



NATIONAL ASSEMBLY

FIRST SESSION

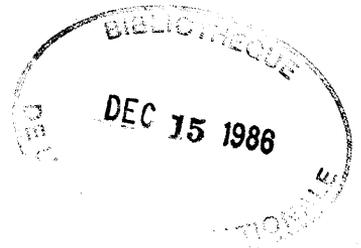
THIRTY-THIRD LEGISLATURE

Bill 161

Mining Act

Introduction

**Introduced by
Mr Raymond Savoie
Minister for Mines and Native Affairs**



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EXPLANATORY NOTES

This bill revises and consolidates mining law and replaces the Mining Act. Its main object is to regulate the terms and conditions for allocating mining rights pertaining to mineral substances and underground reservoirs in the public domain.

The bill enacts that mineral substances and underground reservoirs are Crown property. At the same time, it preserves acquired rights in such property under former legislation.

Henceforth, a prospector's licence will have a five year term, and prospecting will be separated from acquiring a claim. The bill gives legal status to the procedure of acquiring a claim, in certain areas, by map designation. Also, a claim will be valid for two years and be renewable. The bill will enable the holder of a mining exploration licence to register a claim on the whole or part of the territory covered by his mining exploration licence. The term of a mining lease will be twenty years, and mining must commence within four years. The bill introduces the requirement that a person exploring for or mining surface or seabed mineral substances must hold an exploration licence or mining licence. Lastly, it contains new requirements regarding well drilling, well completion, well conversion or abandonment, connected with exploration for and extraction of petroleum, natural gas, brine and underground reservoirs.

The bill, further, sets forth rules on the management of mineral substances, applicable to all persons engaged in mining. These regard production plans, reports and records, compulsory protective measures, a system to ensure optimum recovery of mineral substances and various approvals required for the siting of mining infrastructures.

The bill provides that certain decisions of the Minister may be appealed to the Provincial Court. In the way of administrative sanctions, the Minister will have discretionary power to suspend or revoke mining rights. The bill limits the time for which a claim may be revoked for failure to observe proper staking procedure to one year.

The bill revokes, in favour of the Crown, rights in underground reservoirs not in the public domain.

The bill also provides the rules on the registration of real and immovable mining rights.

Bill 161

Mining Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

APPLICATION AND INTERPRETATION

1. The mineral substances and underground reservoirs contemplated in this Act are: natural mineral substances in solid, gaseous or liquid form, except water, and natural underground reservoirs, artificial underground reservoirs created by the extraction of petroleum, natural gas, brine or water, and all underground reservoirs designated as such by order of the Minister of Energy and Resources.

Fossilized organic matter is treated as a mineral substance and is also contemplated in this Act.

2. This Act binds the Government, its departments and the agencies that are mandataries thereof.

3. In this Act,

“**brine**” means any natural aqueous solution containing more than 4% by weight of dissolved solids;

“**natural gas**” means all hydrocarbons and other substances which can be extracted from the ground in gaseous form;

“**petroleum**” means crude oil and other hydrocarbons which can be extracted from the ground in liquid form;

“**surface mineral substances**” means peat, sand, gravel; igneous or metamorphic sedimentary rock used as dimension stone or crushed stone; limestone and dolomite mined, among other objects, for the preparation of industrial lime and the improvement of soils; sandstone and quartzite mined as silica ore; argillaceous limestone, sandstone and schist mined for the preparation of cement; common clay and argillaceous schist used for the making of clay products; inert tailings used for construction purposes;

“**tailings**” means overburden, waste rock, solid residues from primary ore concentration and slag from secondary pyrometallurgy operations;

“**well head value**” means the average retail price, excluding all taxes less the average transportation costs from the well to the retail outlets, measurement costs and, where such is the case, purification costs.

CHAPTER II

OWNERSHIP OF MINERAL SUBSTANCES AND UNDERGROUND RESERVOIRS

4. Subject to sections 5 and 6, mineral substances, other than those of the tilth, and underground reservoirs situated in lands of the public domain granted or alienated by the Crown for purposes other than mining purposes form part of the public domain and are reserved to the Crown by operation of law.

5. The mineral substances listed below do not form part of the public domain if they are found

— in mining concessions for which letters patent were issued before 1 July 1911;

— except gold and silver, in lands granted in a township before 24 July 1880 or granted by location ticket for agricultural purposes for which letters patent or other titles were not issued before that date but which, until 1 January 1921, could be deemed to be issued on 24 July 1880;

— in lands granted under seigniorial tenure where mining rights were not vested in the Crown:

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

(2) mineral substances contained in a parcel of land containing an ore deposit serving as a reserve necessary to the carrying on of a mining, petroleum or gas undertaking in operation in Québec on 6 May 1982, provided that the operator, within the meaning of section 211, was the holder of the rights in those mineral substances, that he established the existence of indicators of the presence of a workable deposit and that he filed a declaration according to law in the office of the recorder within 180 days after 15 September 1982;

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

6. The following mineral substances are surrendered to the owner of the soil where they are found in lands granted or alienated by the Crown for purposes other than mining purposes before 1 January 1966 or in lands wherein the rights to mineral substances were revoked in favour of the Crown on or after 1 January 1966: sand, gravel, building stone and stone used for sculpture, limestone, calcite used as flux, millstones and grindstones, gypsum, common clay used in making building materials, firebrick, pottery, ceramic substances, mineral waters, infusory earths or tripoli, fuller's earth, peat, marl, ochre or soapstone, provided that, in their natural state, they are isolated from other mineral substances, and mineral substances of the tilth.

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

8. Tailings belong to the owner of the soil on which they have been deposited with his consent.

9. The following mining rights in mineral substances or underground reservoirs granted by the Crown are immovable real rights:

- claims;
- mining exploration licences;

- mining leases;
- mining concessions;
- seabed exploration licences;
- seabed mining leases;
- exploration licences for surface mineral substances;
- leases to mine surface mineral substances;
- exploration licences for petroleum and natural gas;
- exploration licences for brine;
- exploration licences for underground reservoirs;
- leases to produce petroleum and natural gas;
- leases to produce brine;
- leases to operate an underground reservoir.

10. Every real and immovable mining right is a separate right of ownership.

11. The following mining rights are exempt from registration in the registry office of the registration division:

- claims;
- mining exploration licences;
- seabed exploration licences;
- exploration licences for surface mineral substances;
- non-exclusive leases to mine surface mineral substances;
- exploration licences for petroleum and natural gas;
- exploration licences for brine;
- exploration licences for underground reservoirs.

12. The recorder appointed by the Minister shall

(1) keep a public record of real and immovable mining rights granted under this Act;

(2) make a summary entry in the record of such rights and their renewal, transfer, abandonment, revocation or expiry, and keep the titles evidencing them in the record;

(3) record therein any other instrument relating to those rights.

13. Every transfer or other act relating to a real and immovable mining right shall be recorded by filing a copy of the instrument evidencing it and paying the fee prescribed by regulation.

14. Unrecorded acts cannot be set up against the Crown.

15. Upon payment of the fee prescribed by regulation, the recorder shall issue to any interested person a certificate of any entry in the record.

CHAPTER III

MINING RIGHTS

DIVISION I

SCOPE

16. This chapter applies to mineral substances and underground reservoirs situated in lands in the public domain, and in lands in the private domain that are reserved to the Crown.

DIVISION II

PROSPECTOR'S LICENCE

17. No person, on his own behalf or on behalf of another, may prospect on or stake any land in view of obtaining a claim unless he is the holder of a prospector's licence issued by the Minister or is an officer or employee of the department acting in the performance of his duties or another person acting on behalf of the Crown.

18. A person may, without being a licence holder, designate on a map a parcel of land that may be the basis of a claim and that is situated in the territory described by order of the Government for map designation or a parcel of land referred to in sections 117, 259 or 274.

19. A prospector's licence shall be issued to a natural person of full age who meets the conditions and pays the fee prescribed by regulation.

A prospector's licence is not transferable.

Upon proof that the licence has been damaged, destroyed, lost or stolen, the Minister may issue a duplicate thereof upon payment of the fee prescribed by regulation.

20. The term of a prospector's licence is five years.

The Minister shall renew the licence for the same term, subject to the same requirements and upon payment of the fee prescribed by regulation.

21. The licence holder shall carry the licence on his person while prospecting or staking on a parcel of land.

The licensee shall, on request, produce his licence, to any officer of the department.

22. No person may prohibit or hinder access to land that contains mineral substances that are part of the public domain to any person entitled to engage in prospecting or staking on that land under this division if the person identifies himself on request and, in the case of a licence holder, if he produces his licence.

23. No person may prospect on land that is subject to a claim, mining exploration licence, mining concession or mining lease.

24. No person may stake land situated within the limits of the territory described by order of the Government for map designation.

No person may designate on a map any land that is not situated within the limits of the territory described by order of the Government for map designation or that is not contemplated in sections 117, 259 or 274.

25. Subject to section 86, no person may stake or designate on a map any land subject to a mining exploration licence, mining concession or mining lease or that is the basis of an application for a mining lease.

26. No person may prospect on, stake, or designate on a map,

(1) any territory classified as a park under the Parks Act (R.S.Q., chapter P-9) or established as an ecological reserve under the Act respecting ecological reserves (R.S.Q., chapter R-26);

(2) any parcel of land withdrawn from prospecting, staking, map designation, mining exploration or mining by ministerial order.

27. No person other than the holder of a mining exploration licence may, without the Minister's authorization, stake land lying north of the fifty-second degree of latitude.

28. No person may, without the Minister's authorization, stake or designate on a map any land

(1) situated within the limits of urban territories indicated by the Minister and shown on maps kept in the recording office;

(2) referred to in section 5, where only gold and silver form part of the public domain;

(3) where mineral substances referred to in section 6 are or have been mined, except in the case of sand or gravel;

(4) reserved by ministerial order for any mining exploration and inventory work or for the development and utilization of water power.

29. No person may, without the Minister's authorization, prospect on, stake, or designate on a map any land

(1) situated in an Indian reserve;

(2) situated in Category I lands designated and delimited under the Act respecting the land regime in the James Bay and New Québec territories (R.S.Q., chapter R-13.1);

(3) designated as a wildlife sanctuary under the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) or as a migratory bird sanctuary under the Migratory Birds Convention Act (Revised Statutes of Canada, 1970, chapter M-12).

30. Sections 27, 28 and 29 do not apply to officers and other employees of the department acting in the performance of their duties or persons acting on behalf of the Crown.

31. The Minister may make his authorization subject to conditions and requirements which may, among other matters and notwithstanding sections 67 to 75, concern the exploration work to be performed on the parcel of land that is the basis of the claim.

32. No person may stake or designate on a map any land

(1) that is the basis of proceedings for the revocation of a claim, from the date on which the recorder is notified thereof;

(2) that is the basis of a second notice of staking, from the date on which the recorder receives it.

33. No person may stake land that is already the basis of a claim in favour of a third person unless the claim is contested by the person on whose behalf the land is staked within the time and for the reasons set forth in paragraphs 1 to 3 of section 267.

34. No person may, by way of a notice of map designation, record more than 200 claims in any thirty-day period.

35. No person may stake or designate on a map any land that is the basis of a claim refused for recording or that is the basis of an abandoned, revoked or expired claim, before 07:00 a.m. on the thirty-first day after the date on which the refusal to record or the revocation of the claim became executory, after the date of receipt by the recorder of written notice of abandonment or after the date of expiry.

Notwithstanding the first paragraph, in no case may the holder of an abandoned, revoked or expired claim or any person who had an interest therein, or any person whose application for the recording of a claim has been refused, stake or designate on a map, on his own behalf, the parcel of land that was the basis thereof before an additional thirty-day period.

Where the interested person withdraws an appeal from refusal to record, refusal to authorize work or revocation, the period begins from the day notice of discontinuance is filed in the office of the Provincial Court.

36. Every officer or other employee of the department acting in the performance of his duties or any other person acting on behalf of the Crown who makes a discovery of ore shall stake or designate on a map the parcel of land containing the ore, in favour of the Crown, in accordance with Division III.

DIVISION III

CLAIMS

§ 1.—*Acquisition*

37. The claim holder has the exclusive right to search for mineral substances on his claim, except surface mineral substances, petroleum, natural gas and brine.

38. A claim may be obtained by staking or map designation in accordance with this division.

Staking shall be done with tags issued by the Minister. Tags shall be issued to any person applying therefor at the price, on the conditions and for the period prescribed by regulation.

39. In a lot of 500 hectares or less signated in a township or seigniorly or in a block that was previously subject to a mining lease or mining concession, the area of the land staked or designated on a map must cover an entire lot or block according to the original survey or, failing that, according to the cadastre, unless the land consists of

(1) the total residual area, not exceeding 50 hectares, of several parts of contiguous lots or of the residual area of a single lot, and unless part of the lots or lot is already subject to by a mining lease or mining concession or is under a restriction mentioned in sections 26 to 29;

(2) several contiguous whole lots of a total area not in excess of 50 hectares.

In the last two cases, the sides of the claim must follow the lines of the original survey or, failing that, the lines of the cadastre, unless the Minister decides otherwise.

Any claim staked or designated on a map shall include the adjacent half of any strip of land situated between the claim and another lot and the part of any stretch of water or part of any parcel of land encumbered by a servitude.

If a lot of irregular shape is bounded by a river or stretch of water, the staker may extend underwater, by witness posts on the shore, the sides of the claim, so as to give it the area and shape that the lot would have had, if it had not bordered on a river or stretch of water.

40. In any other territory, as nearly as practicable, the area of the claim staked or designated on a map shall be 16 hectares and its sides shall be 400 metres in length; the boundary lines of the claim shall, as far as possible, run north and south and east and west astronomically.

Notwithstanding the first paragraph, any parcel of land of less than 16 hectares, situated between parcels of land that are the basis of a claim or subject to a mining exploration licence, a mining lease or a mining concession or not open for staking or map designation may be staked or designated on a map by any of the holders of mining rights or by each of them in the proportions agreed by the Minister, or by a third person authorized by the Minister.

41. Every staker shall comply, as nearly as practicable, with the staking rules prescribed by regulation.

42. Except with the Minister's authorization issued under section 53, no person may remove, disturb or replace any stake delimiting a staked parcel of land or change the inscriptions on the stake or on the tag.

§ 2.—*Recording and validity*

43. No claim obtained by the staking of land remains valid unless a notice of staking is filed in the office of the recorder within twenty days of the staking and is subsequently recorded.

Notwithstanding the first paragraph, where the staked land lies north of the fifty-second degree of latitude, the time limit is thirty days.

44. Every claim obtained by map designation shall be recorded by the filing of a notice of map designation in the office of the recorder if the land is in the territory described by order of the Government for map designation or is referred to in section 117, 259 or 274.

