



NATIONAL ASSEMBLY

FIRST SESSION

FORTIETH LEGISLATURE

Bill 43

Mining Act

Introduction

**Introduced by
Madam Martine Ouellet
Minister of Natural Resources**

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EXPLANATORY NOTES

This bill proposes a new Mining Act.

It is, however, largely based on that Act and thus maintains Québec's current mineral tenure system and, in particular, the rights and obligations of mining rights holders. It reaffirms the main provisions of the current statute as regards ownership of mineral substances, the public register of real and immovable mining rights, prospecting, the registration and renewal of claims, the granting and renewal of mining leases, mining concessions, the granting and renewal of leases to mine surface mineral substances, protection, rehabilitation and restoration measures, inspections and investigations, the suspension and revocation of mining rights, and the Minister's powers of the Minister of Natural Resources. It includes obligations relating to restoration, until now provided for by regulation.

A financial guarantee must be provided with the mine rehabilitation and restoration plan and paid in three instalments. The guarantee must cover the mining site in its entirety.

A mining lease cannot be granted until the certificate of authorization mentioned in section 31.5, 164 or 201 of the Environment Quality Act has been issued and the restoration and rehabilitation plan has been approved.

Mining lease holders must establish and maintain an economic spinoff monitoring and maximization committee.

Claim holders must notify the municipality and the landowner concerned of the fact that they have obtained a claim, disclose that they are exploring for or have discovered uranium, inform the municipality of their intention to conduct work, submit an annual operations plan and, before engaging in exploratory drilling for uranium, file a hydrogeological survey.

Mining rights holders must provide additional information about such matters as extracted tonnage and royalties.

Applicants for a mining lease or mining concession are now required to file an ore processing feasibility study. The Minister may require that an agreement be entered into for the purpose of maximizing economic spinoffs.

Before being granted a peat lease or a lease that is necessary to carry on an industrial activity or to engage in commercial export, applicants must hold a public consultation.

The bill sets more stringent conditions for the renewal of mining leases, in particular, by requiring compliance with the Mining Tax Act.

The Minister is given the power to refuse or to terminate a lease to mine surface mineral substances, for public interest reasons.

The bill restricts the power of expropriation to those holders of mining rights who are moving on to the actual mining stage, and requires them to provide financial support to owners during negotiations to purchase their home.

To stimulate exploration, the bill requires claim holders to report all their exploration work to the Minister and limits the life of work credits to 12 years.

The bill introduces the possibility of obtaining claims in targeted areas by way of auction, updates the penalty regime and contains technical amendments.

The bill amends the Act respecting land use planning and development to allow regional county municipalities to delimit any mining incompatible territory or any conditionally mining compatible territory in their land use and development plan.

The Regulation respecting environmental impact assessment and review is amended in order to make all mineral processing plant construction and operation projects, as well as mine development and operation projects, subject to an environmental assessment, regardless of the nature of the product involved or the production capacity of the project.

Lastly, it maintains the provisions of the current Mining Act that pertain to petroleum, natural gas, brine and underground reservoir under a new title, Mining Act (Petroleum, Natural Gas, Brine and Underground Reservoirs).

LEGISLATION AMENDED BY THIS BILL:

- Act respecting land use planning and development (chapter A-19.1).

LEGISLATION PARTIALLY REPLACED BY THIS BILL:

- Mining Act (chapter M-13.1).

REGULATIONS AMENDED BY THIS BILL:

- Regulation respecting mineral substances other than petroleum, natural gas and brine (chapter M-13.1, r. 2);
- Regulation respecting environmental impact assessment and review (chapter Q-2, r. 23).

Bill 43

MINING ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

AS mineral resources are present throughout Québec and constitute social wealth for present and future generations;

AS the mining sector has helped forge Québec's identity and must continue to be a source of pride;

AS it is necessary to promote the optimal use of mineral resources so as to generate as much wealth as possible for the people of Québec;

AS it is necessary to engage in mineral development in an environmentally respectful manner;

AS it is necessary to promote development that is associated with Québec communities and integrated into their environment;

AS it is necessary to pursue sustainable diversification of the regions' economies;

CHAPTER I

APPLICATION AND INTERPRETATION

1. In this Act,

“**mineral substances**” means natural mineral substances in solid or liquid form, except water, petroleum, natural gas and brine;

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

“**outstanding geological site**” means a parcel of land whose geological, geomorphic, landscape or biological characteristics are of educational value, or of interest for scientific research or conservation purposes, and that deserves to be protected, in particular because it is threatened, rare or vulnerable;

“**surface mineral substances**” means peat; sand, including silica sand; gravel; limestone; calcite; dolomite; common clay and argillaceous rocks used

in the manufacture of clay products; all types of rocks used as dimension stone, crushed stone or silica ore or in the making of cement; and any other mineral substance found in its natural state as a loose deposit, except topsoil, as well as inert mine tailings, when such substances and tailings are used for construction purposes, for the manufacture of construction materials or for the improvement of soils;

“to prospect” means to examine a territory for the purpose of exploring for mineral substances without holding real and immovable mining rights in the territory.

2. This Act is binding on the Government, on government departments and on bodies that are mandataries of the State.

3. This Act must be construed in a manner consistent with the obligation to consult Native communities. The Minister must consult Native communities separately, having regard to all the circumstances.

CHAPTER II

OWNERSHIP OF RIGHTS TO MINERAL SUBSTANCES

4. Subject to sections 5 and 6, rights to mineral substances, except mineral substances found in the topsoil, form part of the domain of the State.

5. Rights to

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

(2) mineral substances contained in a parcel of land where an ore deposit serving as a reserve necessary for the continuation of a mining business in operation in Québec on 6 May 1982 was situated, provided the operator, within the meaning of section 167, held the rights to those mineral substances on that date, established the existence of indicators suggesting the presence of a workable deposit and filed a declaration according to law with the registrar’s office within 180 days after 15 September 1982; and

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

do not form part of the domain of the State when those 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, and for which letters patent or other titles were not issued before that date or were issued after that date but, until 1 January 1921, could be deemed to have been issued on 24 July 1880; or

—in lands granted under seigniorial tenure where mining rights were not vested in the State.

In lands granted before 24 July 1880, however, rights to gold and silver form part of the domain of the State.

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

7. The owner of the soil and the lessee of land granted, alienated or leased by the State for purposes other than mining purposes on or after 1 January 1966 may, for their domestic needs, move or use any mineral substances listed in section 6 on the parcel of land in which they have rights.

8. Rights to mine tailings belong to the holder of the mining lease or mining concession.

At the expiry of the mining lease or of a right under section 199 or on the abandonment or revocation of the mining lease or mining concession, rights to the mine tailings belong to the owner of the soil on which the tailings have been deposited with the owner's consent.

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

- claims;
- mining leases;
- mining concessions; and
- leases to mine surface mineral substances.

10. Ownership of a real and immovable mining right is separate from ownership of the soil subject to the mining right.

Use of the soil by a third person before or after a mining right is granted does not confer a right to compensation on the holder of the mining right. The same holds for the transfer or granting of rights in lands in the domain of the State.

This section is declaratory.

11. A public register of real and immovable mining rights granted under this Act is established at the Ministère des Ressources naturelles (the department).

12. The registrar appointed by the Minister of Natural Resources is responsible for

(1) keeping the public register of real and immovable mining rights;

(2) summarily registering such rights and their renewal, transfer, surrender, abandonment, revocation or expiry, and keeping the titles evidencing them in the register;

(3) registering any other instrument relating to the following mining rights:

— mining leases;

— mining concessions;

— leases to mine surface mineral substances; and

(4) registering promises to purchase relating to claims.

13. The registrar registers authorizations granted under sections 75, 76, 78, 79, 110, 111, 130, 145 and 177 in the public register of real and immovable mining rights.

The registrar makes an entry in the register relating to declarations by lease or claim holders concerning exploration for uranium or the discovery of mineral substances containing 0.05% or more of triuranium octaoxide.

14. Any transfer of real and immovable mining rights, and any other act to which paragraphs 3 and 4 of section 12 apply, are registered in the public register of real and immovable mining rights on presentation of a copy of the instrument evidencing the transfer or act and on payment of the fee set by regulation.

No such transfer or act has effect against the State unless it has been registered in the public register of real and immovable mining rights.

15. On payment of the fee set by regulation, the registrar issues to any interested person a certificate for any registration made in the public register of real and immovable mining rights.

CHAPTER III

MINING RIGHTS IN THE DOMAIN OF THE STATE

DIVISION I

PURPOSE AND SCOPE

16. The purpose of this Act is to promote mineral prospecting, exploration and development in keeping with the principle of sustainable development, while ensuring that Quebecers get a fair share of the wealth generated by mineral resources and taking into account other possible uses of the territory.

Another purpose of this Act is to ensure that non-renewable resources are used for the benefit of future generations.

A further purpose of this Act is to develop homegrown expertise in mineral resource exploration, development and processing in Québec.

17. This chapter applies to mineral substances found in lands in the domain of the State and in the lands in the private domain that form part of the domain of the State.

DIVISION II

PROSPECTING

18. A person must hold a prospecting licence issued by the Minister to be allowed to prospect on a parcel of land on their own or another's behalf.

19. A person must hold a prospecting licence issued by the Minister to be allowed to stake a parcel of land on their own or another's behalf with a view to obtaining a claim on it.

20. Sections 18 and 19 do not apply to a public servant or an employee of the department acting in the exercise of their functions or to any other person acting on behalf of the State.

21. A person may designate a parcel of land on a map with a view to obtaining a claim on it provided the parcel is open for map designation. The person need not hold a prospecting licence.

22. A prospecting licence is issued to a natural person who meets the conditions determined and pays the fee set by regulation.

A prospecting licence is not transferable.

The Minister issues a duplicate on proof that the licence has been damaged, destroyed, lost or stolen and on payment of the fee set by regulation.

23. The term of a prospecting licence is five years.

The Minister renews the licence for the same term, subject to the conditions determined and on payment of the fee set by regulation.

24. A person whose prospecting licence has been revoked under paragraph 4 of section 229 may not file a new application for such a licence until two years have elapsed since the revocation date.

25. The holder of a prospecting licence must carry the licence on their person when prospecting on or staking a parcel of land.

The licence holder must show their licence on request to any public servant of the department.

26. No person may prospect on a parcel of land for which a claim, a mining concession or a mining lease has been granted, or on a parcel of land referred to in sections 52 and 253 or withdrawn from prospecting, mining exploration and mining operations under this Act, or by the effect of another Act to the extent provided for in that Act.

DIVISION III

CLAIM

§1.—*Restrictions*

27. No person may stake a parcel of land situated within the boundaries of a territory open for map designation.

Subject to section 28, no person may map designate a parcel of land situated within the boundaries of a territory open for staking.

The boundaries of such territories are determined by the Minister and shown on maps kept at the registrar's office in accordance with section 70.

28. A parcel of land situated within the boundaries of a territory open for staking may be map designated if the location of the perimeter of the parcel described in the map designation notice is clearly not likely to raise a dispute between holders of mining rights.

29. No person may stake or map designate a parcel of land for which a mining concession or a mining lease has been granted or an application for a mining lease or an application for the conversion of mining rights under subdivision 6 of Division III of this chapter has been filed.

30. No person may stake or map designate a parcel of land withdrawn from prospecting, mining exploration and mining operations under this Act, or by the effect of another Act to the extent provided for in that Act.

No person may stake or map designate a parcel of land regarding which a temporary suspension notice has been issued in accordance with sections 52 and 253.

31. No person may stake or map designate an outstanding geological site classified under section 255 or conduct mining exploration or mining operations on such a site.

32. No person may, without the Minister's prior authorization, stake a parcel of land

(1) described in section 5, where only gold and silver form part of the domain of the State; or

(2) reserved to the State under sections 250 and 252.

33. No person may, without the Minister's prior authorization, prospect on or stake a parcel of land

(1) situated in an Indian reserve; or

(2) designated as a migratory bird sanctuary under the Migratory Birds Convention Act, 1994 (Statutes of Canada, 1994, chapter 22).

34. The Minister may attach conditions and obligations to authorizations with respect to, among other matters and despite this Act, the work required to be performed on the parcel of land that will be subject to the claim.

The Minister may also, in the public interest, impose such conditions and obligations on the claim holder during the term of the claim, alter existing conditions and obligations or impose new ones.

35. No person may stake a parcel of land

(1) if it is already subject to a claim and proceedings for revocation of the claim are pending, from the date the registrar is notified of the proceedings; or

(2) if a second staking notice has been filed for it, from the date the registrar receives the notice.

36. The holder of a prospecting licence may stake a parcel of land on which a claim has already been staked and registered in favour of a third person, unless the claim has already been converted into a map designated claim or a conversion application has been filed.

In such a case, the holder of the prospecting licence or the person on whose behalf the parcel is staked must contest the claim within the time and on the grounds specified in any of paragraphs 1 to 3 of section 228.

37. No person may stake or map designate a parcel of land that is subject either to a claim whose registration has been refused or to an abandoned, revoked, unrenewed or expired claim before 7 a.m. in the case of staking, or before 9 a.m. in the case of map designation, on the 31st day after the date the refusal to register, the refusal to renew or the revocation became enforceable, on the date the abandonment was registered by the registrar or on the expiry date, as the case may be.

However, the person who held the abandoned, revoked, unrenewed or expired claim, who had an interest in the claim or whose application to register a claim has been refused may not stake or map designate the parcel of land concerned on their own behalf until an additional 30 days have elapsed.

For the purposes of the second paragraph, a natural person, the person's representatives and their employees or, in the case of a legal person, the legal person, its subsidiaries and their directors, officers, representatives and employees are deemed to be one and the same person.

If the interested person discontinues an appeal relating to a refusal to register, a refusal of work, a refusal to renew or a revocation, the time begins to run on the day a notice of discontinuance is filed with the office of the Court of Québec.

38. A public servant or other employee of the department acting in the exercise of their functions or any other person acting on behalf of the State who makes a discovery of ore must stake or map designate the parcel of land containing the ore, in favour of the State, in accordance with Division III.

§2.—Acquisition

39. A claim may be staked, map designated or purchased at auction in accordance with this division.

40. A claim is staked using tags issued by the Minister. Tags are issued to any person who applies for them, at the price, on the conditions and for the period set by regulation.

41. The area of a staked parcel of land is to be, as nearly as possible, 16 hectares and its sides are to be 400 metres in length, with boundary lines running as nearly as possible north and south and east and west astronomically.

However, a parcel of land of less than 16 hectares, situated between parcels of land subject to a claim, a mining lease or a mining concession or between parcels of land not open for staking may be staked by one of the holders of mining rights under such a claim, lease or concession, by all of them in the proportions agreed by the Minister, or by a third person authorized by the Minister.

