

NATIONAL ASSEMBLY

FIRST SESSION

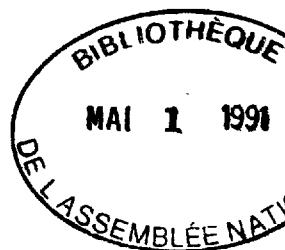
THIRTY-FOURTH LEGISLATURE

Bill 130

An Act to amend the Mining Act

Introduction

**Introduced by
Madam Lise Bacon
Minister of Energy and Resources**



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EXPLANATORY NOTES

This bill proposes various amendments to the Mining Act to ensure, in particular, the rehabilitation and restoration of land affected by mining activities.

To that end, every person who engages in exploration or mining activities, who operates a concentration plant where certain mineral substances are treated or who engages in mining operations having to do with tailings will be required to submit a rehabilitation and restoration plan of the affected land to the Minister for approval, meet the requirements of the plan and furnish a guarantee to that effect. In cases of non-compliance, the Minister will have authority to order the work done at the expense of the person who failed to comply with prescribed requirements and, if the Minister is unable to recover the cost of the work out of the guarantee furnished, any sum due to the Crown will constitute a privileged debt on all the debtor's property. The bill also contains a provision under which the Minister will have authority to enjoin a person having ceased his mining activities on a given site to perform the rehabilitation and restoration work rendered necessary by the presence of tailings.

The bill also provides that certain districts may be delimited for non-exclusive purposes of recreation, tourism and plant-life or animal-life conservation, and that certain specific conditions may be prescribed in respect of mining activities in those districts.

In addition, the bill permits the Minister to establish, by regulation, conditions applicable to mining activities in hydric areas. Finally, the bill clarifies the rights of holders of a mining lease or mining concession on lands in the public domain as to the use of the soil.

Bill 130

An Act to amend the Mining Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 32 of the Mining Act (R.S.Q., chapter M-13.1) is amended by adding, at the end, the following paragraph:

“(5) situated in a territory delimited, by ministerial order, for non-exclusive purposes of recreation, tourism or plant-life or wildlife conservation.”

2. Section 105 of the said Act is amended by inserting the words “, in particular, the establishment of tailings yards, workshops, plants and other facilities required for mining activities,” after the word “uses” in the third line of the second paragraph.

3. The said Act is amended by inserting, after section 213.1, the following section:

“213.2 The Minister may subject mining rights or the renewal of mining rights to the conditions and obligations he determines where the land subject to such rights is situated in a territory delimited, by ministerial order, for non-exclusive purposes of recreation, tourism or plant-life or wildlife conservation.”

4. The heading of Division III of Chapter IV of the said Act is amended by adding, at the end, the words “AND REHABILITATION AND RESTORATION MEASURES”.

5. Section 232 of the said Act is amended by adding the words “and, when the land subject to mining rights or mining operations is situated in a territory delimited, by ministerial order, for non-exclusive purposes of recreation, tourism or plant-life or wildlife

conservation, he shall take such additional protective measures as the Minister may determine” at the end of the first paragraph.

6. The said Act is amended by inserting, after section 232, the following sections:

“232.1 Land rehabilitation and restoration work must be carried out, in accordance with the plan approved by the Minister, by the following persons:

(1) every holder of mining rights who engages in exploration work determined by regulation or agrees that such work be carried out on the land subject to his mining rights;

(2) every operator who engages in mining operations determined by regulation in respect of mineral substances listed in the regulations;

(3) every person who operates a concentration plant in respect of such substances;

(4) every person who engages in mining operations determined by regulation in respect of tailings.

The obligation shall subsist until the work is completed or until a certificate is issued by the Minister under section 232.10.

“232.2 Every person to whom section 232.1 applies must submit a rehabilitation and restoration plan to the Minister for approval before commencing mining activities.

Where activities are already commenced on (*insert here the date of coming into force of this section*), the person must submit the plan within one year from that date. However, the Minister may set a later date if the person who is required to submit the plan proves, to his satisfaction, that for valid reasons, he is unable to do so within the prescribed time.

“232.3 The rehabilitation and restoration plan shall contain, in particular,

(1) the description of the rehabilitation and restoration work relating to the mining activities carried on by the person submitting the plan and intended to restore the affected land to a satisfactory condition; if tailings are present on the site, the required work shall include containment work and, if required, the work necessary for putting in place, operating and maintaining the infrastructure needed

to prevent any environmental damage that might be caused by the presence of tailings;

(2) if progressive rehabilitation and restoration work is possible, the conditions and phases of completion of the work;

(3) the conditions and phases of completion of the work in the event of final cessation of mining activities;

(4) an estimate of the expected costs to be incurred for completing the work.

"232.4 The rehabilitation and restoration plan must include a description of the guarantee serving to ensure performance of the work required by the plan. The description must meet the standards prescribed by regulation as to its term, form, amount and conditions.