45. The notice of staking and the notice of map designation must be made in the form, contain the information and be accompanied with the documents and fees prescribed by regulation.

In the case described in section 33, the notice of staking shall also be accompanied with an application for revocation of a claim.

46. The recorder may allow an applicant to file, before the claim is recorded, an amended notice of staking or of map designation in which a manifest error found in the original notice is rectified.

47. The recorder shall refuse a notice of staking

(1) not received in the time prescribed;

(2) pertaining to a parcel of land that has been staked without the Minister's authorization where required under section 27, 28 or 29 or the second paragraph of section 40;

(3) pertaining to a parcel of land staked in contravention of the first paragraph of section 24, section 25, 26, 32 or 35, the second paragraph of section 38 or section 39;

(4) where the tags used were lapsed on the date of staking;

(5) where the staker staked without a prospector's licence where mandatory under section 17;

(6) not in compliance with section 45.

48. The recorder shall refuse a notice of map designation

(1) pertaining to land already subject to a claim recorded in accordance with this subdivision;

(2) pertaining to land designated on a map without the Minister's authorization where required under section 28 or 29;

(3) pertaining to land designated on a map in contravention of the second paragraph of section 24 or section 25, 26, 32, 34, 35, 39 or 40;

(4) not in compliance with section 45.

49. The recorder shall refer to the Minister, for his decision, any other case where the staking, notice of staking or notice of map designation does not appear to him to be in accordance with this Act or the regulations thereunder or gives rise to a dispute.

The recorder shall also refer to the Minister for decision any notice of staking and application for revocation of a claim filed pursuant to the second paragraph of section 45.

50. In the case of simultaneous stakings of the same parcel of land, the Minister shall designate the claim holder by a drawing of lots.

51. Every decision refusing a notice of staking or a notice of map designation must be in writing and give the reasons on which it is based. A copy of the decision shall be sent to the interested person within fifteen days by certified or registered mail.

52. After the expiry of the time prescribed in section 43, the recorder shall issue to an applicant whose notice of staking is accepted a certificate of record evidencing the claim from the time of staking and make an entry thereof in the record.

The recorder shall issue to an applicant whose notice of map designation is accepted a certificate of record evidencing the claim from the date of filing of the notice and make an entry thereof in the record.

53. The Minister may rectify an undisputed manifest error in the recording of a claim.

54. The Minister may, of his own initiative or at the request of an interested person, make any decision concerning the area of land that is the basis of a claim where staked lands overlap each other, or where the area, orientation or length of the boundary lines of the parcel of land are not consistent with this Act or the regulations.

For the purposes of the first paragraph, the Minister may allow a stake delimiting a staked parcel of land to be removed, disturbed or replaced.

55. The survey of a parcel of land that is the basis of a claim, carried out in accordance with this Act and the regulations, shall remain in force and be considered to be the delimitation and description of the parcel of land until the claim is abandoned or revoked or expires or until its area is altered.

56. A subsequent purchaser of a claim who finds a staking irregularity that may result in revocation of the claim may restake the parcel of land in accordance with this division if the validity of the claim is not contested, and file a new notice of staking.

A notice of staking under the first paragraph is equivalent to a notice of abandonment of the former claim and takes effect upon the issuance of the certificate of record 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.

57. The first term of a claim shall be two years from the day it is recorded.

The Minister shall renew the claim for a term of two years provided the claim holder

(1) has met the renewal requirements prescribed by regulation;

(2) has paid the fee prescribed by regulation;

(3) has complied with this Act and the regulations throughout the previous term of the claim.

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

58. The Minister may also renew a claim in advance for a single term provided the claim holder

(1) applies therefor simultaneously with an application for renewal filed pursuant to section 57;

(2) has established that the work necessary for the renewal according to section 70 or 71 has been carried out;

(3) has met the renewal requirements prescribed in section 57;

(4) has paid the fees prescribed by regulation for the advance term.

59. Subject to certain conditions, the Minister may, of his own initiative or at the request of any interested person, suspend the term of the claim,

(1) where the validity of the claim is contested, until the notice of withdrawal is received at the office of the recorder or until the date on which the decision becomes executory, whichever event occurs first;

(2) for the period he determines, where the claim holder is prevented from performing the exploration work prescribed in section 67;

(3) until he has rendered a decision on an application for a mining lease, where the application concerns the land that is the basis of the claim.

§ 3.—*Rights and obligations*

60. Every claim holder has a right of access to the parcel of land subject to his claim and may perform any exploration work thereon.

Notwithstanding the first paragraph, on lands granted, alienated or leased by the Crown for purposes other than mining purposes or on lands under an exclusive lease to mine surface mineral substances,

no claim holder may exercise such rights except in accordance with section 228.

61. No claim holder may erect on lands in the public domain constructions other than those required for his mining activities.

When the claim holder becomes aware that a third person is erecting a construction on such lands, he shall immediately notify the Minister in writing.

62. That part of any watercourse with a natural power of 225 kilowatts or more together with a strip of land twenty metres wide on each side of the watercourse is excluded from any claim and reserved to the Crown. The Minister may add to the reserve any area he considers necessary for the development and utilization of the water power.

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

63. A claim holder may use sand or gravel for his mining activities except where the land subject to his claim is already subject to an exclusive lease, in favour of a third person, to mine surface mineral substances.

64. The claim holder shall not extract or dispatch mineral substances except for geological or geochemical sampling nor a quantity in excess of one metric ton.

The Minister may, subject to certain conditions, authorize a claim holder to extract or dispatch each year a fixed quantity of mineral substances.

65. A claim holder may, with the Minister's authorization and on the conditions he determines, carry on exploration work on lands in the public domain on which an improvement determined by regulation may be found or on lands subject to a transfer or lease referred to in section 232.

66. No claim holder is entitled to compensation for

(1) the extraction of sand, gravel or stone for the construction or maintenance of works of the Crown, from lands of the public domain;

(2) the installation of electric-power transmission lines, oil pipelines or gas pipelines;

(3) the transfer or leasing of lands in the public domain, particularly for the purposes referred to in section 232.

67. Subject to sections 68 and 70 to 75, and not less than sixty-one days before the expiry of the claim, the claim holder shall perform on the land subject to his claim exploration work of the nature and for the minimum cost determined by regulation. However, the amounts spent on examination of title and technical assessment work shall not exceed one-fourth of that minimum cost.

The claim holder shall report thereon to the Minister before the same date. He may, however, for an additional amount prescribed by regulation, send his report after that date provided he does so before the date of expiry of his claim. The report shall be in the form and accompanied with the documents prescribed by regulation.

68. The Minister may exempt a claim holder from performing exploration work where he had valid reasons for not performing it within the time prescribed, provided that, before the date of expiry of his claim,

(1) he has produced a written application for exemption to the Minister informing him of his reasons for not performing the work;

(2) he has paid to the Minister an amount equal to the minimum cost of the work he should have performed or, as the case may be, equal to the difference between the minimum cost and the cost of the work he has performed and reported.

69. The Minister may refuse all or part of the exploration work where the documents filed

(1) are incomplete or not consistent with the regulations;

(2) do not support 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 exploration work;

(4) have been falsified or contain false information;

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

The Minister's decision to refuse the work suspends the claim until the decision is executory.

70. The amount spent on exploration work in excess of the minimum cost prescribed by regulation may be applied to renewed terms of the claim.

71. The holder of several claims may apply the whole or part of the amounts spent for exploration work performed in respect of a claim for which there is an excess amount to a claim for which he submits an application for renewal, but only up to the amount necessary for its renewal and only until 61 days before its expiry date, and provided that the land on which the work has been performed and the land that is the basis of the application for renewal are included in a 3.2 kilometre square.

Where the length of any side of one of the claims exceeds 3.2 kilometres, the claim holder may also apply the amounts as in the first paragraph if both parcels are wholly or partly included in a 3.2 kilometre square.

72. A claim holder who is also a lessee under a mining lease or a grantee under a mining concession may, when reporting in accordance with section 67 work referred to in that section that has been performed in respect of the lease or concession, apply the whole or part of the amounts spent for such work to one or several claims, but only up to the amount necessary for the renewal he is applying for, provided the work was performed during the term of the claim and all the parcels of land subject to the claim, lease or concession are included within a 3.2 kilometre square.

Where the length of any side of the claim, lease or concession exceeds 3.2 kilometres, the claim holder may also apply the amounts as in the first paragraph, provided the parcels of land are included wholly or partly within a 3.2 kilometre square.

73. For the purposes of sections 70, 71 and 72, where the exploration work performed is insufficient to permit the renewal of a claim, the claim holder, within fifteen days of being so notified by the Minister may present a new apportionment of the amounts spent for exploration work.

If the claim holder fails to do so, the amounts shall be apportioned among various claims according to the rules prescribed by regulation.

74. The exploration work performed in respect of a claim during the term preceding the current term of the claim, excluding examination of title, stripping, excavation or technical assessment work may, in a report, be applied to the current term of a claim at half value.

Notwithstanding the first paragraph, the exploration work performed in the sixty days before the expiry of the term preceding the current term may be applied at full value.

75. The geological, geophysical or geochemical surveys performed in the territory comprising the land subject to a claim, in the twelve months preceding the date of staking or filing of the notice of map designation in the office of the recorder, may, in a report, be applied to the first term of the claim at half value.

76. For reasons of public interest, the Minister may order the cessation of exploration work.

In such a case, the Minister shall, subject to certain conditions, suspend the claim.

After six months, the Minister may cancel the claim of his own initiative or at the request of the claim holder. In that case, compensation shall be paid to the claim holder for the whole or part of the investments made for mining exploration.

§ 4.—*Abandonment*

77. A claim holder may abandon his right provided he files a notice in writing to that effect with the recorder.

DIVISION IV

MINING EXPLORATION LICENCES

78. The holder of a mining exploration licence has an exclusive right to search for mineral substances in the territory subject to his licence, except surface mineral substances, petroleum, natural gas and brine.

79. Mining exploration licences shall be issued by the Minister for the exploration of territories situated north of the fifty-second degree of latitude.

80. A mining exploration licence shall be issued, for a specific territory, to any person who meets the requirements and pays the annual fee prescribed by regulation.

81. A territory may be subject to a licence so far as it is open for prospecting or staking under sections 25, 26, 28, 29, 32 and 35 and according to the conditions prescribed pursuant to section 31.

82. The territory subject to a licence must be in one block and its area must not be less than fifty square kilometres nor exceed four hundred square kilometres.

Notwithstanding the first paragraph, the Minister may grant a licence on any parcel of land less than fifty square kilometres in area situated between parcels of land subject to a claim, a mining exploration licence, a mining lease or a mining concession or between parcels of land that cannot be subject to any mining exploration licence.

83. At the beginning of each year of the term of a licence, the Minister may grant an increase in the area of the territory covered by it to the licensee, provided

- (1) he has applied therefor in writing;
- (2) the added parcel of land is contiguous to the territory;
- (3) the total area of the parcels of land does not exceed 400 square kilometres;
- (4) he has complied with the other provisions of this Act and the regulations.

84. The term of a licence shall be five years.

The Minister shall renew the licence only once for the same term for all or part of the territory subject to it, provided the licensee

- (1) has met the renewal requirements prescribed by regulation;
- (2) has paid the annual fee prescribed by regulation;
- (3) has complied with this Act and the regulations throughout the previous term of his licence.

85. The licensee shall pay the annual fee in advance and comply with the conditions of the licence prescribed by regulation.

The licensee shall also comply with any other condition the Minister may impose on him in the public interest.

86. The licensee may, in accordance with Division III, obtain a claim on all or part of the territory subject to his licence.

Where such is the case, the area of the territory shall be reduced by the area of the land that is the basis of a claim but the exploration

work the licensee is required to perform pursuant to section 88 for the current year shall not be reduced as a result.

87. Rights and restrictions relating to exploration for mineral substances and applicable to the claim under sections 60 to 66 shall apply, adapted as required, to the licence.

88. Subject to sections 89 and 92, the licensee shall, each year, perform in the territory subject to his licence, exploration work of such nature and for such minimum cost as is determined by regulation. However, the amounts spent on examination of title and technical assessment work shall not exceed one-fourth of the minimum cost.

Before the end of the year, the licensee shall report on the work to the Minister; the report shall be in the form and accompanied with the documents prescribed by regulation.

89. The Minister may exempt a licensee from performing exploration work for any year of the term of his licence except the first year, where the licensee had valid reasons for not doing so within the time prescribed, provided that, before the end of the year,

(1) he has filed an application for exemption in writing with the Minister informing him of the reasons he did not perform the work;

(2) he has paid to the Minister an amount equal to the minimum cost of the work he should have performed or, as the case may be, to the difference between the minimum cost and the cost of the work he has performed and reported.

The Minister may also authorize a licensee to perform the work of the first year during the second year of the term of the licence, in addition to the work scheduled for the second year, if the licensee proves that he had valid reasons for not performing it as scheduled.

90. Before 1 April each year, the licensee shall transmit to the Minister a schedule of the work he proposes to perform.

91. The Minister may refuse all or part of the exploration work where the documents transmitted

(1) are incomplete or not consistent with the regulations;

(2) do not support 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 exploration work;

- (4) have been falsified or contain false information;
- (5) pertain to work previously reported by the licensee or by a third person and accepted as part of another report.

The Minister's decision to refuse the work suspends the exploration licence until the decision is executory.

92. The amount spent on exploration work in excess of the minimum cost prescribed by regulation may be applied to subsequent years of the licence.

93. A licensee may, with the authorization of the Minister, abandon his right to the whole or part of the territory covered by his licence, provided

- (1) he applies therefor in writing;
- (2) the residual area, in the case of partial abandonment, consists of one or several parcels of land forming a quadrilateral with an area of at least two square kilometres;
- (3) he has complied with the other provisions of this Act and the regulations.

Partial abandonment does not reduce the exploration work the licensee is required to perform in the year of abandonment.

DIVISION V

MINING LEASE AND MINING CONCESSION

94. No person may mine mineral substances, except surface mineral substances, petroleum, natural gas and brine, unless he has previously obtained a mining lease from the Minister or a mining concession under any former Act relating to mines, except where he is authorized therefor under a seabed mining lease.

95. The Minister shall grant a lease on the whole or part of a parcel of land that is the basis of one or several claims or subject to one or several mining exploration licences, of claims and mining exploration licences or a mining concession limited to certain mineral substances mentioned in section 6, if their holder establishes the existence of indicators of the presence of a workable deposit and if he meets the requirements and pays the annual rental prescribed by regulation.

At the request of the Minister, the holder of a mining right shall provide him with any document useful to the determination of the presence of the indicators.

96. The land covered by a lease must be comprised within a single perimeter and its area must not exceed 100 hectares.

Notwithstanding the first paragraph, where circumstances warrant it, the Minister may agree to grant a lease on a parcel of land having an area in excess of 100 hectares.