The area and shape of a map designated parcel of land are determined by the Minister and shown in the public register of real and immovable mining rights. Any modification takes effect from the date specified in the notice.

42. A map designated claim or such a claim obtained by the conversion of a mining right in accordance with subdivision 6 of this division must cover the entire area of the parcel of land as determined by the Minister and shown on the maps or, as applicable, only that portion of the parcel of land that is open for map designation in accordance with this Act.

However, if a person has obtained a map designated claim by the conversion of a mining right and the area of the parcel of land subject to the claim exceeds the area of the parcel of land formerly subject to the mining right, the claim holder may, within 60 days after the date the claim registration certificate is issued, refuse the excess portion if including it in the claim would impose new obligations on the claim holder because of section 178.

43. If a map designated claim or such a claim obtained by the conversion of a mining right could not be extended to cover the total area of a parcel of land as shown on the maps, the area of the parcel of land subject to the claim must, as soon as possible, be extended to cover that total area, provided the extension is open for map designation in accordance with this Act.

If there are two or more claims on the parcel of land that corresponds to the total area shown on the maps but those claims cover only part of that total area, the Minister extends one of the claims, as determined by random draw, to include the remaining portion of the parcel, provided that portion is contiguous to that claim and is open for map designation in accordance with this Act.

However, the holder of the claim so extended may, within 60 days after the date the extension notice is issued, refuse the extension if it would impose new obligations on the claim holder because of section 178.

44. No extension of a claim under section 43 operates to increase the amounts to be spent for work required to be performed in respect of the claim for the term during which the claim is extended.

45. The Minister may make any decision concerning the application of sections 42 and 43, including as regards rules relating to the size of parcels of land subject to map designated claims or such claims obtained by the conversion of a mining right, and may order a survey of the parcels of land concerned if of the opinion that it is necessary for the application of those provisions.

46. The remaining portion of a parcel of land referred to in section 28 may be map designated by one or more holders of a staked claim, in the proportions agreed by the Minister, if the parcel of land or the part of the parcel of land subject to the staked claim is contiguous to that remaining portion.

47. A person staking a parcel of land must comply, as nearly as possible, with the following staking rules:

(1) the staker must plant or erect a post at each of the four corners of the parcel of land, beginning with post No. 1 and ending with post No. 4;

(2) the northeast corner post must be marked No. 1, the southeast corner post, No. 2, the southwest corner post, No. 3, and the northwest corner post, No. 4;

(3) the staker must affix to each corner post a tag bearing the claim number and the post number;

(4) the staker must inscribe, in a legible and durable manner, the staking date on each tag and, on the tag affixed to corner post No. 1, the staker's name and prospecting licence number and the staking time; in the case of a parcel of land being staked by a public servant or other employee of the department acting in the exercise of their functions or by any other person acting on behalf of the State, the prospecting licence number must be replaced by the word "QUÉBEC";

(5) the lines between the four corner posts must be marked on the ground so that they can be followed from one corner post to the other;

(6) if it is impossible to erect a post at a corner of the parcel of land, the staker must plant or erect a witness post at the nearest possible 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) a post must 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; it must 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) if 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 at least 75 centimetres in diameter and at least 50 centimetres high;

(9) the posts delimiting a staked parcel of land cannot be used to stake another parcel of land;

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

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

48. Except in the cases described in sections 65 and 93, no person may move, disturb or replace a post delimiting a staked parcel of land or alter the inscriptions on the post or on its tag.

49. The Minister may grant claims by auction. The Minister is required to do so, however, when the mineralization index or the exploration target meets the criteria determined by the Minister.

50. For claim auction purposes, the Minister may

- (1) determine mineralization indices and exploration targets;
- (2) determine the territories in which claims will be granted by auction;
- (3) determine the conditions for the claim auction; and
- (4) take any measure to prevent or detect collusion and lodge collusion complaints when the Minister has reasonable grounds to believe that persons or bodies may have engaged in collusion.

51. A claim that is up for auction may not be sold to a person who held a mining right that was revoked in the two years preceding the sale.

52. The Minister may, in order to hold an auction, temporarily suspend the right to stake or map designate a parcel of land whose boundaries are shown on the maps kept at the registrar's office. The suspension takes effect, after the filing of a notice with the registrar's office, on the date specified in the notice.

§3.—*Registration and validity*

53. No staked claim remains valid unless a staking notice is filed with the registrar's office within 20 days after the staking and subsequently registered in the public register of real and immovable mining rights.

54. A map designated claim is obtained by filing a map designation notice and registering it with the registrar's office.

55. A staking notice must be filed using the form supplied by the Minister, and must contain the information determined and be accompanied by the fee set by regulation. The following documents must be forwarded to the registrar's office within 20 days after the staking:

- (1) a copy of the mining titles map, at a scale of 1:50,000, kept at the registrar's office and referred to in the staking notice, showing the perimeter of the staked parcel of land;
- (2) a sketch signed by the staker showing the boundaries of the staked parcel of land and the nearest landmarks and, as applicable, the limits of the public improvements referred to in section 79; and

(3) in the case described in section 36, the staking notice must also be filed with an application for the revocation of the older claim.

56. A map designation notice must be filed using the form supplied by the Minister, and must contain the information determined and be accompanied by the fee set by regulation.

A map designation notice relating to a parcel of land situated within the boundaries of a territory open for staking must be filed with the following additional documents:

(1) in the case described in section 28, a statement by the holders of staked claims situated less than 1,000 metres from the parcel of land concerned, attesting that the parcels of land subject to their claims are not situated within the boundaries of the parcel of land concerned; and

(2) in the case described in section 46, a conversion application compliant with subdivision 5 of this division.

57. Before registering the claim, the registrar allows the applicant to file an amended staking notice in which an obvious error found in the original notice is rectified.

On finding an obvious error in a staking notice and before registering the claim, the registrar sends the applicant a notice indicating the error to be corrected. If the applicant fails to file an amended staking notice within 15 days after receiving the notice requesting that a correction be made, the registrar refuses the staking notice filed by the applicant.

58. The registrar refuses a staking notice

(1) that is not received within the time prescribed;

(2) that relates to a parcel of land that was staked without the Minister's authorization even though such authorization was required under section 32 or 33 or the second paragraph of section 41;

(3) that relates to a parcel of land staked in contravention of section 29, 30, 31, 35, 37 or 40;

(4) if the tags used were no longer valid on the staking date;

(5) if the staker staked without a prospecting licence even though such a licence was required under section 19; or

(6) that does not meet the requirements of section 55.

The registrar also refuses a staking notice that relates to a parcel of land staked in contravention of the first paragraph of section 27 unless, less than

six months before the staking, the staked parcel of land formed part of the territory open for staking. However, in such a case, the staking notice is deemed to be a map designation notice for the purposes of this Act.

59. The registrar refuses a map designation notice

(1) that relates to a parcel of land already subject to a claim registered in accordance with this subdivision;

(2) that relates to a parcel of land map designated in contravention of the second paragraph of section 27 or section 29, 30, 31 or 37;

(3) that does not meet the requirements of section 56, in particular when the conversion cannot be made; or

(4) that relates to a territory of an area of 0.1 hectare or less.

The registrar sends the map designation notice to the Minister if it relates to a parcel of land

(1) from which mineral substances referred to in section 6, except sand or gravel, have been or are being extracted;

(2) for which the Minister's authorization would be required under section 32 or 33 were the parcel of land open for staking.

The Minister may refuse the map designation notice or accept it but impose the conditions and obligations the Minister considers necessary, which may, despite this Act, include conditions and obligations relating to work required to be performed on the parcel of land that will be subject to the claim.

The Minister may also, in the public interest, impose such conditions and obligations on the claim holder during the term of the claim, alter existing conditions and obligations or impose new ones.

60. The registrar refers to the Minister, for a decision, any other case where the staking, the staking notice or the map designation notice does not appear to comply with this Act or the regulations or gives rise to a dispute.

The registrar also refers to the Minister, for a decision, a staking notice and an application for the revocation of a claim filed together under paragraph 3 of section 55.

61. If two or more staking notices compliant with this Act and the regulations are filed for the registration of a claim on the same parcel of land and an investigation shows that the stakings were simultaneous, the Minister designates the holder of the claim by random draw.

62. A decision refusing a staking notice or a map designation notice must be in writing and give reasons. A copy of the decision is sent to the interested person within 15 days by certified or registered mail.

63. After the time prescribed in section 53 has expired, the registrar issues to an applicant whose staking notice is accepted a registration certificate evidencing the claim as existing from the staking time and makes the appropriate entry in the public register of real and immovable mining rights.

The registrar issues to an applicant whose map designation notice is accepted a registration certificate evidencing the claim as existing from the date the notice was filed and makes the appropriate entry in the public register of real and immovable mining rights.

64. The Minister may rectify an obvious error in the registration of a claim if there is no dispute on the matter.

65. The Minister may make any decision concerning the area of a parcel of land subject to a claim if there is any overlap between parcels of land, or if the area of the parcel of land or the orientation or length of its boundary lines does not comply with this Act or the regulations.

For the purposes of the first paragraph, the Minister may authorize that a post delimiting a staked parcel of land be moved, disturbed or replaced. The Minister may also order a survey of the parcel of land subject to a claim.

66. The Minister may make any decision concerning the conversion of a staked claim into a map designated claim or the amalgamation or replacement of map designated claims.

67. A survey of a parcel of land subject to a claim, made in accordance with this Act and the regulations, remains in force and is considered to be the delimitation and description of the parcel of land concerned until the claim is abandoned or revoked or expires or until its area is modified.

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

If a statement by the holder of a staked claim establishes that the parcel of land subject to the staked claim is not located within the boundaries of a parcel of land that is subject to a map designated claim or that is open for map designation, the boundaries of the map designated parcel of land prevail.

68. The statement required under subparagraph 1 of the second paragraph of section 56 and the agreement signed by the holder of a staked claim and provided at the time of the conversion of a mining right into a map designated claim may be set up against third persons.

69. Unless the parcel of land subject to the staked claim is the subject of a statement establishing that it is not located within the boundaries of a parcel of land that is subject to a map designated claim or that is open for map designation, a subsequent purchaser of the staked claim, on finding staking irregularities that may result in the revocation of that claim, may, if the validity of the claim is not contested, restake the parcel of land in accordance with this division and file a new staking notice together with a declaration clearly setting out the irregularities found and a sketch showing them.

A staking notice under the first paragraph is equivalent to a notice of abandonment of the former claim and takes effect on the issue of the registration certificate 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.

70. The Minister determines the boundaries of the territories open for staking and the boundaries of the territories open for map designation, and shows them on maps kept at the registrar's office. The Minister modifies the boundaries of those territories from time to time as claims are map designated, or as staked claims are converted into map designated claims, are not renewed, or are abandoned or revoked.

The modification notice, together with the map showing the new boundaries of the territories, must be filed with and kept at the registrar's office and made public by the Minister.

The modification takes effect after the notice and map have been filed, on the date specified in the notice. However, no such modification may affect the right of a person having staked a parcel of land before the date specified in the notice, or before the filing date and time of a map designation notice, to file a staking notice for registration within the time prescribed. In such a case, the map filed with the modification notice is modified accordingly, unless the person agrees to convert their right into a map designated claim.

71. Subject to the special rules in the first paragraph of section 95 that apply to conversion into map designated claims, the first term of a claim expires two years after the claim is registered. The Minister renews the claim for a two-year term provided the claim holder

(1) has applied for its renewal before the 60th day before its expiry or, failing that, on payment of an additional amount set by regulation, during the 60 days before its expiry. A renewal application must be filed using the form supplied by the Minister and must contain the information determined by regulation;

(2) has paid the fee set by regulation;

(3) has complied with this Act and the regulations throughout the expiring term and, in particular, has performed and reported the work required under section 82;

(4) has performed work, if all or part of the claim lies in a mining incompatible territory, during any term occurring after the territory was created; and

(5) has met any other renewal conditions set by regulation.

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

72. Subject to the conditions determined by the Minister, the Minister may, on the Minister's own initiative or on an application by an interested person, suspend the term of a claim

(1) for the period during which the validity of the claim is contested;

(2) for the period the Minister determines, when the claim holder is prevented from performing the work required under section 82; or

(3) until the Minister has rendered a decision on an application for a mining lease, when the application concerns the land that is subject to the claim.

§4.—*Rights and obligations*

73. A claim holder has the exclusive right to explore for mineral substances on the parcel of land subject to the claim, except

(1) sand other than silica sand used for industrial purposes, gravel, common clay used in the manufacture of clay products and other mineral substances found in their natural state as a loose deposit, as well as inert mine tailings used for construction purposes; and

(2) other surface mineral substances on any part of the parcel of land that is also subject to an exclusive lease to mine surface mineral substances.

74. A claim holder has access to, and may conduct any exploration work on, the parcel of land subject to the claim.

However, on lands granted, alienated or leased by the State for purposes other than mining purposes or on lands subject to an exclusive lease to mine surface mineral substances, the claim holder may exercise such rights only in accordance with section 198.

With respect to lands granted, alienated or leased by the State for purposes other than mining purposes and lands subject to an exclusive lease to mine surface mineral substances, the claim holder must, within 60 days after registering the claim and in the manner prescribed by regulation, notify the owner, the lessee, the holder of the exclusive lease to mine surface mineral substances and the local municipality of the claim obtained.

If the claim is in the territory of a local municipality, the claim holder must also inform the municipality of the work to be conducted, at least 90 days before the work is to begin.

75. A claim holder may not erect or maintain any structure on lands in the domain of the State without first obtaining the Minister's authorization, unless the structure is situated on the parcel of land subject to the claim and is a type of structure defined by a ministerial order made under subparagraph 2 of the first paragraph of section 250.

As soon as the claim holder becomes aware that a third person is erecting a structure on such lands, the claim holder must notify the Minister in writing.

76. Any part of a watercourse with a natural force equal to or greater than 225 kilowatts at its ordinary six-month flow, together with a strip of land 20 metres wide on each side of the watercourse, is excluded from any claim and reserved to the State.

The Minister may add to the reserve any area the Minister considers necessary for the development and use of water power development. If such an area is added after the registration of a claim on the parcel of land concerned, compensation is paid to the claim holder in an amount equal to the amounts spent since 24 October 1988 for work required under section 82 and reported to the Minister by the claim holder.

The Minister may, however, subject to certain conditions, authorize a claim holder to explore for mineral substances on the reserved land.

77. A claim holder may use sand or gravel forming part of the domain of the State for mining activities unless the parcel of land subject to the claim is already subject to an exclusive lease to mine surface mineral substances in favour of a third person.

78. A claim holder may extract or ship mineral substances only for sampling purposes and only in a quantity less than 50 metric tons.

