraph, where the claim lies north of the fifty-second degree of latitude, the prescribed time is thirty days.

North of
52nd parallel

47. Every claim obtained by map designation shall be registered by depositing a notice of map designation in the office of the registrar or in a regional office designated by ministerial order, if the claim is situated in the territory described in Schedule I or is referred to in section 123, 267 or 288.

Designation

48. The notice of staking must be presented on a form prescribed by regulation, contain the information required therein and be accompanied with the fee prescribed by regulation. The notice of staking must be accompanied with the following documents:

Notice of
staking

(1) a map showing the staked perimeter at a scale of 1/50 000;

(2) a sketch signed by the staker showing the boundaries of the claim and the nearest landmarks and, where that is the case, the limits of the public improvements referred to in section 70 or the limits of the mining sites referred to in paragraph 3 of section 32;

(3) a statement signed by the applicant to the effect that the information furnished is accurate;

(4) a statement signed by the applicant to the effect that he has taken into consideration the perimeters delimited under paragraph 1 of section 32;

(5) in the case described in section 36, the notice of staking must, in addition, be accompanied with an application for the revocation of a claim.

Notice of
map design-
nation

49. The notice of map designation must be presented on a form prescribed by regulation, contain the information required therein and be accompanied with the fee prescribed by regulation. The notice of map designation must be accompanied with the following documents:

(1) a map showing the delimitation of the prospective claim at a scale of 1/50 000;

(2) a statement signed by the applicant to the effect that the information furnished is accurate.

Amended
notice

50. The registrar shall allow the applicant to file, before the claim is registered, an amended notice of staking or of map designation in which a manifest error found in the original notice is rectified.

Refusal of
notice

51. The registrar shall refuse a notice of staking

(1) where it is not received within the time prescribed;

(2) where the land has been staked without the Minister's authorization as required by section 31, 32 or 33 or the second paragraph of section 42;

(3) where the land has been staked in contravention of the first paragraph of section 28, section 29, 30, 35 or 38, the second paragraph of section 40 or section 41;

(4) where the tags used were outdated on the date of staking;

(5) where the staker staked without a prospector's licence as required by section 20;

(6) where it does not meet the requirements of section 48.

Refusal of
notice

52. The registrar shall refuse a notice of map designation

(1) where the land is subject to a claim registered in accordance with this subdivision;

(2) where the land has been designated on a map without the Minister's authorization as required by section 32 or 33;

(3) where the land has been designated on a map in contravention of the second paragraph of section 28 or section 29, 30, 35, 37, 38, 41 or 42;

(4) where it does not meet the requirements of section 49.

Notice referred to Minister

53. The registrar shall refer to the Minister, for a decision, any other case where the staking, notice of staking or notice of map designation does not appear to him to meet the requirements of this Act or the regulations or gives rise to a dispute.

Notice referred to Minister

The registrar shall also refer to the Minister, for a decision, every notice of staking and any application for the revocation of a claim filed pursuant to paragraph 5 of section 48.

Simultaneous stakings

54. Where more than one notice of staking meeting the requirements of this Act and the regulations is filed for the registration of a claim in respect of the same parcel of land and where an investigation shows that the stakings were simultaneous, the Minister shall designate the holder of the claim by a drawing of lots.

Refusal

55. Every decision refusing a notice of staking or a notice of map designation must be in writing and give the reasons on which it is based. A copy of the decision shall be sent to the interested person within fifteen days by certified or registered mail.

Certificate of registration

56. After the expiry of the time prescribed in section 46, the registrar shall issue to an applicant whose notice of staking is accepted a certificate of registration evidencing the claim from the time of staking and make an entry thereof in the register.

Certificate of registration

The registrar shall issue to an applicant whose notice of map designation is accepted a certificate of registration evidencing the claim from the date of filing of the notice and make an entry thereof in the register.

Error

57. The Minister may, if there is no dispute in that respect, rectify an obvious error in the registration of a claim.

Overlapping of parcels of land

58. The Minister may make any decision concerning the area of a claim where staked parcels of land overlap each other, or where the area, orientation or length of the boundary lines of the land does not meet the requirements of this Act or the regulations.

Moving of post For the purposes of the first paragraph, the Minister may allow a post fixing the boundaries of a staked parcel of land to be removed, altered or replaced. He may also order that a survey of the claim be made.

Survey **59.** The survey of a claim, carried out in accordance with this Act and the regulations, shall remain in force and be considered to be the delimitation and description of that parcel of land until the claim is abandoned or revoked or expires or until its area is altered.

Continuous parcels Where parcels of land subject to a claim are contiguous, the boundaries of the parcel of land subject to the older claim prevail.

Restaking **60.** A subsequent purchaser of a claim who finds staking irregularities that may result in revocation of the claim may restake the parcel of land in accordance with this division if the validity of the claim is not contested, and file a new notice of staking accompanied with a declaration clearly stating the irregularities and with a sketch of the irregularities.

Effect of notice of staking A notice of staking under the first paragraph is equivalent to a notice of abandonment of the former claim and takes effect upon the issuance of the certificate of registration for the new claim. The new claim is deemed to exist from the same date as that of the former claim and entails the same rights and obligations.

Term of claim **61.** The first term of a claim shall be two years from the day it is registered.

Renewal The Minister shall renew the claim for a term of two years provided the claim holder

(1) has applied for the renewal of the claim before its date of expiry, by completing the form prescribed by regulation;

(2) has paid the fee prescribed by regulation;

(3) has complied with this Act and the regulations throughout the previous term of the claim and, in particular, has performed and reported on the work required under section 72;

(4) has met any other renewal requirement prescribed by regulation.

Claim in favour of Crown A claim registered in favour of the Crown remains in force for the period and on the conditions determined by the Minister, who may dispose of it for the price and subject to the conditions determined by the Government.

Advance
renewal

62. The Minister may also renew a claim in advance for a single term provided the claim holder

(1) applies therefor simultaneously with an application for renewal filed pursuant to section 61;

(2) has established that the work necessary for the renewal according to section 75 or 76 has been carried out;

(3) has met the renewal requirements prescribed by section 61;

(4) has paid the fee prescribed by regulation for the advance term.

Suspension

63. Subject to certain conditions, the Minister may, on his own initiative or at the request of any interested person, suspend the term of the claim,

(1) where the validity of the claim is contested, until the notice of withdrawal is received at the office of the registrar or until the date on which the decision becomes executory, whichever event occurs first;

(2) for the period he determines, where the claim holder is prevented from performing the work prescribed by section 72;

(3) until he has rendered a decision on an application for a mining lease, where the application concerns the land that is the subject of the claim.

§ 3.—*Rights and obligations*

Exclusive
right

64. The holder of a claim has an exclusive right to explore for mineral substances, except surface mineral substances, petroleum, natural gas and brine on the parcel of land subject to his claim.

Access

65. Every claim holder has access to the parcel of land subject to his claim and may perform any exploration work thereon.

Exercise of
rights

Notwithstanding the first paragraph, on lands granted, alienated or leased by the Crown for purposes other than mining purposes or on lands under an exclusive lease to mine surface mineral substances, the claim holder may exercise such rights only in accordance with section 235.

Construction
permitted

66. The claim holder may erect on lands of the public domain no construction other than those required for his mining activities.

- Notification** When the claim holder becomes aware that a third person is erecting a construction on such lands, he shall immediately notify the Minister in writing.
- Exclusion from claim** **67.** Any part of a watercourse with a natural force equal to or greater than the natural force referred to in section 3 of the Watercourses Act (R.S.Q., chapter R-13) together with a strip of land twenty metres in width on each side of the watercourse shall be excluded from any claim and reserved to the Crown.
- Waterpower** The Minister may add to the reserve any area he considers necessary for the development and utilization of the waterpower. Where such an addition is made after the registration of a claim on the land, compensation shall be paid to the claim holder.
- Exploration for mineral substances** The Minister may, subject to certain conditions, authorize a claim holder to explore for mineral substances on the reserved land.
- Use of sand or gravel** **68.** A claim holder may use, for his mining activities, sand or gravel forming part of the public domain except where the land subject to his claim is already under an exclusive lease, in favour of a third person, to mine surface mineral substances.
- Conditions** **69.** The claim holder shall not extract or dispatch mineral substances except for geological or geochemical sampling nor a quantity in excess of fifty metric tons.
- Quantity** If the claim holder shows that a greater quantity is required, the Minister may authorize him to extract or dispatch a fixed quantity of mineral substances. Within one year after the extraction, the claim holder shall report the quantity of mineral substances extracted and the results of the metallurgical testing to the Minister.
- Improvement** **70.** Where, on land of the public domain, and before the registration of any claim, an improvement consistent with the regulation already exists, or where such land is already the subject of a transfer or lease referred to in section 239, no claim holder may carry on any work unless he obtains the authorization of the Minister and complies with such conditions as the latter may determine.
- Compensation** **71.** No claim holder is entitled to compensation for
- (1) the extraction of sand, gravel or stone for the construction or maintenance of works of the Crown, from lands of the public domain;

(2) the installation of electric-power transmission lines, oil pipelines or gas pipelines;

(3) the transfer or leasing of lands of the public domain, particularly for the purposes referred to in section 239.

Required
work

72. Subject to sections 73 and 75 to 81, the claim holder shall, sixty days or more before the expiry of his claim, perform on the land that is subject to his claim work of the nature and for the minimum cost determined by regulation. However, the amounts spent on examination of title and technical assessment work shall not be accepted beyond one-fourth of that minimum cost.

Report

The claim holder shall report thereon to the Minister before the same date. He may, however, for an additional amount prescribed by regulation, send his report after that date provided he does so before the date of expiry of his claim. The report shall be in the form and accompanied with the documents prescribed by regulation.

Exemption

73. The Minister may exempt a claim holder from any required work not performed within the time prescribed if he had valid reasons for not doing so, provided that, before the date of expiry of his claim,

(1) he files a written application for exemption with the Minister, informing him of his reasons for not performing the work;

(2) he pays to the Minister an amount equal to the minimum cost of the required work or, as the case may be, equal to the difference between the minimum cost and the cost of the work performed and reported.

Refusal

74. The Minister may refuse all or part of the work where the documents filed

(1) are incomplete or not consistent with the regulations;

(2) do not corroborate the stated amounts or the actual cost of the work;

(3) fail to show that the stated amounts were disbursed solely for the performance of work;

(4) have been falsified or contain false information;

(5) pertain to work previously reported by the claim holder or by a third person and accepted as part of another report.

Excess amount

75. Any amount disbursed to perform work in excess of the prescribed requirements may be applied to subsequent terms of the claim.

Amounts applicable to renewal of claim

76. The holder of adjoining claims may, if he does so sixty days or more before the expiry of the claim to be renewed, apply all or part of the amounts spent to perform, in respect of a claim, any work in excess of the prescribed requirements to a claim the renewal of which is applied for, up to the amount necessary for its renewal, provided the land on which the work has been performed and the land that is the subject of the application for renewal are included in a 3.2 kilometre square.

Requirement

Where the length of any side of one of the claims exceeds 3.2 kilometres, the claim holder may also apply the amounts as provided in the first paragraph provided both parcels are wholly or partly included within a 3.2 kilometre square.

Amounts applicable to renewal

77. The holder of a claim who is also the holder of a mining lease or mining concession may, when reporting in accordance with section 72 work referred to in that section that has been performed in respect of the lease or concession, apply the whole or part of the amounts disbursed for such work to one or several claims, but only up to the amount necessary for the renewal applied for, provided the work was performed during the term of the claim and all the land that is subject to the claim, lease or concession is included within a 3.2 kilometre square.

Requirement

Where the length of any side of the parcel of land that is subject to the claim, lease or concession exceeds 3.2 kilometres, the claim holder may also apply the amounts in accordance with the first paragraph, provided that all or part of the land is included within a 3.2 kilometre square.

Amount applicable to renewal

78. Any amount disbursed in excess of the prescribed requirements in respect of a claim by a person who, by virtue of a deed registered in the public register of real and immovable mining rights, holds a purchase option in respect of that claim, may be applied, in accordance with sections 76 and 77, towards the renewal of another claim of which he is the holder or in respect of which a purchase option has also been registered to his name.

New application for renewal

79. For the purposes of sections 75 to 78, where the work performed is insufficient to permit the renewal of a claim, the claim holder may, within fifteen days of being so notified by the Minister, submit a new application for renewal.

Amendment by the Minister If the claim holder fails to do so, the application for renewal shall be amended by the Minister according to the rules prescribed by regulation.

Work performed before current term **80.** The work performed in respect of a claim during the term preceding the current term, excluding examination of title, stripping, excavation or technical assessment work may, in a report, be applied to the current term of a claim, at half value.

Work performed before current term Notwithstanding the first paragraph, the work performed during the sixty days before the expiry of the term preceding the current term may be applied at full value.

Geological, geophysical, geochemical surveys **81.** The geological, geophysical or geochemical surveys performed in the territory comprising the land that is subject to a claim, during the twelve months preceding the date of staking or filing of the notice of map designation in the office of the registrar, may, in a report, be applied to the first term of the claim, at half value.

Cessation of work **82.** The Minister may order the cessation of the work if necessary in his judgment to permit the use of the territory for public utility purposes.

Suspension of term In such a case, the Minister shall, subject to certain conditions, suspend the term of the claim.

Expropriation After six months, if the Minister is of opinion that the cessation of the work must be maintained, he shall expropriate the claim.

§ 4.—*Abandonment*

Abandonment of right **83.** A claim holder may abandon his right by filing a written notice of abandonment with the registrar.

DIVISION IV

MINING EXPLORATION LICENCES

Exploration **84.** The holder of a mining exploration licence has an exclusive right to explore for mineral substances in the territory for which the licence is issued, except surface mineral substances, petroleum, natural gas and brine.

Territory **85.** Mining exploration licences shall be issued by the Minister for the exploration of territories situated north of the fifty-second degree of latitude.

Require-
ments and
fee

86. A mining exploration licence shall be issued, in respect of a given territory, to any person who meets the requirements and pays the annual fee prescribed by regulation.

Schedule of
work

Every application for a mining exploration licence shall be accompanied with a schedule of the work the applicant proposes to perform pursuant to section 94 in the first year of the term of the licence.

Territory

87. A licence may be issued in respect of a territory to the extent that, according to sections 29, 30, 32, 33, 35 and 38 and the conditions prescribed under section 34, it is open for prospecting or staking.

Area

88. The territory subject to a licence must be comprised within a single perimeter and its area must not be less than 50 square kilometres nor exceed 400 square kilometres.

Area

Notwithstanding the first paragraph, the Minister may grant a licence in respect of a territory less than 50 square kilometres in area situated between parcels of land that are subject to a claim, a mining exploration licence, a mining lease or a mining concession or between parcels not open to mining exploration.

Increase in
area

89. At the beginning of each year of the term of a licence, the Minister may grant an increase in the area of the territory subject to the licence to the licensee, provided

- (1) he applies therefor in writing;
- (2) the added parcel of land is contiguous to the territory;
- (3) the total area of the parcels of land does not exceed 400 square kilometres;
- (4) he complies with the other provisions of this Act and the regulations.

Term of
licence

90. The term of a licence shall be five years.

Renewal

The Minister shall renew the licence only once for the same term in respect of all or part of the territory subject to it, provided the licensee

- (1) has applied for the renewal of the licence before its date of expiry;
- (2) has paid the annual fee prescribed by regulation;

(3) has complied with this Act and the regulations throughout the previous term of his licence and, particularly, has performed and reported the work required under section 94;

(4) has met any other renewal requirement prescribed by regulation.

