

Mining Act

R.S.O. 1990, CHAPTER M.14

Consolidation Period: From December 8, 2020 to the [e-Laws currency date](#).

Last amendment: 2020, c. 34, Sched. 8.

Legislative History: 1994, c. 27, s. 130, 134; 1996, c. 1, Sched. O; 1996, c. 30, s. 71; 1997, c. 19, s. 36; 1997, c. 38, s. 1; 1997, c. 40; 1998, c. 18, Sched. I, s. 40; 1999, c. 12, Sched. O, s. 1-58; 2000, c. 26, Sched. L, s. 6; 2000, c. 26, Sched. M, s. 1-17; 2001, c. 9, Sched. L; 2002, c. 17, Sched. F, Table; 2002, c. 18, Sched. M, s. 1-9; 2006, c. 12, s. 63; 2006, c. 21, Sched. F, s. 136 (1); 2006, c. 33, Sched. R; 2006, c. 35, Sched. C, s. 67; 2007, c. 7, Sched. 22; 2009, c. 21 (but see Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006*); 2009, c. 33, Sched. 23, s. 1; 2010, c. 18, s. 23; 2017, c. 6, Sched. 2; 2017, c. 8, Sched. 17, s. 7, 8; 2017, c. 20, Sched. 8, s. 97; 2017, c. 24, s. 78; 2018, c. 3, Sched. 5, s. 33 (but see 2019, c. 1, Sched. 3, s. 5); 2019, c. 1, Sched. 4, s. 31; 2019, c. 7, Sched. 17, s. 102; 2019, c. 14, Sched. 7, s. 2-13; 2020, c. 7, Sched. 4, s. 14; 2020, c. 28, s. 4; 2020, c. 34, Sched. 8.

CONTENTS

1.	Interpretation
2.	Purpose
3.	Application to sales, etc., for other purposes
	PART I
	ADMINISTRATION
4.	Administrative matters
4.1	Mining lands administration system
5.	Officers and employees
6.	Provincial mining recorders
7.	Mining claims registry
8.	Deletion, correction and amendment to registry
8.1	Patented mining claims, application of Acts
9.	Evidence of records
10.	Experts, etc.
12.	Officers not to be interested in lands or claims
13.	Recorders are commissioners
15.	Posting, filing and service
16.	When document received
18.	Licence required
19.	Prospector's licences
20.	Numbering of licences
21.	Renewal of licence
22.	Accidental destruction or loss of licence
23.	Limitation
24.	Production of licence
26.	Revocation, suspension and cancellation of claims, etc. of licence
	PART II
	MINING CLAIMS
	LANDS OPEN
27.	Where licensee may prospect for minerals
28.	Claim may be registered
	RESTRICTED LANDS
29.	Land not open for registration without consent of Minister
30.	Lands upon which claim may not be registered
31.	Provincial parks
33.	Valuable water powers not included in claim
34.	Surface operations near highway
35.	Withdrawal of lands
35.1	Southern Ontario and Northern Ontario
	REGISTRATION OF MINING CLAIMS