97. The area of the territory that is subject to mining rights referred to in section 95 shall be reduced by the area of the land subject to the lease and, in the case of a mining exploration licence, the exploration work to be performed during the current year in the territory shall not be reduced.

98. The term of a mining lease is twenty years.

The Minister shall renew the lease for a period of ten years, not more than three times, provided the lessee

(1) has applied therefor before the sixtieth day preceding the expiry of the lease or, failing that, within sixty days preceding the expiry of the lease for an additional amount prescribed by regulation;

(2) has performed mining exploration work for at least two years in the last ten years of the lease;

(3) has met the renewal requirements prescribed by regulation;

(4) has paid the annual rental prescribed by regulation;

(5) has complied with this Act and the regulations throughout the previous term of the lease.

Notwithstanding the foregoing, after the third renewal of the lease, the Minister may grant an extension thereof on the conditions, for the rental and for the term he determines.

99. Subject to the restrictions contained in this division, a lessee or a grantee has, on land that is the subject of a lease or concession, the rights and obligations of an owner.

Notwithstanding the first paragraph, the right to use the surface of land situated within the public domain shall be restricted to mining uses and subject to the conditions set out in the lease or concession

and under this Act. On lands granted, alienated or leased by the Crown for purposes other than mining purposes or on lands that are subject to an exclusive lease to mine surface minerals, the right may be exercised only in accordance with section 228.

100. Any part of a watercourse with a natural power of 225 kilowatts or more and a strip of land twenty metres in width on each side of the watercourse is excluded from the lease and reserved to the Crown. The Minister may add to the reserve any area he considers necessary for the development and utilization of water power.

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

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

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

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

(3) any additional area considered to be necessary by the Government for the development and utilization of water power, until (*insert here the date of coming into force of this section*), and, from that date, any additional area considered to be necessary by the Minister for the same purposes.

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

102. Sand, gravel, petroleum, natural gas and brine are excluded from the concession.

103. A lessee and, notwithstanding section 102, a grantee may use sand and gravel for their mining activities, except where the land subject to the lease or concession is already subject to an exclusive lease to mine surface mineral substances in favour of a third person.

104. Five per cent of the area of any land covered by a lease or concession and situated on lands of the public domain shall be reserved to the Crown for public development purposes.

105. Sand, gravel or stone, for the construction or maintenance of Crown works may be extracted from lands in the public domain without compensation to the lessee or grantee.

106. The grantee of lands in the public domain granted for mining purposes may, according to law and provided he has obtained the authorization of the Minister,

(1) alienate or lease all or part of the parcel of land subject to his concession;

(2) erect on the parcel of land any constructions other than those required for his mining activities;

(3) sell any construction erected on the parcel of land;

(4) otherwise dispose of any right of superficies on the parcel of land.

The grantee shall comply with the prices and conditions prescribed by the Minister in his authorization and, in the case of alienation, file a plan of cadastral division into lots or, with the Minister's permission, a technical description of the parcel of land.

107. The authorization of the Minister is granted in the form of a certificate bearing the signature of the Minister.

The grantee shall register the authorization in the registry office of the registration division where the parcel of land is situated.

From the registration, no deed described in the certificate may be cancelled for the sole reason that the grantee has not complied with the requirements of this Act or the regulations.

108. The person in whose favour a lot has been alienated with the authorization of the Minister may obtain, for that lot, letters patent issued under the Lands and Forests Act and they shall remain valid notwithstanding the revocation of the mining concession covering the parcel of land.

109. When authorizing a grantee to alienate or lease lots, the Minister may require him to pay part of the sale price or rental into the consolidated revenue fund and, as the case may be, another part into the general fund of the municipality where the lot is situated.

110. The lessee shall pay the annual rental in advance and comply with the conditions of the lease prescribed by regulation.

111. The lessee shall commence mining operations within four years from the date of the lease.

Notwithstanding the first paragraph, the Minister may, where he considers it appropriate, grant an extension of time on the conditions, for the rental and for the term he determines.

112. The grantee shall commence mining operations within the time allotted by the Minister under any former Act relating to mines.

Notwithstanding the first paragraph, the Minister may, where he considers it appropriate, grant an extension of time on the conditions, for the fee and for the term he determines.

113. Every person who has acquired a concession for which letters patent were not issued before 1 July 1911 shall each year from the beginning of its operation, perform mining exploration work or mining operations on the parcel of land subject to his concession for a minimum cost determined by regulation. The amounts spent on examination of title and technical assessment work shall not exceed one-fourth of the minimum cost.

A grantee who fails to perform the work or operations shall pay to the Minister, before 1 February of each year, an amount equal to the minimum cost of the work he should have performed or, as the case may be, to the difference between the minimum cost and the cost of the work he has performed and which he has reported.

Before 1 February each year, the grantee shall report to the Minister on the work performed; the report must contain the information and be accompanied with the documents prescribed by regulation.

114. The Minister may refuse the whole or part of the exploration work or mining operations reported where the documents transmitted

- (1) are incomplete or not consistent with the regulations;
- (2) do not support the stated amounts or the real cost of the work;
- (3) fail to show that the stated amounts have been disbursed solely for the performance of exploration work or mining operations;
- (4) have been falsified or contain false information;
- (5) pertain to work previously reported by the grantee or by a third person and accepted as part of another report.

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

Subject to the same conditions, the Minister may grant the same authorization to a grantee referred to in section 113 and allow him to concentrate the exploration work and mining operations on one parcel of land.

116. A lessee or grantee may, with the authorization of the Minister, abandon his right in all or part of the land subject to his lease or concession provided

- (1) he applies therefor in writing;
- (2) he has paid the duties exigible under the Mining Duties Act (R.S.Q., chapter D-15);
- (3) he has transmitted the plans, registers and reports referred to in section 219 to the Minister;
- (4) he has complied with the requirements of the Environment Quality Act (R.S.Q., chapter Q-2) and the statutory instruments thereunder;
- (5) he has complied with the other provisions of this Act and the regulations.

117. Within thirty days from the abandonment of a lease or concession or of the expiry of a lease, the lessee or grantee shall have priority to have a claim recorded, by notice of map designation, on the whole or part of the parcel of land covered by the abandoned or expired title. In that 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.

Within thirty days of the expiry of the time prescribed in the first paragraph, a recording under the first paragraph may be applied for by any interested person in respect of any part of the parcel of land that has not become the basis of a claim pursuant to the first paragraph.

Claims shall subsequently be obtained by staking or map designation according to the territory where the parcel of land is situated.

118. A grantee may obtain letters patent from the Minister for the parcel of land subject to his concession on proof of the beginning of the mining operations within the time prescribed under section 112.

Letters patent issued over the signature of 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 shall be registered by the Minister of Justice in his capacity as Registrar of Québec.

119. Where letters patent contain an error in the area or designation of the parcel of land concerned, in the name of the holder or any other clerical error, the Minister may cancel the letters patent and issue corrected letters patent having effect on the same date, unless the error is the subject of a dispute.

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

120. The Minister shall notify the Registrar of Québec and the registrar of the registration division concerned of the issuance, correction or cancellation of letters patent.

An entry of the correction or cancellation shall be made in the margin of the registered letters patent together with a reference to the registration number of the correction or cancellation.

DIVISION VI

SEABED EXPLORATION LICENCE AND SEABED MINING LEASE

121. The holder of a seabed exploration licence has an exclusive right to explore for mineral substances, except petroleum, natural gas and brine, on that part of the seabed subject to his licence.

122. No person may mine mineral substances, except petroleum, natural gas and brine, on the seabed unless he has obtained a seabed mining lease from the Minister.

123. The Government may authorize the Minister generally or specially to issue a licence or grant a lease subject to the conditions and fee determined by the Minister.

DIVISION VII

EXPLORATION LICENCE FOR SURFACE MINERAL SUBSTANCES

124. The holder of an exploration licence for surface mineral substances has an exclusive right to explore for surface mineral substances, except sand, other than silica sand used for industrial purposes, gravel, common clay and inert tailings used for construction purposes, on the land subject to his licence.

125. The licence shall be issued by the Minister, for a given territory, to any person who meets the requirements and pays the fee prescribed by regulation.

Notwithstanding the first paragraph, the licence shall be refused

(1) where the territory concerned is subject to or the basis of a mining lease or an application for such a lease, a mining concession, an exploration licence for surface mineral substances, an exclusive lease to mine surface mineral substances or an application for such a lease, held or made by a third person;

(2) if the applicant was the holder of a licence for the territory concerned, in the twelve months preceding the application.

126. A territory may be subject to a licence so far as it is open for prospecting or staking in accordance with sections 26, 28 and 29 and the conditions prescribed under section 31.

127. The territory subject to a licence must be comprised within a single perimeter and its area must not exceed 100 hectares.

128. The term of a licence is two years.

The Minister shall renew the licence for the same term, provided the licensee

(1) has shown to the Minister's satisfaction that the extension is necessary to allow the technico-economic studies or testing already in progress, as defined by regulation, to be continued;

(2) has met the renewal requirements prescribed by regulation;

(3) has paid the fee prescribed by regulation;

(4) has complied with this Act and the regulations throughout the previous term of the licence.

129. The licensee shall comply with the conditions prescribed by regulation to which the licence is subject.

He shall also comply with any other condition imposed on him by the Minister in the public interest.

130. The rights and restrictions relating to exploration for mineral substances applicable to a claim under sections 60 to 62 and 64 to 66, apply, adapted as required, to a licence.

131. During the term of a licence, the licensee is required to perform, in the territory covered by his licence, exploration work of the nature and for the minimum cost prescribed by regulation. However, the amounts disbursed for examination of title and technical assessment work must not exceed one-fourth of the minimum cost prescribed by regulation.

The licensee shall report the exploration work to the Minister before the expiry of his licence; the report must contain the information and be accompanied with the documents prescribed by regulation.

132. The Minister shall refuse the whole or part of the exploration work where the documents transmitted

- (1) are incomplete or not consistent with the regulations;
- (2) do not support 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 exploration work;
- (4) have been falsified or contain false information;
- (5) pertain to work previously reported by the licensee or a third person and accepted as part of another report.

A decision whereby work is refused suspends the licence until the decision becomes executory.

133. The licensee, with the authorization of the Minister, may abandon his right in all or part of the territory covered by his licence, provided

- (1) he applies therefor in writing;
- (2) the residual area, in the case of partial abandonment, is comprised within a single perimeter;

(3) he has complied with the other provisions of this Act and the regulations.

Partial abandonment does not reduce the exploration work that the licensee is required to perform pursuant to section 131 during the current valid term.

DIVISION VIII

LEASE TO MINE SURFACE MINERAL SUBSTANCES

134. No person may extract or mine surface mineral substances unless he has obtained a lease to mine surface mineral substance from the Minister.

Notwithstanding the first paragraph, the Minister may authorize a person who is not a lessee to extract a fixed quantity of surface mineral substances annually, subject to certain conditions.

135. The lease is non-exclusive where it is granted for the extraction or mining of the following substances used for construction purposes: sand, other than silica sand used for industrial purposes, gravel, common clay and inert tailings.

The lease is exclusive where it is granted for the extraction or mining of sand, gravel or common clay if it is shown to the Minister's satisfaction that a supply guarantee is necessary to ensure the establishment or survival of an undertaking or where it is granted for the extraction or mining of silica sand used for industrial purposes or any other surface mineral substance.

136. The Minister shall grant a lease on a given parcel of land to any person who meets the requirements and pays the rental prescribed by regulation.

Notwithstanding the first paragraph, no non-exclusive lease shall be granted where the land concerned is subject to or the basis of a mining lease, a mining concession, an exclusive lease to mine surface mineral substances or an application for such an exclusive lease, held or made by a third person.

No exclusive lease shall be granted where the land concerned is subject to or the basis of a mining lease or an application for a mining lease, a mining concession, an exploration licence for surface mineral substances or an exclusive lease to mine surface mineral substances held or made by a third person.

137. A non-exclusive lease is not transferable.

138. A parcel of land may be subject to a lease so far as it is open for prospecting or staking in accordance with sections 26, 28 and 29 and the conditions prescribed pursuant to section 31.

In no case may land used as a cemetery within the meaning of the Act respecting Roman Catholic cemetery corporations (R.S.Q., chapter C-69) or established as a cemetery in accordance with the Non-Catholic Cemeteries Act (R.S.Q., chapter C-17) be covered by a lease.

139. The parcel of land subject to an exclusive lease must be comprised within a single perimeter and its area must not exceed 100 hectares.

Notwithstanding the first paragraph, the Minister, taking the projected rate of production and the capacity of the mining operation into account, may designate a protected area to guarantee the lessee a supply of peat for a period of approximately fifty years and for that purpose may grant an exclusive lease on a parcel of land of an area in excess of 100 hectares.

140. At the beginning of each year of the lease, the Minister may grant the lessee of an exclusive lease an increase in the area of the territory subject to the lease, provided

- (1) the added land is contiguous to the land already subject to the lease;
- (2) the total area of the land is consistent with section 139;
- (3) the lessee has complied with the other provisions of this Act and the regulations.

141. A non-exclusive lease expires on 31 March of the year immediately following the year in which it was granted.

The Minister shall renew a non-exclusive lease for one year, provided the lessee

- (1) has met the renewal requirements prescribed by regulation;
- (2) has paid the rental prescribed by regulation;
- (3) has complied with this Act and the regulations throughout the previous term of his lease.

Notwithstanding the foregoing, the renewal shall be refused where the parcel of land concerned was, during the previous term of the lease, subject to or the basis of a mining lease, an exclusive lease to mine surface mineral substances or an application for such an exclusive lease, held or made by a third person.

142. The term of an exclusive lease is five years.

The Minister shall renew an exclusive lease for the same term, provided the lessee

(1) applies therefor not later than sixty-one days before the expiry of the lease or, on payment of an additional amount prescribed by regulation, within sixty days before the expiry of the lease;

(2) has carried on mining operations for at least one year;

(3) has met the renewal requirements prescribed by regulation;

(4) has paid the rental prescribed by regulation;

(5) has complied with this Act and the regulations throughout the previous term of his lease.

Notwithstanding the foregoing, the renewal shall be refused for the extraction or mining of sand, gravel and common clay where the Minister is of opinion that the supply guarantee is no longer necessary for the establishment or survival of the undertaking.

143. The lessee has, with respect to the parcel of land subject to his lease, a right of access and the right to extract or mine surface mineral substances.

However, on land granted, alienated or leased by the Crown for purposes other than mining purposes, the rights contemplated in the first paragraph may be exercised only as provided in section 228.

144. Any part of a watercourse with a natural power of 225 kilowatts or more together with a strip of land twenty metres wide on each side of the watercourse is excluded from the lease and reserved to the Crown. The Minister may add to the reserve any area he considers necessary for the development and utilization of the water power.