Annual fee **91.** The licensee shall pay the annual fee before the beginning of each year of the term of his licence and comply with the conditions of the licence. The annual fee and the conditions of the licence are prescribed by regulation.

Conditions The licensee shall also comply with any other condition the Minister may impose on him in the public interest upon the issue of the licence.

Claim **92.** The licensee may, in accordance with Division III, obtain a claim in respect of all or part of the territory subject to his licence.

Reduction of area Where such is the case, the area of the territory shall be reduced by the area of the land included in the claim; the reduction does not reduce the work the licensee is required to perform pursuant to section 94, for the current year.

Rights and restrictions **93.** Rights and restrictions relating to exploration for mineral substances and applicable to claims under sections 65 to 71 shall apply, adapted as required, to the licence.

Minimum amount of expenses **94.** Subject to sections 95 and 98, the licensee shall, each year, perform in the territory covered by his licence, work of the nature and for the minimum cost determined by regulation. However, the amounts spent on examination of title and technical assessment work shall not be accepted beyond one-fourth of the minimum cost.

Report Before the end of the year, the licensee shall report the work to the Minister; the report shall be in the form and accompanied with the documents prescribed by regulation.

Exemption **95.** The Minister may exempt a licensee from any required work not performed within the time prescribed, for any year of the term of his licence except the first year, if the licensee had valid reasons for not doing so, provided that, before the end of the year,

(1) he files an application for exemption in writing with the Minister informing him of his reasons for not performing the work;

(2) he pays to the Minister an amount equal to the minimum cost of the required work or, as the case may be, to the difference between the minimum cost and the cost of the work performed and reported.

Work per-
formed dur-
ing second
year

The Minister may also authorize a licensee to perform the work required for the first year during the second year of the term of his licence, in addition to the work scheduled for the second year, if the licensee proves that he had valid reasons for not performing it as scheduled.

Schedule of
work

96. Before 1 April each year, the licensee shall transmit to the Minister a schedule of the work he proposes to perform.

Refusal

97. The Minister may refuse all or part of the work where the documents transmitted

- (1) are incomplete or not consistent with the regulations;
- (2) do not corroborate the stated amounts or the actual cost of the work;
- (3) fail to show that the stated amounts were disbursed solely for the performance of the work;
- (4) have been falsified or contain false information;
- (5) pertain to work previously reported by the licensee or by a third person and accepted as part of another report.

Excess
amount

98. Any amount spent to perform work in excess of the prescribed requirements may be applied to subsequent years of the term of the licence.

Abandon-
ment of
right

99. A licensee may, with the authorization of the Minister, abandon his right in respect of all or part of the territory subject to his licence, provided

- (1) he applies therefor in writing;
- (2) the residual area, in the case of partial abandonment, consists of one or several parcels of land forming a quadrilateral with an area of at least 2 square kilometres;
- (3) he has complied with the other provisions of this Act and the regulations.

Partial
abandon-
ment

Partial abandonment does not reduce the work the licensee is required to perform in the year of abandonment.

DIVISION V

MINING LEASE AND MINING CONCESSION

- 100.** No person may mine mineral substances, except surface mineral substances, petroleum, natural gas and brine, unless he has previously obtained a mining lease from the Minister or a mining concession under any former Act relating to mines, except where he is authorized to do so pursuant to a seabed mining lease.
- 101.** The Minister shall grant a lease in respect of all or part of a parcel of land that is subject to one or several claims or one or several mining exploration licences, claims and mining exploration licences or a mining concession limited to certain mineral substances mentioned in section 5, if their holder establishes the existence of indicators of the presence of a workable deposit and if he meets the requirements and pays the annual rental prescribed by regulation.
- Every application for a mining lease shall be accompanied with a survey of the land involved and with a report, certified by an engineer or a qualified geologist, describing the nature, extent and probable value of the deposit.
- At the request of the Minister, the holder of a mining right shall furnish to him any document useful for the determination of the presence of the indicators.
- For the purposes of the second paragraph, the words "qualified geologist" mean a person who holds a bachelor's degree from a recognized university, obtained after a specialized course in geological sciences.
- 102.** The land that is subject to a lease must be comprised within a single perimeter and its area must not exceed 100 hectares.
- Notwithstanding the first paragraph, where circumstances warrant it, the Minister may agree to grant a lease on a parcel of land having an area in excess of 100 hectares.
- 103.** The area of the territory subject to mining rights referred to in section 101 shall be reduced by the area of the land subject to the lease and, in the case of a mining exploration licence, the required work to be performed during the current year in the territory is not reduced.
- 104.** The term of a mining lease is twenty years.

- Renewal** The Minister shall renew the lease for a period of ten years, not more than three times, provided the lessee
- (1) applies therefor before the sixtieth day preceding the expiry of the lease or, failing that, within sixty days preceding the expiry of the lease on payment of an additional amount prescribed by regulation;
 - (2) has submitted a report establishing that he has performed mining operations for at least two years in the last ten years of the lease;
 - (3) has paid the annual rental prescribed by regulation;
 - (4) has complied with this Act and the regulations throughout the previous term of the lease;
 - (5) has complied with any other renewal requirement prescribed by regulation.
- Extension of lease** Notwithstanding the foregoing, after the third renewal of the lease, the Minister may grant an extension thereof on the conditions, for the rental and for the term he determines.
- Rights and obligations of lessee** **105.** Subject to the restrictions contained in this division, a lessee or a grantee has, on land that is subject to a lease or concession, the rights and obligations of an owner.
- Right to use surface of land** Notwithstanding the first paragraph, the right to use the surface of land situated within the public domain shall be restricted to mining uses and subject to the conditions set out in the lease or concession and in this Act. On lands granted, alienated or leased by the Crown for purposes other than mining purposes or on lands that are the subject of an exclusive lease to mine surface mineral substances, the right may be exercised only in accordance with section 235.
- Watercourse excluded from lease** **106.** Any part of a watercourse with a natural force equal to or greater than the natural force referred to in section 3 of the Watercourses Act together with a strip of land twenty metres in width on each side of the watercourse shall be excluded from any lease and reserved to the Crown.
- Addition to reserve** The Minister may add to the reserve any area he considers necessary for the development and utilization of the waterpower. Where such an addition is made after the granting of a lease on the land, compensation shall be paid to the lessee.
- Mining of mineral substances** The Minister, however, may, subject to certain conditions, authorize the lessee to mine mineral substances on the reserved land.

Exclusion
from con-
cessions

107. The following parts of a watercourse or land shall be excluded from any concession and reserved to the Crown:

(1) any part of a watercourse with a natural force of 110 kilowatts or more, from 15 March 1928;

(2) any strip of land twenty metres in width on each side of the watercourse, from 24 May 1937;

(3) any additional area considered to be necessary by the Government for the development and utilization of waterpower, until (*insert here the date of coming into force of this section*), and, from that date, any additional area considered to be necessary by the Minister for the same purposes. In any such case, compensation shall be paid to the grantee.

Mining of
mineral con-
cessions

Notwithstanding the first paragraph, the Minister may authorize the grantee, subject to certain conditions, to mine mineral substances on the reserved land.

Sand and
gravel

108. Sand and gravel not granted under any former Act relating to mines, petroleum, natural gas and brine are excluded from the concession.

Use of sand
and gravel

109. A lessee may use, for his mining activities, sand and gravel that is part of the public domain except where the land that is subject to the lease is already subject to an exclusive lease to mine surface mineral substances in favour of a third person.

Land
reserved to
Crown

110. Five per cent of the area of the land affected by a lease or concession and situated on lands of the public domain shall be reserved to the Crown for public development purposes.

Extraction
from public
lands

111. Sand, gravel or stone for the construction or maintenance of Crown works may be extracted from lands of the public domain without compensation to the lessee or grantee.

Rights of
grantee

112. The grantee of lands of the public domain granted for mining purposes may, according to law and provided he has obtained the authorization of the Minister,

(1) alienate or lease all or part of the land subject to his concession;

(2) erect on that land any constructions other than those required for his mining activities;

(3) sell any construction erected on that land;

(4) otherwise dispose of any superficies on that land.

Authorization The grantee shall do so at the prices and subject to the conditions established by the Minister in his authorization and, in the case of alienation, he shall file a plan of cadastral division into lots or, with the Minister's permission, a technical land description.

Certificate **113.** The authorization of the Minister is granted in the form of a certificate bearing his signature.

Registration of authorization The grantee shall register the authorization in the registry office of the registration division where the parcel of land is situated.

Restriction From the registration, no instrument mentioned in the certificate may be cancelled for the sole reason that the grantee has not complied with the requirements of this Act or the regulations.

Letters patent **114.** The person in whose favour a lot has been alienated with the authorization of the Minister may obtain, for that lot, letters patent issued under the Act respecting the lands in the public domain (1987, chapter 23) and they shall remain valid notwithstanding the revocation of the mining concession affecting the land.

Payment of sale price or rental **115.** When authorizing a grantee to alienate or lease lots, the Minister may require him to pay part of the sale price or rental into the consolidated revenue fund and, as the case may be, another part into the general fund of the municipality where the lot is situated.

Annual rental **116.** The lessee shall pay the annual rental before the beginning of each year of his lease and comply with the conditions of the lease. The annual rental and the conditions of the lease are prescribed by regulation.

Commencement of mining operations **117.** The lessee shall commence mining operations within four years from the date of the lease.

Extension Notwithstanding the first paragraph, the Minister may, where the lessee has a valid reason for requesting it, grant an extension of time on the conditions, for the rental and for the term he determines.

Commencement of mining operations **118.** The grantee shall commence mining operations within the time allotted by the Minister under any former Act relating to mines.

Extension Notwithstanding the first paragraph, the Minister may, where the grantee has a valid reason for requesting it, grant an extension of time on the conditions, on payment of the fee and for the term he determines.

Work to be performed

119. Every person who has acquired a concession for which letters patent were not issued before 1 July 1911 shall, each year from the beginning of its operation, perform work on the land subject to his concession of the nature and for the minimum cost determined by regulation. However, amounts disbursed for examination of title and technical assessment work shall not be accepted beyond one-fourth of the minimum cost.

Work not performed

A grantee who fails to perform the required work shall pay to the Minister, before 1 February of each year, an amount equal to the minimum cost of the required work or, as the case may be, to the difference between the minimum cost and the cost of the work performed and reported.

Report

Before 1 February each year, the grantee shall report the work performed to the Minister; the report shall contain the information and be accompanied with the documents prescribed by regulation.

Refusal

120. The Minister may refuse all or part of the work reported where the documents transmitted

- (1) are incomplete or not consistent with the regulations;
- (2) do not corroborate the stated amounts or the actual cost of the work;
- (3) fail to show that the stated amounts have been disbursed solely for the performance of work;
- (4) have been falsified or contain false information;
- (5) pertain to work previously reported by the grantee or by a third person and accepted as part of another report.

Contiguous parcels of land

121. Where contiguous parcels of land with a total area not exceeding 2 000 hectares have been leased by separate leases to the same person, the Minister may allow the work to be undertaken on one of the parcels of land only.

Concentration of work

Subject to the same conditions, the Minister may grant the same authorization to a grantee referred to in section 119 and allow him to concentrate the work on one parcel of land.

Abandonment

122. A lessee or grantee may abandon his right in respect of all or part of the land subject to his lease or concession provided that

- (1) he applies therefor in writing and that, following the application, the Minister has notified all creditors having registered an instrument

referred to in paragraph 3 of section 13 in the public register of real and immovable mining rights;

(2) he has paid the duties exigible under the Mining Duties Act (R.S.Q., chapter D-15);

(3) he has transmitted the plans, registers and reports referred to in section 226 to the Minister;

(4) he has obtained the authorization of the Minister, who shall grant his authorization after consultation with the Minister of the Environment and not before thirty days from the date of transmission of the notice provided for in paragraph 1;

(5) he has complied with the other provisions of this Act and the regulations.

Priority of
registration
of claim

123. Within thirty days from the abandonment of a lease or concession or from the expiry of a lease, the lessee or grantee shall have priority of registration, by notice of map designation, of a claim in respect of all or part of the land that was subject to the abandoned or expired title. In that case, a claim may be obtained on each part of a lot if the lease or concession covers part of a lot and the holder or grantee does not hold a claim on the other part of the lot.

Interested
persons

Within thirty days from the expiry of the time prescribed in the first paragraph, registration under the first paragraph may be applied for by any interested person in respect of any part of the land that has not become subject to a claim pursuant to the first paragraph.

Staking or
designation

Claims shall subsequently be obtained by staking or map designation according to the territory where the land is situated.

Letters
patent

124. A grantee may obtain letters patent from the Minister in respect of the land subject to the concession on proof that the mining operations were begun within the time prescribed under section 118.

Effect of
letters
patent

Letters patent issued over the signature of the Minister have the same force as if they had been issued and signed by the Lieutenant-Governor and the Attorney General under the Great Seal.

Registration

The letters patent shall be registered by the Minister of Justice in his capacity as Registrar of Québec.

Error

125. Where letters patent contain an error concerning the area or designation of the parcel of land concerned or the name of the holder or any other clerical error, the Minister may cancel the letters patent and issue corrected letters patent having effect on the same date, unless the error is the subject of a dispute.

Correction Where possible, the Minister may also correct letters patent without cancelling them.

Notice to registrar **126.** The Minister shall notify the Registrar of Québec and the registrar of the registration division concerned of the issue, correction or cancellation of letters patent.

Entry in letters patent An entry of the correction or cancellation shall be made in the margin of the registered letters patent together with a reference to the registration number of the correction or cancellation.

DIVISION VI

SEABED EXPLORATION LICENCE AND SEABED MINING LEASE

Seabed exploration **127.** The holder of a seabed exploration licence has an exclusive right to explore for mineral substances on that part of the seabed for which the licence is issued, except petroleum, natural gas and brine.

Seabed mining lease **128.** No person may mine mineral substances, except petroleum, natural gas and brine, on the seabed unless he has obtained a seabed mining lease from the Minister.

Authorization **129.** The Government may authorize the Minister generally or specially to issue a licence or grant a lease on the conditions and payment of the fee determined by the Minister.

DIVISION VII

EXPLORATION LICENCE FOR SURFACE MINERAL SUBSTANCES

Exploration for mineral substances **130.** The holder of an exploration licence for surface mineral substances has an exclusive right to explore for surface mineral substances, except sand, other than silica sand used for industrial purposes, gravel, common clay and inert tailings used for construction purposes, on the territory for which the licence is issued.

Licence **131.** The licence shall be issued by the Minister, in respect of a given territory, to any person who meets the requirements and pays the fee prescribed by regulation.

Refusal Notwithstanding the first paragraph, the licence shall be refused

(1) where the territory concerned is subject to a mining lease or an application for such a lease, a mining concession, an exploration licence for surface mineral substances, an exclusive lease to mine surface mineral substances or an application for such a lease, held or made by a third person;

(2) if the applicant was the holder of a licence for the territory concerned, in the twelve months preceding the application.

Territory **132.** A licence may be issued in respect of a territory so far as, according to sections 30, 32 and 33 and the conditions prescribed under section 34, it is open for prospecting or staking.

Cemetery In no case may a licence be issued in respect of any land used as a cemetery within the meaning of the Act respecting Roman Catholic cemetery corporations (R.S.Q., chapter C-69) or established as a cemetery in accordance with the Non-Catholic Cemeteries Act (R.S.Q., chapter C-17).

Area **133.** The territory subject to a licence must be comprised within a single perimeter and its area must not exceed 100 hectares.