<u>38.</u>	Registration of mining claims
<u>38.1</u>	Transition, legacy claims
<u>38.2</u>	Conversion of legacy claims to mining claims
<u>38.3</u>	Boundary claims
<u>38.4</u>	Limitations on remedies
<u>38.5</u>	Transition, registration of disputed claims by Ministry
<u>38.6</u>	Amalgamation of claims
<u>39.</u>	Mining claims on agricultural lands
<u>40.</u>	Crown reservation
<u>41.</u>	Licences of occupation
<u>41.1</u>	Revocation of licence if not used for mining purposes
<u>46.</u>	Mining claim where surface rights owner
<u>47.</u>	False statement
	<u>DISPUTES</u>
<u>48.</u>	Dispute of registered claim
	<u>ADMINISTRATIVE ERROR</u>
<u>49.</u>	Relief from forfeiture
	<u>RIGHTS OF LICENSEE</u>
<u>50.</u>	Rights in claim
<u>51.</u>	Surface rights on unpatented mining claim
<u>52.</u>	Permission to test mineral content
<u>53.</u>	Where claim, lands or rights abandoned, etc.
<u>54.</u>	Improper use of land
<u>55.</u>	Townsites on unpatented claims
	<u>TRUSTS, AGREEMENTS AND TRANSFERS</u>
<u>57.</u>	Claim “in trust”
<u>58.</u>	Agreements and transfers
<u>59.</u>	Transfer
	<u>RECORDING DOCUMENTS</u>
<u>60.</u>	Recording instruments
<u>61.</u>	Priority
<u>62.</u>	Recording to be notice
<u>63.</u>	Where actual notice prevails
<u>64.</u>	Recording orders, judgments, certificates, writs
	<u>ASSESSMENT WORK</u>
<u>65.</u>	Assessment work or payments
<u>66.</u>	Types of work eligible for credits, etc.
<u>67.</u>	Exclusion of time and work
<u>68.</u>	Proportionate contribution by co-owners
<u>69.</u>	Charge of person doing work on mining claim
	<u>ABANDONMENT</u>
<u>70.</u>	Abandoning a mining claim
	<u>FORFEITURE</u>
<u>72.</u>	Forfeiture of mining claim
<u>73.</u>	Extension of time
<u>73.1</u>	Minister’s orders in special circumstances
<u>74.</u>	Death of claim holder
	<u>INSPECTION OF CLAIMS</u>
<u>75.</u>	Inspection by Tribunal, recorder or inspector
<u>76.</u>	Inspection report and subsequent cancellation of claim
<u>77.</u>	Right of holder to copy of report
	<u>EXPLORATION PLANS AND PERMITS</u>
<u>78.</u>	Directors of Exploration Plans and Permits
<u>78.1</u>	Application
<u>78.2</u>	Exploration plan
<u>78.3</u>	When exploration permit required
<u>78.4</u>	Transferees, assignees and successors of exploration plan
<u>78.5</u>	Contravention
<u>78.6</u>	Liability for rehabilitation
	<u>SURFACE RIGHTS COMPENSATION</u>
<u>79.</u>	Surface rights compensation
<u>80.</u>	Reduction in size of claim

ISSUE OF LEASE FOR MINING CLAIM

- 81. Lease of mining claim
- 82. Leases issued under particular provisions
- 83. Exchange of lease
- 84. Lease of surface rights
- 85. Lease void where lands used other than for mining industry
- 85.1 Adjoining fractions and gores
- 86. Reservations, etc., in leases
- 86.1 Provision re Aboriginal or treaty rights
- 87. Reservation for roads
- 88. Form of patent
- 89. Disposal of surface rights
- 90. Patents issued under this Act to vest minerals
- 91. Condition of patent ores to be treated in Canada
- 92. Reservation of trees and right of entry
- 93. Cancellation of erroneous patents
- 94. Surveys under annulments

SURVEY OF CLAIM

- 95. Surveys
- 96. Minister may direct survey of claim in surveyed territory

PART IV

OIL, GAS, UNDERGROUND STORAGE AND SALT SOLUTION MINING

- 100. Exploration licences
- 101. Production leases
- 101.1 Storage leases
- 101.2 Overlapping licences and leases
- 102. Licence and lease regulations

PART V

COMMENCEMENT OF SURFACE MINING OF NON-METALLIC MINERALS

- 103. Commencement of surface mining
- 104. Registration of mining claim

PART VI

MINING AND LANDS TRIBUNAL

- 105. Jurisdiction
- 106. Crown patents
- 107. Transfer of proceeding to Superior Court of Justice
- 108. Reference from court to Tribunal
- 109. Transfer from court to Tribunal
- 110. Disputes
- 111. Proceedings before recorder
- 112. Appeal to Tribunal
- 113. Hearing
- 114. Application for appointment for hearing
- 115. Service of appointment for hearing
- 116. Powers of Tribunal re proceedings
- 117. Decision of Tribunal
- 118. Expert assistance
- 119. Tribunal may call for evidence and view property
- 120. Disclosure of evidence to parties
- 121. Decision on the merits
- 122. Security for costs
- 123. Use of court rooms, etc.
- 124. Sheriffs, etc., to assist
- 125. Recording of evidence
- 126. Costs
- 127. Scale of costs
- 128. Witness fees
- 129. Decision of Tribunal
- 130. Final order or judgment
- 131. Certified copy of order or judgment
- 132. Stay of proceedings
- 133. Appeal to Divisional Court

134.	Appeal procedures
135.	Judicial review
136.	Defects in form
137.	Power to extend time
138.	Time expiring on Saturday, etc.

