

THIRD SESSION

THIRTY-SECOND LEGISLATURE

NATIONAL ASSEMBLY OF QUÉBEC

Bill 35

**An Act respecting the revocation of mining rights
and amending the Mining Act**

First reading
Second reading
Third reading

M. YVES L. DUHAIME

Minister of Energy and Resources

QUÉBEC OFFICIAL PUBLISHER

1 9 8 1

EXPLANATORY NOTES

The object of this bill is the revocation of mining rights that do not form part of the public domain and that are included in land concessions made before 24 July 1880 in the townships and seigneuries, and in mining concessions for which letters patent were issued before 1 July 1911.

The bill specifies the cases where mining rights are not revoked, in particular, the rights to certain minerals such as building materials, sand, gravel and peat, and rights on deposits in operation, and rights that constitute a reserve necessary to secure the continuity of a mining, petroleum or gas operation.

The bill provides for the payment of an indemnity to the former owner of the mining rights, in the form of a percentage of the annual profit realized from the working of any mineral substance derived from a parcel of land on which the mining rights are revoked.

The bill also establishes a system for granting special exploration licences to explore for and develop the mineral substances within the limits of the territories on which the mining rights are revoked, and it amends the Mining Act to extend that system to every mining concession liable to be revoked on the ground of failure to pay a new tax provided by law.

Bill 35

An Act respecting the revocation of mining rights
and amending the Mining Act

HER MAJESTY, with the advice and consent of the National Assembly of Québec, enacts as follows:

1. Section 27 of the Mining Act (R.S.Q., chapter M-13) is amended by adding, at the end, the following paragraph:

“(f) situated within the limits of a territory contemplated in section 240.6.”

2. Section 28 of the said Act is amended by replacing paragraph *a* of section 28 by the following paragraph:

“(a) in which gold and silver are reserved to the Crown.”

3. Section 113 of the said Act is replaced by the following section:

“113. Such letters patent may be cancelled if no mining operations have been carried out during ten consecutive years. Sections 231, 232, 234 to 236 and 241 apply to such cancellation.”

4. Section 127 of the said Act is amended by replacing the first paragraph by the following paragraph:

“127. In case of infringement of sections 125 and 126, the Minister may revoke the lease or the concession, and sections 231, 232 and 235, 236 and 241 apply to such revocation.”

5. Sections 232 to 241 of the said Act are replaced by the following sections:

“232. The notice shall also be published in the *Gazette officielle du Québec*, and twice at an interval of seven days in a

French daily newspaper published in Montréal and, if there be any, in every judicial district in which the land affected by the revocation is wholly or partly situated.

“233. The Minister may revoke the mining concession ninety days after the forwarding of the notice and the last publication if the tax due and the cost of publication have not been paid in the meantime.

“234. The Government may revoke, upon an application by a municipality, the surface rights in the title of a mining concession which has not been operated for at least ten years, when it considers it necessary in the public interest for the development of a municipality.

Notice of the intention to revoke such rights shall be given as set forth in section 231. If the owner does not reside in Québec or cannot be found, the notice shall be published in accordance with section 232.

“235. The Government may effect the revocation ninety days after the forwarding of the notice and the last publication.

“236. A summary notice of the revocation shall be published in the *Gazette officielle du Québec* and the revocation takes effect on the date of such publication.

“237. The following rights are revoked in favour of the Crown from (*insert here the date of the coming into force of this section*):

(1) the mining rights included in any concession of land made in any township before 24 July 1880;

(2) the mining rights included in any concession of land contemplated in section 6;

(3) the rights to mines and to surface mines that do not form part of the public domain on lands granted in seigneurial tenure, whether or not such rights were transferred to a censitaire;

(4) the mining rights included in any mining concession for which letters patent were issued before 1 July 1911.

“238. The revocation does not apply to 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 and peat.

“239. The revocation does not apply

(1) to mining rights on land in which a deposit in operation on (*insert here the date of the tabling of this bill*) is situated;

(2) to mining rights on land in which an ore deposit constituting a reserve necessary to secure the continuity of a mining, petroleum or gas undertaking carried on in Québec on (*insert here the date of the tabling of this bill*), provided that such rights are held by the operator of such undertaking and that he establishes to the satisfaction of the Minister that there are reasonable indications of a mineral deposit which can be economically developed.

“240. However, mining rights contemplated in section 239 are revoked if, within 180 days from (*insert here the date of the coming into force of this section*), the owner or operator fails to file with the chief claims recorder a declaration containing

(1) his name and address and his qualifications as an operator or owner;

(2) the designation of the lot or parcel of land where the deposit in operation is situated or, as the case may be, where the reserves are established;

(3) the description of the extent of the deposit and its limits.

In the case set forth in subparagraph 2 of section 239, the owner or the operator must also furnish a report certified true by a mining engineer or a qualified geologist, describing the nature, extent and probable value of the deposit.

