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THIRTY-SECOND LEGISLATURE

NATIONAL ASSEMBLY OF QUÉBEC

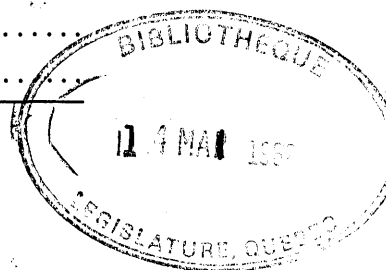
Bill 59

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

First reading

Second reading

Third reading



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Minister of Energy and Resources

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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, rights that constitute a reserve necessary to secure the continuity of a mining, petroleum or gas operation, and rights that are covered by an option, a lease or a promise of sale.

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 59

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 1 of the Mining Act (R.S.Q., chapter M-13) is amended by replacing paragraph 32 by the following paragraphs:

“(32) “special licence”: every licence contemplated in section 240.12;

“(32.1) “special exploration licence”: every licence contemplated in section 240.6.”.

2. Section 3 of the said Act is amended by inserting, in the second line, before the expression “exploration permit”, the following words: “special exploration licence,”.

3. Section 27 of the said Act is amended by adding the following paragraph:

“(f) situated within the limits of the territory described in the Schedule I.”

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

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

5. Section 84 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

“84. Any claim-holder or holder of a special exploration licence shall be entitled to obtain from the Minister a mining lease of

the land covered or any portion thereof, upon establishing to the satisfaction of the Minister reasonable indications of a mineral deposit capable of being economically worked.”;

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

“A lease may have as its object the land covered by several claims or portions of claims or by several special exploration licences.”

6. 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.”

7. 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.”

8. Sections 232 to 240 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 daily or weekly newspaper published in Montréal and 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 Bill 59*) 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 Bill 59*), provided that such rights are held by the operator of such undertaking and that he establishes that there are reasonable indications of a mineral deposit which can be economically developed;

(3) to mining rights that are covered by an option, a lease or a promise of sale on (*insert here the date of the tabling of Bill 59*).

“240. However, mining rights contemplated in paragraphs 1 and 2 of section 239 are revoked unless, within 180 days from (*insert here the date of the coming into force of this section*), the owner or operator files 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 described in paragraph 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.

In the case described in paragraph 3 of section 239, the mining rights are revoked unless, within 180 days from (*insert here the date of the coming into force of this section*), one of the parties to the option, lease or promise of sale files the original or an authentic copy of the option, lease or promise of sale with the chief claims recorder.

“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 and natural gas and 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 subparagraph 1 of the first paragraph 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 subparagraph 2 of the said paragraph.

“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 rate 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 brine, petroleum, natural gas and the other mineral substances associated therewith, on land where a mining concession has been revoked under section 230 or on land included in the territory described in Schedule I,

(1) where the mining rights are revoked under section 237 or 240;

(2) where the mining rights belonged to the Crown before *(insert here the date of the coming into force of this section)*.

The Government may also open all or part of the land to staking.

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

“240.8 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 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 Bill 59)*.

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

The applicant must also furnish a report of the work listed in section 240.8, made in accordance with Division IX or, as the case may be, furnish evidence of an agreement designed to have such work done.

“240.10 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 Act, become an integral part of the claim, licence or lease, and are deemed to have always formed part thereof except as regards the mining rights covered by a special exploration licence under section 240.8.

“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.

“240.12 Every special licence issued following the revocation of a mining concession or mining rights before (*insert here the date of the coming into force of Bill 59*) remains valid for the time for which it was granted.”

9. Section 249 of the said Act is amended by inserting, in the second line, before the expression “exploration licence”, the following words: “special exploration licence,”.

10. Section 296 of the said Act is amended by adding the following paragraph:

“(u) determine the categories and the conditions of issue or revocation of special exploration licences required under section 240.6, 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 maximum number of licences that a person may hold, 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.”

11. Section 308 of the said Act is amended by adding the word “special” before the expression “exploration permit” in the last line of subparagraph *a* of the second paragraph.

12. The said Act is amended by adding, at the end, the following schedule:

“SCHEDULE I
(Sections 27f, 240.6)

The limits of the territory are as follows:

From a northwest point situated in the Universal Transverse Mercator (UTM) zone 18, to the intersection between UTM lines 660 000 m E and 5 090 000 m N easterly to 690 000 m E, northerly to 5 120 000 m N, easterly to 720 000 m E, northerly to 5 150 000 m N, easterly across UTM zone 19 to 340 000 m E, southerly to the Canadian-American border, southwesterly and westerly following the Canadian-American border to UTM line 660 000 m E in the UTM zone 18, and thence northerly following UTM line 660 000 m E to the northwest point.”

13. No land on which the mining rights are revoked under section 237 or 240 and which is situated outside the territory contemplated in Schedule I may be staked within 180 days from (*insert here the date of the coming into force of this section*).

14. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (*insert here the reference to the chapter number of the Canada Act in the compilation of the Acts of the Parliament of the United Kingdom for 1982*).

15. This Act comes into force on the date fixed by proclamation of the Government, except the provisions excluded by such proclamation, which will come into force on any later dates fixed by proclamation of the Government.