Where property or a sum of money serves as guarantee the property or money is exempt from seizure.

"232.5 The Minister may subject the approval of a rehabilitation and restoration plan to other conditions and obligations that he shall determine and include in the plan, in particular, advance payment of all or part of the guarantee; the Minister shall approve the plan after consultation with the Minister of the Environment.

Every person to whom section 232.1 applies must at the request of and within the time limit fixed by the Minister provide him with any additional information, research findings or study he considers he needs to grant his approval.

"232.6 Every person whose plan has been approved shall submit a revised plan to the Minister for approval,

(1) every 5 years, unless a shorter period is fixed by the Minister on approving the plan or revised plan;

(2) whenever amendments to the plan are justified by changes in the mining activities;

(3) whenever he intends to amend the plan;

(4) whenever the Minister has seen fit to request a revision.

Section 232.5, adapted as required, applies to a revised plan.

"232.7 The Minister may increase the amount of the guarantee where he considers that it is no longer sufficient or reduce it to make

it consistent with the foreseeable costs of carrying out the rehabilitation and restoration plan.

Every person referred to in section 232.1 whose amount of guarantee has been increased must furnish any additional guarantee required pursuant to the revision, within the time fixed by the Minister.

“232.8 If a person fails to perform any of his obligations under sections 232.1 to 232.7, the Minister may enjoin him to do so within the time he fixes.

If the person concerned fails to comply with the prescriptions of the Minister within the time fixed, the Minister may, in addition to any other civil, administrative or penal sanction, cause the work required by the rehabilitation and restoration plan or, failing such a plan, the work he considers necessary in the circumstances, to be performed at that person's expense. He may, in particular, recover the cost of the work out of the guarantee furnished.

“232.9 Any sum owing to the Crown under section 230, 231, 232 or 232.8 constitutes a privileged debt on all the debtor's property.

The privilege ranks immediately after court costs and, when the privilege affects an immovable, it is subject to the formalities governing the registration of real rights.

“232.10 The Minister may release any person from his obligations under sections 232.1 to 232.7 and issue to him a certificate to that effect,

(1) where he agrees to letting a third person assume the obligations;

(2) where, in his opinion, the rehabilitation and restoration work has been carried out in accordance with the rehabilitation and restoration plan approved by him and no sum of money is due to him with respect to the performance of the work and, where there are tailings, they no longer present any risk of acid mine drainage.

“232.11 The Minister may, if applicable, with the consent of the person referred to in the second paragraph of section 7, enjoin a person who, before (*insert here the date of coming into force of this section*), carried out work or operations referred to in subparagraph 1, 2 or 3 of the first paragraph of section 232.1 and who is not covered by that section, to perform the rehabilitation and restoration work required by the presence of tailings on land affected by his mining activities to the extent that the tailings result from those activities.

The Minister shall prescribe the nature of the work and the time within which it must be carried out after consultation with the Minister of the Environment.

If the person concerned fails to comply with the prescriptions of the Minister within the time fixed, the Minister may cause the work to be performed at that person's expense.

Sections 232.9 and 232.10, adapted as required, apply for the purposes of this section.

"232.12 Nothing in sections 232.1 to 232.11 shall affect or restrict the application of the Environment Quality Act (R.S.Q., chapter Q-2)."

7. The heading of Division VI of Chapter IV of the said Act is replaced by the following heading and section:

"WORK IN HYDRIC AREAS

"236.1 Every person who performs prescribed exploration work or mining operations in hydric areas must comply with the standards prescribed by regulation."

8. Section 291 of the said Act is amended by inserting the words "the first paragraph of section 232.5, subparagraph 4 of the first paragraph of section 232.6, the first paragraphs of sections 232.7, 232.8 and 232.11, section" after the figure "231," in the third line.

9. Section 304 of the said Act is amended by inserting, at the end of subparagraph 1 of the first paragraph, the following subparagraph:

"(1.1) delimit territories for non-exclusive purposes of recreation, tourism or plant-life or wildlife conservation;"

10. Section 306 of the said Act, amended by section 16 of chapter 36 of the statutes of 1990, is again amended by inserting, after paragraph 26, the following paragraphs:

"(26.1) determine the work and operations contemplated in section 232.1 and, where expedient, list the mineral substances referred to therein;

"(26.2) determine the term, form and amount of the guarantee required under section 232.4 and the conditions of such a guarantee;

“(26.3) prescribe standards which must be met by every person who performs, in hydric areas, exploration work or mining operations it determines;”.

11. Section 318 of the said Act, amended by sections 575 and 576 of chapter 4 of the statutes of 1990, is again amended by inserting the words and figures “232.1 or 232.2, the first paragraph of section 232.6, the second paragraph of section 232.7 or sections” after the figure “45,” in the second line of the first paragraph.

12. This Act will come into force on the date or dates to be fixed by the Government.