Term **134.** The term of a licence is two years.

Renewal The Minister shall renew the licence for the same term, provided the licensee

(1) applies for the renewal of the licence before its date of expiry;

(2) pays the fee prescribed by regulation;

(3) has complied with this Act and the regulations throughout the previous term of the licence and, particularly, has performed and reported the work required under section 137;

(4) he has, after the fourth renewal, shown to the Minister's satisfaction that the extension is necessary to allow the technico-economic studies or testing already in progress, as defined by regulation, to be continued;

(5) has met any other renewal requirement prescribed by regulation.

Conditions **135.** The licensee shall comply with the conditions of the licence prescribed by regulation and any other condition the Minister may impose on him upon the issue of the licence, in the public interest or because of the existence of other mining rights affecting the territory for which the licence is issued.

Rights and restrictions **136.** The rights and restrictions relating to exploration for mineral substances applicable to claims under sections 65 to 67 and 69 to 71, apply, adapted as required, to the licence.

Work to be performed

137. During the term of a licence, the licensee is required to perform, in the territory for which the licence was issued, work of the nature and for the minimum cost determined by regulation. However, amounts disbursed for examination of title and technical assessment work shall not be accepted beyond one-fourth of the minimum cost.

Report

The licensee shall report the work to the Minister before the expiry of his licence; the report must contain the information and be accompanied with the documents prescribed by regulation.

Refusal

138. The Minister shall refuse all or part of the work where the documents transmitted

- (1) are incomplete or not consistent with the regulations;
- (2) do not corroborate the stated amounts or the actual cost of the work;
- (3) fail to show that the stated amounts were disbursed solely for the performance of the work;
- (4) have been falsified or contain false information;
- (5) pertain to work previously reported by the licensee or a third person and accepted as part of another report.

Abandonment

139. The licensee, with the authorization of the Minister, may abandon his right in all or part of the territory for which the licence was issued provided

- (1) he applies therefor in writing;
- (2) the residual area, in the case of partial abandonment, is comprised within a single perimeter;
- (3) he has complied with the other provisions of this Act and the regulations.

Partial abandonment

Partial abandonment does not reduce the work that the licensee is required to perform under section 137 during the current term of his licence.

DIVISION VIII

LEASE TO MINE SURFACE MINERAL SUBSTANCES

Lease

140. No person may extract or mine surface mineral substances unless he has obtained a lease to mine surface mineral substances from the Minister.

Extraction
without a
lease

Notwithstanding the first paragraph, the Minister may authorize a person who is not a lessee to extract in a year a fixed quantity of surface mineral substances, subject to certain conditions.

Non-
exclusive
lease

141. The lease is non-exclusive where it is granted for the extraction or mining of the following substances used for construction purposes: sand, except silica sand used for industrial purposes, gravel, common clay and inert tailings.

Exclusive
lease

The lease is exclusive where it is granted for the extraction or mining of sand, gravel or common clay if it is shown to the Minister's satisfaction that a supply guarantee is necessary for the carrying on of an industrial activity, where such a lease is applied for by the Crown for the construction and maintenance of a public highway or where it is granted for the extraction or mining of silica sand used for industrial purposes or of any other surface mineral substance.

Lease

142. The Minister shall grant a lease in respect of a given parcel of land to any person who meets the requirements and pays the rental prescribed by regulation.

Non-
exclusive
lease

Notwithstanding the first paragraph, no non-exclusive lease shall be granted, except to the Crown, where the land concerned is subject to a mining lease, a mining concession, an exclusive lease to mine surface mineral substances or an application for such an exclusive lease, held or made by a third person.

Exclusive
lease

No exclusive lease shall be granted where the land concerned is subject to a mining lease or an application for a mining lease, a mining concession, an exploration licence for surface mineral substances or an exclusive lease to mine surface mineral substances, held or made by a third person.

Untransfera-
bility

143. A non-exclusive lease is not transferable.

Land under
lease

144. A lease may be granted in respect of a parcel of land to the extent that, according to sections 30, 32 and 33 and the conditions prescribed under section 34, it is open for prospecting or staking.

Cemetery

In no case may a lease be granted in respect of any land used as a cemetery within the meaning of the Act respecting Roman Catholic cemetery corporations or established as a cemetery in accordance with the Non-Catholic Cemeteries Act.

Area

145. The parcel of land subject to an exclusive lease must be comprised within a single perimeter and its area must not exceed 100

hectares. However, in the case of an exclusive lease to produce peat, the area must not exceed 300 hectares.

Production
of peat

Notwithstanding the first paragraph, the Minister, taking the projected rate of production and the capacity of the operation into account, may grant an exclusive lease to produce peat on a parcel of land of an area in excess of 300 hectares to guarantee a supply of peat for a period of approximately fifty years.

Increase in
area

146. At the beginning of each year of the lease, the Minister may grant the lessee of an exclusive lease an increase in the area of the territory covered by the lease, provided

(1) the added land is contiguous to that territory;

(2) the total area of the land is consistent with the requirements of section 145;

(3) the lessee has complied with the other provisions of this Act and the regulations.

Expiry of
non-
exclusive
lease

147. A non-exclusive lease expires on 31 March of the year immediately following the year in which it was granted.

Renewal

The Minister shall renew a non-exclusive lease for one year, provided the lessee

(1) applies therefor 30 days or more before the date of expiry of the lease;

(2) has paid the rental prescribed by regulation;

(3) has complied with this Act and the regulations throughout the previous term of his lease and, particularly, has made the reports required under section 155;

(4) has met any other renewal requirement prescribed by regulation.

Renewal
refused

Notwithstanding the foregoing, the renewal shall be refused where the parcel of land concerned was, during the previous term of the lease, subject to a mining lease, an exclusive lease to mine surface mineral substances or an application for such an exclusive lease, held or made by a third person.

Term of
exclusive
lease

148. The term of an exclusive lease is five years. However, the term of an exclusive lease to produce peat is fifteen years.

Renewal The Minister shall renew an exclusive lease for the same term, provided the lessee

(1) applies therefor 60 days or more before the expiry of the lease or, on payment of an additional amount prescribed by regulation, within 60 days before the expiry of the lease;

(2) has carried on mining operations for at least one year;

(3) has paid the rental prescribed by regulation;

(4) has complied with this Act and the regulations throughout the previous term of his lease;

(5) has met any other renewal requirement prescribed by regulation.

Renewal refused Notwithstanding the foregoing, the renewal shall be refused for the extraction or mining of sand, gravel and common clay where the Minister is of opinion that the supply guarantee is no longer necessary for the carrying on of an industrial activity.

Access **149.** The lessee has access to the parcel of land subject to his lease and he may extract or mine surface mineral substances thereon.

Exercise of rights However, on land granted, alienated or leased by the Crown for purposes other than mining purposes, the rights referred to in the first paragraph may be exercised only as provided in section 235.

Exclusion from lease **150.** Any part of a watercourse with a natural force equal to or greater than the natural force referred to in section 3 of the Watercourses Act together with a strip of land twenty metres in width on each side of the watercourse shall be excluded from the lease and reserved to the Crown.

Addition The Minister may add to the reserve any area he considers necessary for the development and utilization of the waterpower. Where such an addition is made after the granting of a lease on the land concerned, compensation shall be paid to the lessee.

Authoriza-tion Notwithstanding the foregoing, the Minister may, subject to certain conditions, authorize the lessee to extract or mine surface mineral substances on the reserved land.

Extraction from public lands **151.** Sand, stone and gravel for the construction or maintenance of the works of the Crown may be extracted from lands forming part of the public domain without compensation to the lessee.

- Conditions** **152.** The lessee shall comply with the conditions of the lease prescribed by regulation and any other condition imposed on him by the Minister upon the granting of the lease, in the public interest or because of the existence of other mining rights in the land in respect of which the lease has been granted.
- Commencement of operations** **153.** Every lessee under an exclusive lease shall commence his operations within the time indicated in the lease.
- Records** **154.** Every lessee shall keep detailed records of his operations including a copy of all documents relating to the alienation and shipment of extracted substances.
- Report** **155.** Every three months and within fifteen days after the expiry of the lease, the lessee shall transmit to the Minister a report indicating the quantity of surface mineral substances he has extracted and, where such is the case, alienated.
- Royalty** Within thirty days after receipt of the account established by the Minister following the transmission of the report, the lessee shall pay to the Minister the royalty prescribed by regulation.
- Royalty** No royalty is payable on sand, gravel or stone extracted from a sandpit or quarry for the construction or maintenance of a mining road or forest road on lands of the public domain or, where the Crown is a lessee, for the construction or maintenance of a public road by the Crown.
- Abandonment** **156.** The lessee under an exclusive lease may abandon his right in all or part of the parcel of land that is subject to his lease, provided that
- (1) he applies therefor in writing and that, following the application the Minister has notified all creditors having registered an instrument referred to in paragraph 3 of section 13 in the public register of real and immovable mining rights;
 - (2) the residual area, in the case of partial abandonment, is comprised within a single perimeter;
 - (3) he has obtained the authorization of the Minister who shall grant his authorization after consultation with the Minister of the Environment and not before thirty days from the date of transmission of the notice provided for in paragraph 1;
 - (4) he has complied with the other provisions of this Act and the regulations.

DIVISION IX

LICENCE FOR GEOPHYSICAL SURVEYING

Licence **157.** No person may make a geophysical survey to determine whether geological conditions are favourable to exploration for petroleum, natural gas, brine or underground reservoirs unless he holds a licence for geophysical surveying issued by the Minister.

“geophysical surveying” The words “geophysical surveying” mean any method of exploration for petroleum, natural gas, brine or underground reservoirs by indirect measurement of the physical features of the subsoil effected above or on the surface, particularly seismic reflection, seismic refraction, gravimetric, magnetic, resistivity or geochemical surveying and any other indirect method used to determine any feature of the subsoil.

Territory **158.** The licence shall be issued in respect of a given territory to any person who meets the requirements prescribed by regulation.

Untransferability The licence is not transferable.

Conditions **159.** The licensee shall comply with the conditions of the licence prescribed by regulation.

Report Within six months after the geophysical survey is made, the licensee shall transmit to the Minister a report in the form and accompanied with the documents prescribed by regulation.

DIVISION X

WELL DRILLING LICENCE, WELL COMPLETION
LICENCE AND WELL CONVERSION LICENCE

Licence for drilling well **160.** No person may drill a well to explore for, or produce petroleum, natural gas or brine or to explore for or operate an underground reservoir unless he holds, for each drilling, a well drilling licence issued by the Minister.

Licence for completing or converting well No person may complete or convert such a well unless he holds, for each completion or conversion, a well completion or well conversion licence issued by the Minister.

Requirements **161.** The licence shall be issued to any person who meets the requirements prescribed by regulation.

- Refusal The Minister shall refuse to issue a licence where the applicant is not already the holder of a licence to explore for or a lease to produce petroleum and natural gas or brine or to operate underground reservoirs, with respect to the land that is the subject of the licence application.
- Untransferability The licence is not transferable.
- Conditions **162.** The licensee shall comply with the conditions of the licence prescribed by regulation.
- Report Within one year after the end of the drilling of a well, the licensee shall transmit to the Minister a report in the form and accompanied with the documents prescribed by regulation.
- Abandonment of well **163.** Where drilling is temporarily or permanently discontinued, the licensee shall abandon the well in accordance with section 164 or complete it.
- Abandonment of well **164.** The licensee may abandon a well at any time provided
- (1) he gives prior notice in writing to the Minister;
 - (2) he has met the requirements relating to the closing of a well prescribed by regulation;
 - (3) he has obtained the authorization of the Minister, granted after consultation with the Minister of the Environment;
 - (4) he has registered, in the registry office of the registration division concerned, a declaration of the existence and location of the abandoned well. The declaration is entered in the mining register and, where applicable, in the index of immovables under the number of the lot affected by the well.

DIVISION XI

EXPLORATION LICENCE FOR PETROLEUM
AND NATURAL GAS, EXPLORATION LICENCE
FOR BRINE AND EXPLORATION LICENCE
FOR UNDERGROUND RESERVOIRS

- Exploration for petroleum, natural gas, brine or reservoirs **165.** No person may explore for petroleum or natural gas, brine or underground reservoirs unless he holds, as the case may be, an exploration licence for petroleum and natural gas, an exploration licence for brine or an exploration licence for underground reservoirs issued by the Minister.

Territory **166.** The licence shall be issued, in respect of a given territory, to any person who meets the requirements and pays the annual fee prescribed by regulation.

Fee The fee shall be reduced to one-third where the applicant is, with respect to the same territory, a licensee under another licence issued pursuant to this division for which no fee reduction has ever been granted.

Refusal Notwithstanding the foregoing, the Minister shall refuse to issue

(1) an exploration licence for petroleum and natural gas or an exploration licence for brine where the territory concerned is subject to a time limit or a call for tenders pursuant to section 289 for the granting of any mining right relating to petroleum and natural gas or brine;

(2) an exploration licence for underground reservoirs where the territory is subject to a time limit or a call for tenders under section 289 for the granting of such a right.

Refusal The Minister shall also refuse to issue, unless the third person agrees to it, an exploration licence for petroleum and natural gas or an exploration licence for brine where the territory concerned is subject to a lease to mine any of those substances or to an application for such a lease held or made by a third person.

Licence held by third person **167.** Where a person applies for an exploration licence for petroleum and natural gas, an exploration licence for brine or an exploration licence for underground reservoirs with respect to a territory already subject to such a licence held by a third person, the Minister shall first offer the exploration licence applied for to that third person.

Issue If the third person refuses the exploration licence, the Minister may issue it, in accordance with this division, to the person having applied for it.

Area **168.** The territory subject to a licence must be comprised within a single perimeter and its area must not exceed 25 000 hectares.

Term **169.** The term of the licence is five years.

Renewal The Minister shall renew the licence for a term of one year, not more than five times, in respect of all or part of the territory for which the licence had been issued, provided the licensee .

(1) applies therefor before the date of expiry of the licence;

(2) has paid the fee prescribed by regulation;

(3) has complied with this Act and the regulations throughout the previous term of his licence;

(4) has met any other renewal requirement prescribed by regulation.

Reduction
of fee

The fee shall be reduced to one-third where the applicant for the renewal is, with respect to the same territory, a licensee under another licence issued pursuant to this division for which no fee reduction has ever been granted.

Access

170. Every licensee has access to the territory described in his lease and he may perform any exploration work thereon.

Restriction

However, on land granted, alienated or leased by the Crown for purposes other than mining purposes, the rights referred to in the first paragraph may be exercised only as provided in section 235.

Exclusion
from licence

171. Any underground reservoir that is subject to a lease to operate an underground reservoir, an application for such a lease or to a time limit or a call for tenders under section 289 shall be excluded from an exploration licence for underground reservoirs.

Annual fee

172. The licensee shall pay the annual fee before the beginning of each year of the term of his licence and shall comply with the conditions of the licence. The annual fee and the conditions of the licence are prescribed by regulation.

Work on
adjoining
territory

173. The licensee, with the authorization of the Minister, may perform exploration work for petroleum, natural gas, brine or underground reservoirs, as the case may be, in a territory bordering on the territory subject to his licence, provided the proposed exploration work is necessary to gain better knowledge of the territory subject to his licence.

Trial period

174. No holder of an exploration licence for petroleum and natural gas or an exploration licence for brine may extract or dispose of petroleum, natural gas or brine except during the trial period and subject to the conditions prescribed by regulation.