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

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

146. The lessee shall comply with the conditions of the lease prescribed by regulation and any other condition imposed on him by the Minister in the public interest or because of the existence of other mining rights in the land subject to the lease.

147. The holder of an exclusive lease shall commence mining operations within the time determined by the Minister.

148. The lessee shall prepare and update a detailed statement of his mining activities and shall keep a copy of all documents pertaining to the alienation and transportation of extracted substances.

149. Every three months and within fifteen days after the expiry of the lease, the lessee shall transmit to the Minister a report indicating the quantity of surface mineral substances he has extracted and, where such is the case, alienated.

Within thirty days after receipt of the account established by the Minister following the transmission of the report, the lessee shall pay to the Minister the royalty prescribed by regulation.

No royalty is payable on sand or gravel extracted from a sandpit for the construction or maintenance of a mining road or forest road on lands in the public domain or for the construction or maintenance of a public road by the Crown.

150. The holder of an exclusive lease may, with the authorization of the Minister, abandon his right in the whole or part of the parcel of land subject to his lease, provided

- (1) he applies therefor in writing;
- (2) the residual area, in the case of partial abandonment, is comprised within a single perimeter;
- (3) he has complied with the requirements of the Environment Quality Act and the statutory instruments thereunder;
- (4) he has complied with the other provisions of this Act and the regulations.

DIVISION IX

LICENCE FOR GEOPHYSICAL SURVEYING

151. No person may make a geophysical survey to determine whether geological conditions are favourable to exploration for petroleum, natural gas, brine or underground reservoirs unless he holds a licence for geophysical surveying issued by the Minister.

The term "geophysical surveying" means any method of exploration for petroleum, natural gas, brine or underground reservoirs by indirect measurement of the physical properties of the subsoil effected above or on the surface, particularly seismic reflection, seismic refraction, gravimetric, magnetic, resistivity or geochemical surveying and any other indirect method used to determine any property of the subsoil.

152. The licence shall be issued for a given territory to any person who meets the requirements prescribed by regulation.

The licence is not transferable.

153. The licensee shall comply with the conditions of the licence prescribed by regulation.

Within six months after the geophysical survey is made, the licensee shall transmit to the Minister a report in the form and accompanied with the documents prescribed by regulation.

DIVISION X

WELL DRILLING LICENCE, WELL COMPLETION LICENCE AND WELL CONVERSION LICENCE

154. No person may drill a well to explore for, or produce petroleum, natural gas, brine or an underground reservoir unless he holds, for each drilling, a well drilling licence issued by the Minister.

No person may complete or convert such a well unless he holds, for each completion or conversion, a well completion or well conversion licence issued by the Minister.

155. The licence shall be issued to any person who meets the requirements prescribed by regulation.

The licence is not transferable.

156. The licensee shall comply with the conditions of the licence prescribed by regulation.

Within six months after the end of the drilling of a well, the licensee shall transmit to the Minister a report in the form and accompanied with the documents prescribed by regulation.

157. Where drilling is temporarily or permanently discontinued, the licensee shall abandon the well in accordance with section 158 or complete it.

158. The licensee may abandon a well at any time provided

- (1) he gives prior notice in writing to the Minister;
- (2) he has met the requirements relating to the closing of a well prescribed by regulation;
- (3) he has complied with the requirements of the Environment Quality Act and the statutory instruments thereunder.

DIVISION XI

EXPLORATION LICENCE FOR PETROLEUM AND NATURAL GAS, EXPLORATION LICENCE FOR BRINE AND EXPLORATION LICENCE FOR UNDERGROUND RESERVOIRS

159. No person may explore for petroleum or natural gas, brine or underground reservoirs unless he holds, as the case may be, an exploration licence for petroleum and natural gas, an exploration licence for brine or an exploration licence for underground reservoirs issued by the Minister.

160. The licence shall be issued, for a given territory; to any person who meets the requirements and pays the annual fee prescribed by regulation.

The fee shall be reduced to one-third where the applicant is, with respect to the same territory, a licensee under another licence issued pursuant to this division for which no fee reduction has ever been granted.

Notwithstanding the foregoing, the Minister shall refuse to issue

- (1) an exploration licence for petroleum and natural gas or an exploration licence for brine where the territory is the basis of a call

for tenders in view of granting such a mining right relating to petroleum and natural gas or brine pursuant to section 275;

(2) an exploration licence for underground reservoirs where the territory is the basis of a call for tenders in view of granting such a right pursuant to section 275.

The Minister shall also refuse to issue, unless the third person agrees to it,

(1) an exploration licence for petroleum and natural gas or an exploration licence for brine where the territory is subject to or the basis of either such licence, or a lease to mine any of those substances or an application for such a lease held or made by a third person;

(2) an exploration licence for underground reservoirs where the territory is subject to such a licence held by a third party.

161. The territory subject to a licence must be comprised within a single perimeter and its area must not exceed 25 000 hectares.

162. The licence is valid for a term of five years.

The Minister shall renew the licence for a term of one year, not more than five times, with respect to the whole or part of the territory subject to the licence, provided the licensee

(1) has met the renewal requirements prescribed by regulation;

(2) has paid the fee prescribed by regulation;

(3) has complied with this Act and the regulations throughout the previous term of his licence.

The fee shall be reduced to one-third where the applicant for the renewal is, with respect to the same territory, a licensee under another licence issued pursuant to this division for which no fee reduction has ever been granted.

163. The licensee has, with respect to the territory subject to his licence, a right of access, according to law, and the right to perform exploration work.

However, on land granted, alienated or leased by the Crown for purposes other than mining purposes, the rights contemplated in the first paragraph may be exercised only as provided in section 228.

164. Any underground reservoir that is subject to or the basis of a lease to operate an underground reservoir, an application for such a lease or a call for tenders contemplated in section 275 shall be excluded from an exploration licence for underground reservoirs.

165. The licensee shall pay the annual fee in advance and shall comply with the conditions of the licence prescribed by regulation.

166. The licensee, with the authorization of the Minister, may perform exploration work for petroleum, natural gas, brine or underground reservoirs, as the case may be, in a territory bordering on the territory subject to the licence, provided the proposed exploration work is necessary to gain better knowledge of the territory subject to the licence.

167. No holder of an exploration licence for petroleum and natural gas or an exploration licence for brine may extract or dispose of petroleum, natural gas or brine except during the trial period and subject to the conditions prescribed by regulation.

168. No holder of an exploration licence for underground reservoirs may use an underground reservoir except during the trial period and subject to the conditions prescribed by regulation.

169. The holder of an exploration licence for petroleum and natural gas, an exploration licence for brine or an exploration licence for underground reservoirs shall notify the Minister in writing upon discovering a deposit of petroleum, natural gas or brine in the territory covered by his licence and give him full details of the nature and location of the deposit.

Within three months after the discovery, the licensee shall, at the request of the Minister, transmit an assessment of the economic potential of the deposit.

Within six months after the production of an assessment confirming the presence of an economically workable petroleum or natural gas deposit, the holder of an exploration licence for petroleum and natural gas, an exploration licence for brine or an exploration licence for underground reservoirs shall transmit to the Minister an application for a lease to produce petroleum and natural gas. The holder of an exploration licence for brine shall, subject to the same conditions with respect to a brine deposit, transmit to the Minister an application for a lease to produce brine.

170. Subject to sections 171 and 173 to 176, the licensee shall perform each year, in the territory subject to the licence, exploration work of such nature and minimum cost as are prescribed by regulation.

The required work shall be reduced to one-third where the licensee is, with respect to the same territory, a licensee under another licence issued pursuant to this division for which no work reduction has ever been granted.

The licensee shall report on the exploration work to the Minister within six months after the end of the year in which the work was performed; the report shall be in the form and accompanied with the documents prescribed by regulation.

171. The Minister may exempt a licensee from the whole or part of the exploration work which he did not perform within the prescribed time, provided

(1) he informs the Minister in writing, before the end of the year in which the work should have been performed, of the reasons why he did not perform the work;

(2) he pays an amount equal to the minimum cost of the exploration work he was required to perform or, where such is the case, an amount equal to the difference between the minimum cost and that of the work he performed and reported.

The Minister may also authorize the licensee to perform all or part of the required work the following year, in addition to the work required for that year, provided he informs the Minister in writing of the reasons he was unable to perform the work and furnishes security covering the cost of the work remaining to be performed for the two years. The security shall be returned to the licensee on the Minister's acceptance of the report pertaining to the work.

172. The Minister shall refuse all or part of the exploration work reported where the documents transmitted

(1) are incomplete or not consistent with the regulations;

(2) do not support 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 exploration work;

(4) have been falsified or contain false information;

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

A decision whereby work is refused suspends the licence until the decision becomes executory.

173. The holder of several exploration licences for petroleum and natural gas may combine all the territories subject to his licences and, in his report, may apply the exploration work he has performed to those territories in the proportion he determines, provided

(1) he informs the Minister thereof in writing;

(2) the territories are contiguous or located partly within a radius of forty kilometres;

(3) the total area does not exceed 75 000 hectares.

The same rules apply to the holder of several exploration licences for brine or several exploration licences for underground reservoirs.

174. The excess of the amounts disbursed for exploration work over the minimum cost prescribed by regulation is applicable to subsequent years of the licence, provided a detailed statement of the amounts disbursed, certified by a chartered accountant, is furnished by the licensee to the Minister within six months after the end of the year in which the work is performed.

The excess is also applicable, at half-value, to any renewed term of the licence.

175. The excess of the amounts disbursed for exploration work performed prior to the abandonment of part of the territory subject to the licence is reduced proportionately to the abandoned area and is applicable to the residual area.

176. In his report, the licensee may include exploration work performed outside the territory subject to his licence pursuant to section 166.

177. The licensee, with the authorization of the Minister, may abandon his right in all or part of the territory subject to his licence, provided

(1) he applies therefor in writing;

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

(3) he has complied with the conditions for the abandonment of a well set out in section 158, where such is the case, unless the Minister decides otherwise;

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

Partial abandonment does not reduce the exploration work the licensee is required to perform during the year of the abandonment.

DIVISION XII

LEASE TO USE NATURAL GAS

178. No person may use natural gas discovered by him on his land unless he has obtained from the Minister a lease to use natural gas.

179. The Minister shall grant a lease, for a given well, to any person who meets the requirements and pays the annual rental prescribed by regulation.

Notwithstanding the first paragraph, no lease shall be granted where the parcel of land in which the natural gas is discovered is already subject to a mining right relating to petroleum, natural gas, brine or an underground reservoir held by a third person.

180. In no case may the lease be transferred except to a subsequent purchaser of the parcel of land.

181. The lease is valid for a term of twenty years.

The Minister shall renew the lease for a term of ten years, not more than three times, provided the lessee

(1) has met the renewal requirements prescribed by regulation;

(2) has paid the annual rental prescribed by regulation;

(3) has complied with this Act and the regulations throughout the previous term of his lease.

Notwithstanding the foregoing, after the third renewal of the lease, the Minister may grant an extension thereof on the conditions, for the

rental and for the term he determines, where the lessee shows to his satisfaction that the deposit is not yet depleted.

182. The lessee may use the natural gas only to meet the energy requirements of his residence.

183. The Minister may cancel a lease to use natural gas where he grants a lease to produce petroleum and natural gas, a lease to produce brine or a lease to operate an underground reservoir covering the parcel of land containing the well.

The lessee under the latter lease shall pay to the person whose lease to use natural gas has been cancelled compensation based on the investments made to produce natural gas and a lump sum computed as prescribed by regulation.

184. The lessee shall pay the annual rental in advance and comply with the conditions of the lease prescribed by regulation.

185. The lessee, with the authorization of the Minister, may abandon his right, provided

(1) he applies therefor in writing;

(2) he has complied with the conditions for the abandonment of a well set out in section 158, where such is the case;

(3) he has complied with the other provisions of this Act and the regulations.

DIVISION XIII

LEASE TO PRODUCE PETROLEUM AND NATURAL GAS,
LEASE TO PRODUCE BRINE AND
LEASE TO OPERATE AN UNDERGROUND RESERVOIR

186. No person may produce petroleum or natural gas, or brine, or operate an underground reservoir unless he has obtained from the Minister a lease to produce petroleum and natural gas, a lease to produce brine or a lease to operate an underground reservoir, as the case may be.

187. The Minister shall grant a lease on a given parcel of land or underground reservoir to any person who establishes the presence of an economically workable deposit or operable underground reservoir,

as the case may be, and meets the requirements and pays the annual rental fixed in accordance with section 195.

Notwithstanding the foregoing, the Minister shall refuse to grant

(1) a lease to produce petroleum and natural gas or a lease to produce brine where the land is the basis of a call for tenders in view of granting such a mining right relating to petroleum and natural gas or brine pursuant to section 275;

(2) a lease to operate an underground reservoir where the underground reservoir is the basis of a call for tenders in view of granting such a right pursuant to section 275.

The Minister shall also refuse to grant, unless the third person agrees,

(1) a lease to produce petroleum and natural gas or a lease to produce brine where the territory is subject to or the basis of an exploration licence for any of those substances, a lease to produce any of those substances or an application for such a lease held or made by a third person;

(2) a lease to operate an underground reservoir, where the underground reservoir is subject to or the basis of such a lease or an application for such a lease held or made by a third person.

188. The parcel of land subject to a lease to produce petroleum and natural gas or a lease to produce brine must be comprised within a single perimeter and its area must be not of less than 200 hectares nor more than 2 000 hectares.

Notwithstanding the first paragraph, the Minister may grant a lease on a parcel of land of an area of less than 200 hectares if the presumed area of the deposit is comprised therein.

189. The parcel of land containing an underground reservoir subject to a lease to operate an underground reservoir must be comprised within a single perimeter determined by the vertical projection, on the surface, of the underground reservoir and the perimeter of the protected area prescribed by regulation. The area of the parcel of land must be not less than 200 hectares nor more than 2 000 hectares.

Notwithstanding the first paragraph, the Minister may grant a lease on a parcel of land of an area of less than 200 hectares if the presumed

area of the underground reservoir and protected area are comprised therein.

190. The size of an underground reservoir is determined on the basis of the assumption that a reservoir is limited at the top and at the base by impervious geologic formations.

191. The area of the territory subject to an exploration licence for petroleum and natural gas or an exploration licence for brine is reduced by the area of any land subject to a lease.

The exploration work to be performed during the year in the territory is reduced proportionately to the area of the land subject to the lease.

192. The term of a lease is twenty years.

The Minister shall renew the lease for a term of ten years not more than three times, provided the lessee

(1) has met the renewal requirements prescribed by regulation;

(2) has paid the annual rental prescribed by regulation;

(3) has complied with this Act and the regulations throughout the previous term of his lease.