However, if the claim holder shows that it is necessary to extract or ship a greater quantity of mineral substances, other than surface mineral substances, the Minister may authorize the claim holder to extract or ship a set quantity of such mineral substances for the purpose of determining the characteristics of the ore. Within one year after the extraction, the claim holder must report the quantity of mineral substances extracted and the test results to the Minister.

The application for authorization must be accompanied by the fee set by regulation.

79. If, on land in the domain of the State, and before the registration of a claim, an improvement provided for by regulation already exists, or if such land has already been transferred or leased under section 199, the claim holder

must obtain the Minister's authorization and comply with the conditions determined by the Minister before conducting any work.

80. Stone may be extracted from lands in the domain of the State, without compensation to the claim holder, for the construction or maintenance of State works.

81. The staking or map designation notice of a claim must be filed with a plan of the work to be performed in the coming year. Such a plan must also be submitted on each anniversary date of the registration of the claim.

A report on the work performed under the plan in the previous year must be submitted to the Minister on each anniversary date of the registration of the claim.

82. Subject to sections 83 and 85 to 90, a claim holder is required to perform work of the nature and for the minimum cost determined by regulation on the parcel of land subject to the claim before the 60th day before the claim expiry date. However, the amounts spent for property examination and technical assessment work cannot be accepted unless the work is performed within 48 months after the claim registration date.

The claim holder must, not later than that day, report to the Minister on all the work performed, including work for which an exploration allowance or a pre-production development allowance may be claimed under the Mining Tax Act (chapter I-0.4), whether or not it actually is. The claim holder may, however, for an additional amount set by regulation, submit the report after that day, provided the report is submitted before the claim expiry date. The report must be in the form and be accompanied by the documents prescribed by regulation.

83. If the work a claim holder is required to perform is not performed or reported within the time prescribed, or if the work performed by the expiry of the time prescribed is not sufficient for the renewal of the claim, the claim holder may pay the Minister an amount equal to twice the minimum cost of the work that should have been completed and reported or, as applicable, twice the difference between that minimum cost and the cost of the work performed on the parcel of land and reported.

84. The Minister may refuse all or part of the work if the documents filed

- (1) are incomplete or not consistent with the regulations;
- (2) do not justify 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; or

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

85. Amounts spent during the term of a claim to perform work in excess of the minimum cost prescribed by regulation and excess amounts accumulated for the claim as at (*insert the date of coming into force of this Act*) may be applied to the six subsequent terms of the claim, subject to the special rules for the conversion of staked claims into map designated claims.

86. A holder of claims who has spent amounts to perform work in respect of one claim in excess of the prescribed minimum cost and who is applying for the renewal of another claim may, not later than the expiry date of that other claim, apply all or part of those excess amounts to that other claim, up to the amount necessary for its renewal, provided the parcel of land that is the subject of the renewal application is included within a 3.5 kilometre radius circle measured from the geometrical centre of the parcel of land subject to the claim in respect of which those excess amounts were spent.

87. Excess amounts spent in respect of a claim by its holder may be applied, in accordance with section 86, towards the renewal of another claim regarding which the holder has made a promise to purchase by way of an instrument registered in the public register of real and immovable mining rights.

If those excess amounts were spent by a person who is not the holder of the claim concerned but who has made a promise to purchase in the manner described in the first paragraph, they may be applied, with the claim holder's written consent, towards the renewal of a claim held by that person or regarding which the person has made a promise to purchase in the manner described in the first paragraph.

88. For the purposes of sections 85 to 87, if the work performed is insufficient for the renewal of a claim, the claim holder may, within 15 days after being so notified by the Minister, submit a new renewal application.

If the claim holder fails to do so, the renewal application is amended by the Minister according to the rules prescribed by regulation.

89. The work performed in respect of a claim during the 24 months preceding its current term may, in a report, be applied to that term.

However, if a staked claim is converted into one or more map designated claims following an application under section 94, only the work performed in respect of the claim during the 24 months preceding the conversion date may, in a report, be applied to the term following the conversion.

90. All geological, geophysical or geochemical surveys and prospecting work defined by regulation and performed in the territory comprising the parcel of land subject to a claim during the 24 months preceding the staking date or

the filing date of the map designation notice may, in a report, be applied to the first term of the claim.

However, if a staked claim is, during its first term, converted into one or more map designated claims following an application under section 94, the 24-month period runs from the conversion date, and the surveys and work referred to in the first paragraph may, in a report, be applied only to the term immediately following the conversion.

91. A claim holder is required to declare to the Minister and to the Minister of Sustainable Development, Environment, Wildlife and Parks any discovery of mineral substances containing 0.05% or more of triuranium octaoxide within 60 days after the discovery.

92. The Minister may order the cessation of work, if the Minister considers it necessary, to allow the territory to be used for public utility purposes.

In such a case, the Minister suspends the term of the claim, subject to certain conditions.

After six months, if of the opinion that the cessation must be maintained, the Minister terminates the claim and pays compensation equal to the amounts spent since 24 October 1988 for the work required under section 82 and reported to the Minister by the claim holder.

§5.—Abandonment

93. A claim holder may abandon the claim by filing a written notice to that effect with the registrar. The claim is deemed to be abandoned on the day the registrar registers the abandonment in the public register of real and immovable mining rights.

However, the claim holder may abandon only part of the claim with a view to its classification as an outstanding geological site or a protected area or for any other reason considered sufficient by the Minister. In such a case, the Minister may give the claim holder authorization to move, disturb or replace a post delimiting the staked parcel of land.

§6.—Conversion into map designated claims

94. A holder of a staked claim (original claim) may apply to the Minister to convert it into one or more map designated claims (converted claims).

The conversion application must be filed using the form supplied by the Minister, and contain the information and be accompanied by the documents determined by regulation.

The original claim is replaced on the issue of registration certificates for the converted claims, and the date the converted claims are registered is deemed to be the conversion date.

A conversion applied for under this section is carried out in accordance with sections 95 to 97.

95. The expiry date of the converted claims is the expiry date of the original claim. However, if a conversion application is for two or more original claims held on contiguous parcels of land, the Minister determines the expiry date of the converted claims by calculating, in the manner prescribed by regulation, the average unexpired portion of the terms of all the original claims.

The Minister also determines, for each of the parcels of land subject to the converted claims, the minimum cost of the work required for the first renewal of those claims after their conversion by adding the minimum cost of the work to be performed on all the parcels of land subject to the original claims and apportioning the resulting total minimum cost among the converted claims based on their respective areas.

96. The Minister allocates among the converted claims, in the manner and subject to the conditions prescribed by regulation, any excess amount spent for work performed on all the parcels of land subject to the original claims.

97. To establish the minimum cost of the work required for every renewal of the converted claims subsequent to the first renewal after the conversion, the Minister determines the number of terms of the converted claims in the manner prescribed by regulation.

98. The Minister may, on the Minister's own initiative, convert a staked claim into a map designated claim in accordance with sections 95 to 97.

§7.—Amalgamation of map designated claims

99. The Minister may, on the Minister's own initiative or on an application by the claim holder, constitute a new map designated claim by amalgamating map designated claims that are contiguous to, and situated within the boundaries of, a parcel of land whose area and shape have been determined by the Minister in accordance with the third paragraph of section 41.

The amalgamation application must be filed by the claim holder using the form supplied by the Minister, and must contain the information determined and be accompanied by the fee set by regulation.

The original claims are replaced on the issue of a registration certificate for the new claim, and the date the new claim is registered is deemed to be the amalgamation date.

The amalgamation of claims under this section is carried out in accordance with sections 95 to 97.

§8.—*Replacement of map designated claims*

100. If a map designated claim covers a parcel of land whose area and shape do not correspond to those determined by the Minister and shown on the maps kept at the registrar's office, the Minister may, on the Minister's own initiative or on an application by the claim holder, replace the claim by one or more map designated claims covering parcels of land whose area and shape must correspond as nearly as possible to those determined by the Minister under the third paragraph of section 41.

The rules set out in sections 42 to 45 apply, with the necessary modifications, to replacement claims.

The replacement application must be filed by the claim holder using the form supplied by the Minister, and must contain the information and be accompanied by the documents determined by regulation.

The original claim is replaced on the issue of a registration certificate for the replacement claim, and the date the replacement claim is registered is deemed to be the replacement date.

The replacement of claims under this section is carried out in accordance with sections 95 to 97.

DIVISION IV

MINING LEASE AND MINING CONCESSION

101. A person must hold a mining lease granted by the Minister or a mining concession granted under former mining-related legislation to be allowed to mine mineral substances other than surface mineral substances.

102. The Minister grants a lease on all or part of a parcel of land that is subject to one or more claims provided the claim holder establishes the existence of indicators suggesting the presence of a workable deposit and meets the requirements and pays the annual rent set by regulation.

The lease cannot be granted until a rehabilitation and restoration plan has been approved in accordance with this Act and the certificate of authorization mentioned in section 31.5, 164 or 201 of the Environment Quality Act (chapter Q-2) has been issued.

The Minister makes public the rehabilitation and restoration plan as submitted to the Minister for approval and registers it in the public register of real and immovable mining rights for public information and consultation purposes as

part of the environmental impact assessment and review procedure provided for in the Environment Quality Act.

An application for a mining lease must be accompanied by a survey of the parcel of land involved, unless it has already been entirely surveyed, a report describing the nature, extent and probable value of the deposit, certified by an engineer or a geologist who meets the qualification requirements determined by regulation, and a project feasibility study as well as an ore processing feasibility study.

The holder of a mining right provides the Minister, on request, with any document and any information relating to the mining project.

The Minister may attach conditions to the mining lease to avoid conflicts with other uses of the territory.

103. When granting a lease, the Minister may require that an agreement be entered into with the lessee for the purpose of maximizing the economic spinoffs within Québec of mining the mineral resources authorized under the lease.

104. The lessee establishes an economic spinoff monitoring and maximization committee. The committee monitors the work performed under the mining lease and endeavours to maximize jobs, contracts and other economic spinoffs for local communities. The committee may bring to the Minister's attention, and submit recommendations to the Minister concerning, any matter relating to mining operations that calls for government action.

The committee must be established within 30 days after the lease is issued and must be maintained until all the work provided for in the rehabilitation and restoration plan has been completed.

The committee members are chosen in the manner determined by the lessee.

The lessee determines the number of representatives who are to sit on the committee. However, the committee must include at least one representative of the municipal sector, one representative of the economic sector and one member of the public, all from the region in which the mining lease is granted. A majority of the committee members must be independent from the lessee.

105. Despite the first paragraph of section 102, if part of the parcel of land for which an application for a mining lease is filed is already subject to an exclusive lease to mine surface mineral substances, the Minister may postpone granting the mining lease until the applicant has obtained the exclusive lease holder's consent to exercise, should the lease be granted, a right of access to or the right to conduct mining operations on the parcel of land concerned or, failing agreement as to the amount of compensation to be paid to the exclusive lease holder, until an application to determine compensation has been filed with the competent court. An application to determine compensation is introduced by motion; it is heard and decided by preference.

The Minister may refuse to grant the mining lease if, six months after a decision by the Minister to postpone granting the lease, the applicant has not obtained the exclusive lease holder's consent or filed an application to determine compensation with the competent court.

106. The parcel of land that is subject to a lease must be comprised within a single perimeter and its area must not exceed 100 hectares.

However, if warranted by the circumstances, the Minister may agree to grant a lease on a parcel of land exceeding 100 hectares.

107. The area of the territory subject to claims referred to in section 102 is reduced by the area of the parcel of land subject to the lease but the work required to be performed during the current year in the territory is not reduced.

108. The term of a mining lease is 20 years.

The Minister renews the lease for 10 years, no more than three times, provided the lessee

(1) has applied for its renewal before the 60th day before its expiry or, failing that, on payment of an additional amount set by regulation, during the 60 days before its expiry;

(2) has submitted a report establishing that the lessee has conducted mining operations for at least two years during the last 10 years of the lease;

(3) has provided the Minister with an ore processing feasibility study;

(4) has paid the annual rent set by regulation;

(5) has complied with this Act, the Mining Tax Act and the regulations throughout the previous term of the lease; and

(6) has met any other renewal conditions set by regulation.

However, after the third renewal of the lease, the Minister may grant five-year extensions.

109. With respect to a parcel of land that is subject to a lease or concession, the lessee or grantee has the rights and obligations of an owner, subject to the restrictions set out in this division.

However, the right to use the surface of land in the domain of the State is limited to mining uses, in particular, the establishment of mine tailings yards, workshops, plants and other facilities required for mining activities, and subject to the conditions set out in the lease or concession and in this Act. With respect to lands granted, alienated or leased by the State for purposes other than mining

purposes or lands subject to an exclusive lease to mine surface mineral substances, the right may be exercised only in accordance with section 198.

110. Any part of a watercourse with a natural force equal to or greater than 225 kilowatts at its ordinary six-month flow, together with a strip of land 20 metres wide on each side of the watercourse, is excluded from any lease and reserved to the State.

The Minister may add to the reserve any area the Minister considers necessary for the development and use of water power. If such an area is added after the granting of a lease on the parcel of land concerned, compensation is paid to the lessee.

The Minister may, however, subject to certain conditions, authorize the lessee to mine mineral substances on the reserved land.

111. The following parts of a watercourse or land are excluded from any concession and reserved to the State:

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

(2) from 24 May 1937, any strip of land 20 metres wide on each side of the watercourse;

(3) until 24 October 1988, any additional area considered necessary by the Government for the development and use of water power and, from that date, any additional area considered necessary by the Minister for the same purposes. In any such case, compensation is paid to the grantee.

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

112. Sand and gravel not granted under former mining-related legislation are excluded from any concession.

113. A lessee and a grantee may use sand and gravel that form part of the domain of the State for their mining activities unless the parcel of land subject to the lease is already subject to an exclusive lease to mine surface mineral substances in favour of a third person.

114. Five percent of the area of any parcel of land subject to a lease or concession and situated on lands in the domain of the State is reserved to the State for public development purposes.

115. Stone may be extracted from lands in the domain of the State, without compensation to the lessee or grantee, for the construction or maintenance of State works.

116. All lots subject to a mining concession and alienated in accordance with the Mining Act as it read on the date the alienation was authorized, and all lots whose transfer may not be invalidated under section 288, are withdrawn from the mining concession and form part of the private domain from the date of their alienation or transfer.

117. From 17 June 1998, all lands in the domain of the State that are subject to a mining concession are governed by the Act respecting the lands in the domain of the State (chapter T-8.1) and the Act respecting the Ministère des Ressources naturelles et de la Faune (chapter M-25.2) in addition to this Act.

The first paragraph applies to lots whose alienation was authorized but for which no instrument of alienation was made and published at the registrar's office before the date specified in that paragraph.