Use of
underground
reservoir

175. No holder of an exploration licence for underground reservoirs may use an underground reservoir except during the trial period and subject to the conditions prescribed by regulation.

Discovery of
petroleum

176. The holder of an exploration licence for petroleum and natural gas, an exploration licence for brine or an exploration licence for

underground reservoirs shall notify the Minister in writing upon discovering a deposit of petroleum, natural gas or brine in the territory subject to his licence and give him detailed information on the nature and location of the deposit.

Assessment Within three months after the discovery, the licensee shall, at the request of the Minister, transmit an assessment of the economic potential of the deposit.

Application for a lease Within six months after the production of an assessment confirming the presence of an economically workable petroleum or natural gas deposit, the holder of an exploration licence for petroleum and natural gas, an exploration licence for brine or an exploration licence for underground reservoirs shall transmit to the Minister an application for a lease to produce petroleum and natural gas. The holder of an exploration licence for brine shall, subject to the same conditions with respect to a brine deposit, transmit to the Minister an application for a lease to produce brine.

Required work **177.** Subject to sections 178 and 180 to 183, the licensee shall perform each year, in the territory subject to his licence, work of the nature and for the minimum cost determined by regulation.

Reduction of work The required work shall be reduced to one-third where the licensee is, with respect to the same territory, a licensee under another licence issued pursuant to this division for which no work reduction has ever been granted.

Report The licensee shall report the work to the Minister within six months after the end of the year in which the work was performed; the report shall be in the form and accompanied with the documents prescribed by regulation.

Exemption **178.** The Minister may exempt a licensee from all or part of the required work he did not perform within the prescribed time, provided

(1) he informs the Minister in writing, before the end of the year for which the work was required, of the reasons why he did not perform the work;

(2) he pays an amount equal to the minimum cost of the work he was required to perform or, where such is the case, an amount equal to the difference between the minimum cost and that of the work performed and reported.

Work performed during second year The Minister may also authorize the licensee to perform all or part of the required work the following year, in addition to the work required

for that year, provided he informs the Minister in writing of the reasons he was unable to perform the work and furnishes security covering the cost of the work remaining to be performed for the two years. The security shall be returned to the licensee on the Minister's acceptance of the report pertaining to the work.

179. The Minister shall refuse all or part of the work reported where the documents transmitted

- (1) are incomplete or not consistent with the regulations;
- (2) do not corroborate the stated amounts or the actual cost of the work;
- (3) fail to show that the stated amounts were disbursed solely for the performance of work;
- (4) have been falsified or contain false information;
- (5) pertain to work already reported by the licensee or a third person and accepted as part of another report.

180. The holder of several exploration licences for petroleum and natural gas may group all the territories that are subject to such licences and, in his report, may apply the work he has performed to those territories in the proportion he determines, provided

- (1) he informs the Minister thereof in writing;
- (2) the territories are contiguous or located in part within a radius of forty kilometres;
- (3) the total area does not exceed 75 000 hectares.

The same rules apply to the holder of several exploration licences for brine or several exploration licences for underground reservoirs.

181. Any amount disbursed to perform work in excess of the prescribed requirements may be applied to subsequent years of the term of a licence provided a detailed statement of the amounts disbursed, certified by a chartered accountant, is furnished by the licensee to the Minister within six months after the end of the year in which the work is performed.

The excess is also applicable, at half-value, to any renewed term of the licence.

Excess
amount

182. The excess of the amounts disbursed for work performed prior to the abandonment of part of the territory subject to the licence is reduced proportionately to the abandoned area and is applicable to the residual area.

Work per-
formed out-
side terri-
tory

183. In his report, the licensee may include work performed in accordance with section 173 outside the territory subject to his licence.

Abandon-
ment of
right

184. The licensee, with the authorization of the Minister, may abandon his right in all or part of the territory subject to his licence, provided

(1) he applies therefor in writing;

(2) the residual area, in the case of partial abandonment, is comprised within a single perimeter;

(3) he has complied with the conditions for the abandonment of a well set out in section 164, where such is the case, unless the Minister decides otherwise;

(4) he has complied with the other provisions of this Act and the regulations.

Partial
abandon-
ment

Partial abandonment does not reduce the work the licensee is required to perform during the year of the abandonment.

DIVISION XII

LEASE TO USE NATURAL GAS

Lease

185. No person may use natural gas discovered by him on his land unless he has obtained from the Minister a lease to use natural gas.

Require-
ments

186. The Minister shall grant a lease to use natural gas, in respect of a given well, to any person who meets the requirements and pays the annual rental prescribed by regulation.

Lease held
by third
person

Notwithstanding the first paragraph, no lease to use natural gas shall be granted, unless the third person agrees to it, where the parcel of land in which the natural gas is discovered is already subject to a licence or a lease relating to petroleum and natural gas, brine or an underground reservoir held by a third person.

Untransfera-
bility

187. In no case may the lease be transferred except to a subsequent purchaser of the parcel of land.

Term	188. The term of the lease is twenty years.
Renewal	<p>The Minister shall renew the lease for a term of ten years, not more than three times, provided the lessee</p> <ol style="list-style-type: none"> (1) applies therefor before the date of expiry of the lease; (2) has paid the annual rental prescribed by regulation; (3) has complied with this Act and the regulations throughout the previous term of his lease; (4) has met any other renewal requirement prescribed by regulation.
Extension	Notwithstanding the foregoing, after the third renewal of the lease, the Minister may grant an extension thereof on the conditions, for the rental and for the term he determines, where the lessee shows to his satisfaction that the deposit is not yet depleted.
Restricted use	189. The lessee may use the natural gas only to meet the energy requirements of his residence.
Cancellation	190. The Minister may cancel a lease to use natural gas where he grants a lease to produce petroleum and natural gas, a lease to produce brine or a lease to operate an underground reservoir in respect of the parcel of land containing the well.
Payment of compensation	The lessee under the latter lease shall pay to the person whose lease to use natural gas has been cancelled compensation based on the investments made to produce natural gas and a lump sum computed as prescribed by regulation.
Annual rental	191. The lessee shall pay the annual rental before the beginning of each year of the term of his lease and comply with the conditions of the lease. The annual rental and the conditions of the lease are prescribed by regulation.
Abandonment of right	<p>192. The lessee, with the authorization of the Minister, may abandon his right, provided</p> <ol style="list-style-type: none"> (1) he applies therefor in writing; (2) he has complied with the conditions for the abandonment of a well set out in section 164, where such is the case; (3) he has complied with the other provisions of this Act and the regulations.

DIVISION XIII

LEASE TO PRODUCE PETROLEUM AND NATURAL GAS,
LEASE TO PRODUCE BRINE AND
LEASE TO OPERATE AN UNDERGROUND RESERVOIR

Lease **193.** No person may produce petroleum or natural gas, or brine, or operate an underground reservoir unless he has obtained from the Minister a lease to produce petroleum and natural gas, a lease to produce brine or a lease to operate an underground reservoir, as the case may be.

Granting of lease **194.** The Minister shall grant a lease in respect of a given parcel of land or underground reservoir to any person who establishes the presence of an economically workable deposit or operable underground reservoir, as the case may be, and meets the requirements and pays the annual rental fixed in accordance with section 202.

Refusal Notwithstanding the foregoing, the Minister shall refuse to grant

(1) a lease to produce petroleum and natural gas or a lease to produce brine where the land is subject to a time limit or a call for tenders pursuant to section 289 for the granting of any mining right relating to petroleum, natural gas or brine;

(2) a lease to operate an underground reservoir where the underground reservoir is subject to a time limit or a call for tenders pursuant to section 289 for the granting of such rights.

Refusal The Minister shall also refuse to grant, unless the third person agrees,

(1) a lease to produce petroleum and natural gas or a lease to produce brine where the territory is subject to an exploration licence for any of those substances, a lease to produce any of those substances or to an application for such a lease, held or made by a third person;

(2) a lease to operate an underground reservoir, where the underground reservoir is subject to such a lease or to an application for such a lease held or made by a third person or where the territory containing the underground reservoir is subject to a licence to explore for underground reservoirs.

Area of land under lease **195.** The parcel of land subject to a lease to produce petroleum and natural gas or a lease to produce brine must be comprised within a single perimeter and its area must not be less than 200 hectares nor more than 2 000 hectares.

Area under 200 hectares Notwithstanding the first paragraph, the Minister may grant a lease in respect of a parcel of land of an area of less than 200 hectares if it includes the estimated area of the deposit.

Underground reservoir **196.** The parcel of land containing an underground reservoir in respect of which a lease to operate an underground reservoir is granted must be comprised within a single perimeter determined by the vertical projection, on the surface, of the perimeter of the underground reservoir and the perimeter of the protected area prescribed by regulation. The area of the parcel of land must not be less than 200 hectares nor more than 2 000 hectares.

Area Notwithstanding the first paragraph, the Minister may grant a lease in respect of a parcel of land having an area of less than 200 hectares if the estimated area of the underground reservoir and protected area are comprised therein.

Size of underground reservoir **197.** The size of an underground reservoir is determined on the basis of the assumption that a reservoir is limited at the top and at the base by stratigraphic formations.

Reduction of area **198.** The area of the territory that is the subject of an exploration licence for petroleum and natural gas or an exploration licence for brine is reduced by the area of any land held under a lease.

Reduction of work The work to be performed during the year in the territory is reduced proportionately to the area of the land held under the lease.

Term **199.** The term of a lease is twenty years.

Renewal The Minister shall renew the lease for a term of ten years, not more than three times, provided the lessee

(1) applies therefor before the expiry of the lease;

(2) has paid the annual rental prescribed by regulation;

(3) has complied with this Act and the regulations throughout the previous term of his lease;

(4) has met any other renewal requirement prescribed by regulation.

Extension Notwithstanding the foregoing, after the third renewal of the lease, the Minister may grant an extension thereof on the conditions, for the rental and for the term he determines where the deposit or underground reservoir, as the case may be, is still economically workable or operable.

Access **200.** Every lessee has access to the parcel of land or underground reservoir subject to his lease and he may perform any work to produce petroleum and natural gas or to operate the reservoir.

Exercise of rights However, on land granted, alienated or leased by the Crown for purposes other than mining purposes, the rights referred to in the first paragraph may be exercised only as provided in section 235.

Exclusion from lease **201.** Any underground reservoir that is subject to a lease to operate an underground reservoir, an application for such a lease or to a time limit or a call for tenders contemplated in section 289 is excluded from a lease to produce petroleum and natural gas or a lease to produce brine.

Annual rental **202.** The holder of a lease to produce petroleum or natural gas or of a lease to produce brine shall pay, before the beginning of each year of the term of the lease, the annual rental prescribed by regulation.

Payment of rental Every lessee under a lease to operate an underground reservoir shall pay, before the beginning of each year of the term of the lease, the annual rental determined by the Minister according to the criteria prescribed by regulation.

Conditions Every lessee shall comply with the conditions of the lease prescribed by regulation.

Commencement of work Every lessee shall commence working the deposit or operating the reservoir, as the case may be, within the time indicated in his lease by the Minister.

Experimental project **203.** In no case may a lessee begin a pilot or experimental production project or enhanced recovery operations unless he has obtained the authorization of the Minister.

Suspension of production In no case may a lessee under a lease to produce petroleum or natural gas or a lease to produce brine suspend production for more than thirty days except for reasons considered valid by the Minister.

Report **204.** Every lessee under a lease to produce petroleum and natural gas or under a lease to produce brine shall transmit to the Minister, within the first twenty-five days of each month, a report in the prescribed form showing the quantity and well head value of the petroleum, natural gas or brine extracted during the previous calendar month and the other information prescribed by regulation.

Royalty He shall, at the same time, pay to the Minister the royalty prescribed by regulation, which shall not be less than five per cent nor more than

seventeen per cent of the well head value of the petroleum, natural gas or brine extracted.

Royalty No royalty is payable on petroleum, natural gas or brine used on the premises by the lessee for drilling or production purposes or on flared natural gas.

Report **205.** Every lessee under a lease to operate an underground reservoir shall transmit to the Minister, within the first twenty-five days of each month, a report showing the nature and quantity of substances or products or residues injected or withdrawn during the previous calendar month.

Abandonment of right **206.** The lessee may abandon his right in an underground reservoir or in or on all or part of the land in respect of which a lease to produce petroleum and natural gas or a lease to produce brine has been granted, provided

(1) he applies therefor in writing and following the application, the Minister has notified the creditors who have registered an instrument referred to in paragraph 3 of section 13 in the public register of real and immovable mining rights;

(2) the residual area, in the case of partial abandonment, is comprised within a single perimeter and, unless otherwise authorized by the Minister, is at least 200 hectares;

(3) he has complied with the conditions for the abandonment of a well set out in section 164, where such is the case, unless the Minister decides otherwise;

(4) he has obtained the authorization of the Minister who shall grant his authorization after consultation with the Minister of the Environment and not before thirty days from the date of transmission of the notice provided for in paragraph 1;

(5) he has complied with the other provisions of this Act and the regulations.

DIVISION XIV

PROVISIONS APPLICABLE TO THE HOLDER OF A MINING RIGHT

Notice of map designation and application **207.** A notice of map designation or an application for a licence or a lease is deemed received on the day it is sent if it is served by certified or registered mail and, in other cases, on the day it is received.

- Order of admission** They are admitted according to the order in which they are received except notice of staking which is admitted according to the date and time of staking.
- Order of admission** Notices of map designation and licence or lease applications concerning the same parcel of land that are received on the same day are admitted in the order established by a drawing of lots. However, licence or lease applications concerning petroleum and natural gas, brine or underground reservoirs are admitted in the order established by a drawing of lots or by a call for tenders, as the Minister directs.
- Transmission** Notices of staking, reports and applications for exemptions relating to work required under this Act and applications for the renewal of a mining right are deemed transmitted on the day they are received.
- Limits** **208.** Every parcel of land subject to a mining right is limited on the surface by its perimeter, and in depth by the vertical projection of its perimeter.
- Payment of costs** **209.** The holder of a mining right shall assume, with respect to the parcel of land that is subject to his right, any costs incurred for surveying, the determination or demarcation of boundaries and topographical surveys by means of aerial photography or otherwise.
- Documents and reports** The documents, reports and minutes relating to such operations shall be transmitted to the Minister with diligence after they are conducted.
- Survey** **210.** Any survey required by the Minister or prescribed by regulation to establish the boundaries and official description of a parcel of land subject to a mining right shall be carried out by a land surveyor.
- Surveying standards** The surveyor shall comply with the surveying standards prescribed by regulation and act according to the instructions of the Minister.
- Illegal possession** **211.** Where a person is in illegal possession of any parcel of land that is subject to a mining right on land of the public domain and refuses to relinquish possession, the Minister, or the holder of a right to engage in mining or production, may apply to a judge of the Superior Court for an order in the form of a writ of possession.
- Applicability** In such a case, sections 60 to 62 of the Act respecting lands in the public domain (1987, chapter 23) apply, adapted as required.
- Compensation** **212.** No compensation may be claimed by the holder of a mining right from another holder of a mining right

(1) for the depositing of tailings, pursuant to paragraph 2 of section 236, section 239 or 241, on the parcel of land that is subject to his right except in the case of a mining lease or a mining concession;

(2) for the depositing of sand, clay, stones or other materials resulting from the draining or diversion of a watercourse pursuant to section 237 or paragraph 4 of section 238.

Cutting of
timber

213. The holder of a mining right may, in order to construct buildings or perform any other operation required for his mining activities, cut timber forming part of the public domain on the parcel of land that is subject to his right, in accordance with the rules set forth in the Forest Act (1986, chapter 108) and the regulations.