Notwithstanding the foregoing, after the third renewal of the lease, the Minister may grant an extension thereof on the conditions, for the rental and for the term he determines where the deposit or underground reservoir, as the case may be, is still economically workable or operable.

193. The lessee has, with respect to the parcel of land or underground reservoir subject to the lease, a right of access, according to law, and the right to perform any work to produce petroleum and natural gas or to operate the reservoir.

However, on land granted, alienated or leased by the Crown for purposes other than mining purposes, the rights contemplated in the first paragraph may be exercised only as provided in section 228.

194. Any underground reservoir subject to or the basis of a lease to operate an underground reservoir, an application for such a lease or a call for tenders contemplated in section 275 shall be excluded from a lease to produce petroleum and natural gas or a lease to produce brine.

195. The holder of a lease to produce petroleum or natural gas or of a lease to produce brine shall pay in advance the annual rental prescribed by regulation.

The holder of a lease to operate an underground reservoir shall pay in advance the annual rental determined by the Minister according to the criteria prescribed by regulation.

Every lessee shall comply with the conditions of the lease prescribed by regulation.

Every lessee shall commence working the deposit or operating the reservoir, as the case may be, within the time indicated in his lease by the Minister.

196. In no case may a lessee begin a pilot or experimental production project or enhanced recovery operations unless he has obtained the authorization of the Minister.

In no case may the holder of a lease to produce petroleum or natural gas or a lease to produce brine suspend production for more than thirty days except for reasons considered valid by the Minister.

197. The holder of a lease to produce petroleum and natural gas or of a lease to produce brine shall transmit to the Minister, within the first twenty-five days of each month, a report in the prescribed form showing the quantity and well head value of the petroleum, natural gas or brine extracted during the previous calendar month and the other information prescribed by regulation.

He shall, at the same time, pay to the Minister the royalty prescribed by regulation, which shall be not less than five per cent nor more than seventeen per cent of the well head value of the petroleum, natural gas or brine extracted.

No royalty is payable on petroleum, natural gas or brine used on the premises by the lessee for drilling or production purposes or on flared natural gas.

198. The holder of a lease to operate an underground reservoir shall transmit to the Minister, within the first twenty-five days of each month, a report showing the nature and quantity of substances or products or residues injected or withdrawn during the previous calendar month.

199. The lessee, with the authorization of the Minister, may abandon his right in an underground reservoir or in the whole or part of the land subject to a lease to produce petroleum and natural gas or a lease to produce brine, provided

(1) he applies therefor in writing;

(2) the residual area, in the case of partial abandonment, is comprised within a single perimeter and, unless otherwise authorized by the Minister, is at least 200 hectares;

(3) he has complied with the conditions for the abandonment of a well set out in section 158, where such is the case, unless the Minister decides otherwise;

(4) he has complied with the Environment Quality Act and the statutory instruments thereunder;

(5) he has complied with the other provisions of this Act and the regulations.

DIVISION XIV

PROVISIONS APPLICABLE TO THE HOLDER OF A MINING RIGHT

200. Notices of staking, notices of map designation and licence or lease applications are deemed received on the day they are sent if they are served by certified or registered mail and on the day they are received in other cases.

They are admitted, except for notices of staking, according to the order in which they are received.

Notices of map designation and licence or lease applications affecting the same parcel of land that are received on the same day are admitted in the order established by a drawing of lots. However, licence or lease applications with respect to petroleum and natural gas, brine or underground reservoirs are admitted in the order established by a drawing of lots or by a call for tenders, as the Minister directs.

Reports and applications for exemptions relating to work required under this Act and applications for the renewal of a mining right are deemed transmitted on the day they are received.

201. Every 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.

202. The holder of a mining right shall defray, with respect to the parcel of land that is subject to his right, any costs incurred for surveying, the determination or demarcation of boundaries and topographical surveys by means of aerial photography or otherwise.

The documents, reports and minutes relating to such operations shall be transmitted to the Minister with due diligence after they are conducted.

203. Any survey required by the Minister or prescribed by regulation to establish the boundaries and official description of a parcel of land affected by a mining right shall be carried out by a land surveyor.

The surveyor shall comply with the surveying standards prescribed by regulation and act according to the instructions of the Minister.

204. Where a person is in illegal possession of any parcel of land that is subject to a mining right on land in the public domain and refuses to relinquish possession, the Minister, or with his permission the holder of the mining right, may apply to a judge of the Superior Court for an order in the form of a writ of possession.

In such a case, section 48 of the Lands and Forests Act applies, adapted as required.

205. No compensation may be claimed by the holder of a mining right from another holder of a mining right

(1) for the depositing of tailings, pursuant to paragraph 2 of section 229, section 232 or 234, on the parcel of land that is subject to his right;

(2) for the depositing of sand, clay, stones or other materials resulting from the draining or diversion of a watercourse pursuant to section 230 or paragraph 4 of section 231.

206. The holder of a mining right may, in order to construct buildings or perform any other operation required for his mining activities, cut timber forming part of the public domain on the parcel of land that is subject to his right, in accordance with the rules set forth in the Lands and Forests Act and the regulations.

207. In the event of the death of the holder of a mining right and on the application of his 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.

208. Maps, reports and other documents showing the results of exploration, geophysical surveying or drilling work performed pursuant to this chapter become accessible to all persons upon their acceptance by the Minister.

Notwithstanding section 1, section 9 and Division II of Chapter II of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), maps, reports and other documents contemplated in section 113 or required with respect to a mining right relating to petroleum and natural gas, brine or an underground reservoir become accessible to all persons only upon the abandonment, revocation or expiry of the mining concession, licence or lease for which they were drawn up.

209. Within thirty days after the abandonment, revocation or expiry of his right, the holder of a claim, mining exploration licence or exploration licence for surface mineral substances shall remove all his movable and immovable property from the parcel of land that was subject to his right.

Subject to the first paragraph of section 117, the holder of a mining lease or mining concession shall, within one year after the abandonment, revocation or expiry of his right, remove all his movable and immovable property and any extracted ore from the parcel of land that was subject to his right. On written application, the Minister may grant him an extension subject to the conditions he determines.

Once the time is expired, the property and ore remaining on land in the public domain shall, of right, form part of the public domain or may be removed by the Minister at the expense of the holder of the mining right.

CHAPTER IV

GENERAL PROVISIONS GOVERNING PERSONS
CARRYING ON MINING ACTIVITIES

DIVISION I

APPLICATION AND INTERPRETATION

210. This chapter applies to the mineral substances and underground reservoirs referred to in section 16 and to mineral substances that are not part of the public domain.

211. In this chapter,

“operator” means any person who, as owner, lessee or occupant of a mine or underground reservoir, performs or directs mining operations, or causes them to be performed or directed;

“mine” means any opening or excavation made for the purpose of searching for or working mineral substances or operating an underground reservoir, including works, machinery, plants, buildings and furnaces below or above ground and forming part of a mining operation.

DIVISION II

NOTICES, REPORTS, PLANS,
REGISTERS AND OTHER DOCUMENTS

212. The holder of a mining right or, as the case may be, the operator is required to notify the Minister in writing within fifteen days of any change of operator or of firm name or address.

213. The operator shall transmit to the Minister, at his request, any plan or document required for further information on deposits and working of deposits, and any report on exploration work performed during the year and the results of the work.

214. Every operator, every person engaged in prospecting or exploration for or extraction or processing of mineral substances and every contractor engaged in mining operations shall forward to the Minister, before 1 October each year, a preliminary report for the current year and a forecast for the following year showing

(1) the expenses made or anticipated for prospecting or exploration;

(2) the sums allocated or to be allocated for capital expenditures and repairs.

The operator or the person who processes mineral substances and the contractor shall also indicate in his report the quantity and value of the production.

215. Every operator and every person engaged in prospecting or exploration for or extraction or processing of mineral substances shall transmit to the Minister, in January each year, a report of activities for the preceding year showing

(1) the nature of the work and the sums spent on prospecting and 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 entailed by mining activities;

(7) any other information the Minister may request.

At the request of the Minister, he shall transmit the report at the end of each month or each quarter.

Every undertaking which provides mining services shall forward the report described in the first paragraph to the Minister, at his request.

In the event of the bankruptcy or winding-up of an undertaking, the trustee or liquidator shall transmit the report to the Minister at his request.

216. The holder of mining rights who performs underground exploration work and the operator shall, before commencing mining operations or resuming them after a suspension of six months or more, transmit to the Minister a written notice in compliance with the norms prescribed by regulation.

217. They shall keep up to date plans and registers relating to the work as prescribed by regulation.

The holder of mining rights who performs any other exploration work shall keep an up to date record of excavations and drilling in accordance with the regulations.

218. On or before 1 February each year, the operator shall forward the plans indicated by regulation to the Minister.

219. Where mining operations are suspended for six months or more, the holder of a mining right who performs underground exploration work and the operator shall, within four months from the beginning of the suspension, transmit to the Minister a copy, certified by an engineer or a qualified geologist, of the plans of the underground works, surface mines, ground facilities, and tailing dumps existing on the date of cessation of the work.

They shall also transmit the plans, registers and reports prescribed by regulation.

For the purposes of the first paragraph, the words "qualified geologist" mean a person who holds a bachelor's degree from a recognized university, obtained after a specialized course in geology.

220. Every person who discovers natural gas on his land is required to notify the Minister in writing with diligence.

221. Notwithstanding Chapter II of the Act respecting Access to documents held by public bodies and the Protection of personal information, reports, plans and registers furnished to the Minister under sections 213, 214, 215, 218, 219 and subparagraph 1 of section 227 are considered confidential information reserved for the exclusive use of the officers of the department.

Notwithstanding the first paragraph, the reports, plans and registers may be consulted with the written consent of the owner of the mineral substances or of the mining rights or where the Crown retakes possession of the mining rights.

222. The notices, decisions and documents transmitted by the recorder or the Minister are deemed validly served if they have been transmitted by registered or certified mail to the person concerned at his last known address.

DIVISION III

PROTECTIVE MEASURES

223. The Minister may, where an emanation of natural gas threatens to cause personal injury or property damage, order the person responsible for the emanation to do what is necessary to remedy the situation or, if there is no other solution, to seal off the source of the emanation.

If the person responsible fails to comply with the orders of the Minister within the prescribed time, the Minister may cause the work to be done or the source of the emanation to be sealed off at the expense of the person responsible.

224. The Minister may, where mining activities are temporarily or permanently discontinued, order the holder of mining rights or the operator to take any protective measures necessary to prevent any damage that may result from the cessation.

If the holder of mining rights or the operator fails to comply with the orders of the Minister within the prescribed time, the Minister may cause the work to be done at the expense of the holder or operator.

225. Every holder of mining rights and every operator who temporarily or permanently discontinues mining activities shall take the protective measures prescribed by regulation.

If the holder or operator fails to take the measures, the Minister may cause them to be taken at the expense of the holder or operator.

The first paragraph does not apply in the case of a strike, lock-out, cessation of underground exploration or operation of a mine for a period of less than six months or for a longer period where the mine is under the supervision of a watchman who carries out a weekly inspection of underground works.

226. No person may move, disturb or damage a facility erected under this Division, unless he has the authorization in writing of the owner of the mine.

DIVISION IV

OPTIMUM RECOVERY OF A MINERAL SUBSTANCE

227. In order to ensure that every operator properly recovers the economically workable mineral substance that is the subject of his mining operations, the Minister may

(1) require him to transmit a report justifying the mining method used;

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

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

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

DIVISION V

EXPROPRIATION AND COMPENSATION

228. The holder of mining rights or the owner of mineral substances may acquire by agreement or by expropriation, any property necessary for the performance of exploration work or mining operations on the land granted or alienated by the Crown for purposes other than mining purposes, except cemeteries within the meaning of the Act respecting Roman Catholic cemetery corporations or cemeteries established in accordance with the Non-Catholic Cemeteries Act.

No holder of mining rights or owner of mineral substances may exercise his right to perform exploration work or mining operations on land leased by the Crown for purposes other than mining purposes or on lands under an exclusive lease to mine surface mineral substances unless he obtains the lessee's consent or pays compensation to him.

229. A holder of mining rights or owner of mineral substances who is working a mine on land granted or alienated by the Crown for purposes other than mining purposes may on land other than land subject to mining rights or that is a cemetery within the meaning of the Act respecting Roman Catholic cemetery corporations or established as a cemetery in accordance with the Non-Catholic Cemeteries Act, acquire by agreement or by expropriation

(1) a right of way to construct or maintain roads, cableways, railways, pipelines, electric transmission lines required for his mining activities and the conduits used to supply the water required for the operation of the mine;

(2) any parcel of land intended for the storage of tailings.

DIVISION VI

WATERCOURSES AND DRAINAGE

230. Every holder of mining rights or owner of mineral substances may, for his mining activities and according to law, drain water and remove sludge from land covered by a swamp, lake or watercourse.

231. The operator may, for mining purposes and according to law,

(1) develop a watercourse and render it navigable;

(2) build a canal between watercourses to create a transportation route necessary for the operation of the mine;

(3) draw water from any source of supply, provided the rights of any other persons to the same sources of supply are protected;

(4) divert water from its course to work mineral-bearing placers.

DIVISION VII

SITES FOR MINING INFRASTRUCTURES

232. The holder of mining rights or the owner of mineral substances may, in accordance with the Lands and Forests Act, cause to be transferred or leased to him lands in the public domain to establish a storage yard for tailings, or a site for mills, shops or facilities necessary for mining activities.

233. Any person who intends to operate a mill for the preparation of mineral substances, a concentration plant, a refinery or a smelter shall, before commencing operations, have the site approved by the Government.

234. Every person responsible for the management of a concentration plant, refinery or smelter shall, before commencing activities, have the site intended as a storage yard for tailings approved by the Minister.

He shall, for that purpose, transmit the documents prescribed by regulation to the Minister.

DIVISION VIII

MINING ROADS

235. The Minister of Transport, with the authorization of the Government, may construct, improve or maintain any mining road to facilitate the exercise of mining rights. The Minister may cause the work to be done or have the owners of mineral substances or holders of mining rights to whose advantage the work is done pay part of the costs.

On lands in the public domain, the work shall be done without compensation to holders of mining rights. On lands in the private domain, the work shall be done only after the property necessary to carry out the proposed works has been acquired by agreement or expropriation.

236. Roads, bridges or other structures shall be considered to be mining roads from the time they are laid out until they are closed.

237. The Minister of Transport shall forward the plan of proposed mining roads on lands in the public domain to the Minister of Energy and Resources and, where such is the case, give notice thereof to any holder of rights in forest land pursuant to the Lands and Forests Act.

