

NATIONAL ASSEMBLY

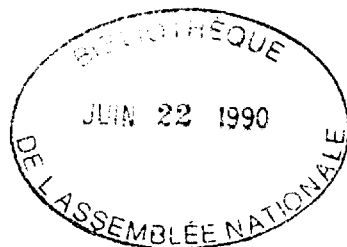
FIRST SESSION

THIRTY-FOURTH LEGISLATURE

Bill 77

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

Introduction



**Introduced by
Mr Raymond Savoie
Minister for Mines and Regional Development**

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EXPLANATORY NOTES

This bill proposes various amendments to the Mining Act to facilitate the application of its provisions.

To that end, the bill proposes, first, to permit that certain prescribed work performed in respect of a mining claim be applied at full value rather than at half value. It also simplifies certain regulatory provisions pertaining, in particular, to prescribed duties and royalties and to the standards applicable to reports of work performed upon a mining claim and to documents which must accompany such reports.

As regards leases to mine surface mineral substances, the bill authorizes the Minister to determine, within prescribed limits, the area of land which may be covered by an exclusive lease as well as the term of such a lease. In addition, the granting of an exclusive lease and, in the case of the mining of sand, gravel or common clay, the increasing of the area covered by such a lease will be subject to new requirements. The bill provides also that certain obligations applicable to a lessee holding a lease to mine surface mineral substances will apply to persons engaging in the mining or extraction of surface mineral substances for commercial purposes.

This bill extends the use of the drawing of lots procedure to establish the order of admission of certain applications concerning the same land that are received on the same day. Participation in a drawing of lots will, however, be subject to prior payment of duties fixed by regulation.

Finally, the bill provides for technical amendments or concordance amendments, including an amendment to the Mining Duties Act.

Bill 77

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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

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

2. Section 80 of the said Act is amended

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

(2) by striking out the second paragraph.

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

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

4. Section 142 of the said Act is amended

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

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

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

5. Section 145 of the said Act is amended by inserting the words “, as determined by the Minister,” after the word “area” in the second line of the first paragraph.

6. Section 146 of the said Act is amended by inserting, after paragraph 1, the following paragraph:

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

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

8. Section 148 of the said Act is amended

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

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

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

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

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

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

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

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

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

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

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

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

10. Section 207 of the said Act is amended

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

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

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

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

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

11. Section 215 of the said Act is amended by striking out the words “and geophysical surveying or drilling work performed pursuant to section 159 or 162” in the second and third lines of the first paragraph.

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

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

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

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

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

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

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

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

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

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

“The norms with which any report of work performed on a claim must comply, the information which must be contained in the report

and the documents which must accompany the report may vary according to the average cost of the work performed on the claim, according to the total value of the work declared in each report, or according to the total value of the work reported in a given period.”

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

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

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

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

21. Section 373 of the said Act is repealed.

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

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

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

(2) from *(insert here the date of coming into force of Bill 77 of 1990)*, an operator who engages in the mining of surface mineral substances, as defined in section 1 of the Mining Act, or the mining of mineral substances the right in or over which was surrendered to the owner of the soil pursuant to section 5 of the said Act.”

23. For the purpose of computing the annual profit from the mining of surface mineral substances, the fiscal year of an operator contemplated in paragraph 2 of section 5 of the Mining Duties Act, replaced by section 22 of this Act, is deemed to end on *(insert here the date immediately preceding the date of coming into force of this Act)*.

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

This section does not affect any case pending on (*insert here the date of introduction of this bill*).

25. Section 2 has effect from 24 October 1988.

26. Section 24 has effect from (*insert here the date of introduction of this bill*).

27. This Act comes into force on (*insert here the date of assent to this Act*).