The grantee is not entitled to any compensation or reimbursement for any claim arising from the application of this section.

118. A lessee must pay the annual rent before the beginning of each year of the lease and comply with the conditions of the lease. The annual rent and the conditions of the lease are set by regulation.

119. Sections 151 and 152 apply, with the necessary modifications, to lessees and grantees who, for commercial purposes, mine surface mineral substances forming part of the domain of the State.

120. A lessee must begin mining operations within four years after the date the lease is granted.

However, if the lessee has a valid reason for requesting an extension, the Minister may grant an extension on the conditions, for the rent and for the time the Minister determines.

121. A grantee must begin mining operations within five years after (*insert the date of coming into force of this Act*).

122. Before beginning mining operations and every 20 years after they begin, a grantee sends the Minister an ore processing feasibility study.

Before mining operations begin and on the expiry of the 20-year period provided for in the first paragraph, the Minister may require that an agreement be entered into with the grantee for the purpose of maximizing the economic spinoffs within Québec of mining the mineral resources authorized under the mining concession.

123. On each anniversary date of a mining lease or mining concession, the lessee or grantee must send the Minister a report showing the quantity of ore extracted during the previous year, its value and any other information determined by regulation.

The lessee or grantee must also send the Minister any agreement entered into with a community.

124. If contiguous parcels of land with a total area not exceeding 2,000 hectares have been leased to the same person under separate leases, the Minister may allow mining operations to be undertaken on one of the parcels of land only.

Subject to the same conditions, the Minister may grant the same authorization to a grantee referred to in section 101 and allow the grantee to concentrate mining operations on one parcel of land.

125. A lessee or grantee may abandon their right in all or part of the parcel of land subject to the lease or concession, provided

(1) the lessee or grantee has filed an abandonment application in writing and, following the application, the Minister has sent a notice to that effect to all creditors having registered an instrument referred to in paragraph 3 of section 12 in the public register of real and immovable mining rights;

(2) the lessee or grantee has paid the duties payable under the Mining Tax Act;

(3) the lessee or grantee has sent the plans, record and report referred to in section 175 to the Minister;

(4) the lessee or grantee has obtained the Minister's authorization. The Minister grants the authorization after obtaining a favourable opinion from the Minister of Sustainable Development, Environment, Wildlife and Parks but not before 30 days have elapsed since the date the notice provided for in paragraph 1 was sent; and

(5) the lessee or grantee has complied with the other provisions of this Act and the regulations.

126. During the 30 days after the abandonment of a lease or concession or the expiry of a lease, the lessee or grantee has priority to register, by map designation notice, a claim on all or part of the parcel of land that was subject to the abandoned or expired title. In such a 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.

Any part of the parcel of land that does not become subject to a claim under the first paragraph subsequently becomes open for the registration of such a claim by any interested person.

127. A grantee may obtain letters patent from the Minister for the parcel of land subject to the concession on proof that the mining operations were begun within the time prescribed in section 121.

Letters patent issued and signed by 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.

The letters patent are registered by the Minister of Justice in that Minister's capacity as Registrar of Québec.

128. The Minister may cancel letters patent containing an error as to the area or designation of the parcel of land concerned or the holder's name or any other clerical error, and issue corrected letters patent having effect on the same date, unless the error is the subject of a dispute.

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

129. The Minister notifies the Registrar of Québec of the issue, correction or cancellation of letters patent.

Any correction or cancellation, together with a reference to the registration number of the correction or cancellation, must be indicated in the margin of the registered letters patent.

DIVISION V

LEASE TO MINE SURFACE MINERAL SUBSTANCES

130. A person must hold a lease to mine surface mineral substances granted by the Minister to be allowed to extract or mine surface mineral substances.

In the event of a disaster, the Minister may authorize a person who is not a lessee to extract a set quantity of surface mineral substances annually, subject to certain conditions. A person so authorized must pay the fee and royalty set by regulation.

131. An applicant for a peat lease or for a lease that is necessary to carry on an industrial activity or to engage in commercial export must, after submitting the application, hold a public consultation on the project in the region concerned and in the manner prescribed by regulation.

The applicant must, on request, provide the Minister with any document or information relating to the public consultation. The Minister decides on the adequacy of the consultation and may impose any additional measure.

The Minister may attach conditions to the mining lease to avoid conflicts with other uses of the territory and to follow up on comments received during the public consultation.

132. A lease is non-exclusive if 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 or any other mineral substance found in its natural state as a loose deposit, and inert mine tailings; however, the lease may be exclusive if granted to a municipality or an intermunicipal board for the construction or maintenance of its streets and road network.

133. The lease is exclusive if granted for the extraction or mining of silica sand used for industrial purposes or of surface mineral substances other than those mentioned in the first paragraph. The lease is also exclusive if granted for the extraction or mining of sand, gravel, common clay or a mineral substance found in its natural state as a loose deposit, provided it is shown to the Minister's satisfaction that a supply guarantee is necessary to carry on an industrial activity or a crushing activity guaranteeing supply for an industrial activity or to engage in commercial export outside Québec, or if the lease is applied for by the State for the construction or maintenance of a public highway or other State works.

134. The Minister grants a lease for a given parcel of land to any person who meets the conditions and pays the rent set by regulation.

However, no non-exclusive lease is granted, except to the State, if the parcel of land concerned is subject to a mining lease, a mining concession or an exclusive lease to mine surface mineral substances in favour of a third person or, subject to the fourth paragraph, if an application for such an exclusive lease has been filed in favour of a third person.

No exclusive lease is granted if the parcel of land concerned is subject to a mining lease, a mining concession or an exclusive lease to mine surface mineral substances in favour of a third person or if an application for a mining lease has been filed in favour of a third person. Nor is such a lease granted if the parcel of land concerned is subject to a claim in favour of a third person, unless the lease applied for is only to mine a surface mineral substance referred to in paragraph 1 of section 73 and excluded from the exclusive right to explore for mineral substances granted to the holder under the claim.

The Minister may refuse an application for an exclusive lease if of the opinion that reserving the parcel of land is necessary to guarantee the supply required for the purposes of a non-exclusive lease already granted or other non-exclusive leases which may be granted subsequently.

135. The Minister may refuse an application for a lease for public interest reasons. The Minister may also refuse an application for a sand and gravel lease to avoid conflicts with other uses of the territory.

136. The Minister may terminate a lease at any time for public interest reasons. In such a case, the Minister must grant the lessee a lease on another parcel of land. Failing that, the Minister compensates the lessee for the loss suffered.

For the same reasons and subject to the same conditions, the Minister may reduce the area of the parcel of land subject to the lease.

137. No person may apply for an exclusive lease to mine surface mineral substances on a parcel of land that is subject either to a claim whose registration has been refused or to an abandoned, revoked, unrenewed or expired claim before the time prescribed in the first paragraph of section 37.

However, the person who held the abandoned, revoked, unrenewed or expired claim, who had an interest in the claim or whose application to register a claim has been refused may not apply for an exclusive lease to mine surface mineral substances, on their own behalf, on the parcel of land concerned before an additional 30 days have elapsed.

For the purposes of the second paragraph, a natural person, the person's representatives and their employees or, in the case of a legal person, the legal person, its subsidiaries and their directors, officers, representatives and employees are deemed to be one and the same person.

If the interested person discontinues an appeal relating to a refusal to register, a refusal of work, a refusal to renew or a revocation, the time begins to run on the day a notice of discontinuance is filed with the office of the Court of Québec.

This section does not apply to an application for an exclusive lease to mine surface mineral substances filed only to mine a surface mineral substance referred to in paragraph 1 of section 73 and excluded from the exclusive right to explore for mineral substances granted to the holder under the claim.

138. A non-exclusive lease is not transferable.

139. The following lands and sites may not be leased:

- (1) a parcel of land subject to an improvement provided for by regulation;
- (2) a parcel of land withdrawn from prospecting, mining exploration and mining operations;
- (3) a parcel of land regarding which a temporary suspension notice has been issued in accordance with sections 52 and 253;
- (4) an exceptional geological site classified under section 255; and
- (5) a parcel of land used as a cemetery within the meaning of the Act respecting Roman Catholic cemetery companies (chapter C-40.1) or established as a cemetery in accordance with the Non-Catholic Cemeteries Act (chapter C-17).

The Minister may refuse to grant a lease or may grant a lease subject to conditions and obligations which may concern, among other matters and despite

this Act, the work required to be performed if the lease concerns a parcel of land

- (1) situated in an Indian reserve;
- (2) designated as a migratory bird sanctuary under the Migratory Birds Convention Act, 1994 (Statutes of Canada, 1994, chapter 22);
- (3) where the mineral substances referred to in section 6, except for sand and gravel, are being mined or have been mined in the past; or
- (4) reserved to the State under sections 250 and 252.

140. A parcel of land subject to an exclusive lease must be comprised within a single perimeter and its area, as determined by the Minister, must not exceed 100 hectares. However, in the case of an exclusive peat lease, the area must not exceed 300 hectares.

However, the Minister may, taking the projected production rate and the capacity of the peat operation into account, grant an exclusive peat lease on a parcel of land exceeding 300 hectares in order to guarantee a supply of peat for a period of approximately 50 years.

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

- (1) the added land is contiguous to that territory;
- (2) the lessee, in the case of sand, gravel, common clay or a mineral substance found in its natural state as a loose deposit, establishes to the Minister's satisfaction that the increase is necessary for the continuation of the lessee's activity during the current term of the lease;
- (3) the total area of the land is consistent with the requirements of section 140; and
- (4) the lessee has paid the fee set by regulation and complied with the other provisions of this Act and the regulations.

142. A non-exclusive lease is effective from the date the registrar issues a registration certificate for the lease and ends on 31 March of the following year.

The Minister renews a non-exclusive lease no more than 10 times, for one-year periods, provided the lessee

- (1) has applied for its renewal before the lease expiry date;
- (2) has paid the rent set by regulation;

(3) has complied with this Act and the regulations throughout the previous term of the lease and, in particular, has submitted the reports required under section 152; and

(4) has met any other renewal conditions set by regulation.

The Minister may extend the term of a lease following the tenth renewal, for one-year periods.

However, renewal is refused if the parcel of land concerned was, during the preceding term of the lease, subject to a mining lease in favour of a third person.

143. The term of an exclusive lease set by the Minister may not exceed 10 years. The Minister determines the term of the lease on the basis of the anticipated duration of the activities to which the application for extraction or mining pertains. However, the term of an exclusive peat lease is 15 years.

The Minister renews an exclusive lease, no more than twice, for five-year periods, provided the lessee

(1) has applied for its renewal before the 60th day before its expiry or, failing that, on payment of an additional amount set by regulation, during the 60 days before its expiry;

(2) has conducted mining operations for at least one fifth of the term of the lease;

(3) has paid the rent set by regulation;

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

(5) has met any other renewal conditions set by regulation.

However, an exclusive peat lease is renewed for a period of 15 years.

After the second renewal of the lease, the Minister may grant 5-year extensions or, in the case of a peat lease, 15-year extensions.

On renewing an exclusive lease for the extraction or mining of sand, gravel, common clay or mineral substances found in their natural state as a loose deposit, the Minister may modify the area covered by the lease if the Minister considers it necessary to reserve a parcel of land to guarantee the supply required for the purposes of non-exclusive leases which may be granted subsequently, provided the modification does not, during the renewal period of the exclusive lease, adversely affect the continuation of the lessee's activity under an exclusive lease.

Renewal is refused for the extraction or mining of sand, gravel, common clay or mineral substances found in their natural state as a loose deposit if the Minister is of opinion that the supply guarantee is no longer necessary for the continuation of the activity to which the application for extraction or mining pertains.

144. A lessee has access to, and may extract or mine surface mineral substances on, the parcel of land subject to the lease.

However, on lands granted, alienated or leased by the State for purposes other than mining purposes, the rights referred to in the first paragraph may be exercised only in accordance with section 198.

145. Any part of a watercourse with a natural force equal to or greater than 225 kilowatts at its ordinary six-month flow, together with a strip of land 20 metres wide on each side of the watercourse, is excluded from any lease and reserved to the State.

The Minister may add to the reserve any area the Minister considers necessary for the development and use of water power. If such an area is added after the granting of a lease on the parcel of land concerned, compensation is paid to the lessee.

However, the Minister may, subject to certain conditions, authorize the lessee to extract or mine surface mineral substances on the reserved land.

146. Five percent of the area of any parcel of land subject to a lease to mine surface mineral substances is reserved to the State for public development purposes.

147. Sand, stone and gravel may be extracted from lands in the domain of the State, without compensation to the lessee, for the construction or maintenance of State works.

148. No exclusive lease may be granted for a parcel of land that is subject to one or several non-exclusive leases at the time the application is filed, unless the person applying for the exclusive lease has reached a prior agreement with each lessee under a non-exclusive lease as to the amount of and the terms and conditions applicable to the compensation each is entitled to receive.

Once an agreement has been reached with every lessee, the Minister sends each a notice informing them that, despite section 142, their lease expires 90 days after the date of the notice. The Minister grants the exclusive lease after those 90 days have elapsed.

Any dispute concerning the determination of the amount of and the terms and conditions applicable to the compensation is 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 Book VII of the Code of Civil

Procedure (chapter C-25). The arbitrator's decision has the effect of an agreement between the parties.

149. A lessee must comply with the conditions of the lease set by regulation and any other condition the Minister may, on granting the lease, impose in the public interest or because of the existence of other mining rights in the parcel of land that is subject to the lease.

150. A lessee under an exclusive lease must begin mining operations within the time prescribed in the regulation.

151. A lessee maintains a detailed record of mining activities and keeps a copy of all documents relating to the alienation and shipment of extracted substances.

152. On the dates set by regulation, the lessee sends the Minister a report stating the quantity of surface mineral substances extracted and the quantity alienated. The report must be submitted with the royalty set by regulation, if applicable.

Despite the first paragraph, the Minister may, in the cases provided for by regulation, allow a lessee to send a single yearly report on the date specified by the Minister or require the holder of a non-exclusive lease to send monthly reports on the dates specified by the Minister.

No royalties are payable on sand, gravel and stone extracted from a sand pit or quarry for the construction or maintenance, on lands in the domain of the State,

(1) of a mining road;

(2) of a forest road, if it is built or used for forest development activities within the meaning of the Sustainable Forest Development Act (chapter A-18.1) and if the work is authorized or provided for in a contract or an agreement signed or entered into under that Act;

(3) of a public highway, by the State, if the State holds a lease to mine surface mineral substances;

(4) of all or part of a road with respect to which a municipality has obtained an authorization to see to maintenance and repair in accordance with section 58.1 of the Act respecting the lands in the domain of the State; or

(5) of a road, by a non-profit organization determined by the Minister.