PART VII

REHABILITATION OF MINING LANDS

139.	Definitions and application of Part
	PROGRESSIVE REHABILITATION
139.1	Progressive rehabilitation
	VOLUNTARY REHABILITATION
139.2	Approval to rehabilitate
139.3	Rehabilitation not in accordance with plan
139.4	No appeal
139.5	Immunity

[ADVANCED EXPLORATION AND MINE PRODUCTION](#)

[ADVANCED EXPLORATION AND MINE PRODUCTION — CLOSURE PLANS](#)

140.	Advanced exploration
140.	Advanced exploration
141.	Mine production
141.	Mine production
141.1	Recommencing after suspension, inactivity
141.2	Compliance with filed closure plan
142.	Approval of closure plan

[CLOSURE PLANS](#)

[AMENDMENTS, CHANGES TO CLOSURE PLANS](#)

143.	Compliance with certified closure plan
143.	Amendments proposed by proponent
143.1	Specified changes by order
144.	Notices required

[FINANCIAL ASSURANCE](#)

145.	Form and amount of financial assurance
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[MINE HAZARDS](#)

147.	Mine hazards, closure plan
----------------------	----------------------------

[EMERGENCY POWERS](#)

148.	Emergencies
----------------------	-------------

[SURRENDER](#)

149.	Refusal of voluntary surrender
149.1	Surrender by agreement

[COST OF WORK COMPLETED](#)

151.	Where cost debt due to Crown
----------------------	------------------------------

[HEARINGS AND APPEALS](#)

152.	Appeals
----------------------	---------

[MISCELLANEOUS](#)

153.	Officers and directors
153.1	Immunity
153.2	Director's powers regarding transfers, etc.
153.3	Liability of lessee, patentee concerning mine hazards
153.4	Method of service
153.5	Notice for amending and revoking orders

PART VIII

ROYALTY ON DIAMONDS

154.	Interpretation
154.1	Royalty payable on diamonds
154.2	Rate of royalty
154.3	Notice of royalty
154.4	Interest and penalties
154.5	Information required by Minister
154.6	Records
154.7	Confidential information
154.8	Removal of diamonds
154.9	Administration

PART IX
STATISTICAL RETURNS

[155.](#) Reports

PART X
INSPECTIONS

[156.](#) Inspectors
[157.](#) Functions of an inspector
[158.](#) Powers of an inspector

PART XI
OFFENCES, PENALTIES AND PROSECUTIONS

[164.](#) Offences
[165.](#) Smelters
[166.](#) Disobeying order or award of Tribunal
[167.](#) Penalty for offence against Part VII
[167.1](#) Offences under Part VIII
[168.](#) Offence
[169.](#) Limitation
[170.](#) Procedure on prosecutions

PART XII
GENERAL PROVISIONS

ABORIGINAL CONSULTATION – DISPUTE RESOLUTION

[170.1](#) Dispute resolution

LIEN FOR WAGES

[171.](#) Application of Construction Act

EXPLORATORY DRILLING

[174.](#) Assaying and testing laboratories

RIGHTS AND EASEMENTS

[175.](#) Rights over other lands that may be conferred by Tribunal

REGULATIONS

[176.](#) Regulations
[177.](#) Transmission of electricity and entering on lands without consent of owner

FEES AND COSTS

[177.1](#) Fees
[178.](#) No fee to record order upon direction of Tribunal
[178.1](#) Costs

FORMS

[178.2](#) Forms

CANCELLATION OF PATENTS

[179.](#) Lands and mining rights to be withdrawn from exploration on repeal of patent or lease at instance of Crown

REVERSION OF MINING LANDS TO CROWN

[180.](#) Reversion to Crown

VESTING OF MINING RIGHTS: FORMER CANADA COMPANY LANDS

[180.1](#) Vesting of Crown interest in mining rights in owners of the surface rights

DEFAULT OF CO-OWNERS, ETC.