238. The Minister of Transport may, without being required to pay compensation, in particular to the holder of mining rights, take from the right of way of mining roads and their vicinity the timber, earth, stone, gravel, sand and clay necessary for the construction, alteration or maintenance thereof and cut down all the trees within a distance of ten metres on either side of the right of way.

On lands in the private domain, the Minister shall not take the materials referred to in the first paragraph except after acquiring, by agreement or expropriation, the land containing them or a temporary right of way on any 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 public domain, the Minister of Transport shall not cut timber except with the authorization of the Minister of Energy and Resources and subject to the conditions he determines.

239. The Minister of Transport may, subject to certain conditions, restrict or prohibit access to a mining road.

The Minister may also exempt a mining road from the provisions respecting highway traffic or safety in the Highway Safety Code (R.S.Q., chapter C-24.1).

240. The Minister of Transport may, with the authorization of the Government, close or change the location of all or part of a mining road. He may transfer the ownership of all or part of the road that has been closed or whose location has been changed to the owner of the land on which the road lay.

241. The Minister of Energy and Resources shall, with respect to secondary mining roads designated as such by the Government, exercise the powers vested in the Minister of Transport by this division.

Notwithstanding the first paragraph, the plans and standards of construction, improvement and maintenance of the roads must be approved by the Minister of Transport.

242. The Government may, by regulation, render the provisions respecting highway traffic and safety in the Highway Safety Code applicable to secondary mining roads.

243. No user of a secondary mining road may bring an action for damages on the ground of faulty construction, improvement or maintenance of the road.

CHAPTER V

INSPECTION

244. Every person generally or specially authorized by the Minister to act as an inspector may

(1) have access, at any reasonable time, to premises where an activity governed by this Act or the regulations is carried on and inspect them;

(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.

245. No person may hinder an inspector in the performance of his duties, mislead him through concealment or false declarations, refuse to furnish him any information or document he is entitled to require or examine under section 244, or conceal or destroy a document or property relevant to an inspection.

246. The inspector shall, on request, identify himself and produce the certificate signed by the Minister attesting his capacity.

247. The inspector may, to protect a mineral substance, order the suspension of any well drilling, well completion, well conversion or well abandonment operation performed in exploring for or producing or operating petroleum, natural gas, brine or underground reservoirs where there is ground to believe that this Act or the regulations have been contravened.

The inspector shall authorize resumption of the activity where he considers the situation has been remedied.

248. In no case may legal proceedings be taken against the inspector for official acts performed in good faith in the course of his duties.

CHAPTER VI

INQUIRY

249. The Minister or any person he designates as investigator may inquire into any fact within the scope of this Act or the regulations.

250. The Minister and the investigator, for the conduct of an inquiry, are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37).

They have access, at any reasonable time, to the premises where an activity governed by this Act and the regulations is carried on.

251. The investigator shall, on request, identify himself and produce a certificate of his capacity signed by the Minister.

CHAPTER VII

REVOCATION OF OWNERSHIP RIGHTS BY THE GOVERNMENT

252. The Government may, on lands in the public domain, upon an application by a municipality, revoke ownership rights other than mining rights in a mining concession which has not been operated for at least ten years, when it considers it necessary for the development of a municipality and in the public interest.

253. The Government may revoke the mining rights in the mining concessions referred to in section 5 or in the lands granted pursuant to the same section where there have been no exploration work or mining operations for ten years unless the grantee or the owner proves to it that the deposit subject to the rights constitutes a reserve necessary for the continuation of a mining, oil or gas undertaking operated by him in Québec.

254. The Government shall, by certified or registered mail, send a notice of its intention to revoke the rights referred to in section 252 or 253 to the grantee or owner at his last known address, if known.

The notice shall be 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 the land affected by the revocation is wholly or partly situated.

255. Revocation cannot be declared until ninety days from the last publication of the notice.

256. Notice of revocation shall be published in the *Gazette officielle du Québec*; revocation takes effect on the date of the publication.

257. Revocation does not apply to rights in substances described in section 6.

258. The revocation of mining rights in a mining concession does not affect any other ownership rights transferred to a third person before 24 March 1937 or transferred from that date with the ministerial authorization required under the Mining Act then in force.

The absence of ministerial authorization does not invalidate the transfer of ownership rights made before 24 March 1937.

259. Any person except the grantee or owner whose rights have been revoked may, within thirty days from the date on which the revocation of mining rights under section 253 takes effect, apply for the recording of a claim by map designation, of an exploration licence for petroleum and natural gas, of an exploration licence for brine, or a lease to produce petroleum and natural gas or a lease to produce brine in respect of all or part of the land that was subject to the revoked rights.

Thereafter, the claim may be obtained by staking or map designation according to the territory in which the land is situated.

260. Where, after mining rights have been revoked, the mineral substances that were subject to those rights are mined, the person whose rights were revoked is entitled, as compensation from the operator, to a royalty equal to

(1) in the case of petroleum, natural gas and other mineral substances associated with them, 3% of the well head value of those substances, payable within the first twenty-five days of each month;

(2) in the case of all other substances, 2% of the gross value of the annual production of those substances, payable on the dates fixed under section 46 of the Mining Duties Act.

261. Where such a royalty is payable, the Minister shall give notice thereof in the manner prescribed in section 254.

262. The operator shall pay the royalty to the Minister who shall send it to the person to whom it is owed on the dates he determines.

263. In the event of a dispute regarding the right to the royalty or the amount thereof, the royalty shall be entrusted to the Minister of Finance as a judicial deposit under the Deposit Act (R.S.Q., chapter D-5) pending a decision by a competent court.

264. The right to a royalty is prescribed by two years from the last publication of the notice that a royalty is payable.

If at the expiry of that period, no claim has been made, the Minister shall return the royalties collected to the operator.

CHAPTER VIII

SUSPENSION OR REVOCATION OF MINING
RIGHTS BY THE MINISTER

265. The Minister may suspend or revoke any mining right where a holder

(1) no longer meets the conditions prescribed by regulation for the obtaining or renewal of the mining right;

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

(3) has not paid the annual duties, the royalties or the rental on the due date.

266. The Minister may also suspend or revoke any mining right relating to petroleum, natural gas, brine or an underground reservoir where its holder is drilling, completing or converting a well without a licence prescribed for that purpose or where the holder having obtained a licence does not comply with the conditions thereof.

267. The Minister may, of his own initiative or at the request of an interested person, revoke

(1) a claim where the land that is the basis of it has not been staked although staking is required by this Act;

(2) a claim, before the end of the first year following the date of its recording where the staking rules prescribed by regulation have not been complied with;

(3) a claim, where sections 39 and 40 have not been complied with, unless the right has been recorded for not less than one year in the record contemplated in section 12 in the name of a subsequent purchaser in good faith;

(4) a mining right obtained or renewed by mistake.

268. The Minister may revoke

(1) a claim, a mining exploration licence or an exploration licence for surface mineral substances, within three months following its renewal where he refuses the work under section 69, 91 or 132;

(2) an exploration licence for petroleum and natural gas, an exploration licence for brine or an exploration licence for underground reservoirs within seven months following the year in which the work was performed where he refuses the work under section 172;

(3) a mining right obtained or renewed through fraud unless the right has been recorded for not less than one year in the record contemplated in section 12 in the name of a subsequent purchaser in good faith.

269. The holder of a mining right who is carrying on underground exploration work, the holder of any operating lease and the mining grantee whose rights have been revoked shall forward to the Minister, at his request, a copy of the plans, records and report mentioned in section 219.

270. The Minister shall, before suspending or revoking a mining right, give the holder a notice stating the grounds for the suspension or revocation and send a copy of the notice to the recorder.

The Minister shall render a decision within fifteen days from receipt of the notice.

271. An application for the revocation of a mining right must

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

(2) be accompanied with the fee prescribed by regulation, a sworn statement attesting the truth of the facts alleged and a sketch clearly indicating the irregularities of the staking, where such is the case;

(3) be served on the respondent not less than ten clear days before it is presented to the Minister.

Notwithstanding the foregoing, in the case contemplated in the second paragraph of section 45, service pursuant to subparagraph 3 of the first paragraph shall be made a reasonable time before the hearing.

A copy of the application shall also be transmitted to the recorder before it is presented to the Minister.

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

A decision to revoke a mining right suspends the term of the mining right until the decision becomes executory.

273. The revocation of a mining concession does not affect any other ownership right transferred to a third person before 24 March 1937 or transferred from that date with the ministerial authorization required under the Mining Act as then in force.

The absence of ministerial authorization does not invalidate transfers of subsoil ownership or superficies rights made before 24 March 1937.

274. Every person except the holder of a revoked mining right, may, within thirty days of the date on which the revocation of a mining exploration licence, mining lease, mining concession or mining right in respect of the seabed or surface mineral substances has become executory, obtain, in accordance with this Act, a claim by notice of map designation, a mining exploration licence or a mining right in respect of the seabed or surface mineral substances for the whole or part of the land that was subject to the revoked mining right.

Thereafter, the claim may be obtained by staking or map designation according to the territory in which the land is situated.

If the person concerned discontinues his appeal from the decision, the prescribed times run from the date of filing of a notice of discontinuance in the office of the Provincial Court.

275. Within thirty days from the date on which the revocation of a mining right relating to petroleum, natural gas, brine or an underground reservoir becomes executory, the Minister shall make a call for tenders in view of again granting any of such rights for the whole or part of the land or underground reservoir that was subject to the revoked mining right. No tender may be submitted by the holder of the revoked mining right.

Where the interested person discontinues his appeal from the decision to revoke, the prescribed times run from the date of filing of a notice of discontinuance in the office of the Provincial Court.

CHAPTER IX

REFERRAL AND APPEAL

276. The Minister shall refer any dispute to which the Crown is a party, other than by way of impleading, to the Provincial Court.

Sections 282 to 285, adapted as required, apply to any case so referred.

A copy of the decision of the Provincial Court shall be transmitted to the Minister.

277. Every decision rendered pursuant to section 49, 54, 59, 69, 91, 95, 114, 132, 172, 187, 223, 224, 227, 247, 265, 266, 267 or 268 must be in writing and give the reasons on which it is based. It shall be transmitted to the interested person within fifteen days by registered or certified mail.

278. Any interested person may appeal to the Provincial Court from any decision referred to in section 277.

279. The appeal suspends the execution of the decision unless the court decides otherwise.

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

281. Such motion shall be filed in the office of the Provincial Court of the judicial district of the domicile or principal establishment of the appellant, within thirty days after the receipt of the decision by the appellant.

282. Upon the service of the motion, the Minister shall transmit to the Provincial Court the record of the decision appealed from.

283. The appeal is heard and decided by preference.

The decision of the Provincial Court is without appeal.

284. The Provincial Court may, in the manner prescribed in article 47 of the Code of Civil Procedure (R.S.Q., chapter C-25), adopt the rules of practice considered necessary for the application of this division.

285. Only the judges of the Provincial Court designated by the chief judge or the senior associate chief judge, shall, within their respective territorial jurisdictions, have jurisdiction pursuant to this chapter.

CHAPTER X

MINISTERIAL ORDERS

286. The Minister may, by order

(1) reserve to the Crown or withdraw from prospecting, staking, map designation, mining exploration or mining operations any land containing mineral substances that are part of the public domain and necessary for any purpose he deems to be of public interest, particularly the performance of the following work:

- mining inventory and exploration work;
- mining, industrial, port, airport or communications facilities;
- underground conduits;
- development and utilization of water power, storage reservoirs or underground reservoirs;
- creation of parks or ecological reserves;

(2) order the construction and maintenance of common walls or common roads between mining properties;

(3) declare a drift an underground reservoir and render this Act applicable to it.

Where the land on which mining inventory and mining exploration work is to be performed is in a reserved area or an agricultural zone within the meaning of the Act to preserve agricultural land (R.S.Q., chapter P-41.1), the Minister shall consult the Commission de protection du territoire agricole du Québec before withdrawing the land from prospecting, staking, map designation, mining exploration or mining.

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

287. The Minister may, by order, delegate generally or specially, to any person, the exercise of the powers vested in him by this Act.

CHAPTER XI

REGULATIONS

288. The Government may, by regulation,

(1) prescribe the amount of the fee for recording any transfer of mining rights or any other instrument respecting mining rights and of the fee for the issuance of certificates of entry on the record;

(2) prescribe the requirements for obtaining a licence or lease and any fee or rental payable;

(3) prescribe the requirements for renewal or advance renewal of a claim, and for renewal of a licence or lease and the amount of any fee or rental payable;

(4) prescribe the criteria to be taken into account by the Minister in fixing the rental for a lease to operate an underground reservoir;

(5) prescribe the conditions of exercise of a licence or lease;

(6) prescribe the fee payable by the holder of a prospector's licence to obtain a duplicate of his licence;

(7) prescribe the conditions of issuance, term and price of the tags necessary for staking;

(8) prescribe the staking rules;

(9) prescribe the form and content of notices of staking and of map designation and the documents and fees that must accompany them;

(10) define the improvements referred to in section 65;

(11) specify the nature of any exploration or mining work required under this Act, its minimum cost and related expenses, the form and content of any report relating to it and the documents that must accompany the report;

(12) fix the additional amount referred to in the second paragraph of section 67 and in subparagraph 1 of the second paragraph of sections 98 and 142;

(13) prescribe the rules governing the assignment of work for the purposes of section 73;

(14) define technico-economic studies and testing operations for the purposes of section 128;

(15) fix the amount of the royalty payable under the second paragraph of section 149 or 197;

(16) specify the information to be contained in a report on geophysical surveying or well drilling and the accompanying documents;

(17) prescribe the conditions for the closing of a well bore;

(18) determine the trial period during which the holder of an exploration licence for petroleum and natural gas or of an exploration licence for brine may extract that substance and the conditions of the extraction;

(19) determine the trial period and the conditions governing the use of an underground reservoir that must be met by the holder of an exploration licence for underground reservoirs;

(20) prescribe the rules governing the computation of the lump sum referred to in section 183;

(21) prescribe the size of the protected area of an underground reservoir;

(22) prescribe the form of the report referred to in section 197 and the information it must contain;

(23) prescribe the surveying standards a surveyor must comply with under the second paragraph of section 203;

(24) prescribe norms governing written notices under section 216;

(25) prescribe the plans and records to be kept up to date in accordance with section 217 and the plans to be transmitted to the Minister in accordance with section 218;

(26) prescribe the plans, record and report that the holder of a mining right who performs underground exploration work and the operator are required to transmit to the Minister in accordance with section 219 where the work is discontinued;

(27) prescribe the protective measures to be taken by the holder of a mining right or an operator where mining operations are temporarily or permanently discontinued;

(28) prescribe the documents to be transmitted to the Minister in accordance with section 234;

(29) render the provisions respecting highway traffic and safety in the Highway Safety Code applicable to secondary mining roads;

(30) fix the costs that must accompany a motion for the suspension or revocation of a mining right;

(31) fix the terms and conditions of payment of the fees, costs and rentals prescribed in this Act;

(32) determine which provisions of a regulation it is an offence to contravene.