153. A lessee under an exclusive lease may abandon their right in all or part of the parcel of land subject to the lease, provided

(1) the lessee has filed an abandonment application in writing and, following the application, the Minister has notified all creditors having registered an instrument referred to in paragraph 3 of section 12 in the public register of real and immovable mining rights;

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

(3) the lessee has obtained the Minister's authorization. The Minister grants an authorization after obtaining a favourable opinion from the Minister of Sustainable Development, Environment, Wildlife and Parks but not before 30 days have elapsed since the date the notice provided for in paragraph 1 was sent; and

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

DIVISION VI

MISCELLANEOUS PROVISIONS APPLICABLE TO THE HOLDER OF A MINING RIGHT

154. A staking or map designation notice, an application for a lease or for an authorization under section 32 or 33, a report, an application for exemption from the work required under this Act or an application for the renewal or conversion of mining rights is deemed to have been sent, filed or received on the date it is received at the registrar's office.

If a parcel of land already subject to a staked claim registered in favour of a third person is staked on the same day an application for the conversion of mining rights is filed by the third person under subdivision 6 of Division III of this chapter, the parcel of land is deemed, for the purposes of section 29, to have been staked after the conversion application was filed.

Applications for a licence, a lease or an authorization under section 32 or 33 are accepted in the order they are received at the registrar's office. Staking notices are accepted according to staking date and time. Map designation notices are accepted in the order they are received at the registrar's office.

Applications for a licence, a lease or an authorization under section 32 or 33 that relate to the same parcel of land and are received on the same day are accepted in the order established by random draw. Map designation notices for which the order of receipt cannot be determined in accordance with the preceding paragraph are accepted in the order established by random draw. A person who intends to take part in a random draw must first pay the fee set by regulation and comply with the conditions for participation prescribed by regulation.

155. A 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.

156. A holder of a mining right must assume, with respect to the parcel of land that is subject to the holder's right, any costs incurred for surveys, the determination or marking of boundaries, and topographical surveys by means of aerial photography or otherwise.

The documents, reports and minutes relating to such operations are promptly sent to the Minister after the operations have been completed.

157. A survey required by the Minister or prescribed by this Act or the regulations to determine the boundaries and official description of a parcel of land subject to a mining right must be carried out by a land surveyor.

The land surveyor must comply with the surveying standards prescribed by regulation and follow the Minister's instructions.

158. If a person is unlawfully in possession of a parcel of land subject to a mining right on lands in the domain of the State and refuses to relinquish possession, the Minister or the holder of a mining right authorizing mining operations may apply to a judge of the Superior Court for an order in the form of a writ of possession.

In such a case, sections 60 to 62 of the Act respecting the lands in the domain of the State apply, with the necessary modifications.

159. A holder of a mining right may not claim compensation from another holder of a mining right for the deposit of mine tailings on the parcel of land subject to the former's right, except in the case of a mining lease or a mining concession.

160. A holder of a mining right may, in order to construct buildings or perform any other operation required for the holder's mining activities, cut timber forming part of the domain of the State on the parcel of land subject to the holder's right, in accordance with the rules set out in the Sustainable Forest Development Act and the regulations.

However, those rules do not apply to a person cutting lines less than one metre wide.

Similarly, except in the case of a strip of woodland established for the protection of lakes, watercourses, riparian areas and wetlands by government regulation under section 38 of the Sustainable Forest Development Act, the rules do not apply to a person cutting trenches or digging other excavations or to a person conducting drilling work, provided the person has obtained prior authorization from the Minister responsible for the administration of that Act and complies with the following conditions:

(1) the total area of the trenches or other excavations, added, if applicable, to the total area of excavations already carried out by another holder of a mining right, must not exceed 2% of the wooded area of the parcel of land concerned; and

(2) the area affected by the cutting of timber as required for drilling work, added, if applicable, to the area affected by cutting already carried out by another holder of a mining right on the same conditions, must not exceed 2% of the wooded area of the parcel of land concerned.

The Minister responsible for the administration of the Sustainable Forest Development Act may make the authorization subject to any other conditions and obligations determined jointly with the Minister responsible for the administration of this Act.

Moreover, those rules do not apply to a person who, in order to stake a parcel of land in accordance with section 47, must cut timber forming part of the domain of the State.

Despite the other provisions of this section, in any area classified as an exceptional forest ecosystem under the Sustainable Forest Development Act, the holder of the mining right must follow the rules set out in that Act.

161. The holder of a mining right who obtains an authorization under section 160 must scale the harvested timber in accordance with section 70 of the Sustainable Forest Development Act and pay the same dues as those applicable to the holder of a forestry permit issued under subparagraph 4 of the first paragraph of section 73 of that Act.

162. In the event of the death of the holder of a mining right and on an application by the 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.

163. The documents and information obtained by the Minister from holders of mining rights for the purposes of this Act are public. The Minister makes such documents and information public in the manner the Minister sees fit.

The following are made public once a year for each mining lease, mining concession and lease to mine surface mineral substances:

- (1) the quantity and value of the ore extracted during the previous year; and
- (2) the royalties paid during the previous year.

The following are also made public:

- (1) any agreement entered into between a holder of a mining lease or a mining concession and a community;

- (2) the rehabilitation and restoration plan approved by the Minister; and
- (3) the total amount of the financial guarantee required.

This section applies subject to the restrictions on rights of access prescribed by section 28 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

164. A claim holder must, within 30 days after the abandonment, revocation or expiry of the holder's right, remove all the holder's property from the parcel of land that was subject to the right.

Subject to the first paragraph of section 126, a holder of a mining lease or mining concession must, within one year after the abandonment, revocation or expiry of the holder's right, remove all the holder's property and any extracted ore from the parcel of land that was subject to the right. On a written application, the Minister may grant the holder an extension subject to the conditions determined by the Minister.

A holder of a lease to mine surface mineral substances must, before the date the lease is abandoned or revoked or expires, remove all the holder's property and any extracted surface mineral substances from the parcel of land subject to the lease.

Once the time limit has expired, the property and mineral substances remaining on land in the domain of the State form part of the domain of the State, of right, and may be removed by the Minister at the expense of the holder of the mining right.

165. All the documents required for the purposes of this Act and the regulations must be submitted in the formats determined by the Minister. The documents must be sent in the manner determined and to the place specified by the Minister, as applicable.

Those rules apply, in particular, to the data necessary for showing, in the public register of real and immovable mining rights, territories identified as mining incompatible or conditionally mining compatible under sections 251 and 252.

CHAPTER IV

GENERAL PROVISIONS GOVERNING PERSONS CONDUCTING MINING ACTIVITIES

DIVISION I

SCOPE AND DEFINITIONS

166. This chapter applies to the mineral substances referred to in section 17 and to mineral substances that do not form part of the domain of the State.

167. In this chapter,

“**operator**” means a person who, as the owner, lessee or occupant of a mine, conducts or directs mining operations, or causes them to be conducted or directed; and

“**mine**” means any opening or excavation made for the purpose of exploring for or mining mineral substances, and the passageways, works, machinery, plants, buildings and furnaces above or below ground and forming part of a mining operation.

DIVISION II

NOTICES, REPORTS, PLANS, RECORDS, OTHER DOCUMENTS AND ROYALTIES

168. A holder of a mining right or, as applicable, an operator is required to notify the Minister in writing of any change of operators or any change in the holder’s or operator’s name or address, within 15 days after the change.

169. An operator sends the Minister, on request, any plan or document required to gain a better understanding of deposits and the working of deposits, and any report on exploration work conducted during the year and the results of such work.

170. Before 31 October each year, an operator, a person exploring for, extracting or processing mineral substances and a contractor conducting mining operations must send the Minister a preliminary report for the current year and a forecast for the following year showing

- (1) current and planned exploration spending;
- (2) the sums allocated or to be allocated for capital expenditures and repairs; and
- (3) the nature and cost of the rehabilitation and restoration work performed or to be performed.

In addition, the operator or the mineral processor and the contractor must state in their report the quantity and value of the production.

171. Not later than 31 March each year, an operator, a person exploring for, extracting or processing mineral substances and a contractor conducting mining operations must send the Minister an activity report for the preceding year showing

- (1) the nature of the work and the sums spent for 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 incurred as a result of their mining activities; and
- (7) any other information the Minister may request.

They must send the Minister, on request, a monthly or quarterly activity report within 30 days after the end of the period covered by the report.

A business that provides mining services must send the Minister, on request, the report required under the first paragraph.

In the event of the bankruptcy or winding-up of a business, the trustee or liquidator must send the report to the Minister on request.

172. An operator sends the plans determined by regulation to the Minister within the same time limit as that prescribed for sending the report required under section 171. The plans must be signed by an engineer.

173. A holder of a mining right conducting underground exploration work and an operator must, before beginning mining operations or resuming them after a suspension of six months or more, send the Minister a written notice compliant with the standards prescribed by regulation.

174. A holder of a mining right and an operator must keep up to date, in accordance with the regulation, the plans and records relating to underground exploration work that are prescribed by the regulation.

A holder of a mining right conducting any other exploration work must keep up to date a record of excavation and drilling record in accordance with the regulation.

175. If mining operations are suspended for six months or more, the holder of a mining right conducting underground exploration work and the operator must, at least 10 days before the beginning of the suspension, send the Minister and the Minister of Sustainable Development, Environment, Wildlife and Parks a written notice informing them that operations have been suspended and, within four months after the suspension begins, a copy, certified by an engineer or a geologist, of the plans of the underground works, surface mines, ground facilities, and mine tailings dumps existing on the date the suspension began.

They must also send the plans, record and report prescribed by regulation.

In the event of a strike or lock-out, the notice required under the first paragraph must be sent within four months after the beginning of the strike or lock-out.

DIVISION III

PROTECTIVE MEASURES AND REHABILITATION AND RESTORATION MEASURES

176. A holder of a mining right who discovers or mines mineral substances containing 0.05% or more of triuranium octaoxide must take the safety measures prescribed by regulation and any other measure the Minister may impose.

177. All drilling work conducted by the holder of a mining right while exploring for mineral substances containing uranium must be authorized by the Minister. A hydrogeological survey must be submitted to the Minister to that end.

178. When mining activities are temporarily or permanently discontinued, the Minister may order the holder of a mining right or the operator to take any measure imposed by the Minister in addition to the protective measures necessary to prevent any damage and the safety measures prescribed by regulation.

If the holder or operator fails to comply with the Minister's orders or the regulatory prescriptions, the Minister may cause the work to be done at the holder's or operator's expense.

The first paragraph does not apply in the case of a strike or a lock-out or when underground exploration or mining operations are discontinued for less than six months.

179. The following persons must submit a rehabilitation and restoration plan to the Minister for approval and carry out the work provided for in the plan:

(1) a holder of a mining right who conducts exploration work determined by regulation or consents to such work being conducted on the parcel of land subject to the holder's mining right;

(2) an operator who conducts mining operations determined by regulation with respect to mineral substances listed in the regulations;

(3) a person who operates a concentration plant with respect to such substances; and

(4) a person who conducts mining operations determined by regulation with respect to mine tailings.

The obligation subsists until the work is completed or until a certificate is issued by the Minister under section 192.

180. The rehabilitation and restoration plan submitted by a person identified in section 179, other than an applicant for a mining lease, must be approved by the Minister before mining activities begin.

181. The rehabilitation and restoration plan must include

(1) a description of the rehabilitation and restoration work relating to the mining activities of the person submitting the plan, designed to restore the affected parcel of land to a satisfactory condition; if mine tailings are present on the site, the work must include containment work and, if necessary, the setting up, operation and maintenance of the infrastructure required to prevent any environmental damage that might be caused by the presence of mine tailings;

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

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

(4) a detailed estimate of the expected cost of the work; and

(5) in the case of an open-pit mine, a backfill feasibility study.

182. A person identified in section 179 must provide a guarantee covering the anticipated cost of the work provided for in the rehabilitation and restoration plan to the extent provided for by this Act and in accordance with the standards prescribed by regulation.

Such work must include

(1) the rehabilitation and restoration of accumulation areas;

(2) geotechnical soil stabilization;

(3) the securing of openings and surface pillars;

(4) water treatment; and

(5) road-related work.

If the guarantee provided consists in property or a sum of money, the property or money is exempt from seizure.

183. A person identified in subparagraph 1 of the first paragraph of section 179 must provide the Minister with the guarantee required under section 182 before the work begins.

184. A person identified in any of subparagraphs 2 to 4 of the first paragraph of section 179 must provide the Minister with the guarantee determined in accordance with section 182 and comply with the following terms of payment:

- (1) the guarantee must be provided in three instalments;
- (2) the first instalment must be made within 90 days after approval of the plan is received;
- (3) each subsequent instalment must be made on the anniversary of the approval date of the plan; and
- (4) the first instalment must be for 50% of the total amount of the guarantee, and the second and third instalments, for 25% of that amount each.

185. Despite sections 183 and 184, a person identified in section 179 who must provide more than one guarantee for a given year may make a single instalment during that year, covering the total amount of the guarantees payable.

The single instalment must be made on the first of the dates during the given year on which a guarantee was required.

186. The Minister may make the approval of a rehabilitation and restoration plan subject to further conditions and obligations the Minister determines and includes in the plan, including advance payment of all or part of the guarantee; the Minister approves the plan after obtaining a favourable opinion from the Minister of Sustainable Development, Environment, Wildlife and Parks.

A person identified in section 179 must, on request and within the time specified by the Minister, provide the Minister with any additional information, research findings or study the Minister considers necessary for plan approval purposes.

187. A person whose plan has been approved must submit a revised plan to the Minister for approval

- (1) every five years, unless a shorter period was set by the Minister on approving the previous plan or revised plan;
- (2) whenever amendments to the plan are justified by changes in mining activities;
- (3) whenever the person intends to amend the plan; or
- (4) whenever the Minister deems it necessary to request a revised plan.

Section 186 applies, with the necessary modifications, to a revised plan.

188. The Minister may revise the guarantee if the Minister considers that it is no longer sufficient or should be reduced in light of the foreseeable cost of implementing the rehabilitation and restoration plan.

A person identified in section 179 must provide any additional guarantee required following a revision, within the time specified by the Minister.

The Minister may also require that the entire amount of the guarantee be paid if of the opinion that the financial situation of a person identified in section 179 or a reduction in the anticipated duration of the person's activities could prevent the payment of all or part of the guarantee.

189. Rehabilitation and restoration work must begin within three years after mining activities cease. However, the Minister may exceptionally require that the work begin within a shorter period, or authorize one or more extensions. The first extension may not exceed three years and additional extensions may not exceed one year.

190. If a person fails to comply with any of the obligations set out in sections 179 to 189, the Minister may order the person to comply within the time the Minister specifies.