[181.](#) Co-ownership

MINERAL RIGHTS UNDER ROADS

[182.](#) Mineral rights under roads

SURRENDER OF LANDS

[183.](#) Voluntary surrender of mining lands

FORFEITED LANDS

[184.](#) Lands forfeited, etc., to Crown

ANNULMENT OF FORFEITURE OR TERMINATION OF LEASE

[185.](#) Annulment of forfeiture, etc.

PART XIII
MINING LAND TAX

[186.](#) Definition
[187.](#) Amount of tax
[188.](#) Date of payment of tax
[189.](#) Lands liable for tax
[190.](#) Exemptions from tax by Minister
[191.](#) Cases where mining rights taxable only
[192.](#) Tax records

<u>193.</u>	Registration of notice of liability and forfeiture
<u>194.</u>	Liability for tax though not on current tax record
<u>195.</u>	Tribunal may settle dispute
<u>196.</u>	Procedure to enforce claim for payment of taxes by one co-owner against another
<u>197.</u>	Defaulters list and notice of forfeitures
<u>198.</u>	Right to search land registry office free of charge
<u>199.</u>	Interest
<u>200.</u>	Special lien and priority of the tax
<u>201.</u>	Right of action
<u>202.</u>	Compromise of tax
<u>203.</u>	Lands and easements revert to Crown

Interpretation

1 (1) In this Act,

“anniversary date”, when referring to a mining claim, means,

- (a) with respect to a mining claim that is registered in the mining claims registry under section 38, the date that occurs at annual intervals after the registration of the claim,
- (b) with respect to a mining claim that was converted from a legacy claim and deemed to be registered as a cell claim or a boundary claim under section 38.2 or converted from a boundary claim and deemed to be registered as a cell claim under section 38.3, the date that was the anniversary date of the legacy claim or the boundary claim immediately before the day of the conversion or such other date as may be determined in accordance with the regulations,
- (c) the date determined under clause (a) or (b) as adjusted under subsection 64 (5), 67 (2) or 73.1 (3), where applicable, or
- (d) such other date as may be determined in accordance with the regulations; (“date anniversaire”)

“boundary cell” means a cell on the provincial grid, which, as a result of the conversion of legacy claims to mining claims under section 38.2, contains two or more boundary claims; (“cellule mixte”)

“boundary claim” means the part or parts of one or more legacy claims that on the conversion date under section 38.2 are located within a single cell on the provincial grid and converted to a boundary claim in accordance with paragraph 3 or 6 of subsection 38.2 (2); (“claim sur cellule mixte”)

“cell claim” means a mining claim, other than a boundary claim, relating to all of the land included in one or more cells on the provincial grid, subject to the limitations set out in subsection 38 (5); (“claim sur cellule”)

“community based land use plan” has the same meaning as in the *Far North Act, 2010*; (“plan communautaire d’aménagement du territoire”)

“Crown” means Crown in right of Ontario; (“Couronne”)

“Crown land” does not include,

- (a) land, the surface rights, mining rights or the mining and surface rights of which are under lease or licence of occupation from the Crown,
- (b) land in the actual use or occupation of the Crown, the Crown in right of Canada, or of a department of the Government of Canada or a ministry of the Government of Ontario,
- (c) land the use of which is withdrawn or set apart or appropriated for a public purpose, or
- (d) land held by a ministry of the Government of Ontario; (“terre de la Couronne”)

“Deputy Minister” means the Deputy Minister of Northern Development, Mines and Forestry; (“sous-ministre”)

“Far North” has the same meaning as in the *Far North Act, 2010*; (“Grand Nord”)

“holder”, when referring to the holder of an unpatented mining claim or a licence of occupation issued under this Act, means the holder of record; (“titulaire”)

“lease” means a leasehold patent; (“bail”)

“legacy claim” means a parcel of land, including land under water, that, before the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* comes into force, was staked and recorded as a mining claim,

as that term was defined before the day subsection 1 (6) of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* comes into force; (“ancien claim”)

“lessee” means a person who holds a lease of mining rights, surface rights, or both, issued under this Act or any predecessor of this Act; (“preneur à bail”)