Staking

Notwithstanding the foregoing, the rules do not apply to a person staking a parcel of land in application of paragraph 5 of section 44.

Death of
right holder

214. In the event of the death of the holder of a mining right and on the application of his successors received before the expiry date of the mining right, the Minister may extend the term of the right for one year and suspend for that year the obligations entailed by the right.

Transmis-
sion of
documents

215. Maps, reports and other documents showing the results of work performed pursuant to sections 72 and 94 to 137 and geophysical surveying or drilling work performed pursuant to section 159 or 162 may be examined by any person upon their acceptance by the Minister.

Access to
documents

Notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), no person has access, before the abandonment, revocation or expiry of the mining concession, licence or lease for which they were made or drawn up, to the maps, reports and other documents contemplated in section 119 or required with respect to a mining right relating to petroleum and natural gas, brine or an underground reservoir.

Removal of
property
from land

216. Within thirty days after the abandonment, revocation or expiry of his right, the holder of a claim, mining exploration licence or exploration licence for surface mineral substances shall remove all his movable and immovable property from the parcel of land that was subject to his right.

Time limit

Subject to the first paragraph of section 123, the holder of a mining lease or mining concession shall, within one year after the abandonment, revocation or expiry of his right, remove all his movable and immovable property and any extracted ore from the parcel of land that was subject to his right. On written application, the Minister may grant him an extension subject to the conditions he determines.

Remaining
property
and ore

Once the time is expired, the property and ore remaining on land of the public domain shall, of right, form part of the public domain or may be removed by the Minister at the expense of the holder of the mining right.

CHAPTER IV

GENERAL PROVISIONS GOVERNING PERSONS CARRYING ON MINING ACTIVITIES

DIVISION I

APPLICATION AND INTERPRETATION

217. This chapter applies to the mineral substances and underground reservoirs referred to in section 18 and to mineral substances that are not part of the public domain.

218. In this chapter,

“operator” means any person who, as owner, lessee or occupant of a mine or underground reservoir, performs or directs mining operations, or causes them to be performed or directed;

“mine” means any opening or excavation made for the purpose of searching for or working mineral substances or operating an underground reservoir, including a well used to maintain water pressure, to dispose of or inject water or to create a water supply source, passageways, works, machinery, plants, buildings and furnaces below or above ground and forming part of a mining operation.

DIVISION II

NOTICES, REPORTS, PLANS, REGISTERS AND OTHER DOCUMENTS

219. The holder of a mining right or, as the case may be, the operator is required to notify the Minister in writing within fifteen days of any change of operator or of firm name or address.

220. The operator shall transmit to the Minister, at his request, any plan or document required for further information on deposits and working of deposits, and any report on exploration work performed during the year and the results of the work.

221. Every operator, every person engaged in exploration for or extraction or processing of mineral substances and every contractor

engaged in mining operations shall forward to the Minister, before 1 October each year, a preliminary report for the current year and a forecast for the following year showing

- (1) the expenses made or anticipated for exploration;
- (2) the sums allocated or to be allocated for capital expenditures and repairs.

Quantity
and value of
production

The operator or the person who processes mineral substances and the contractor shall also indicate in his report the quantity and value of the production.

Report of
activities

222. Every operator and every person engaged in exploration for or extraction or processing of mineral substances shall transmit to the Minister, in January each year, a report of activities for the preceding year showing

- (1) the nature of the work and the sums spent on exploration;
- (2) the sums allocated for capital expenditures and repairs;
- (3) the current state of ore reserves;
- (4) the quantity and value of their production;
- (5) the number of employees;
- (6) the expenses entailed by mining activities;
- (7) any other information the Minister may request.

Transmis-
sion of
report

At the request of the Minister, he shall transmit the report at the end of each month or each quarter.

Enterprise

Every enterprise which provides mining services shall forward the report described in the first paragraph to the Minister, at his request.

Bankruptcy
or
winding-up

In the event of the bankruptcy or winding-up of an enterprise, the trustee or liquidator shall transmit the report to the Minister at his request.

Plans

223. The operator shall forward to the Minister, within the same time as for the report required under section 222, the plans prescribed by regulation. The plans must be signed by an engineer.

Under-
ground
exploration

224. The holder of mining rights who performs underground exploration work and the operator shall, before commencing mining

operations or resuming them after a suspension of six months or more, transmit to the Minister a written notice in compliance with the standards prescribed by regulation.

Plans and registers

225. They shall keep up to date plans and registers relating to the work as prescribed by regulation.

Record of excavations and drilling

The holder of mining rights who performs any other exploration work shall keep an up to date record of excavations and drilling in accordance with the regulations.

Suspension of work

226. Where mining operations are suspended for six months or more, the holder of a mining right who performs underground exploration work and the operator shall, within four months from the beginning of the suspension, transmit to the Minister a copy, certified by an engineer or a qualified geologist, within the meaning of the fourth paragraph of section 101, of the plans of the underground works, surface mines, ground facilities, and tailing dumps existing on the date of cessation of the work.

Transmission of records

They shall also transmit the plans, records and reports prescribed by regulation.

Strike or lock-out

This section does not apply in the event of a strike or lock-out.

Discovery of natural gas

227. Every person who discovers an uninterrupted flow of natural gas on his land is required to notify the Minister in writing without delay.

Access

228. Notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information, no person has access to the reports, plans and registers furnished to the Minister under sections 220, 221, 222, 223, 226 and subparagraph 1 of section 234.

Transmission of records

Notwithstanding the first paragraph, the reports, plans and records may be examined with the written consent of the owner of the mineral substances or of the mining rights or where the Crown retakes possession of the mining rights.

Service of notices

229. The notices, decisions and documents transmitted by the registrar or the Minister are deemed validly served if they have been transmitted by registered or certified mail to the person concerned at his last known address.

DIVISION III

PROTECTIVE MEASURES

Emanation
of natural
gas

230. The Minister may, where an emanation of natural gas threatens to cause personal injury or property damage, order the person responsible for the emanation to do what is necessary to remedy the situation or, if there is no other solution, to seal off the source of the emanation.

Minister

If the person responsible fails to comply with the orders of the Minister within the prescribed time, the Minister may cause the work to be done or the source of the emanation to be sealed off at the expense of the person responsible.

Cessation of
work

231. The Minister may, where mining activities are temporarily or permanently discontinued, order the holder of mining rights or the operator to take any protective measures necessary to prevent any damage that may result from the cessation.

Minister

If the holder of mining rights or the operator fails to comply with the orders of the Minister within the prescribed time, the Minister may cause the work to be done at the expense of the holder or operator.

Protective
measures

232. Every holder of mining rights and every operator who temporarily or permanently discontinues mining activities shall take the protective measures prescribed by regulation.

Minister

If the holder or operator fails to take the measures, the Minister may cause them to be taken at the expense of the holder or operator.

Strike or
lock-out

The first paragraph does not apply in the case of a strike, lock-out, cessation of underground exploration or operation of a mine for a period of less than six months or for a longer period where the mine is under the supervision of a watchman who carries out a weekly inspection of underground works.

Authoriza-
tion

233. No person may move, disturb or damage a facility erected under this division, unless he has the authorization in writing of the owner of the mine.

DIVISION IV

OPTIMUM RECOVERY OF A MINERAL SUBSTANCE

Powers of
Minister

234. In order to ensure that every operator properly recovers the economically workable mineral substance that is the subject of his mining operations, the Minister may

- (1) require him to transmit a report justifying the mining method used;
- (2) carry out a study to evaluate the method used;
- (3) require him to take, within the time the Minister determines, any measures necessary to remedy any situation that would compromise the optimum recovery of the mineral substance.

Study

In the case of the study referred to in subparagraph 2, the Minister may, subject to the conditions he determines, give a mandate to a committee composed of three persons including two mining specialists who are not part of the public service, to conduct the study.

Report

The committee shall remit a report recommending, as the case may be, measures to remedy any situation that compromises the optimum recovery of the mineral substance.

Suspension
of opera-
tions

If the operator fails to comply with his requirements, the Minister may order the suspension of operations for the period he determines.

DIVISION V

EXPROPRIATION AND COMPENSATION

Acquisition
of property

235. The holder of mining rights or the owner of mineral substances may acquire, by agreement or by expropriation, any property permitting access to or necessary for the performance of exploration work or mining operations on the land granted or alienated by the Crown for purposes other than mining purposes, except cemeteries within the meaning of the Act respecting Roman Catholic cemetery corporations or cemeteries established in accordance with the Non-Catholic Cemeteries Act.

Exercise of
right of
access

No holder of mining rights or owner of mineral substances may exercise his right of access to the parcel of land or his right to perform exploration work or mining operations on land leased by the Crown for purposes other than mining purposes or on lands under an exclusive lease to mine surface mineral substances unless he obtains the lessee's consent or pays compensation to him. If there is no agreement on the amount of compensation, it will be fixed by the competent court.

Acquisition

236. A holder of mining rights or owner of mineral substances who is working a mine may on land other than land subject to mining rights or that is a cemetery within the meaning of the Act respecting

Roman Catholic cemetery corporations or established as a cemetery in accordance with the Non-Catholic Cemeteries Act, acquire by agreement or by expropriation

(1) a right of way to construct, use or maintain roads, cableways, railways, pipelines, electric transmission lines required for his mining activities and the conduits used to supply the water required for the operation of the mine;

(2) any parcel of land intended for the storage of tailings.

Land leased by the Crown

No holder of mining rights or owner of mineral substances who is working a mine may, on land leased by the Crown, exercise those rights unless he obtains the lessee's consent or pays compensation to him. If there is no agreement on the amount of compensation, it will be fixed by the competent court.

DIVISION VI

WATERCOURSES AND DRAINAGE

Powers of right holder

237. Every holder of mining rights or owner of mineral substances may, for his mining activities and according to law, divert or drain water and remove sludge from land covered by a swamp, lake or watercourse.

Powers of operator

238. The operator may, for mining purposes and according to law,

- (1) develop a watercourse and render it navigable;
- (2) build a canal between watercourses to create a transportation route necessary for the operation of the mine;
- (3) take water from any source of supply, provided the rights of any other persons to the same source of supply are protected;
- (4) divert water from its course to work mineral-bearing placers.

DIVISION VII

SITES FOR MINING INFRASTRUCTURES

Transfer or lease of public lands

239. The holder of mining rights or the owner of mineral substances may, in accordance with the Act respecting the lands in the public domain, obtain that public lands be transferred or leased to him to establish a storage yard for tailings, or a site for mills, shops or facilities necessary for mining activities.

Approval of site **240.** Any person who intends to operate a mill for the preparation of mineral substances, a concentration plant, a refinery or a smelter shall, before commencing operations, have the site approved by the Government.

Approval of site **241.** Every person responsible for the management of a concentration plant, refinery or smelter shall, before commencing activities, have the site intended as a storage yard for tailings approved by the Minister.

Transmission of documents He shall, for that purpose, transmit the documents prescribed by regulation to the Minister.

DIVISION VIII

MINING ROADS

Construction or improvement **242.** The Minister of Transport, with the authorization of the Government, may construct, improve or maintain any mining road to facilitate the carrying on of any mining activity. The Minister may cause the work to be done or have the owners of mineral substances or holders of mining rights at whose request the work is done pay part of the costs.

Public lands and private lands On lands of the public domain, the work shall be done without compensation to holders of mining rights. On lands of the private domain, the work shall be done only after the property necessary to carry out the proposed works has been acquired by agreement or expropriation.

Mining roads **243.** Roads, bridges or other structures shall be considered to be mining roads from the time they are laid out until they are closed.

Plan of proposed mining roads **244.** The Minister of Transport shall forward the plan of proposed mining roads on lands of the public domain to the Minister of Energy and Resources and, where such is the case, give notice thereof to any holder of rights in forest land pursuant to the Forest Act.

Construction, alteration of mining road **245.** The Minister of Transport may, without being required to pay compensation, in particular to the holder of mining rights, take from the right of way of mining roads and their vicinity the timber, earth, stone, gravel, sand and clay necessary for the construction, alteration or maintenance thereof and cut down all the trees within a distance of ten metres on either side of the right of way.

Acquisition of land On lands of the private domain, the Minister shall not take the materials referred to in the first paragraph except after acquiring, by agreement or expropriation, the land containing them or a temporary

right of way on any land between the mining road and a watercourse or between the mining road and the place from which the materials are taken.

Cutting of
timber

On lands of the public domain, the Minister of Transport shall not cut timber except with the authorization of the Minister of Energy and Resources and subject to the conditions he determines.

Access

246. The Minister of Transport may, subject to certain conditions, restrict or prohibit access to a mining road.

Highway
Safety Code

The Minister may also exempt a mining road from the provisions respecting highway traffic or safety in the Highway Safety Code (R.S.Q., chapter C-24.1).

Closing or
moving of
mining road

247. The Minister of Transport may, with the authorization of the Government, close or change the location of all or part of a mining road. He may transfer the ownership of all or part of the road that has been closed or whose location has been changed to the owner of the land that encompasses the road.

Secondary
mining
roads

248. The Minister of Energy and Resources shall, with respect to secondary mining roads designated as such by the Government, exercise the powers vested in the Minister of Transport by this division.

Plans and
standards

Notwithstanding the first paragraph, the plans and standards of construction, improvement and maintenance of the roads must be approved by the Minister of Transport.

Highway
Safety Code

249. The Government may, by regulation, render the provisions respecting highway traffic and safety in the Highway Safety Code applicable to secondary mining roads.

Action in
damages

250. No user of a secondary mining road may bring an action for damages on the ground of faulty construction, improvement or maintenance of the road.

CHAPTER V

INSPECTION

Powers of
inspector

251. Every person generally or specially authorized by the Minister to act as an inspector may

(1) enter, at any reasonable time, any place where an activity governed by this Act or the regulations is carried on and inspect it;

(2) examine and make copies of the books, registers, plans, accounts, records and any other documents related to that activity;

(3) require any information or document relating to the activities governed by this Act and the regulations.

Obstruction **252.** No person may hinder an inspector in the performance of his duties, mislead him through concealment or false declarations, refuse to furnish him any information or document he is entitled to require or examine under section 251, or conceal or destroy any document or property relevant to an inspection.

Identification **253.** The inspector shall, on request, identify himself and produce the certificate of his capacity signed by the Minister.

Suspension of operation **254.** The inspector may, to protect a mineral substance, order the suspension of any well drilling, well completion, well conversion or well abandonment operation performed in exploring for or producing or operating petroleum, natural gas, brine or underground reservoirs where there is ground to believe that this Act or the regulations have been contravened.

Resumption The inspector shall authorize resumption of the activity where he considers the situation has been remedied.

Immunity **255.** In no case may legal proceedings be taken against the inspector for official acts performed in good faith in the course of his duties.

CHAPTER VI

INQUIRY

Investigator **256.** The Minister or any person he designates as investigator may inquire into any fact within the scope of this Act or the regulations.

Powers and immunity **257.** The Minister and the investigator, for the conduct of an inquiry, are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the right to order imprisonment.

Identification **258.** The investigator shall, on request, identify himself and produce a certificate of his capacity signed by the Minister.

Report **259.** Where an investigation is conducted to verify a fact that will permit the Minister to make a decision affecting the rights of a staker or a holder of a mining right, the investigator shall transmit to the interested person a copy of the report containing his findings at the same time as he forwards it to the Minister.