If the person concerned fails to comply with the Minister's orders within the time specified, the Minister may, in addition to any other civil, administrative or penal sanction, cause the work provided for in the rehabilitation and restoration plan or, failing such a plan, the work the Minister considers necessary under the circumstances, to be carried out at that person's expense. The Minister may recover the costs incurred, including by recovering them out of the guarantee provided.

191. Any sum owing to the State under sections 178 and 190 gives rise to a legal hypothec of the State on all the debtor's property.

192. The Minister may release a person from the obligations set out in sections 179 to 189 and issue a certificate to that effect if

(1) the Minister is satisfied that the rehabilitation and restoration work has been completed in accordance with the rehabilitation and restoration plan approved by the Minister, and if no sum of money is due to the Minister with respect to the performance of the work; and

(2) the Minister is satisfied that the condition of the land affected by the mining activities no longer poses a risk for the environment or for human health and safety and, in particular, poses no risk of acid mine drainage.

The Minister may also release a person from the obligations set out in sections 179 to 189 and issue a certificate to that effect if the Minister agrees to let a third person assume the obligations.

The Minister issues the certificate after obtaining a favourable opinion from the Minister of Sustainable Development, Environment, Wildlife and Parks.

193. With the consent of the person referred to in the second paragraph of section 8, the Minister may order a person who, before 9 March 1995, carried out work or operations referred to in subparagraph 1, 2 or 3 of the first paragraph of section 179 and who is not identified in that section to submit a rehabilitation and restoration plan for the parcel of land affected by mine tailings, within the time specified by the Minister and in accordance with the requirements of section 181, to the extent that the mine tailings result from the person's activities, and to carry out the rehabilitation and restoration work made necessary by the presence of the mine tailings. The Minister determines the nature of the work and the time within which it must be completed, after consultation with the Minister of Sustainable Development, Environment, Wildlife and Parks.

If the person concerned fails to comply with the Minister's orders within the time specified, the Minister may cause the plan to be prepared or the work to be carried out at that person's expense.

The second paragraph of section 186 and sections 191 and 192 apply, with the necessary modifications, for the purposes of this section.

194. Sections 179 to 193 do not affect or restrict the application of the Environment Quality Act.

195. A person may not move, disturb or damage a facility erected under this division without the written authorization of the mine owner and the Minister.

196. A person specially or generally authorized by the Minister to carry out work related to protective measures or rehabilitation and restoration work may enter, at any reasonable time, any place where an activity governed by this Act or the regulations is carried on.

No person may hinder persons so authorized in the performance of their duties.

DIVISION IV

OPTIMAL RECOVERY OF MINERAL SUBSTANCES

197. In order to ensure that an operator is recovering the economically workable mineral substance that is the object of the operator's mining operations in compliance with recognized mining practices, the Minister may

(1) require that the operator send the Minister a report justifying the mining method used;

(2) carry out a study to evaluate the method used; and

(3) require the operator to take, within the time the Minister specifies, any measures necessary to remedy any situation that would compromise optimal recovery of the mineral substance.

In the case of the study under subparagraph 2 of the first paragraph, the Minister may, subject to the conditions the Minister determines, mandate a committee composed of three members, including two mining specialists who are not part of the public service, to conduct the study.

The committee must submit a report recommending, if appropriate, the measures to be imposed to remedy any situation that compromises optimal recovery of the mineral substance.

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

DIVISION V

EXPROPRIATION AND COMPENSATION

198. On lands granted, alienated or leased by the State for purposes other than mining purposes or on lands subject to an exclusive lease to mine surface mineral substances, the holder of a mining right or the owner of mineral substances must obtain a written authorization in order to access the site or may acquire, by agreement, any real right or property allowing the holder to access the site or conduct exploration work or mining operations.

If no agreement is reached to that end, the holder of a mining right or the owner of mineral substances may, for the purpose of conducting mining operations, purchase the property mentioned in the first paragraph by expropriation.

Cemeteries within the meaning of the Act respecting Roman Catholic cemetery companies, cemeteries established under the Non-Catholic Cemeteries Act and Native cemeteries are exempt from expropriation.

The holder of a mining right who intends to purchase a family residence must pay the costs of the professional services required to negotiate the purchase agreement, up to a maximum amount representing 10% of the property's value as entered on the municipal assessment roll.

In no case may a family residential immovable be moved or demolished before a mining lease is issued.

DIVISION VI

SITES FOR MINING INFRASTRUCTURES

199. A holder of a mining right or an owner of mineral substances may, in accordance with the Act respecting the lands in the domain of the State, have lands in the domain of the State transferred or leased to them in order to establish a mine tailings yard or a site for plants, mills or facilities necessary for mining activities.

200. A person who intends to operate a mill for the preparation of mineral substances, a concentration plant, a refinery or a smelter must, before beginning operations, have the site approved by the Minister or, if the project is subject to the environmental impact assessment and review procedure provided for in Division IV.1 of Chapter I of the Environment Quality Act, by the Government.

201. A person responsible for the management of a concentration plant, refinery or smelter must, before beginning activities, have the site intended as a mine tailings yard approved by the Minister. The same applies to a holder of a mining right, an owner of mineral substances or an operator who intends to establish a mine tailings yard.

All of those persons must, to that end, send the Minister the documents prescribed by regulation.

DIVISION VII

MINING ROADS

202. The Minister of Transport may, with the Government's authorization, build, alter or maintain mining roads to facilitate mining activities. The Minister may cause the work to be carried out or have the owners of mineral substances or holders of mining rights at whose request the work is carried out pay all or part of the costs.

On lands in the domain of the State, the work is carried out without compensation, in particular, to holders of mining rights. On lands in the private domain, the work is carried out only after the property necessary for the purposes of the proposed works has been purchased by agreement or expropriation.

203. Roads, bridges or other works are mining roads from the time they are laid out until the time they are closed.

204. The Minister of Transport forwards the plan of proposed mining roads on lands in the domain of the State to the Minister of Natural Resources and, if applicable, notifies any holder of forestry rights provided for by the Sustainable Forest Development Act.

205. The Minister of Transport may, without being required to pay compensation, in particular to the holder of a mining right, take from the vicinity of the right of way of a mining road the timber, earth, stone, gravel, sand and clay needed to build, alter or maintain the road, and cut down all trees within 10 metres on either side of the right of way.

On lands in the private domain, the Minister may not take the materials referred to in the first paragraph before acquiring, by agreement or expropriation, the parcel of land containing them or a temporary right of way on any parcel of land between the mining road and a watercourse or between the mining road and the place from which the materials are taken.

On lands in the domain of the State, the Minister of Transport may only cut timber with the authorization of the Minister of Natural Resources and subject to the conditions the latter determines.

206. The Minister of Transport may, after obtaining a favourable opinion from the Minister of Natural Resources, restrict or prohibit access to a mining road, subject to certain conditions.

The Minister may also exempt a mining road from the provisions of the Highway Safety Code (chapter C-24.2) that relate to highway traffic or safety.

207. The Minister of Transport may, with the Government's authorization, close or move all or part of a mining road. The Minister of Transport may also, with the Government's authorization, declare that a mining road is no longer a mining road. A road that is closed, moved or declassified may be transferred by the Minister in the manner the Minister considers appropriate.

208. A municipality may see to the maintenance and repair of all or part of a mining road in its territory, in accordance with an authorization obtained from the Minister of Transport.

The authorization must identify the road or part of a road concerned and may set out conditions, including with respect to the work permitted or the manner in which that work is to be performed or financed. The authorization may be revoked at any time, provided notice is given to the municipality at least 30 days before the revocation is to take effect.

The authorization and any revocation must be published in the *Gazette officielle du Québec*, and take effect on the day they are published.

A non-revoked authorization ceases to have effect on the fifth anniversary of its effective date.

For the purpose of exercising its power under the first paragraph, the municipality may enter into an agreement with any person with respect to sharing the work or the cost of the work.

209. The Minister of Natural Resources exercises the powers of the Minister of Transport under this division with respect to secondary mining roads designated as such by the Government.

However, the plans and standards of construction, alteration and maintenance of such roads must be approved by the Minister of Transport.

210. The Government may, by regulation, make the provisions of the Highway Safety Code that relate to highway traffic and safety applicable to secondary mining roads.

211. No user of a secondary mining road may institute proceedings for damage caused by a defect in the construction, alteration or maintenance of the road.

CHAPTER V

INSPECTION

212. A person specially or generally authorized by the Minister to act as an inspector may

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

(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; and

(4) take photographs of the premises and of the property on the premises.

213. No person may hinder an inspector in the exercise of inspection functions, mislead an inspector through concealment or false statements, refuse to provide information or produce documents the inspector is entitled to require or examine under section 212, or conceal or destroy a document or property relevant to an inspection.

214. On request, an inspector must provide identification and produce a certificate of authority signed by the Minister.

215. An inspector may not be prosecuted for an act performed in good faith in the exercise of inspection functions.

CHAPTER VI

INVESTIGATION

216. The Minister or a person designated as an investigator by the Minister may investigate any matter within the scope of this Act or the regulations.

217. For the purposes of an investigation, the Minister and the investigator are vested with the powers and immunity of a commissioner appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

218. On request, an investigator must provide identification and produce a certificate of authority signed by the Minister.

219. If the purpose of an investigation is to verify something so as to enable the Minister to make a decision affecting the rights of a person applying to register a claim or of the holder of a mining right, the investigator delivers a copy of the report containing the findings of the investigation to the person concerned and to the Minister at the same time.

CHAPTER VII

REVOCATION OF RIGHTS BY THE GOVERNMENT

220. The Government may revoke the mining rights in the mining concessions or in the granted lands referred to in section 5 where there have been no mining operations or exploration work for 10 years, unless the grantee or the owner proves that the deposit subject to the rights constitutes a reserve necessary for the continuation of a mining business operated by the grantee or owner in Québec.

221. The Government sends a notice of its intention to revoke the rights referred to in section 220 to the grantee or owner at their most recent address by certified or registered mail, unless that address is unknown.

The notice is 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 parcels of land affected by the revocation are situated.

222. The revocation may not be declared until 90 days have elapsed since the last publication of the notice.

223. Notice of the revocation is published in the *Gazette officielle du Québec*; the revocation takes effect on the date of the publication.

224. The revocation does not apply to rights to substances listed or described in section 6.

225. The revocation of mining rights in a mining concession does not affect any other right of ownership transferred to a third person under a deed of alienation referred to in section 288.

226. Within 30 days after the date the revocation of mining rights under section 220 becomes enforceable, a person other than the grantee or owner whose rights have been revoked, may apply to register a claim by map designation notice on all or part of the parcel of land that was subject to the revoked rights.

Subsequently, a person whose rights have been revoked may also apply to register a right referred to in the first paragraph in relation to all or part of the parcel of land subject to the revoked rights.

CHAPTER VIII

SUSPENSION OR REVOCATION OF MINING RIGHTS BY THE MINISTER

227. The Minister may suspend or revoke a mining right if the holder

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

(2) has not paid the annual fee, the royalties or the rent by the due date.

228. Provided it has not been converted into a map designated claim, the Minister may, on the Minister's own initiative or on an application by an interested person, revoke a staked claim

(1) if the parcel of land concerned has not been staked as required by this Act;

(2) within the first year after the claim registration date if the staking rules have not been complied with; or

(3) if either of the first two paragraphs of section 41 has not been complied with, unless the right has been registered for one year or more in the register kept under section 12, in the name of a subsequent purchaser in good faith.

229. The Minister may revoke

(1) a claim within three months after its renewal if the Minister refuses work under section 84, except in a case described in paragraph 4 of that section;

(2) a mining right at any time if it was obtained or renewed by mistake;

(3) a mining right at any time if it was obtained or renewed through fraud or misrepresentation, unless the right has been registered for one year or more

in the register kept under section 12, in the name of a subsequent purchaser in good faith;

(4) a prospecting licence at any time if its holder has obtained or renewed a mining right through fraud or misrepresentation;

(5) a mining lease or a mining concession when the lessee or grantee fails to comply with the terms of the agreement entered into in accordance with sections 103 and 122 or fails to comply with the Mining Tax Act; and

(6) a mining right when the holder of the right has, in the preceding five years, been found guilty of an offence under this Act or any Act which applies to the holder's mining activities or the regulations under such Acts.

230. The holder of a mining right who is conducting underground exploration work, the holder of a mining lease and the grantee of a mining concession whose rights have been revoked must send the Minister, on request, a copy of the plans, records and report required under section 175.

231. Before suspending or revoking a mining right, the Minister must notify the holder as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) in writing, send a copy of the notice to the registrar, and allow the holder at least 15 days to submit observations.

The mailing of the revocation notice interrupts the time limits provided for in sections 228 and 229.

232. A revocation application filed by an interested person under section 228 must

(1) clearly and briefly state the facts supporting it and be signed by the interested person;

(2) be accompanied by the fee set by regulation, a sworn statement attesting the truth of the facts alleged and, if applicable, a sketch clearly showing the staking irregularities;

(3) be sent, within a reasonable time, by registered or certified mail to the registrar and to the holder of the mining right concerned; and

(4) be accompanied by proof that the application was sent to the holder of the mining right concerned.

A copy of the application is sent by the registrar to the Minister.

The mailing of the revocation application interrupts the time limits provided for in section 228.

233. The suspension or revocation of a mining right takes effect on the date the decision becomes enforceable.

234. The revocation of mining rights in a mining concession does not affect any other right of ownership transferred to a third person under a deed of alienation referred to in section 288.

235. Within 30 days after the date the revocation of a mining lease, mining concession or lease to mine surface mineral substances becomes enforceable, a person other than the holder of the revoked mining right may obtain, in accordance with this Act, a claim by map designation notice or a lease to mine surface mineral substances in relation to all or part of the parcel of land that was subject to the revoked mining right.

Subsequently, subject to section 51, a person whose mining right has been revoked may also obtain, in accordance with this Act, a right referred to in the first paragraph in relation to all or part of the parcel of land subject to the revoked mining right.

If the interested person discontinues an appeal from the decision revoking the right, the time begins to run on the day a notice of discontinuance is filed with the office of the Court of Québec.

CHAPTER IX

REFERRAL AND APPEAL

236. The Minister refers any dispute concerning a mining right held by the State to the Court of Québec.

Sections 245 to 249 apply, with the necessary modifications, to any case so referred.

A copy of the decision of the Court of Québec is sent to the Minister.

237. A decision made under any of sections 45, 60, 65, 66, 71, 72, 84, 102, 105, 108, 133, 142, 143 and 178, the first paragraph of section 186, subparagraph 4 of the first paragraph of section 187, the first paragraph of sections 188, 190 and 193, and sections 197 and 227 to 229 must be in writing and give reasons. It is sent within 15 days by registered or certified mail to the person concerned and, in the case of a decision made under section 45, to every holder of a mining right that may be affected by the decision.