“licensee” means a person holding a prospector’s licence issued under this Act or a renewal thereof; (“titulaire de permis”)

“machinery” includes steam and other engines, boilers, compressors, furnaces, milling and crushing apparatus, hoisting and pumping equipment, chains, trucks, tramways, tackle, blocks, ropes and tools, and all appliances used in or about or in connection with a mine or plant; (“machines”)

“mine”, when used as a noun, includes,

- (a) any opening or excavation in, or working of, the ground for the purpose of winning any mineral or mineral bearing substance,
- (b) all ways, works, machinery, plant, buildings and premises below or above the ground relating to or used in connection with the activity referred to in clause (a),
- (c) any roasting or smelting furnace, concentrator, mill, work or place used for or in connection with washing, crushing, grinding, sifting, reducing, leaching, roasting, smelting, refining or treating any mineral or mineral bearing substance, or conducting research on them,
- (d) tailings, wasterock, stockpiles of ore or other material, or any other prescribed substances, or the lands related to any of them, and
- (e) mines that have been temporarily suspended, rendered inactive, closed out or abandoned,

but does not include any prescribed classes of plant, premises or works; (“mine”)

“mine”, when used as a verb, means the performance of any work in or about a mine, as defined in its noun sense, except preliminary exploration; (“exploiter”)

“mine hazard” means any feature of a mine, or any disturbance of the ground, that has not been rehabilitated to the prescribed standard; (“risque minier”)

“minerals” means all naturally occurring metallic and non-metallic minerals, including coal, salt, quarry and pit material, gold, silver and all rare and precious minerals and metals, but does not include sand, gravel, peat, gas or oil; (“minéraux”)

“mining claim” means a parcel of land, including land under water, on which a mining claim is registered in accordance with subsection 38 (2), or is deemed to have been registered under section 38.2 or 38.3, on or after the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* comes into force, and includes a cell claim and a boundary claim; (“claim”)

“mining claims registry” means the mining claims registry described in section 7; (“registre des claims”)

“mining lands” includes,

- (a) the lands and mining rights patented or leased under or by authority of a statute, regulation or order in council, respecting mines, minerals or mining,
- (b) lands or mining rights that are located, registered as a mining claim or used or intended to be used for mining purposes, and
- (c) surface rights granted solely for mining purposes; (“terrains miniers”)

“mining lands administration system” means the Ministry’s administration system for mining lands as established by the Minister under section 4.1; (“système d’administration des terrains miniers”)

“mining rights” means the right to minerals on, in or under any land; (“droits miniers”)

“Minister” means,

- (a) with respect to all provisions in this Act other than those listed in clause (b), the Minister of Northern Development and Mines or such other member of the Executive Council to whom responsibility for the administration of the provisions may be assigned or transferred under the *Executive Council Act*, and

- (b) with respect to section 92 and Part IV, the Minister of Natural Resources and Forestry or such other member of the Executive Council to whom responsibility for the administration of the provisions may be assigned or transferred under the *Executive Council Act*; (“ministre”)

“Ministry” means the Ministry of the Minister; (“ministère”)

“owner”, when used in Parts VII, IX and XI, includes,

- (a) every current owner, lessee or occupier of all or part of a mine, mine hazard or mining lands,
- (b) an agent of the current owner, lessee or occupier, or a person designated by the owner, lessee, occupier or agent as being responsible for the control, management and direction of all or part of a mine, mine hazard or mining lands, and
- (c) subject to subsections (4) to (13), a secured lender who enters into possession of all or part of a mine, mine hazard or mining lands pursuant to the security it holds with respect to the mine, mine hazard or mining lands; (“propriétaire”)

“patent” means a grant from the Crown in fee simple or for a less estate made under the Great Seal, and includes leasehold patents and freehold patents, but in sections 4, 27, 84, 87 to 95, 176, 179, 182 and 189 the meaning is limited to freehold patents; (“lettres patentes”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“prospecting” means the investigating of, or searching for, minerals; (“prospection”)

“provincial grid” means the prescribed digital representation of the province of Ontario, divided into unique cells each measuring 15 seconds latitude by 22.5 seconds longitude; (“grille provinciale”)

“recorder” means a provincial mining recorder appointed under section 6; (“registreur”)