289. In the case of a claim, the fees referred to in paragraphs 3 and 9 of section 288 may vary according to the area of land covered by the claim.

The staking rules contemplated in paragraph 8 of the said section may vary depending on whether the land to be staked is situated in a lot of 500 hectares or less or in a block that has been under a mining lease or in a mining concession or in another territory.

The minimum cost of the work referred to in paragraph 11 of the said section may vary according to the area of the land on which it is performed or the number of valid terms of the claim.

290. In the case of a mining lease, the rental referred to in paragraphs 2 and 3 of section 288 may vary according to the area of the land under the mining lease or to whether the land is situated on lands in the public domain or on lands granted, alienated or leased by the Crown for purposes other than mining purposes, depending on whether or not the surface of the soil is utilized or according to the nature of its utilization.

291. In the case of a lease to mine surface mineral substances, the requirements and conditions and the rental referred to in paragraphs 2 and 3 of section 288 may vary according to whether the lease is exclusive or not.

292. In the case of an exploration licence or a lease to produce petroleum, natural gas, or brine, the fee and the minimum cost of work and the rental, as the case may be, referred to in paragraphs 2 and 3 and 11 of section 288, may vary according to the area of the land subject to the licence or lease or according to the region in which it is situated.

293. In the case of a mining exploration licence, the conditions and the amount of the fee referred to in paragraphs 2 and 3 of section 288 may vary according to the surface of the land subject to the licence.

The minimum cost of the work referred to in paragraph 11 of the said section may vary according to the area of the land on which it is performed or according to the year in which the licence is valid.

294. In the case of a mining concession referred to in section 113, the minimum cost of the work referred to in paragraph 11 of section 288 may vary according to the area of the land subject to the mining concession.

295. In the case of an exploration licence for petroleum, natural gas, brine or an underground reservoir, the nature and minimum cost of the work referred to in paragraph 11 of section 288 may vary according to the year during which the licence is valid, the area of the territory covered by the licence and the region where it is situated.

CHAPTER XII

PENAL PROVISIONS

296. Every person who contravenes any provision of sections 17, 151, 154, 159, 169 and 220 is liable, in addition to costs, to a fine of \$200 to \$2 000 in the case of an individual and of \$400 to \$4 000 in the case of a legal person.

For any subsequent offence within two years of the conviction under the same provision, the offender is liable, in addition to costs, to a fine of \$400 to \$4 000 in the case of an individual and of \$800 to \$8 000 in the case of a legal person.

297. Every person who contravenes any provision of sections 94, 122, 134, 178, 186, 233 and 234 is liable, in addition to costs, to a fine of \$1 000 to \$5 000 in the case of an individual and of \$2 000 to \$10 000 in the case of a legal person.

For any subsequent offence within two years of the conviction under the same provision, the offender is liable, in addition to costs, to a fine of \$2 000 to \$10 000 in the case of an individual and of \$4 000 to \$20 000 in the case of a legal person.

298. Every person who contravenes any provision of section 21 or 23 or of paragraph 2 of section 26, is liable, in addition to costs, to a fine of \$50 to \$500 and for any subsequent offence within two years of the conviction under the same provision to a fine of \$100 to \$1 000.

299. Every operator who contravenes any provision of sections 213 to 219 and 269 is liable, in addition to costs, to a fine of \$50 to \$1 000 in the case of an individual and of \$100 to \$2 000 in the case of a legal person.

For any subsequent offence within two years of the conviction under the same provision, an operator is liable, in addition to costs, to a fine of \$100 to \$2 000 in the case of an individual and of \$200 to \$4 000 in the case of a legal person.

300. Every person who contravenes any provision of sections 22, 42, 226 and 245 is liable, in addition to costs, to a fine of \$500 to \$3 000 in the case of an individual and of \$1 000 to \$6 000 in the case of a legal person.

For any subsequent offence within two years of a conviction under the same provision, the offender is liable, in addition to costs, to a fine of \$1 000 to \$6 000 in the case of an individual and of \$2 000 to \$12 000 in the case of a legal person.

301. Every person who contravenes a provision of a regulation which it is an offence to contravene, under paragraph 32 of section 288, is liable, in addition to costs, to a fine of \$50 to \$1 000 in the case of an individual and of \$100 to \$2 000 in the case of a legal person.

For any subsequent offence within two years of the conviction under the same provision, the offender is liable, in addition to costs, to a fine of \$100 to \$2 000 in the case of an individual and of \$200 to \$4 000 in the case of a legal person.

302. Any officer or employee in the “energy” or “mines” sectors of the Ministère de l’Énergie et des Ressources who fails to inform his employer, upon acquisition, of the interest he has, directly or indirectly, in any undertaking engaged in exploration or mining of mineral substances or of underground reservoirs governed by this Act is guilty of an offence and liable, in addition to costs, to a fine of \$50 to \$1 000.

303. Every person who prohibits access or renders access difficult to a parcel of land containing mineral substances which forms part of the public domain, to a person authorized by the Minister to do geological research and inventories who, on request, identifies himself and produces the certificate signed by the Minister attesting his capacity, is guilty of an offence and liable, in addition to costs, to a fine of \$500 to \$3 000.

For any subsequent offence within two years of the conviction under the first paragraph, the offender is liable, in addition to costs, to a fine of \$1 000 to \$6 000.

304. Where an offence described in sections 297 to 303 continues for more than one day, it is considered a separate offence for each day or part of a day during which it continues.

Notwithstanding paragraph 2 of section 12 of the Summary Convictions Act (R.S.Q., chapter P-15), separate offences may be described in a single count.

305. Proceedings are instituted in accordance with the Summary Convictions Act.

CHAPTER XIII

AMENDING PROVISIONS

306. The provisions of the Mining Act (R.S.Q., chapter M-13) will be repealed to the extent prescribed by orders pursuant to section 365.

307. Article 2099 of the Civil Code of Lower Canada is replaced by the following article:

“2099. Registration of real and immovable mining rights and their renewal and the registration of conventions that may affect such rights follow the rules governing the registration of real rights, subject to contrary statutory provisions and subject to the rules of this Title that are contained in the chapter entitled “Rules particular to mining rights granted by the Crown”.”

308. The said Code is amended by inserting, after article 2129c, the following chapter and articles:

“CHAPTER SECOND A

“RULES PARTICULAR TO MINING RIGHTS GRANTED BY THE CROWN

“2129d. The document evidencing a mining right must be presented for registration in the registry office of the registration division where the immovable affected by the right is situated, accompanied with a requisition for the opening of a leaf in the mining register.

The requisition shall establish the concordance, where such is the case, between the designation contained in the document and the cadastral number of the lot affected by the mining right.

Where there is a concordance and it has not been established due to an omission, the entry of the right in the mining register is void until the omission is remedied.

“2129e. The registrar shall not agree to a requisition for the opening of a leaf in the mining register in which there is no indication, in the case of a natural person, of the name and surname appearing in the act of birth of the holder of the right and of the date and place of his birth and, in the case of a partnership or legal person, of the name, domicile and juridical form of the holder of the right.

“2129f. The registrar, after having accepted, for registration, a document evidencing a mining right and the requisition for the opening of a leaf in the mining register accompanying the document, shall enter them in the entry-book.

The registrar shall then open a separate leaf in the mining register using a leaf number, enter the nature of the right on the leaf, transcribe thereon the designation contained in the document and indicate in the mining register and in the index of immovables the concordance, where such is the case, between the cadastral number of the lot affected by the right and the leaf number of the mining register.

The registrar shall also make an entry in the mining register, in the usual manner, of the registration of the document and of the requisition.

“2129g. A mining right is sufficiently designated where the nature of the right and the immovables affected thereby are described in the same manner as in the document evidencing the right.

Once a separate leaf is opened in the mining register, the description of a mining right must also include the number of the leaf that the registration of a document is intended to affect.

“2129h. In no case may the registrar accept, for registration, a document evidencing a convention in respect of a mining right where the document does not mention the number of the leaf in the mining register or where it is not accompanied with a notice establishing the link between the document presented for registration and the leaf that the registration is intended to affect.

“2129i. A document for the renewal of the registration of a mining right or which evidences a transfer of ownership of a mining right may be presented for registration if accompanied with a requisition for the opening of a leaf in the mining register.

“2129j. Every transfer of full ownership of a mining right for which a leaf is open in the mining register gives rise to the opening of a new leaf in the mining register.

The document evidencing the transfer of ownership cannot be accepted for registration by the registrar unless it is accompanied with a declaration indicating the number of the leaf to be closed and identifying the remaining entries to be transferred from that leaf to the new leaf opened by the registrar.

“2129k. The dismemberment of a mining right gives rise to the opening of new leaves in the mining register.

The document evidencing the dismemberment of a mining right cannot be accepted for registration by the registrar unless it is accompanied with a declaration containing the designation of the mining rights after the dismemberment, indicating the number of the leaf affected by the dismemberment and identifying the remaining entries to be transferred from that leaf to each new leaf opened by the registrar.

“2129l. Subject to the rules that apply to other real rights, any agreement in respect of a real right which does not give rise to the opening of a leaf in the mining register shall be entered, at its registration, solely in the entry-book and in the mining register under the number of the leaf affected.

“2129m. The holder of mining rights of the same nature affecting contiguous immovables situated in the same registration division may request the registrar to combine them on the same leaf in the mining register.

The requisition cannot be accepted for registration by the registrar unless it contains the designation of the mining rights following their combination, indicates which leaves are affected by the combination and identifies the remaining entries to be transferred from the former leaves to the new leaf in the mining register.

“2129n. Where the holder of a mining right changes name, he may request the registrar to enter his right on a new leaf in the mining register.

The requisition cannot be accepted for registration by the registrar unless it indicates which leaf is affected by the change of name and identifies the remaining entries to be transferred to the new leaf in the mining register.

The requisition must be accompanied with vouchers evidencing the change of name.

“2129o. The holder of a mining right may, where the leaf is completely filled with entries, is unclear or is deteriorated, request the registrar to replace it by another leaf bearing the same number and to transfer the remaining entries from the former leaf to the new leaf.

The requisition made to the registrar must specify which leaf is to be replaced, the reasons invoked for the replacement and which entries are to be transferred to the new leaf.

The registrar must destroy the replaced leaf after giving effect to the requisition.

“2129p. The Minister of Energy and Resources shall notify the registrar, for registration, of any abandonment or revocation of a mining right not exempt from registration under the Mining Act (1987, chapter *insert here the chapter number of the Act in the volume of the Statutes of Québec for 1987*).

The notification cannot be accepted for registration by the registrar unless it designates the abandoned or revoked mining right and indicates the number of the leaf under which the notification will be entered.

The registrar, after accepting the notification and making the entry in the entry-book, shall make an entry of it, in the usual manner, under the number of the leaf to which it refers; the registrar shall also make an entry of the abandonment or revocation, as the case may be, in the index of immovables under the number of the lot affected by the right.

No duty or fee is exigible for the registration of the notification.

“2129q. The requisitions, notices, declarations and notifications contemplated in this chapter may be given by notarial deed or by private writing. Their registration is effected by deposit.

“2129r. The requisitions, notices and declarations contemplated in this chapter are separate from the document they accompany and shall be treated as such for the purposes of registration and the computation of the exigible fee.

“2129s. The accuracy of the content of the declarations and requisitions contemplated in this chapter shall be certified by an advocate or a notary under his name, given name and signature.

“2129t. The registrar shall apply articles 2129d, 2129e and 2129f, adapted as required, to the registration of the documents contemplated in articles 2129i, 2129j, 2129k, 2129m and 2129n.

In the case of the registration of the documents contemplated in articles 2129j, 2129k and 2129m, the registrar shall also establish, in the mining register, the concordance between the former leaf and the new leaf.

“2129u. The Minister of Justice shall determine, by order, the medium used for and the content of the mining register and the method for making entries therein and assigning numbers to leaves.

“2129v. The Minister of Justice may require, by order, that registrars keep an alphabetical list of the names of holders of mining rights for the purpose of completing the mining register and determine the manner in which the list shall be kept.”

309. Article 2161 of the said Code, amended by section 1 of chapter 39 of the statutes of 1902, by section 1 of chapter 48 of the statutes of 1912, by section 1 of chapter 76 of the statutes of 1918, by section 1 of chapter 91 of the statutes of 1922, by section 8 of chapter 46 of the statutes of 1943, by section 33 of chapter 45 of the statutes of 1948, by section 20 of chapter 11 of the statutes of 1980, by section 3 of chapter 14 of the statutes of 1981 and by section 71 of chapter 32 of the statutes of 1982, is again amended by adding, at the end, the following paragraph:

“(6) A mining register, in alphabetical order, of the names of the holders of real and immovable mining rights granted by the Crown. The register shall be kept as prescribed under this Title in the chapter entitled “Rules particular to mining rights granted by the Crown”.”

310. Section 1 of the Act respecting the acquisition of farm land by non-residents (R.S.Q., chapter A-4.1) is amended by replacing paragraph 3 of the definition of the word “ acquisition ” by the following paragraph:

“(3) transfer of a right contemplated in section 9 of the Mining Act (1987, chapter *insert here the chapter number of that Act in the volume of the Statutes of Québec for 1987*).”

311. Section 1 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1) is amended by replacing the words “section 3 of the Mining Act (chapter M-13)” in the third and fourth lines of paragraph 1 by the words “section 9 of the Mining Act (1987,

chapter *insert here the chapter number of that Act in the volume of the Statutes of Québec for 1987*”.

312. Section 6 of the said Act is amended by replacing subparagraph 5 of the first paragraph by the following subparagraph:

“(5) the description of those parts of the territory of the regional county municipality that are withdrawn from prospecting, staking, map designation, mining exploration or mining under paragraph 2 of section 26 of the Mining Act (1987, chapter *insert here the chapter number of the Act in the volume of the Statutes of Québec for 1987*)”.

313. Section 246 of the said Act is amended by inserting, after the word “staking” in the third line, the words “or designation on a map”.

314. Section 3 of the Mining Companies Act (R.S.Q., chapter C-47) is amended by replacing, in paragraph 5, the words and figures “sections 249 to 263 of the Mining Act (chapter M-13)” by the words and figures “sections 228 to 231 of the Mining Act (1987, chapter *insert here the chapter number of that Act in the volume of the Statutes of Québec for 1987*)”.

315. Section 40 of the Act respecting the Roman Catholic cemetery corporations (R.S.Q., chapter C-69) is amended by striking out, in the first paragraph, paragraph *a*.