238. Before making a decision under section 237, the Minister sends a copy of the record relating to the case to every interested person who requests a copy.

239. The Minister must also send the creditors having registered an instrument referred to in paragraph 3 of section 12 a 30-day notice of the Minister's intention not to renew or to revoke a mining right.

If the mining right expires during the 30-day period, the notice postpones the expiry of the mining right by suspending its term for the remainder of the notice period.

240. A decision not to renew or to suspend or revoke a mining right suspends the term of the mining right until the decision becomes enforceable.

241. A party to a decision made under section 237 may appeal from the decision to the Court of Québec. A holder of a mining right affected by a decision made under section 45 may also appeal from the decision to the Court of Québec.

242. The appeal suspends enforcement of the decision unless the court decides otherwise.

243. The appeal is brought by a motion served on the Minister.

244. The appellant must file the motion, within 30 days after receiving the decision, with the office of the Court of Québec in the judicial district of the appellant's domicile or principal establishment or in the district where the facts that gave rise to the decision occurred.

245. On being served with the motion, the Minister sends the record relating to the decision being appealed from to the Court of Québec.

246. The appeal is heard and decided by preference.

The court renders a decision on the basis of the record sent to it and any other evidence submitted by the parties.

247. The Court of Québec may, in the manner prescribed in article 47 of the Code of Civil Procedure, make the rules of practice judged necessary for the purposes of this chapter.

248. Only the judges of the Court of Québec designated by the chief judge have jurisdiction under this chapter.

249. A decision of the Court of Québec may be appealed from to the Court of Appeal with leave of a judge of the Court of Appeal.

CHAPTER X

POWERS OF THE MINISTER

DIVISION I

SPECIAL POWERS

250. The Minister may, by order,

(1) reserve to the State or withdraw from prospecting, mining exploration and mining operations any mineral substance forming part of the domain of the State and necessary for any purpose the Minister considers to be in the public interest, in particular

- mining inventory and mining exploration work;
- mining, industrial, port, airport or communications facilities;
- underground conduits;
- the development and use of water power, power transmission lines, storage tanks or underground reservoirs;
- the creation of parks or protected areas;
- classification as an exceptional forest ecosystem under the Sustainable Forest Development Act or the designation of biological refuges under that Act;
- plant-life and wildlife conservation;
- the protection of eskers that may be a source of drinking water;
- respect for protection areas established under the Groundwater Catchment Regulation (chapter Q-2, r. 6); or
- the protection of rehabilitation and restoration work carried out in accumulation areas under sections 179 and 193; and

(2) define, on lands in the domain of the State, the type of structure that a claim holder may erect or maintain on the parcel of land subject to the claim without being required to obtain an authorization from the Minister.

If the parcel of land on which mining inventory and mining exploration work is to be conducted is situated in a reserved area or in an agricultural zone within the meaning of the Act respecting the preservation of agricultural land and agricultural activities (chapter P-41.1), the Minister consults the Commission de protection du territoire agricole du Québec before withdrawing the parcel of land from staking, map designation, mining exploration or mining operations.

The Minister must, by order, reserve to the State all mineral substances that form part of the domain of the State and for which a lease to mine surface mineral substances was refused under section 135 or terminated by the Minister under section 136.

The Minister may, by order, allow mining exploration or mining operations to be conducted in accordance with this Act for certain mineral substances determined by the Minister on a parcel of land reserved to the State, subject to conditions determined by the Minister.

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

An order made by the Minister under subparagraph 1 of the first paragraph, concerning the designation of a biological refuge, must refer to the number assigned to the biological refuge in the list kept under section 29 of the Sustainable Forest Development Act, and is valid without further formality.

The order is published on the department's website and comes into force on the date specified in the order.

251. A mineral substance forming part of the domain of the State and found in a mining incompatible territory delimited in a land use and development plan in accordance with the Act respecting land use planning and development is withdrawn from prospecting, mining exploration and mining operations from the time the territory is shown on the maps kept at the registrar's office.

A mining incompatible territory is a territory in which the viability of activities would be compromised by the impacts of mining.

252. A mineral substance forming part of the domain of the State and found in a conditionally mining compatible territory delimited in a land use and development plan in accordance with the Act respecting land use planning and development is reserved to the State from the time the territory is shown on the maps kept at the registrar's office.

A conditionally mining compatible territory is a territory in which activities may be reconcilable with mining.

The Minister sets the conditions and obligations that may be imposed on the holder of a mining right. Such conditions and obligations may also be set by regulation. However, the Minister may dispense a claim holder from complying with all or some of the conditions and obligations so provided for in the regulation.

253. Prior to the making of an order under subparagraph 1 of the first paragraph of section 250, to the coming into force of the withdrawal or the reserve to the State provided for in sections 251 and 252, or to the publication of a notice of classification of an outstanding geological site under section 255,

the Minister may temporarily suspend, for a period of six months, the right to stake map designate a parcel of land whose boundaries are shown on the maps kept at the registrar's office. Such a suspension may be renewed for six-month periods.

The suspension takes effect, after the filing of a notice with the registrar's office, on the date specified in the notice.

254. The Minister may, by order, generally or specially delegate the exercise of the powers conferred on the Minister under this Act to any person.

Such delegation comes into force on the date the order is published in the *Gazette officielle du Québec* or on any later date specified in the order.

DIVISION II

OUTSTANDING GEOLOGICAL SITE

255. The Minister may classify an outstanding geological site and establish the boundaries of the site after consulting the Minister of Sustainable Development, Environment, Wildlife and Parks, Québec mining industry associations and, as applicable, the holders of mining rights, municipalities, urban communities or Native communities concerned.

The notice of classification must be published in the *Gazette officielle du Québec*.

The boundaries of a classified outstanding geological site are shown on maps kept at the registrar's office.

256. The Minister may extend the boundaries of an outstanding geological site classified under section 255 or, if the Minister considers that the grounds for classification no longer exist, declassify part or all of the site after obtaining a favourable opinion from the Minister of Sustainable Development, Environment, Wildlife and Parks.

257. The Minister may take the necessary measures to ensure the development or preservation of an outstanding geological site classified under section 255.

258. Before classifying an outstanding geological site situated on private property, extending its boundaries or exercising the power described in section 257, the Minister must enter into an agreement with the owner.

259. The Minister requests the registration in the land register of the agreement referred to in section 258 and forwards a certified statement of registration to the owner. Once registered, the agreement is binding on all subsequent acquirers.

The agreement must also be filed with the registrar's office.

CHAPTER XI

REGULATIONS

260. The Government may, by regulation,

(1) set the fee for registering a transfer of mining rights or any other instrument referred to in section 12 and the fee for issuing certificates for any registration made in the public register of real and immovable mining rights;

(2) determine the conditions for obtaining a licence or lease, and any fee or rent payable;

(3) determine the conditions for renewing a mining right and, if applicable, the fee or rent payable;

(4) determine the conditions under which a mining right is exercised;

(5) set the fee payable by the holder of a prospecting licence to obtain a duplicate of the licence;

(6) determine the conditions for issuing staking tags as well as the period of validity and the price of the tags;

(7) determine the documents and information that must accompany staking notices, map designation notices, claim amalgamation applications and claim replacement applications, and set the applicable fees, and for the purpose of setting the fee that must accompany a map designation notice, define “person” for the purposes of the first paragraph of section 262;

(8) set the fee payable by an applicant for a mining right in the case of a referral to the Minister under section 60;

(9) determine how the notification under section 74 is to be given;

(10) set the fee payable under section 78;

(11) define the improvements referred to in sections 79 and 139;

(12) specify the nature of any work required under this Act, its minimum cost and the related fees, the standards with which any report on the work must comply, the information to be included in the report and the documents that must accompany it;

(13) determine, for the purposes of the first paragraph of section 82, what constitutes property examination and technical assessment work;

(14) set the additional amount referred to in the first paragraph of section 71, the second paragraph of section 82, and the second paragraph of sections 108 and 143;

(15) determine the rules governing amendments to a renewal application for the purposes of section 88;

(16) define the prospecting work that may be applied, in a report, to the first term of a claim or the term immediately following the conversion of a claim, in accordance with section 90;

(17) set the fee payable by the holder of a mining right to abandon or apply to abandon a mining right in accordance with the first paragraph of section 93 or paragraph 1 of sections 125 and 153;

(18) determine the information a conversion application under subdivision 6 of Division III of Chapter III must contain and specify, for the purposes of a conversion application under section 94, the documents that must accompany it;

(19) determine, for the purposes of a conversion application under section 94 or an amalgamation or replacement application, the manner of calculating the average unexpired portion of the terms of all the claims to be converted, amalgamated or replaced in order to establish the expiry date of the converted, amalgamated or replacement claims;

(20) prescribe, for the purposes of a conversion application under section 94 or an amalgamation or replacement application, the manner of, and the conditions for, apportioning the excess amount spent for work performed on all the parcels of land subject to the original claims;

(21) prescribe, for the purposes of a conversion application under section 94 or an amalgamation or replacement application, the manner of determining the number of terms of the converted, amalgamated or replacement claims in order to establish the minimum cost of the work required for every renewal of those claims subsequent to the first renewal after their conversion, amalgamation or replacement;

(22) determine the cases in which, and the conditions subject to which, a mining right may be converted into map designated claims and claims may be amalgamated or replaced under subdivisions 6, 7 and 8 of Division III of Chapter III, and the effects of such a conversion, amalgamation or replacement on rights granted to third persons and evidenced in an instrument relating to the converted, amalgamated or replacement mining right registered in the public register of real and immovable mining rights;

(23) determine the qualification requirements to be met by the engineer or geologist certifying the report required under section 102;

(24) determine the manner in which the public consultation required under section 131 is to be held;

(25) determine the particulars relating to the economic spinoff monitoring and maximization committee established under section 104, in particular with

respect to the information and documents a lessee must provide to the committee so that it can carry out its mandate, the nature of the committee costs to be reimbursed by the lessee, the number of meetings the committee must hold each year and the production of an annual report;

(26) set the fee payable by a person authorized to extract a set quantity of surface mineral substances under the second paragraph of section 130, and the fee payable by the holder of an exclusive lease to mine surface mineral substances who applies under section 141 for an increase in the area covered by the lease;

(27) set the amount of the royalty payable under section 130 or 152;

(28) set the dates the report referred to in section 152 must be sent to the Minister and specify the cases in which the Minister may, in accordance with the second paragraph of that section, allow a lessee to send a single yearly report or require the holder of a non-exclusive lease to mine surface mineral substances to send monthly reports;

(29) prescribe the payment of an additional amount and set that amount, which may be in addition to royalties, payable by the holder of a lease to mine surface mineral substances or by an operator or a person referred to in section 119, in particular for failing to send the Minister the report required under section 152 within the time prescribed, or for failing to meet any other obligations set out in that section and determined by the Minister;

(30) determine the form of the report required under section 123, the information it must contain and the terms of its publication in the public register of real and immovable mining rights;

(31) set the amount of the fee payable, and the prior conditions, for taking part in a random draw under section 154;

(32) prescribe the surveying standards a surveyor must comply with under the second paragraph of section 157;

(33) prescribe standards for written notices under section 173;

(34) determine the plans and records to be kept up to date in accordance with section 174 and the plans that must be sent to the Minister in accordance with section 172;

(35) determine the plans, record and report the holder of a mining right conducting underground exploration work and an operator are required to send to the Minister under section 175, when mining operations are suspended;

(36) prescribe the safety measures to be taken by the holder of a mining right or by an operator when mining operations are temporarily or permanently discontinued;

(37) prescribe safety measures relating to mineral substances containing 0.05% or more of triuranium octaoxide;

(38) determine work or operations and, as applicable, list mineral substances for the purposes of section 179;

(39) prescribe standards relating to the guarantee required under section 182;

(40) set the fee payable for the assessment of a rehabilitation and restoration plan with a view to its approval or revision;

(41) set the fee payable for the assessment and inspections conducted for the purpose of issuing a certificate of release under section 192;

(42) prescribe the documents to be sent to the Minister under section 201;

(43) make the provisions of the Highway Safety Code that relate to highway traffic and safety applicable to secondary mining roads;

(44) set the fee that must accompany an application for the suspension or revocation of a mining right;

(45) set the fee payable for searching the public register of real and immovable mining rights, the fee payable for sending copies of documents, or extracts from the register, and any other related fees;

(46) set the fee payable by a person to whom an inspector has given a written notice of non-compliance with this Act or the regulations;

(47) determine the terms of payment of fees and rents provided for in this Act;

(48) set the contribution payable by a lessee toward the restoration of abandoned mining sites;

(49) determine the provisions of a regulation under this Act whose violation constitutes an offence; and

(50) set the fee payable for the issue of an attestation respecting mining rights provided for in section 32 of the Groundwater Catchment Regulation.

261. A maximum amount per instrument may be set for registration fees referred to in paragraph 1 of section 260.

262. In the case of a claim, the fees set under paragraphs 3 and 7 of section 260 may vary according to the area of the parcel of land subject to the claim or according to the region where the parcel of land is situated. In addition, the fees set under paragraph 3 of section 260 may also vary according to whether

the renewal of the claim is applied for before or after the 60th day before its expiry, and the fees set under paragraph 7 of that section, which must accompany the map designation notice, may also vary according to the number of claims that are map designated during the same day for the same person, whatever the number of map designation notices filed for that person during that day.

The minimum cost of the work specified under paragraph 12 of that section may vary according to the area of the parcel of land on which it is performed, the region where the parcel of land is situated or the number of terms of the claim.

The standards for reports on work performed on a claim, the information such reports must contain and the documents which must accompany them may vary according to the average cost of the work performed on the claim, the total value of the work declared in each report or the total value of the work reported in a given period.

263. In the case of a mining lease, the rent set under paragraphs 2 and 3 of section 260 may vary according to the area of the parcel of land subject to the mining lease or to whether the parcel of land is situated on lands in the domain of the State or on lands granted, alienated or leased by the State for purposes other than mining purposes, depending on whether or not the surface of the soil is utilized or on the nature of its utilization.

264. In the case of a lease to mine surface mineral substances, the conditions determined and the rent set under paragraphs 2 and 3 of section 260 may vary according to whether the lease is exclusive or not.

In the case of an exclusive lease, the rent set under paragraphs 2 and 3 of section 260 may vary according to the term of the lease, the area of the parcel of land subject to the lease and the mineral substance mined, or according to whether or not the substance is mined on lands in the domain of the State.

265. In the case of sand, gravel, common clay and inert mine tailings, the rent set under paragraphs 2 and 3, the fees set under paragraph 26 and the amount of the royalty set under paragraph 27 of section 260 may also 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.