CHAPTER VII

REVOCATION OF RIGHTS BY THE GOVERNMENT

Revocation of rights **260.** The Government may, on lands in the public domain, upon an application by a municipality, revoke ownership rights other than mining rights in a mining concession which has not been operated for at least ten years, when it considers it necessary for the development of a municipality and in the public interest.

Restriction **261.** The Government may revoke the mining rights in the mining concessions referred to in section 4 or in the lands granted pursuant to the same section where there have been no exploration work or mining operations for ten years unless the grantee or the owner proves to it that the deposit subject to the rights constitutes a reserve necessary for the continuation of a mining, oil or gas undertaking operated by him in Québec.

Notice of intention **262.** The Government shall, by certified or registered mail, send a notice of its intention to revoke the rights referred to in section 260 or 261 to the grantee or owner at his last known address.

Publication The notice shall be published in two consecutive issues of the *Gazette officielle du Québec*, and twice at an interval of seven days in a daily or weekly newspaper published in Montréal and in every judicial district in which all or part of the land affected by the revocation is situated.

Declaration **263.** Revocation cannot be declared until ninety days from the last publication of the notice.

Notice of publication **264.** Notice of the revocation shall be published in the *Gazette officielle du Québec*; revocation takes effect on the date of the publication.

Inapplicability **265.** The revocation does not apply to rights in substances described in section 5.

Rights transferred before 1937 **266.** The revocation of mining rights in a mining concession does not affect any other ownership rights transferred to a third person before

24 March 1937 or transferred from that date with the ministerial authorization required under the Mining Act then in force.

Absence of authorization The absence of ministerial authorization does not invalidate a transfer of ownership rights made before 24 March 1937.

Application for registration of claim **267.** Any person except the grantee or owner whose rights have been revoked may, within thirty days from the date on which the revocation of mining rights under section 261 takes effect, apply for the registration of a claim by map designation, an exploration licence for petroleum and natural gas, an exploration licence for brine, a lease to produce petroleum and natural gas or a lease to produce brine in respect of all or part of the land that was subject to the revoked rights.

Obtaining of claim Thereafter, claims may be obtained by staking or map designation according to the territory in which the land is situated.

Royalty **268.** Where, after mining rights have been revoked, the mineral substances that were subject to those rights are mined or extracted, the person whose rights were revoked is entitled, as compensation from the operator, to a royalty equal to

(1) in the case of petroleum, natural gas and other mineral substances associated with them, 3% of the well head value of those substances, payable within the first twenty-five days of each month;

(2) in the case of all other substances, 2% of the gross value of the annual production of those substances, payable on the dates fixed under section 46 of the Mining Duties Act.

Notice **269.** Where a royalty is payable under section 268, the Minister shall give notice thereof in the manner prescribed in section 262.

Payment of royalty **270.** The operator shall pay the royalty to the Minister who shall send it to the person to whom it is owed on the dates he determines.

Dispute **271.** In the event of a dispute regarding the right to the royalty or the amount thereof, the royalty shall be entrusted to the Minister of Finance as a judicial deposit under the Deposit Act (R.S.Q., chapter D-5) pending a decision by a competent court.

Prescription **272.** The right to a royalty is prescribed by two years from the last publication of the notice that a royalty is payable.

Expiry If at the expiry of that period, no claim has been made, the Minister shall return the royalties collected to the operator.

273. The Government may revoke on any part of the territory it determines the right to establish, in an area containing mineral substances forming part of the private domain, an underground reservoir for the storage of petroleum, natural gas or other hydrocarbons.

Revocation of right to establish an underground reservoir

Where the right has been revoked, the Government may, subject to the conditions it determines, authorize the establishment of an underground reservoir and render any provision of this Act respecting the lease to operate an underground reservoir applicable to it.

Under-ground reservoir

274. If after the right to establish an underground reservoir has been revoked, an underground reservoir is established and operated, the person whose rights were revoked is entitled, as compensation, to a royalty equal to 50% of the annual rental fixed in accordance with section 202 for a lease to operate an underground reservoir, from the holder of the lease to operate an underground reservoir.

Compensation

The compensation is distributed, where such is the case, among the owners of the parcels of land affected by the lease to operate an underground reservoir in proportion to the area of their parcels of land.

Distribution

The royalty is payable by the holder of the lease to operate an underground reservoir, at the request of the person whose rights have been revoked, on the same dates and subject to the same conditions as those applicable to the payment of the annual rental fixed in accordance with section 202 in respect of a lease to operate an underground reservoir.

Payment of royalty

Notwithstanding the foregoing, a person entitled to an indemnity under this section may, after making an agreement with the lessee, obtain the payment of a lump sum instead of an annual royalty.

Lump sum

275. Within six months of the issue of a lease to operate an underground reservoir, the Minister shall give notice that following the issue of that lease a royalty is payable to the person whose rights have been revoked, provided that the person makes a request therefor to the holder of the lease to operate an underground reservoir.

Notice as to payment of royalty

276. The notice shall be published in two consecutive issues of the *Gazette officielle du Québec* and twice, at seven days' interval, in a daily or weekly newspaper published in Montréal and in the judicial districts where all or part of the underground reservoirs are situated.

Publication

277. The right to the royalty is prescribed by two years from the date of publication of the notice.

Prescription

CHAPTER VIII

SUSPENSION OR REVOCATION OF MINING
RIGHTS BY THE MINISTERSuspension
or revoca-
tion

278. The Minister may suspend or revoke any mining right where a holder

(1) does not comply with the conditions, obligations or restrictions applicable to the exercise of the mining right;

(2) has not paid the annual duties, the royalties or the rental on the due date.

Suspension
or revoca-
tion

279. The Minister may also suspend or revoke any mining right relating to petroleum, natural gas, brine or an underground reservoir where its holder is drilling, completing or converting a well without a licence prescribed for that purpose or where the holder having obtained a licence does not comply with the conditions thereof.

Revocation

280. The Minister may, on his own initiative or at the request of an interested person, revoke

(1) a claim where the land has not been staked as required by this Act;

(2) a claim, before the end of the first year following the date of its registration where the staking rules have not been complied with;

(3) a claim, where sections 41 and 42 have not been complied with, unless the right has been registered for not less than one year in the register contemplated in section 13 in the name of a subsequent purchaser in good faith;

(4) a mining right obtained or renewed by mistake.

Revocation

281. The Minister may revoke

(1) a claim, a mining exploration licence or an exploration licence for surface mineral substances, within three months following its renewal where he refuses the work under section 74, 97 or 138, except in a case contemplated in paragraph 4 of those sections;

(2) an exploration licence for petroleum and natural gas, an exploration licence for brine or an exploration licence for underground reservoirs within seven months following the year in which the work was performed where he refuses the work under section 179 except in a case contemplated in paragraph 4 of that section;

(3) at any time, a mining right obtained or renewed through fraud or misrepresentation unless the right has been registered for not less than one year in the register contemplated in section 13 in the name of a subsequent purchaser in good faith.

- 282.** The holder of a mining right who is carrying on underground exploration work, the holder of any operating lease and the grantee of a mining concession whose rights have been revoked shall forward to the Minister, at his request, a copy of the plans, records and report mentioned in section 226.
- 283.** From the mailing of a notice under section 284 or of an application for the revocation of a mining right the time limits prescribed under sections 280 and 281 shall cease to run.
- 284.** When acting on his own initiative, the Minister shall, before suspending or revoking a mining right, give the holder a notice stating the grounds for the suspension or revocation and send a copy of the notice to the registrar.
- No decision may be made by the Minister before fifteen days have lapsed after the day of receipt of the notice.
- 285.** An application for the revocation of a mining right presented by an interested person must
- (1) clearly and briefly state the facts supporting it and be signed by the applicant;
 - (2) be accompanied with the fee prescribed by regulation, a sworn statement attesting the truth of the facts alleged and a sketch clearly indicating the irregularities of the staking, where such is the case;
 - (3) be transmitted, within reasonable time, by registered or certified mail to the registrar and the holder of the mining right concerned;
 - (4) be accompanied with proof of the sending of the application to the holder of the mining right concerned.
- A copy of the application is sent by the registrar to the Minister.
- 286.** The suspension or revocation of a mining right takes effect on the date the decision becomes executory.
- 287.** The revocation of a mining concession does not affect any other ownership right transferred to a third person before 24 March

1937 or transferred on or after that date with the ministerial authorization required under the Mining Act as then in force.

Absence of
authoriza-
tion

The absence of ministerial authorization does not invalidate transfers of ownership rights made before 24 March 1937.

Obtaining of
claim

288. Every person except the holder of a revoked mining right, may, within thirty days of the date on which the revocation of a mining exploration licence, mining lease, mining concession or mining right relating to the seabed or surface mineral substances has become executory, obtain, in accordance with this Act, a claim by notice of map designation, a mining exploration licence or a mining right relating to the seabed or surface mineral substances in respect of all or part of the land that was subject to the revoked mining right.

Staking or
designation

Thereafter, claims may be obtained by staking or map designation according to the territory in which the land is situated.

Discontinu-
ance of
appeal

If the interested person discontinues his appeal from the decision revoking his right, the prescribed time runs from the date of filing of a notice of discontinuance in the office of the Provincial Court.

Call for
tenders

289. Within thirty days from the date on which the revocation of a mining right relating to petroleum, natural gas, brine or an underground reservoir becomes executory, the Minister shall make a call for tenders in view of again granting any of such rights in respect of all or part of the land or underground reservoir that was subject to the revoked mining right. No tender may be submitted by the holder of the revoked mining right.

Discontinu-
ance of
appeal

If the interested person discontinues his appeal from the decision revoking his right, the prescribed time runs from the date of filing of a notice of discontinuance in the office of the Provincial Court.

CHAPTER IX

REFERRAL AND APPEAL

Referral of
dispute

290. The Minister shall refer any dispute concerning a mining right held by the Crown to the Provincial Court.

Applicability

Sections 299 to 303, adapted as required, apply to any case so referred.

Copy of
decision

A copy of the decision of the Provincial Court shall be transmitted to the Minister.

- 291.** Every decision rendered pursuant to section 53, 58, 61, 62, 63, 74, 97, 101, 104, 120, 134, 138, the second paragraph of section 141, section 147, 148, 169, 179, 188, 194, 199, 230, 231, 234, 254, 278, 279, 280 or 281 must be in writing and give the reasons on which it is based. It shall be transmitted to the interested person within fifteen days by registered or certified mail.
- 292.** Before rendering a decision under section 291, the Minister shall transmit a copy of the record pertaining to the case to every interested person who applies therefor.
- 293.** The Minister shall also forward a thirty days' notice of his intention not to renew or to revoke a mining right that is not exempt, under section 10, from registration in the registry office of the registration division to the creditors having registered an instrument contemplated in paragraph 3 of section 13.
- Where the mining right expires during the period of thirty days, the notice shall have the effect of postponing the expiry of the mining right by suspending its term for the time that remains to run by virtue of the notice.
- 294.** A decision to refuse the renewal, to suspend or to revoke a mining right suspends the term of the mining right until the decision becomes executory.
- 295.** Any party to a decision under section 291 may appeal therefrom to the Provincial Court.
- 296.** The appeal suspends the execution of the decision unless the court decides otherwise.
- 297.** The appeal is brought by a motion served on the Minister.
- 298.** The appellant shall file the motion in the office of the Provincial Court of the judicial district of his domicile or principal establishment or of the district where the facts which gave rise to the decision occurred, within thirty days after receipt of the decision by the appellant.
- 299.** Upon service of the motion, the Minister shall transmit the record of the decision appealed from to the Provincial Court.
- 300.** The appeal is heard and decided by preference.

- Decision** The court shall base its decision on the record transmitted to it and on any other evidence submitted by the parties.
- Rules of practice** **301.** The Provincial Court may, in the manner prescribed in article 47 of the Code of Civil Procedure (R.S.Q., chapter C-25), adopt the rules of practice which, in its judgment, are necessary for the application of this chapter.
- Jurisdiction** **302.** Only the judges of the Provincial Court designated by the chief judge or the senior associate chief judge shall have jurisdiction pursuant to this chapter.
- Appeal** **303.** A decision of the Provincial Court may be appealed from to the Court of Appeal with leave of a judge of the Court of Appeal.

CHAPTER X

MINISTERIAL ORDERS

- Powers of Minister** **304.** The Minister may, by order,
- (1) reserve to the Crown or withdraw from staking, map designation, mining exploration or mining operations any land containing mineral substances that are part of the public domain and necessary for any purpose that he considers to be in the public interest, particularly the performance of the following work:
 - mining inventory and exploration work;
 - mining, industrial, port, airport or communications facilities;
 - underground conduits;
 - development and utilization of waterpower, storage tanks or underground reservoirs;
 - creation of parks or ecological reserves;
 - (2) order the construction and maintenance of common walls or common roads between mining properties;
 - (3) declare a drift an underground reservoir and render this Act applicable to it.
- Consultation** Where the land on which mining inventory and mining exploration work is to be performed is in a reserved area or an agricultural zone within the meaning of the Act to preserve agricultural land (R.S.Q.,

chapter P-41.1), the Minister shall consult the Commission de protection du territoire agricole du Québec before withdrawing the land from staking, map designation, mining exploration or mining operations.

Order The order comes into force on the day of its publication in the *Gazette officielle du Québec* or on any later date specified therein.

Delegation **305.** The Minister may, by order, delegate generally or specially, to any person, the exercise of the powers vested in him by this Act.

Coming into force Such delegation comes into force on the date of publication of the order in the *Gazette officielle du Québec* or on any later date indicated therein.

CHAPTER XI

REGULATIONS

Regulations **306.** The Government may, by regulation,

(1) prescribe the amount of the fee for the registration of any transfer of mining rights or any other instrument respecting mining rights and of the fee for the issuance of certificates of entry in the register;

(2) prescribe the requirements for obtaining a licence or lease and any fee or rental payable;

(3) prescribe the requirements for renewal or advance renewal of a claim, and for renewal of a licence or lease and the amount of any fee or rental payable;

(4) prescribe the criteria to be taken into account by the Minister in fixing the rental for a lease to operate an underground reservoir;

(5) prescribe the conditions of exercise of a licence or lease;

(6) prescribe the fee payable by the holder of a prospector's licence to obtain a duplicate of his licence;

(7) prescribe the conditions of issue, the term and the price of the tags necessary for staking;

(8) prescribe the form and content of notices of staking and of map designation and the documents and fees that must accompany each notice;

- (9) define the improvements referred to in section 70;
- (10) specify the nature of any work required under this Act, its minimum cost and related expenses, the form and content of any report relating to it and the documents that must accompany the report;
- (11) fix the additional amount referred to in the second paragraph of section 72 and in subparagraph 1 of the second paragraph of sections 104 and 148;
- (12) prescribe the rules governing the allocation of work for the purposes of section 79;
- (13) define technico-economic studies and testing operations for the purposes of section 134;
- (14) fix the amount of the royalty payable under the second paragraph of section 155 or 204;
- (15) specify the information to be contained in a report on geophysical surveying or well drilling and the accompanying documents;
- (16) prescribe the conditions for the closing of a well bore;
- (17) determine the trial period during which the holder of an exploration licence for petroleum and natural gas or of an exploration licence for brine may extract that substance and the conditions of the extraction;
- (18) determine requirements concerning the trial period and the use of an underground reservoir that must be met by the holder of an exploration licence for underground reservoirs;
- (19) prescribe the rules governing the computation of the lump sum referred to in section 190;
- (20) prescribe the size of the protected area requiring protection with regard to an underground reservoir;
- (21) prescribe the form of the report referred to in section 204 and the information it must contain;
- (22) prescribe the surveying standards a surveyor must comply with under the second paragraph of section 210;
- (23) prescribe norms governing written notices under section 224;

(24) prescribe the plans and records to be kept up to date in accordance with section 225 and the plans to be transmitted to the Minister in accordance with section 223;

(25) prescribe the plans, records and report that the holder of a mining right who performs underground exploration work and an operator are required to transmit to the Minister in accordance with section 226 where the work is discontinued;

(26) prescribe the protective measures to be taken by the holder of a mining right or an operator where mining operations are temporarily or permanently discontinued;

(27) prescribe the documents to be transmitted to the Minister in accordance with section 241;

(28) render the provisions respecting highway traffic and safety in the Highway Safety Code applicable to secondary mining roads;

(29) fix the costs that must accompany a motion for the suspension or revocation of a mining right;

(30) fix the terms and conditions of payment of the fees, costs and rentals prescribed in this Act;

(31) determine which provisions of a regulation it is an offence to contravene.