“240.1 A person whose mining rights have been revoked in accordance with section 237 or 240 is entitled, as a compensation, to a royalty equal to

(1) 3% of the market value, at the well-head, of the petroleum, natural gas and of the other mineral substances associated with them, derived from land on which the mining rights have been revoked;

(2) 5% of the annual profit derived from the operation of any other mineral substance derived from land on which the mining rights have been revoked.

The profit derived from such other mineral substances is computed according to the rules established in Chapter III of the Mining Duties Act (R.S.Q., chapter D-15).

“240.2 Any loss resulting from the application of Chapter III of the Mining Duties Act must be deducted from the profits made during the four years following the year in which the loss was incurred; such loss must first be deducted from all the profits

made during the year nearest to the loss, before being applied in the same manner to the subsequent years; if the aggregate of the profits for the four years is less than the loss, the residual balance of the loss is not deducted.

“240.3 The royalty is payable by the operator and remitted to the Minister within the first 25 days of each month in the case of mineral substances contemplated in paragraph 1 of section 240.1, or on the dates fixed by section 46 of the Mining Duties Act in the case of mineral substances contemplated in paragraph 2 of section 240.1.

“240.4 When a royalty becomes payable, the Minister shall publish a notice in the manner set forth in section 232 stating that a royalty is payable for the mining rights revoked on the lands designated in the notice.

A person whose mining rights have been revoked must avail himself of his right to the royalty within two years from the date of the last publication of the notice.

“240.5 The Minister shall remit to the person whose mining rights have been revoked the royalties collected on his behalf on such dates as he may determine.

In the case of a dispute regarding the right to the royalty or the amount thereof, the amount of the royalty shall be deposited with the Minister of Finance as a judicial deposit pending a decision by a competent court.

“240.6 Every person must obtain from the Minister a special exploration licence to explore for and develop mineral substances, other than petroleum, natural gas and the other mineral substances associated therewith, on land where the mining rights are revoked under section 230, 237 or 240, or on land where the mining rights belonged to the Crown before (*insert here the date of the coming into force of this section*), and which is included in a territory delimited for such purposes by regulation.

The form and tenor of an application for a special licence and the requirements for its issue and renewal shall be determined by regulation.

“240.7 A person whose mining rights have been revoked is entitled to obtain, to the exclusion of every other person, within 180 days from (*insert here the date of the coming into force of this section*), a special exploration licence covering the extent of his rights if he establishes, to the satisfaction of the Minister, that he has carried out, caused to be carried out or agreed to have carried out exploration, prospecting, or development work or profitability

studies or any other exploration work on the land during the ten years preceding (*insert here the date of the tabling of this bill*).

The holder of an option, lease or any other title granted by the former owner of the mining rights revoked and in force on (*insert here the date of the tabling of this bill*) may exercise the rights associated therewith when, to his detriment, the former owner refuses or neglects to do so.

“240.8 The application for a licence must be made in writing.

The application must indicate the name and address of the applicant, establish his title as regards the revoked mining rights and designate the land on which they are situated.

The applicant must also furnish a report of the work listed in section 240.7, made in accordance with Division IX or, as the case may be, furnish evidence of an agreement designed to have such work done.

“240.9 Except in the case set forth in section 240.7, the mining rights revoked under section 237 or 240 and situated within the limits of the territory covered by a claim, a licence or a lease granted under the law, become an integral part of the claim, licence or lease, and are deemed to have always formed part thereof.

“240.10 The options, leases or other titles granted by an owner whose mining rights were in force on (*insert here the date of the tabling of this bill*) and whose objects are mining rights revoked under section 237 or 240, remain valid between the parties for the period for which they have been granted, respectively, and their holder is allowed to exercise the rights deriving therefrom in accordance with their provisions.

“240.11 The chief claims recorder must, within 60 days from receipt of a declaration contemplated in section 240, give notice thereof in the *Gazette officielle du Québec* and notify every person of his right to contest such declaration within 60 days from the date of publication of the notice by filing a motion before the competent court.

“241. The revocation of a mining concession shall not impair any surface ownership granted to a third party before 24 March 1937 or with the ministerial authorization required by the law in force from and after such date.

Transfers of the right of surface ownership made before such date, shall not be invalidated for lack of ministerial authorization.”

6. Section 296 of the said Act is amended by adding at the end, the following paragraph:

“(u) delimit the territories where special licences are required under section 240.6, determine the categories and the conditions of issue of such licences, the form and tenor of applications for licences, the information that may be required and the documents that must accompany such applications, the qualifications required of any person applying for such licences, the evidence of solvency he must furnish, the nature of the work the licence holder is bound to carry out and the expenditures such work must involve, the amounts of money that the Minister may require to be deposited as security for the carrying out of the work, the duration of the licences, the total land area that they may cover, the rental that may be required of the licence holders, the conditions upon which such licences may be renewed or upon which the holders thereof may renounce or transfer them, and the reports that they must make.”

7. This Act will come into force on the date to be fixed by proclamation of the Government, except for the provisions excluded by such proclamation, which will come into force, in whole or in part, on any later date to be fixed by proclamation of the Government.