266. The safety measures prescribed under paragraph 36 of section 260 may vary according to the purpose of the mining operations.

CHAPTER XII

PENAL PROVISIONS

267. A person who

- (1) contravenes any of sections 18, 19, 25, 48, 169 to 175 and 230;
- (2) damages an outstanding geological site classified by the Minister under section 255 or destroys or damages property situated on such a site; or
- (3) contravenes a provision of a regulation whose contravention constitutes an offence under paragraph 49 of section 260;
- (4) prohibits or hinders access to a parcel of land containing mineral substances that form part of the domain of the State, to a person authorized by the Minister to perform geological research and inventory work who, on request, provides identification and produces a certificate of authority signed by the Minister

is guilty of an offence and is liable to a fine of \$1,000 to \$100,000 in the case of a natural person and \$3,000 to \$600,000 in any other case.

268. A person who contravenes any of sections 26, 30, 91, 152, 196 and 213 is guilty of an offence and is liable to a fine of \$2,500 to \$250,000 in the case of a natural person and \$7,500 to \$1,500,000 in any other case.

269. A person who contravenes any of sections 101, 130, 164, 177, 179, 180, 187, 195, 200 and 201 is guilty of an offence and is liable to a fine of \$5,000 to \$500,000 in the case of a natural person and \$15,000 to \$3,000,000 in any other case.

270. A person who contravenes any of sections 31 and 176 is guilty of an offence and is liable to a fine of \$10,000 to \$1,000,000 in the case of a natural person and \$30,000 to \$6,000,000 in any other case.

271. A person who contravenes any of sections 182, 183, 184, 186, 188 and 189 or the standards prescribed by regulation for the guarantee required under this Act is guilty of an offence and is liable to a fine corresponding to 10% of the total amount of the guarantee.

272. The fines prescribed in this Act or the regulations are doubled for a second offence and tripled for a subsequent offence, without exceeding the maximum fine.

273. In determining a penalty, the court takes into account aggravating factors such as

- (1) the seriousness of the harm or damage, or of the risk of harm or damage, to human health or the environment, including vegetation and wildlife;
- (2) the intentional, negligent or reckless nature of the offence;

(3) the foreseeable character of the offence, or the failure to follow recommendations or warnings to prevent it;

(4) the behaviour of the offender after committing the offence, including whether the offender attempted to cover up the offence;

(5) the failure to take reasonable measures to prevent the commission of the offence or limit its effects despite the offender's financial ability to do so, given the size of the offender's undertaking and the offender's assets, turnover and revenues; and

(6) the increase in revenues or decrease in expenses that the offender obtained, or intended to obtain, by committing the offence or by failing to take measures to prevent it.

A court that decides to impose the minimum fine despite the presence of an aggravating factor must give reasons for the decision.

274. On an application made by the prosecutor and submitted with the statement of offence, the court may impose on the offender, in addition to any penalty, a further fine equal to the financial benefit realized by the offender as a result of the offence, even if the maximum fine has also been imposed.

275. If an offence described in any of sections 267 to 271 continues for more than one day, it is a separate offence for each day or part of a day during which it continues.

276. Penal proceedings for offences under this Act or the regulations are prescribed as of the later of the following:

(1) five years from the date the offence was committed; and

(2) two years from the date of the inspection or investigation that led to the discovery of the offence.

277. The Minister keeps a register of information concerning convictions under this Act and the regulations, which states, for each conviction,

(1) the date of conviction;

(2) the nature of the offence and the date and place it was committed;

(3) if the offender is a legal person, the legal person's name and the address of the legal person's principal establishment;

(4) if the offender is a natural person, the person's name and the name of the municipality in which the person resides;

(5) the penalty and any other measure imposed by the judge;

(6) any information relating to a proceeding brought against the conviction and the status of that proceeding; and

(7) any other information the Minister considers of public interest.

The information contained in the register is public information.

CHAPTER XIII

AMENDING PROVISIONS

ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT

278. Section 6 of the Act respecting land use planning and development (chapter A-19.1) is amended by replacing subparagraph 7 of the first paragraph by the following subparagraph:

“(7) delimit any mining incompatible territory or a conditionally mining compatible territory within the meaning of sections 251 and 252 of the Mining Act (*insert the year and chapter number of this Act*);”.

279. Section 53.7 of the Act is amended by adding the following sentences at the end of the first paragraph: “If, under subparagraph 7 of the first paragraph of section 6, the amending by-law delimits a mining incompatible territory or a conditionally mining compatible territory within the meaning of sections 251 and 252 of the Mining Act (*insert the year and chapter number of this Act*), or modifies the boundaries of such a territory, the Minister’s opinion must state that the proposed amendment is inconsistent with government policy directions if the Minister has received from the Minister of Natural Resources and Wildlife an opinion, with reasons, stating that the proposed amendment is inconsistent with a government policy direction drawn up for the purpose of establishing such a territory. The opinion of the Minister of Natural Resources and Wildlife must be received by the Minister not later than the 30th day after the day the latter requested the former’s opinion in accordance with section 267.”

280. The Act is amended by inserting the following section after section 53.14:

“53.14.1. If of the opinion that it is necessary to allow mining activities in a specified part of the territory, the Minister of Natural Resources and Wildlife may, by means of an opinion, request amendments to an RCM plan in force to revise the delimitation of a mining compatible territory or a conditionally mining compatible territory within the meaning of sections 251 and 252 of the Mining Act (*insert the year and chapter number of this Act*). The opinion must give reasons and state the nature and purpose of the amendments to be made.

The third and fourth paragraphs of section 53.12 apply, with the necessary modifications, to a request under the first paragraph.”

281. Section 56.14 of the Act is amended by adding the following sentences at the end of the first paragraph: “If, under subparagraph 7 of the first paragraph of section 6, the revised RCM plan delimits a mining incompatible territory or a conditionally mining compatible territory within the meaning of sections 251 and 252 of the Mining Act (*insert the year and chapter number of this Act*), or modifies the boundaries of such a territory, the Minister’s opinion must state that the RCM plan is inconsistent with government policy directions if the Minister has received from the Minister of Natural Resources and Wildlife an opinion, with reasons, stating that the proposed amendment is inconsistent with a government policy direction drawn up for the purpose of establishing such a territory. The opinion of the Minister of Natural Resources and Wildlife must be received by the Minister not later than the 60th day after the day the latter requested the former’s opinion in accordance with section 267.”

REGULATION RESPECTING MINERAL SUBSTANCES OTHER THAN PETROLEUM, NATURAL GAS AND BRINE

282. The Regulation respecting mineral substances other than petroleum, natural gas and brine (chapter M-13.1, r. 2) is amended by striking out sections 111 to 113.

REGULATION RESPECTING ENVIRONMENTAL IMPACT ASSESSMENT AND REVIEW

283. Section 2 of the Regulation respecting environmental impact assessment and review (chapter Q-2, r. 23) is amended, in the first paragraph,

(1) by replacing subparagraph *n.8* by the following subparagraph:

“(n.8) the construction and operation of an ore processing plant;”;

(2) by replacing subparagraph *p* by the following subparagraph:

“(p) the development and operation of a mine, except the following:

—work subject to the Regulation respecting natural gas, petroleum and underground reservoirs (chapter M-13.1, r. 1) and not otherwise referred to in this regulation;

—the mining of surface mineral substances as defined in the Mining Act (chapter M-13.1);

—the mining of the topsoil;”.

CHAPTER XIV

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

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

285. In any Act or statutory instrument, a reference to a provision of the Mining Act (chapter M-13.1) is a reference to the corresponding provision of this Act.

286. Regulations made under the Mining Act (chapter M-13) regarding withdrawal from staking are deemed to be ministerial orders made under section 250 of this Act.

287. Mining concessions granted under former mining-related legislation are governed by this Act.

288. No transfer of a lot or surface right, made before 17 June 1998 on a mining concession, may be annulled on the sole ground that the grantee did not comply with the requirements of the Mining Act relating to alienation, in force since the date of the concession, or because the grantee failed to meet an obligation imposed by the Government or the ministers concerned.

The first paragraph does not apply to a deed of alienation that has not, as of that date, been published at the registry office of the registration division concerned.

289. A transfer of a surface right made before 1 January 1971 by emphyteutic lease on a mining concession is considered to be a pure and simple sale.

Contractual clauses inconsistent with the first paragraph are considered to be null and unwritten except those involving, for the transferee, the obligation to pay a sum of money. However, any hypothec guaranteeing the payment of that sum of money is extinguished. The hypothec is cancelled on the filing of an application to that effect, in authentic form en minute, by any interested person.

290. In the case of a surface right in a mining concession transferred by a deed of sale before 1 January 1971, all clauses relating to a right of repossession or a restriction as to use, all clauses waiving liability for damage suffered while conducting mining work and all clauses conferring on the grantee more rights with respect to the surface owner than are conferred on the grantee by the Mining Act (chapter M-13) as regards mining operations are deemed not to be written in such a deed.

291. Except in the cases referred to in section 116, the retrocession of mining rights by a grantee in the Minister's favour, effected before 17 June 1998, includes the surface rights even if they are not mentioned in the instrument of retrocession, and those rights form part of the domain of the State from the date of the retrocession.

The grantee is not entitled to any compensation or reimbursement for any claim arising from the application of this section.

292. When found on a concession for which letters patent were issued before 1 July 1911, the white pine and red pine reserved to the State under the Mining Act on the granting of a concession are abandoned to the owner of the soil.

293. All lands in the domain of the State that were allocated for the establishment of a mining town or village are subject to the Act respecting the lands in the domain of the State (chapter T-8.1) and the Act respecting the Ministère des Ressources naturelles et de la Faune (chapter M-25.2).

294. No deed of alienation granted by the Minister for a lot situated in a mining town or village before 17 June 1998 may be invalidated on the sole ground that the alienation price and conditions were not set by the Government.

295. A transfer of a lot in a mining town or village by way of an emphyteutic contract granted before 17 June 1998 by the Government or by a third person having acquired land in the domain of the State for the establishment of a mining town or village is deemed to constitute a pure and simple sale.

The clauses of the contract that are incompatible with the first paragraph are deemed unwritten; any hypothec guaranteeing the payment of a sum of money is extinguished and its registration may be cancelled on the filing of an application, in notarial form and en minute, by any interested person.

296. The conditions stipulated in the letters patent issued on 10 November 1952 for block 9 of the original survey and of the cadastre for the township of Holland, registered at the office of the Québec registrar on 11 November 1952 under Libro 82 Folio 102 cease to have effect on 17 June 1998.

Acts of alienation granted by the holder of the letters patent or by the holder's successors may not be invalidated on the sole ground that those conditions have not been complied with.

297. Prescriptions running pursuant to sections 227, 228 and 229 of the Mining Act (chapter M-13) continue to run in accordance with those sections.

298. This Act replaces the Mining Act (chapter M-13.1) except Divisions X to XIII, comprising sections 160 to 206.

However, that Act continues to have effect insofar as it is necessary for the purposes of Divisions X to XIII of that Act or for the purposes of any other Act that provides for their application.

The title of that Act is replaced by “Mining Act (Petroleum, Natural Gas, Brine and Underground Reservoirs)”. Unless the context indicates otherwise, “Mining Act” is replaced in any Act or regulation by “Mining Act (Petroleum, Natural Gas, Brine and Underground Reservoirs)” when it refers or is related to a provision referred to in the first and second paragraphs.

299. Before mining operations begin in accordance with section 121, a person who has been granted a concession for which letters patent were issued after 1 July 1911 must, each year, carry out on the land subject to the concession exploration work from among the types of work listed in section 69 of the Regulation respecting mineral substances other than petroleum, natural gas and brine (chapter M-13.1, r. 2) and whose minimum cost is \$35/ha. However, amounts spent for property examination and technical assessment work may not be accepted beyond one-fourth of the minimum cost.

Before 1 February each year, the grantee must report the work performed to the Minister; the report must contain the information and be accompanied by the documents prescribed by sections 72 to 85 of the Regulation.

300. The grantee of a mining concession who begins mining operations on (*insert the date of coming into force of this Act*) must send the Minister an ore processing feasibility study within 3 years after that date, and subsequently every 20 years.

301. The holder of a seabed exploration licence issued under section 127 of the Mining Act (chapter M-13.1), as it read on (*insert the date preceding the date of coming into force of this Act*), becomes the holder of a map designated claim.

302. The holder of a seabed mining lease issued under section 128 of the Mining Act (chapter M-13.1), as it read on (*insert the date preceding the date of coming into force of this Act*), becomes the holder of a mining lease.

303. Territories delimited for non-exclusive recreation, tourism, plant-life or wildlife conservation purposes under subparagraph 1.1 of the first paragraph of section 304 of the Mining Act (chapter M-13.1), as it read on (*insert the date preceding the date of coming into force of this Act*), are deemed to be reserved to the State under section 250 of this Act.

304. Any mineral substance forming part of the domain of the State and included in an urban perimeter shown on maps kept at the registrar’s office, until the territories provided for in sections 251 and 252 are determined, is withdrawn from prospecting, mining exploration and mining operations as of (*insert the date of coming into force of this Act*).

305. Sections 111 and 112 of the Regulation respecting mineral substances other than petroleum, natural gas and brine continue to apply, as they read on *(insert the date of coming into force of the first regulation that amends the Regulation respecting mineral substances other than petroleum, natural gas and brine after the date of introduction of this bill)*, to the person identified in subparagraph 1 of the first paragraph of section 179 of this Act whose plan was approved by the Minister before *(insert the date of coming into force of the regulation)* until the plan is revised.

306. The person identified in any of subparagraphs 2 to 4 of the first paragraph of section 179 whose plan was approved by the Minister before *(insert the date of coming into force of the first regulation that amends the Regulation respecting mineral substances other than petroleum, natural gas and brine after the date of introduction of this bill)* must provide the guarantee referred to in section 182 and comply with the following terms of payment:

- (1) the guarantee must be provided in three instalments;
- (2) the first instalment must be provided on or before the date that is one year after *(insert the date of coming into force of the first regulation that amends the Regulation respecting mineral substances other than petroleum, natural gas and brine after the date of introduction of this bill)*;
- (3) each subsequent instalment must be made on the anniversary date of the first instalment; and
- (4) the first instalment must be for 50% of the total amount of the guarantee, and the second and third instalments, 25% of that amount.

307. The Minister of Natural Resources is responsible for the administration of this Act, except Division VII of Chapter IV, which falls under the responsibility of the Minister of Transport.

308. This Act comes into force on the date of coming into force of the first regulation that amends the Regulation respecting mineral substances other than petroleum, natural gas and brine after *(insert the date of assent to this Act)*.

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