316. Section 1 of the Mining Duties Act (R.S.Q., chapter D-15) is amended

(1) by striking out the first paragraph;

(2) by striking out the word “However” in the first line of the second paragraph;

(3) by inserting the following definitions:

““operator” means any person who performs, directs, or causes to be performed or directed mining operations in a mine of which he is the owner, lessee or occupant;

““minerals or mineral substances” means any natural mineral substances in solid, gaseous or liquid form, except water, and any fossilized organic matter;”.

317. Section 5 of the said Act is amended by replacing the words “section 179 of the Mining Act (chapter M-13)” in the second and third lines by the words “sections 149 and 197 of the Mining Act (1987, chapter *insert here the chapter number of that Act in the volume of the Statutes of Québec for 1987*)”.

318. Section 17 of the Act to authorize municipalities to collect duties on transfers of immoveables (R.S.Q., chapter M-39) is amended by replacing, in paragraph *e*, the words “section 3 of the Mining Act (chapter M-13)” by the words “section 9 of the Mining Act (1987, chapter *insert here the chapter number of that Act in the volume of the Statutes of Québec for 1987*)”.

319. Section 1 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) is amended by replacing the words “section 3 of the Mining Act (chapter M-13)” in the fifth line of paragraph 3 by the words “section 9 of the Mining Act (1987, chapter *insert here the chapter number of that Act in the volume of the Statutes of Québec for 1987*)”.

320. The Act respecting public agricultural lands (R.S.Q., chapter T-9.1) is amended by inserting, after section 56, the following section:

“**56.1** No public land which is the subject of a claim may be sold for agricultural purposes except on conditions deemed reasonable by the Minister of Energy and Resources and the Minister of Agriculture, Fisheries and Food.”

321. Section 11 of the Mining Towns Act (R.S.Q., chapter V-7) is repealed.

CHAPTER XIV

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

322. Cases pending before the judge designated pursuant to section 309.1 of the Mining Act (R.S.Q., chapter M-13) before (*insert here the date of coming into force of this section*) are continued in accordance with the said Mining Act.

323. Proceedings for the revocation of a mining right instituted by the Minister or for the revocation of a mining concession instituted by the Minister or the Government before (*insert here the date of coming into force of this section*) are continued in accordance with the Mining Act (R.S.Q., chapter M-13).

324. In any Act or statutory instrument, any reference to a provision of the Mining Act (R.S.Q., chapter M-13) is a reference to the corresponding provision of this Act.

325. Regulations for the withdrawal from staking made under the Mining Act (R.S.Q., chapter M-13) are deemed to be ministerial orders made under section 286 of this Act.

326. The holder of a prospector's licence issued under the Mining Act (R.S.Q., chapter M-13) may, subject to the rights under and conditions of the licence, stake a parcel of land and file a notice of staking for the purpose of recording a claim under this Act; in such a case, the registration fee is reduced by one-fourth.

The licence holder may, where the parcel of land has been staked before (*insert here the date of coming into force of this section*), file a notice of staking for the purpose of recording a claim under the Mining Act (R.S.Q., chapter M-13).

327. The claims, exploration permits, mining leases, exploration licences, operating leases, exploration licences for underground reservoirs, exploration licences for brine and operating leases for brine granted under the Mining Act (R.S.Q., chapter M-13) remain in force until their expiration.

This Act is applicable to them, except as follows:

(1) the Mining Act (R.S.Q., chapter M-13) applies to the work required for the first renewal of a claim after (*insert here the date of coming into force of this section*); after such renewal the claim is considered to be newly acquired under this Act;

(2) the Mining Act (R.S.Q., chapter M-3) applies also to the work required for that year of the term of an exploration permit, exploration licence, exploration licence for brine or exploration licence for underground reservoirs in progress at the coming into force of this section;

(3) claims and exploration licences shall continue to confer on each holder the exclusive right to explore for surface mineral substances, except sand and gravel, until (*insert here the date occurring two years from that of the coming into force of this section*); in the meantime, each holder may obtain an exclusive right over such substances by way of a mining lease, a licence to explore for surface mineral substances or a lease for mining surface mineral substances for all or part of the parcel of land subject to the claim or exploration licence;

(4) the holder of a mining lease granted before (*insert here the date of the coming into force of this section*) is required to perform mining operations during at least one-tenth of the term of the lease for the first renewal occurring after that date;

(5) every holder of a mining lease shall retain an exclusive right to surface mineral substances except sand and gravel; such right shall be maintained upon subsequent renewals;

(6) seabed mining claims and leases are governed by this Act and are renewed under its authority as if they did not pertain to seabed mining;

(7) where mining operations are begun or resumed following an interruption of six months or more after (*insert here the date of coming into force of this section*) but before (*insert here the date occurring 60 days after the coming into force of this section*), the notice prescribed in section 216 of this Act must be transmitted to the Minister within ten days after the beginning or resumption of the mining operations.

328. Except in the case described in the first paragraph of section 117, where the area of a claim which, according to the original survey or, if none, the cadastre, covers part of a lot, the area of the claim is extended to include the whole lot provided that the lot can be staked or designated on a map in accordance with this Act.

Where a claim, exploration permit, mining lease or mining concession affecting the lot is abandoned, surrendered or revoked or expires, the increase in area becomes effective on the date of the surrender or abandonment, revocation or expiration.

329. The Minister may, where a lot of less than 500 hectares is the basis of more than one claim, following an application by one of the claim holders and in accordance with the second paragraph of section 200, increase the area of his claim by the residue of the lot provided that that part is contiguous to his claim and that it can be staked or designated on a map in accordance with this Act.

Where one of the claims is abandoned, surrendered or revoked or expires, no application under the first paragraph may be made before the lapse of thirty days.

330. In cases described in sections 328 and 329, the increase in the area of a parcel of land does not increase the sums required to be spent in respect of the claim for the term of the claim during which the increase takes place.

331. An application for a development licence made before (*insert here the date of coming into force of this section*) is, for the purposes of this Act, considered to be an application for the renewal of the claims concerned by the application.

332. The holder of a development licence issued under the Mining Act (R.S.Q., chapter M-13) becomes the holder of the claims under the development licence.

This Act is applicable to the claim holder except with regard to the following:

(1) with respect to claims that have been the subject of a renunciation pursuant to the second paragraph of section 75 of the Mining Act (R.S.Q., chapter M-13), the sums spent by the holder to perform work in respect of the claims shall be assigned to the other claims also held by the holder in equal proportion and within the limits set out in section 71 of this Act, provided he makes an application to that effect within 180 days after (*insert here the date of coming into force of this section*);

(2) the rules set out in paragraphs 1, 3 and 6 of section 327 of this Act, adapted as required, apply to the claim .

333. The surplus of the sums expended for required work in respect of a development licence pursuant to section 74 of the Mining Act (R.S.Q., chapter M-13) shall be assigned to the claims subject to the licence in proportion to the area of each claim.

Notwithstanding the first paragraph, the licence holder may, within 180 days after (*insert here the date of coming into force of this section*), produce a new plan for the assignment of the work to be done on the various claims.

334. Special licences and special exploration licences issued under the Mining Act (R.S.Q., chapter M-13) remain in force, subject to the rights under and conditions of such licences, until their expiration.

The holder of either of such licences who, under that Act, would be entitled to a renewal of his licence shall obtain, upon the expiration of his licence, a certificate of entry in the record attesting a claim in respect of the parcel of land that was subject to his licence from the date of expiration of the licence.

Notwithstanding the foregoing, the holder of a special exploration licence issued under section 240.8 of the Mining Act (R.S.Q.,

chapter M-13) is exempt, for as long as he remains the holder of that claim, from payment of the fee prescribed under this Act for the renewal of his claim.

335. The holder of a licence to operate a sand pit issued under the Regulation respecting the transfer of the right of working sand and gravel deposits (R.R.Q., chapter M-13, r.1) becomes the holder of a non-exclusive lease to mine surface mineral substances or of an exclusive lease to mine surface mineral substances, according to the type of licence he held.

336. Permits to explore in alluvial deposits issued under the Mining Act (R.S.Q., chapter M-13) remain in force, subject to the rights under and conditions of such permits, until their expiration.

The holder of a permit to explore in alluvial deposits may, before the date of expiration of his permit, obtain a mining lease under this Act.

337. The Regulation respecting exploration permits to explore for mineral substances (R.R.Q., chapter M-13, r.8) is repealed from *(insert here the date of introduction of this bill)*.

338. Mining concessions granted under any former Act relating to mines are governed by this Act.

Notwithstanding the first paragraph, every person who has acquired a mining concession other than a mining concession for which letters patent were issued before 1 July 1911 may, on 15 January *(insert here the year following the year of the coming into force of this section)*, pay the tax or obtain a remission under section 114 of the Mining Act (R.S.Q., chapter M-13).

339. No transfer of a lot or surface right made before 1 January 1971 on a mining concession may be annulled on the sole ground of non-compliance by the holder with the requirements of the Mining Act respecting division into lots in force on the date of the concession, or because of his failure to fulfil an obligation imposed on him by the Government or a public officer.

However, the preceding paragraph does not apply to a deed of disposition respecting a lot not described in a subdivision plan duly deposited with the book of reference in the registry office of the registration division where it is situated.

340. Every transfer of a surface right made before 1 January 1971 by emphyteutic lease on any mining concession shall be deemed a sale pure and simple.

Contractual clauses inconsistent with the preceding paragraph shall be deemed null and not written except those involving for the transferee the obligation to pay a sum of money. However, the hypothec securing the payment of the sum of money is extinguished. The hypothec is cancelled upon the filing of an application therefor, in authentic form *en minute*, made by any interested person.

341. Where a surface right in a mining concession was transferred by a deed of sale before 1 January 1971, every clause respecting a right of repossession, every clause waiving liability for damage sustained in consequence of the carrying out of mining work and every clause granting to the holder of a mining concession more rights with respect to the surface owner than those relating to mining and granted to him by the Mining Act (R.S.Q., chapter M-13) shall be deemed not written in such deed.

342. Section 107 applies also to deeds of alienation and constructions made and erected for purposes other than mining purposes on parcels of land already divided into lots on 1 January 1971.

343. The white pine and red pine reserved to the Crown under the Mining Act on the granting of a concession are abandoned to the owner of the soil where they are found on a concession for which letters patent were issued before 1 July 1911.

344. Every holder of a drilling permit issued under the Mining Act (R.S.Q., chapter M-13) becomes the holder of a well drilling permit.

345. Licences for using geophysical instruments and exploration licences for petroleum and natural gas issued pursuant to the second paragraph of section 298 of the Mining Act (R.S.Q., chapter M-13) remain in force subject to the rights under and the conditions of the licences until their expiration.

346. Every holder of a licence to use natural gas issued under the Mining Act (R.S.Q., chapter M-13) becomes the holder of a lease to use natural gas.

347. Every holder of an operating lease issued pursuant to the Mining Act (R.S.Q., chapter M-13) for an area greater than that authorized by section 188 becomes the holder of several leases to produce

petroleum and natural gas, each of which being for an area that is in conformity with that section.

The holder shall, within three months after (*insert here the date of the coming into force of this section*), notify the Minister of the area subject to each of the leases.

Failing notification, the Minister shall establish the area to each lease.

348. Every holder of a disposal licence or of a storage lease issued under the Mining Act (R.S.Q., chapter M-13) becomes the holder of a lease to operate an underground reservoir.

349. The long-term operating licence bearing no. 30759 remains in force subject to the rights under and the conditions of the licence until its expiration.

The holder of the licence contemplated in the first paragraph may, before the expiration of his licence, obtain a lease to use natural gas under this Act.

350. Every assay coupon issued under the Mining Act (R.S.Q., chapter M-13) remains valid until its expiration.

351. Until the Minister determines the limits of urbanized territory, no person may stake or designate on a map any parcel of land situated within the limits of a city or town except with the authorization of the Minister.

The Minister may make his authorization subject to the conditions and obligations he determines.

352. The Government may dispose of the lands set aside for the establishment of a mining town or village at such price and upon such conditions as it may fix.

353. The sums accumulated in the municipal fund pursuant to sections 130 and 132 of the Mining Act (R.S.Q., chapter M-13) shall be paid into the general fund of the municipality before (*insert here the date of the day occurring ninety days after that of the coming into force of this section*).

All sums due to or receivable by the municipal fund pursuant to sections 130 and 132 of the said Act must be paid into the general fund of the municipality.

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

355. The compensation exigible by any person whose mining rights have been revoked pursuant to any former Act relating to mining shall be computed in accordance with the rules set out in section 260.

356. Rights in natural and artificial underground reservoirs created by the extraction of petroleum, natural gas, brine or water that are situated on lands granted or alienated by the Crown before 5 July 1968 are revoked and revert to the Crown from (*insert here the date of coming into force of this section*), whatever the mode of their granting or alienation.

357. If after rights in an underground reservoir have been revoked, the underground reservoir concerned is operated, the person whose rights were revoked is entitled, as compensation, to a royalty equal to 50% of the annual rental fixed in accordance with section 195 for a lease to operate an underground reservoir, from the holder of the lease to operate an underground reservoir.

The compensation is distributed, where such is the case, among the owners of the parcels of land affected by the lease to operate an underground reservoir in proportion to the area of their parcels of land.

The royalty is payable at the request of the person whose rights were revoked by the holder of the lease to operate an underground reservoir at the same dates and subject to the same conditions as those applicable to the payment of the annual rental fixed in accordance with section 195 for a lease to operate an underground reservoir.

The person whose rights in an underground reservoir were revoked on a parcel of land of an area of less than forty hectares may claim from the lessee, instead of the royalty, the payment of a lump sum based on the term of the lease.

358. Within six months of the issuance of a lease to operate an underground reservoir, the Minister shall give notice that following the obtaining of that lease a royalty is payable to the person whose rights in the underground reservoir were revoked, provided that the person makes a request therefor to the holder of the lease to operate an underground reservoir.

359. The notice shall be published in two consecutive issues of the *Gazette officielle du Québec* and twice, at seven days' interval, in

a daily or weekly newspaper published in Montréal and in the judicial districts where all or part of the underground reservoir affected by the revocation is situated.

360. The right to the royalty is prescribed by two years from the date of publication of the notice.

361. The Government may, by regulation, make any provisional or transitional provision to facilitate the carrying into effect of this Act.

The Minister may, if he considers it expedient, direct that regulations under the first paragraph come into force on the date of their publication in the *Gazette officielle du Québec*.

[[**362.** The sums required for the purposes of this Act are taken, for the fiscal years 1987/88 and 1988/89 and to the extent determined by the Government, out of the consolidated revenue fund and, for subsequent fiscal years, out of the sums granted annually for that purpose by Parliament.]]

363. The Minister of Energy and Resources is responsible for the administration of this Act, except the provisions concerning mining roads, which shall be administered by the Minister of Transport.

364. The provisions of this Act will come into force on the date or dates fixed by the Government.

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