Fees **307.** In the case of a claim, the fees referred to in paragraphs 3 and 8 of section 306 may vary according to the area of land covered by the claim.

Required work The minimum cost of the work referred to in paragraph 10 of the said section may vary according to the area of the land on which it is performed or the number of terms of the claim.

Rental **308.** In the case of a mining lease, the rental referred to in paragraphs 2 and 3 of section 306 may vary according to the area of the land subject to the mining lease or to whether the land is situated on lands in the public domain or on lands granted, alienated or leased by the Crown for purposes other than mining purposes, depending on whether or not the surface of the soil is utilized or according to the nature of its utilization.

Conditions of lease **309.** In the case of a lease to mine surface mineral substances, the requirements and conditions and the rental referred to in paragraphs 2 and 3 of section 306 may vary according to whether the lease is exclusive or not.

Required work **310.** In the case of an exploration licence or a lease to produce petroleum, natural gas, or brine, the fee and the minimum cost of work and the rental, as the case may be, referred to in paragraphs 2, 3 and 10 of section 306, may vary according to the area of the land subject to the licence or lease or according to the region in which it is situated.

Conditions and fee **311.** In the case of a mining exploration licence, the conditions and the amount of the fee referred to in paragraphs 2 and 3 of section 306 may vary according to the area of the land subject to the licence.

Required work The minimum cost of the work referred to in paragraph 10 of the said section may vary according to the area of the land on which it is performed or according to the year of the term of the licence.

Required work **312.** In the case of a mining concession referred to in section 119, the minimum cost of the work referred to in paragraph 10 of section 306 may vary according to the area of the land subject to the mining concession.

Required work **313.** In the case of an exploration licence for petroleum, natural gas, brine or an underground reservoir, the nature and minimum cost of the work referred to in paragraph 10 of section 306 may vary according to the year of the term of the licence, the area of the territory subject to the licence and the region where it is situated.

CHAPTER XII

PENAL PROVISIONS

Offence and penalty **314.** Every person who contravenes any provision of sections 19, 157, 160, 165, 176 and 227 is liable, in addition to costs, to a fine of \$200 to \$2 000 in the case of an individual and of \$400 to \$4 000 in the case of a legal person.

Subsequent offence For any subsequent offence within two years of conviction under the same provision, the offender is liable, in addition to costs, to a fine of \$400 to \$4 000 in the case of an individual and of \$800 to \$8 000 in the case of a legal person.

Offence and penalty **315.** Every person who contravenes any provision of sections 100, 128, 140, 155, 185, 193, 240 and 241 is liable, in addition to costs, to a fine of \$1 000 to \$5 000 in the case of an individual and of \$2 000 to \$10 000 in the case of a legal person.

Subsequent offence For any subsequent offence within two years of the conviction under the same provision, the offender is liable, in addition to costs, to a fine

of \$2 000 to \$10 000 in the case of an individual and of \$4 000 to \$20 000 in the case of a legal person.

316. Every person who contravenes any provision of sections 25, 27 and 30 is liable, in addition to costs, to a fine of \$50 to \$500 and for any subsequent offence within two years of conviction under the same provision, to a fine of \$100 to \$1 000.

317. Every operator who contravenes any provision of sections 220 to 226 and 282 is liable, in addition to costs, to a fine of \$50 to \$1 000 in the case of an individual and of \$100 to \$2 000 in the case of a legal person.

For any subsequent offence within two years of conviction under the same provision, an operator is liable, in addition to costs, to a fine of \$100 to \$2 000 in the case of an individual and of \$200 to \$4 000 in the case of a legal person.

318. Every person who contravenes any provision of sections 26, 45, 233 and 252 is liable, in addition to costs, to a fine of \$500 to \$3 000 in the case of an individual and of \$1 000 to \$6 000 in the case of a legal person.

For any subsequent offence within two years of conviction under the same provision, the offender is liable, in addition to costs, to a fine of \$1 000 to \$6 000 in the case of an individual and of \$2 000 to \$12 000 in the case of a legal person.

319. Every person who contravenes a provision of a regulation which it is an offence to contravene, under paragraph 31 of section 306, is liable, in addition to costs, to a fine of \$50 to \$1 000 in the case of an individual and of \$100 to \$2 000 in the case of a legal person.

For any subsequent offence within two years of conviction under the same provision, the offender is liable, in addition to costs, to a fine of \$100 to \$2 000 in the case of an individual and of \$200 to \$4 000 in the case of a legal person.

320. Any officer or employee in the “energy” or “mines” sectors of the Ministère de l’Énergie et des Ressources who fails to inform his employer, upon acquisition, of the interest he has, directly or indirectly, in any enterprise engaged in exploration, or mining, of mineral substances or operation of underground reservoirs governed by this Act is guilty of an offence and is liable, in addition to costs, to a fine of \$50 to \$1 000.

Offence and
penalty

321. Every person who prohibits or hinders access to a parcel of land containing mineral substances which forms part of the public domain, to a person authorized by the Minister to do geological research and inventories who, on request, identifies himself and produces the certificate signed by the Minister attesting his capacity, is guilty of an offence and is liable, in addition to costs, to a fine of \$500 to \$3 000.

Subsequent
offence

For any subsequent offence within two years of conviction under the first paragraph, the offender is liable, in addition to costs, to a fine of \$1 000 to \$6 000.

Separate
offence

322. Where an offence described in sections 315 to 321 continues for more than one day, it is considered a separate offence for each day or part of a day during which it continues.

Single count

Notwithstanding paragraph 2 of section 12 of the Summary Convictions Act (R.S.Q., chapter P-15), separate offences may be described in a single count.

Proceedings

323. Proceedings are instituted in accordance with the Summary Convictions Act.

CHAPTER XIII

AMENDING PROVISIONS

Act
replaced

324. The provisions of the Mining Act (R.S.Q., chapter M-13) will be replaced to the extent prescribed by orders pursuant to section 383.

C. C.,
a. 2099,
replaced

325. Article 2099 of the Civil Code of Lower Canada is replaced by the following article:

“2099. Registration of a document relating to a mining right follows the rules governing the registration of real rights, subject to contrary statutory provisions and subject to the rules of this Title that are contained in the chapter entitled “RULES PARTICULAR TO MINING RIGHTS GRANTED BY THE CROWN”. ”

C. C.,
aa. 2129d-
2129s,
added

326. The said Code is amended by inserting, after article 2129c, the following chapter and articles:

“CHAPTER SECOND A

“RULES PARTICULAR TO MINING RIGHTS
GRANTED BY THE CROWN

“**2129d.** The designation of a mining right comprises the mention of the nature of the right and a description of the place where it is exercised made in the same manner as in the document evidencing the right and must refer to the leaf number, if any, in the mining register.

“**2129e.** The designation of the parties in a document relating to a mining right is made, in the case of a natural person, by stating his name and surname with an indication of the date and place of his birth and, in the case of a partnership or legal person, the name, domicile and juridical form of the holder of the right.

“**2129f.** The identity and capacity of the parties to a document relating to a mining right, the accuracy of their designation and the fact that the document fully represents the will of the parties must be certified by an advocate or a notary in a certificate bearing his name, surname and signature and an indication of the address of his office. The certificate may be affixed to the document or accompany it.

“**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, if it is not accompanied 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 or, as the case may be, if the document has not been certified in accordance with article 2129f.

“**2129h.** The requisition for the opening of a leaf in the mining register must show the correspondence, if any, between the designation contained in the document and the number of the lot affected by the mining right.

Where there is such correspondence but it is not shown, the right entered in the mining register cannot be set up against third persons until the omission is remedied.

“**2129i.** The registrar shall indicate in the mining register and the index of immovables the correspondence, if any, between the number of the lot affected by the right and the number of the leaf in the mining register.

“2129j. Subject to the rules applicable to other real rights that it may contain, the document relating to a mining right shall be entered, at the time of registration, only in the entry-book and in the mining register under the number of the leaf that is to be affected by the registration.

“2129k. The holder of mining rights of the same nature and duration affecting contiguous immovables situated in the same registration division may request the registrar to group them on the same leaf in the mining register.

The requisition cannot be accepted by the registrar unless it contains the designation that will be given to the mining right after the grouping and the numbers of the leaves affected by the grouping. The registrar shall indicate the correspondence between the old and new leaf numbers.

“2129l. Any partitioning of a mining right gives rise to the opening of new leaves in the mining register.

The document evidencing the partitioning of a mining right cannot be accepted by the registrar unless it is accompanied with a declaration containing the designation that will be given to the mining rights after the partitioning, showing the number of the leaf affected by the partitioning and identifying the remaining entries to be transferred from that leaf to each new leaf opened by the registrar. The registrar shall indicate the correspondence between the old and new leaf numbers.

“2129m. Every mining right not exempt from registration that is granted by the Crown and every abandonment or revocation of a mining right notified to the registrar by the Minister of Energy and Resources must be evidenced in a document drafted in the form prescribed by an order made jointly by the Minister of Energy and Resources and the Minister of Justice.

Article 2129f does not apply to the registration of documents referred to in the preceding paragraph.

The Minister of Energy and Resources and the Minister of Justice may also by an order made jointly prescribe a form to be used as a document evidencing mining rights exempt from registration as well as the abandonment or revocation of such rights.

“2129n. The registrar shall keep a card-index file of the names of the holders of mining rights, with a reference to the number of the leaf in the mining register under which each of the mining rights held by them is entered; the card-index file is a supplement to the register.

“2129o. Where a change occurs in the name of the holder of a mining right, the change may be made in the mining register by the registration of a requisition accompanied with the documents evidencing

the change. The change is made in the card-index file by entering the new name on a file card and transferring thereto the references to the register appearing on the file card kept under the former name; the correspondence between the old and new file cards must be indicated.

“2129p. The Minister of Energy and Resources shall notify the registrar, for registration, of any abandonment or revocation of a mining right not exempt from registration under the Mining Act (1987, chapter 64). The notification cannot be accepted for registration by the registrar unless it contains the description of the abandoned or revoked mining right with an indication of the number of the leaf under which the notification will be entered.

The registrar, after making the entry in the mining register, shall make an entry of the abandonment or revocation, as the case may be, in the index of immovables under the number of the lot that was affected by the right.

No duty or fee is exigible for the registration of the notification.

“2129q. The Minister of Justice shall determine, by order, the medium used for and the form of the mining register and card-index file, the manner in which they shall be kept and the method of numbering the leaves in the mining register.

“2129r. The fifth paragraph of article 2131 does not apply to documents presented for registration under this chapter.

“2129s. For documents prior to (*insert here the date of coming into force of this article*), the full designation of the parties may be contained in a separate writing.”

C. C.,
a. 2161, am.

327. Article 2161 of the said Code, amended by section 1 of chapter 39 of the statutes of 1902, by section 1 of chapter 48 of the statutes of 1912, by section 1 of chapter 76 of the statutes of 1918, by section 1 of chapter 91 of the statutes of 1922, by section 8 of chapter 46 of the statutes of 1943, by section 33 of chapter 45 of the statutes of 1948, by section 20 of chapter 11 of the statutes of 1980, by section 3 of chapter 14 of the statutes of 1981 and by section 71 of chapter 32 of the statutes of 1982, is again amended by adding, at the end, the following paragraph:

“6. A mining register, in numerical order with an indication of the nature of the mining rights granted by the Crown. The register shall be kept as prescribed under this Title in the chapter entitled “RULES PARTICULAR TO MINING RIGHTS GRANTED BY THE CROWN”.”

c. A-4.1,
s. 1, am. **328.** Section 1 of the Act respecting the acquisition of farm land by non-residents (R.S.Q., chapter A-4.1) is amended by replacing paragraph 3 of the definition of the word “acquisition” by the following paragraph:

“(3) transfer of a right contemplated in section 8 of the Mining Act (1987, chapter 64).”

c. A-19.1,
s. 1, am. **329.** Section 1 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1) is amended by replacing the words “section 3 of the Mining Act (chapter M-13)” in the third and fourth lines of subparagraph 1 of the first paragraph by the words “section 8 of the Mining Act (1987, chapter 64)”.

c. A-19.1,
s. 6, am. **330.** Section 6 of the said Act is amended by replacing subparagraph 5 of the first paragraph by the following subparagraph:

“(5) the description of those parts of the territory of the regional county municipality that are withdrawn from staking, map designation, mining exploration or mining under section 30 of the Mining Act (1987, chapter 64).”

c. A-19.1,
s. 246, am. **331.** Section 246 of the said Act is amended by inserting, after the word “staking” in the third line, the words “or designation on a map”.

c. C-47, s. 3,
am. **332.** Section 3 of the Mining Companies Act (R.S.Q., chapter C-47) is amended by replacing, in paragraph 5, the words and figures “sections 249 to 263 of the Mining Act (chapter M-13)” by the words and figures “sections 235 to 238 of the Mining Act (1987, chapter 64)”.

c. C-69,
s. 40, am. **333.** Section 40 of the Act respecting the Roman Catholic cemetery corporations (R.S.Q., chapter C-69) is amended by striking out, in the first paragraph, paragraph *a*.

c. D-15,
s. 1, am. **334.** Section 1 of the Mining Duties Act (R.S.Q., chapter D-15) is amended

(1) by striking out the first paragraph;

(2) by striking out the word “However” in the first line of the second paragraph;

(3) by inserting the following definitions:

“operator” ““operator” means any person who performs, directs, or causes to be performed or directed mining operations in a mine of which he is the owner, lessee or occupant;

“minerals or mineral substances” ““minerals or mineral substances” means any natural mineral substance in solid, gaseous or liquid form, except water, and any fossilized organic matter;”.

c. D-15,
s. 5, am. **335.** Section 5 of the said Act is amended by replacing the words “section 179 of the Mining Act (chapter M-13)” in the second and third lines by the words “sections 155 and 204 of the Mining Act (1987, chapter 64)”.

c. F-2.1,
s. 65, am. **336.** Section 65 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) is amended by replacing the words “ore within the meaning of the Mining Act” in subparagraph 3 of the first paragraph by the words “a mineral substance in natural deposit of such size, composition and in such location as to allow reasonable hope of extracting therefrom, at present or in the future, products which may be sold at a profit;”.

c. M-39,
s. 17, am. **337.** Section 17 of the Act to authorize municipalities to collect duties on transfers of immoveables (R.S.Q., chapter M-39) is amended by replacing, in paragraph *e*, the words “section 3 of the Mining Act (chapter M-13)” by the words “section 8 of the Mining Act (1987, chapter 64)”.

c. P-41.1,
s. 1, am. **338.** Section 1 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) is amended by replacing the words “section 3 of the Mining Act (chapter M-13)” in the fifth line of paragraph 3 by the words “section 8 of the Mining Act (1987, chapter 64)”.

c. T-9.1,
s. 56.1,
added **339.** The Act respecting public agricultural lands (R.S.Q., chapter T-9.1) is amended by inserting, after section 56, the following section:

Land sub-
ject to claim **“56.1** No public land which is subject to a claim may be sold for agricultural purposes except on conditions deemed reasonable by the Minister of Energy and Resources and the Minister of Agriculture, Fisheries and Food.”

c. V-7,
s. 11,
repealed

340. Section 11 of the Mining Towns Act (R.S.Q., chapter V-7) is repealed.

CHAPTER XIV

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Applicability **341.** This Act applies subject to the Act respecting the land regime in the James Bay and New Québec territories (R.S.Q., chapter R-13.1), the Act approving the Agreement concerning James Bay and Northern Québec (R.S.Q., chapter C-67) and the Act approving the Northeastern Québec Agreement (R.S.Q., chapter C-67.1).

Pending cases **342.** Cases pending before the judge designated pursuant to section 309.1 of the Mining Act (R.S.Q., chapter M-13) before (*insert here the date of coming into force of this section*) are continued in accordance with the said Mining Act.

Proceedings **343.** Proceedings for the revocation of a mining right instituted by the Minister or for the revocation of a mining concession instituted by the Minister or the Government before (*insert here the date of coming into force of this section*) are continued in accordance with the Mining Act (R.S.Q., chapter M-13).

Reference **344.** In any Act or statutory instrument, any reference to a provision of the Mining Act (R.S.Q., chapter M-13) is a reference to the corresponding provision of this Act.

Ministerial orders **345.** Regulations for the withdrawal from staking made under the Mining Act (R.S.Q., chapter M-13) are deemed to be ministerial orders made under section 304 of this Act.

Prospector's licence **346.** The holder of a prospector's licence issued under the Mining Act (R.S.Q., chapter M-13) may, subject to the rights under and conditions of the licence, stake a parcel of land and file a notice of staking in view of the registration of a claim under this Act; in such a case, the registration fee is reduced by one-fourth.

Notice of staking The licence holder may, where the parcel of land has been staked before (*insert here the date of coming into force of this section*), file a notice of staking in view of the registration of a claim under the Mining Act (R.S.Q., chapter M-13).

Claims, permits, leases **347.** The claims, exploration permits, mining leases, exploration licences, operating leases, exploration licences for underground

reservoirs, exploration licences for brine and operating leases for brine granted under the Mining Act (R.S.Q., chapter M-13) remain in force until their expiration.

Applicability This Act is applicable to them, except that

(1) for the first renewal of a claim after (*insert here the date of coming into force of this section*), the renewal requirements provided for in the Mining Act (R.S.Q., chapter M-13) apply, except those concerning rentals; after the first renewal the claim is considered to be newly acquired under this Act;

(2) for the year of the term of an exploration permit, exploration licence, exploration licence for brine or exploration licence for underground reservoirs in progress at the coming into force of this section, the work required shall be performed in accordance with the Mining Act (R.S.Q., chapter M-13);

(3) claims and exploration licences shall continue to confer on each holder the exclusive right to explore for surface mineral substances, except sand and gravel, until (*insert here the date occurring two years from that of the coming into force of this section*); in the meantime, each holder may obtain an exclusive right over such substances by way of a mining lease, a licence to explore for surface mineral substances or a lease for mining surface mineral substances in respect of all or part of the parcel of land subject to the claim or exploration permit; in the meantime, the Minister may, notwithstanding sections 131 and 142 and except for sand and gravel, refuse to issue an exploration licence for surface mineral substances or to grant a lease to mine surface mineral substances on the land subject to the claim or exploration permit;

(4) every lessee under a mining lease granted before (*insert here the date of the coming into force of this section*) is required to perform mining operations during at least one-tenth of the term of the lease for the first renewal occurring after that date;

(5) every lessee under a mining lease granted before (*insert here the date of coming into force of this section*) shall retain an exclusive right to surface mineral substances except sand and gravel; such mining leases shall be renewed in the same manner as mining leases issued under this Act and the lessee shall retain an exclusive right to surface mineral substances;

(6) every lessee under a mining lease granted under the Mining Act (R.S.Q., chapter M-13) may, until (*insert here the date occurring one year after the coming into force of this section*), obtain from the Minister an increase in the area of his mining lease in accordance with section 145 of this Act;

(7) seabed mining claims and leases are governed by this Act and are renewed under its authority as if they did not pertain to seabed mining;

(8) where mining operations are begun or resumed following an interruption of six months or more after (*insert here the date of coming into force of this section*) but before (*insert here the date occurring 60 days after the coming into force of this section*), the notice provided for in section 224 of this Act must be transmitted to the Minister within ten days after the beginning or resumption of the mining operations.

348. Except in the case described in the first paragraph of section 123, where the area of a claim which, according to the original survey or, if none, the cadastre, covers part of a lot, the area of the claim is extended to include the whole lot provided that the lot can be staked or designated on a map in accordance with this Act.

Where a claim, exploration permit, mining lease or mining concession affecting the lot is abandoned, surrendered or revoked or expires, the increase in area becomes effective on the date of the surrender or abandonment, revocation or expiration.

349. The Minister may, where a lot of less than 500 hectares is subject to more than one claim, following an application by one of the claim holders and in accordance with the second paragraph of section 207, increase the area of his claim by the residue of the lot provided that that part is contiguous to his claim and that it can be staked or designated on a map in accordance with this Act.

Where one of the claims is abandoned, surrendered or revoked or expires, no application under the first paragraph may be made before the lapse of thirty days.

350. In cases described in sections 348 and 349, the increase in the area of a parcel of land does not increase the amounts that must be disbursed to perform work in respect of the claim for the term during which the increase takes place.

351. An application for a development licence made before (*insert here the date of coming into force of this section*) is, for the purposes of this Act, considered to be an application for the renewal of the claims concerned by the application.

352. The holder of a development licence issued under the Mining Act (R.S.Q., chapter M-13) becomes the holder of the claims under the development licence.

Applicability	<p>This Act is applicable to the claim holder except that</p> <p>(1) with respect to claims that have been the subject of a renunciation pursuant to the second paragraph of section 75 of the Mining Act (R.S.Q., chapter M-13), the amounts disbursed by the holder to perform work in respect of the claims shall be credited to the other claims also held by the holder in equal proportion and within the limits set out in section 76 of this Act, provided he makes an application to that effect within 180 days after (<i>insert here the date of coming into force of this section</i>);</p> <p>(2) the rules set out in paragraphs 1, 3 and 6 of section 347 of this Act, adapted as required, apply to the claim .</p>
Excess amount	<p>353. Any amount disbursed to perform work in excess of the prescribed requirements in respect of a development licence pursuant to section 74 of the Mining Act (R.S.Q., chapter M-13) shall be credited to the claims or licences to explore for surface mineral substances included in the licence in proportion to the area of each claim.</p>
Schedule of work	<p>Notwithstanding the first paragraph, the licence holder may, within 180 days after (<i>insert here the date of coming into force of this section</i>), produce a new schedule of the required work to be performed on the various claims.</p>
Transfer of work	<p>354. Any work in excess of the prescribed requirements that is transferred to a licence to explore for surface mineral substances may stand <i>in lieu</i> of work required under section 137 of this Act.</p>
Special licences	<p>355. Special licences and special exploration licences issued under the Mining Act (R.S.Q., chapter M-13) remain in force, subject to the rights under and conditions of such licences, until their expiration.</p>
Renewal	<p>The holder of either of such licences who, under that Act, would be entitled to a renewal of his licence shall obtain, upon the expiration of his licence, a certificate of registration evidencing his claim in respect of the parcel of land that was subject to his licence from the date of expiration of the licence.</p>
Fee	<p>Notwithstanding the foregoing, the holder of a special exploration licence issued under section 240.8 of the Mining Act (R.S.Q., chapter M-13) is exempt, for as long as he remains the holder of that claim, from payment of the fee prescribed under this Act for the renewal of his claim.</p>
Licence to operate sand pit	<p>356. The holder of a licence to operate a sand pit issued under the Regulation respecting the transfer of the right of working sand and</p>

gravel deposits (R.R.Q., chapter M-13, r.1) becomes a lessee under a non-exclusive lease to mine surface mineral substances or an exclusive lease to mine surface mineral substances, according to the type of licence he held.

Permits **357.** Permits to explore in alluvial deposits issued under the Mining Act (R.S.Q., chapter M-13) before 9 December 1986 remain in force, subject to the rights under and conditions of such permits, until their expiration.

Mining lease The holder of a permit to explore in alluvial deposits may, before the date of expiration of his permit, obtain a mining lease under this Act.

R. R. Q., c. M-13, r. 8, repealed **358.** The Regulation respecting exploration permits to explore for mineral substances in alluvial deposits (R.R.Q., chapter M-13, r.8) is repealed from 9 December 1986.

Holder of permit **359.** Every holder of a permit to explore in alluvial deposits issued under the Mining Act (R.S.Q., chapter M-13) before 9 December 1986 may, before (*insert here the date occurring two years after the date of coming into force of this section*) obtain a claim by way of map designation in respect of the parcel of land subject to his permit. Any amount disbursed to perform work in excess of prescribed requirements which is credited to the permit is applied to the claim.

Mining concessions **360.** Mining concessions granted under any former Act relating to mines are governed by this Act.

Tax or remittance However, any person who has acquired a mining concession other than a mining concession for which letters patent were issued before 1 July 1911 may, on 15 January (*insert here the year following the year of the coming into force of this section*), pay the tax or obtain a remittance under section 114 of the Mining Act (R.S.Q., chapter M-13).

Transfer of lot or surface right **361.** No transfer of a lot or surface right made before 1 January 1971 on a mining concession may be annulled on the sole ground of non-compliance by the holder with the requirements of the Mining Act respecting division into lots in force on the date of the concession, or because of his failure to fulfil an obligation imposed on him by the Government or a public officer.

Inapplicability However, the preceding paragraph does not apply to a deed of disposition respecting a lot not described in a subdivision plan duly deposited with the book of reference in the registry office of the registration division where it is situated.

362. Every transfer of a surface right made before 1 January 1971 by emphyteutic lease on any mining concession shall be deemed a sale pure and simple.

Contractual clauses Contractual clauses inconsistent with the preceding paragraph shall be deemed null and not written except those involving for the transferee the obligation to pay a sum of money. However, the hypothec securing the payment of the sum of money is extinguished. The hypothec is cancelled upon the filing of an application therefor, in authentic form *en minute*, made by any interested person.

363. Where a surface right in a mining concession was transferred by a deed of sale before 1 January 1971, every clause respecting a right of repossession, every clause waiving liability for damage sustained in consequence of the carrying out of mining work and every clause granting to the holder of a mining concession more rights with respect to the surface owner than those relating to mining and granted to him by the Mining Act (R.S.Q., chapter M-13) shall be deemed not written in such deed.

364. Section 113 applies also to deeds of alienation and constructions made and erected for purposes other than mining purposes on parcels of land already divided into lots on 1 January 1971.

365. The white pine and red pine reserved to the Crown under the Mining Act on the granting of a concession are abandoned to the owner of the soil where they are found on a concession for which letters patent were issued before 1 July 1911.

366. Every holder of a drilling permit issued under the Mining Act (R.S.Q., chapter M-13) becomes the holder of a well drilling permit.

367. Licences for using geophysical instruments and exploration licences for petroleum and natural gas issued pursuant to the second paragraph of section 298 of the Mining Act (R.S.Q., chapter M-13) remain in force subject to the rights under and the conditions of the licences until their expiration.

368. Every holder of a licence to use natural gas issued under the Mining Act (R.S.Q., chapter M-13) becomes the holder of a lease to use natural gas.

369. Every holder of an operating lease issued pursuant to the Mining Act (R.S.Q., chapter M-13) for an area greater than that authorized by section 195 becomes the holder of several leases to produce petroleum and natural gas, each of which being for an area that is in conformity with that section.

- Notification The holder shall, within three months after (*insert here the date of the coming into force of this section*), notify the Minister of the area subject to each of the leases.
- Failure Failing notification, the Minister shall establish the area subject to each lease.
- Disposal licence **370.** Every holder of a disposal licence or of a storage lease issued under the Mining Act (R.S.Q, chapter M-13) becomes the holder of a lease to operate an underground reservoir.
- Operating licence **371.** The long-term operating licence bearing no. 30759 remains in force subject to the rights under and the conditions of the licence until its expiration.
- Lease to use natural gas The holder of the licence contemplated in the first paragraph may, before the expiration of his licence, obtain a lease to use natural gas under this Act.
- Assay coupon **372.** Every assay coupon issued under the Mining Act (R.S.Q., chapter M-13) remains valid until its expiration.
- Limits of city **373.** Until the Minister determines the limits of urbanized territory, no person may stake or designate on a map any parcel of land situated within the limits of a city or town except with the authorization of the Minister.
- Authoriza-
tion The Minister may submit his authorization to such conditions and obligations as he determines.
- Disposition
of lands **374.** The Government may dispose of the lands set aside for the establishment of a mining town or village at such price and upon such conditions as it may fix.
- Accumu-
lated sums **375.** The sums accumulated in the municipal fund pursuant to sections 130 and 132 of the Mining Act (R.S.Q., chapter M-13) shall be paid into the general fund of the municipality before (*insert here the date of the day occurring ninety days after that of the coming into force of this section*).
- General
fund All sums due to or receivable by the municipal fund pursuant to sections 130 and 132 of the said Act must be paid into the general fund of the municipality.

- 376.** Prescriptions running pursuant to sections 227, 228 and 229 of the Mining Act (R.S.Q., chapter M-13) continue to run in accordance with the provisions of those sections.
- 377.** The compensation exigible by any person whose mining rights have been revoked pursuant to any former Act relating to mining shall be computed in accordance with the rules set out in section 268.
- 378.** Rights in natural and artificial underground reservoirs created by the extraction of petroleum, natural gas, brine or water that are situated on lands granted or alienated by the Crown before 5 July 1968 are revoked and revert to the Crown from (*insert here the date of coming into force of this section*), whatever the mode of their granting or alienation.
- 379.** If, after rights in an underground reservoir have been revoked, the underground reservoir concerned is operated, the person whose rights were revoked is entitled, as compensation, to the royalty referred to in section 274. Sections 275 to 277 apply to the payment of the compensation.
- 380.** The Government may, by regulation, make any provisional or transitional provision not contrary to this chapter and intended to protect vested rights under the Mining Act (R.S.Q., chapter M-13) to ensure the carrying out of this Act.
- The Government may, if it considers it expedient, order that the regulation becomes effective before the date of its publication in the *Gazette officielle du Québec*.
- 381.** The sums required for the purposes of this Act are taken, for the fiscal years 1987-88 and 1988-89 and to the extent determined by the Government, out of the consolidated revenue fund and, for subsequent fiscal years, out of the sums granted annually for that purpose by Parliament.
- 382.** The Minister of Energy and Resources is responsible for the administration of this Act, except the provisions concerning mining roads, which shall be administered by the Minister of Transport.
- 383.** The provisions of this Act will come into force on the date or dates fixed by the Government.

SCHEDULE I

The boundaries of the territory open for map designation are as follows: the territory is bounded on the north by the south line of the St. Lawrence River, on the south by the boundary line of the United States of America and on the northeast by the boundary between the regional county municipality of l'Islet and that of Kamouraska.

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