“registration” when used in respect of a mining claim, means the registration of the mining claim in accordance with this Act and includes a deemed registration under section 38.2 or 38.3, and related terms such as “register”, “registered” and “registering” have a corresponding meaning; (“inscription”)

“regulations” means the regulations made under this Act; (“règlements”)

“surface rights” means every right in land other than the mining rights; (“droits de surface”)

“surface rights owner” means, in respect of an area of land, an owner in fee simple of the land, as shown in the appropriate land registry office, who does not own the mining rights for the land; (“propriétaire de droits de surface”)

“Tribunal” means the Mining and Lands Tribunal continued under the *Ministry of Natural Resources Act*; (“Tribunal”)

“unpatented”, when referring to land or mining rights, means land or mining rights for which a patent, lease, licence of occupation or any other form of Crown grant is not in effect. (“non concédé par lettres patentes”) R.S.O. 1990, c. M.14, s. 1; 1996, c. 1, Sched. O, s. 1; 1997, c. 40, s. 1; 1999, c. 12, Sched. O, s. 1 (1, 2); 2001, c. 9, Sched. L, s. 1 (1); 2009, c. 21, ss. 1, 101 (2); 2009, c. 33, Sched. 23, s. 1; 2010, c. 18, s. 23; 2017, c. 6, Sched. 2, s. 1; 2017, c. 8, Sched. 17, s. 7 (2, 3); 2020, c. 34, Sched. 8, s. 1.

Deemed reference to Provincial Recording Office

(2) In this Act, a reference to “recorder’s office” or “office of the recorder” shall be deemed to be a reference to the Provincial Recording Office. 1999, c. 12, Sched. O, s. 1 (3).

Interpretation of “owner”

(3) A person who receives only a royalty from all or part of a mine, mine hazard or mining lands is not an owner within the meaning of the definition of “owner” in subsection (1). 2001, c. 9, Sched. L, s. 1 (2).

Where secured lender not an “owner”

(4) A secured lender described in clause (c) of the definition of “owner” in subsection (1) is not an owner if the lender satisfies the Director of Mine Rehabilitation that the lender is in a family or other non-arm’s length relationship with the current owner, lessee or occupier. 2001, c. 9, Sched. L, s. 1 (2).

Same

(5) A secured lender described in clause (c) of the definition of “owner” in subsection (1) is not an owner if the lender has entered into possession for the purpose of,

- (a) conducting, completing or confirming an investigation of the environmental condition of all or part of the mine, mine hazard or mining lands or of the rehabilitative measures that would be required upon their closure;

- (b) preserving or protecting the value of all or part of the mine, mine hazard or mining lands on an ongoing basis, including taking steps for,
 - (i) maintaining public utility services, heat, maintenance services, security and insurance,
 - (ii) paying taxes or collecting rents,
 - (iii) dealing with an immediate danger to public health or safety from a contaminant, pollutant or other hazardous substance or with a threat of such danger, or
 - (iv) preventing flooding; or
- (c) repossessing or realizing upon any machinery or personal property with respect to which the lender is a lessor or over which the lender holds security if the Director of Mine Rehabilitation has given prior written approval and subject to any terms and conditions of such approval. 2001, c. 9, Sched. L, s. 1 (2).

Exception

(6) A secured lender who enters into possession under clause (5) (a) or (b) is nonetheless an owner if the lender creates, materially disturbs or adversely affects a mine hazard. 2001, c. 9, Sched. L, s. 1 (2).

Same, failure to carry out purpose properly

(7) A secured lender who enters into possession under clause (5) (b) is an owner despite that clause if, in the opinion of the Director of Mine Rehabilitation, the lender fails to properly preserve and protect the value of the mine, mine hazard or mining lands on an ongoing basis, unless, at the request of the lender made with at least six months notice, the Director relieves the lender of that responsibility in writing. 2001, c. 9, Sched. L, s. 1 (2).

Liability of secured lender

(8) A secured lender who has not been relieved of the responsibility referred to in subsection (7) is liable for damages caused by a failure to properly preserve and protect the value of the mine, mine hazard or mining lands on an ongoing basis. 2001, c. 9, Sched. L, s. 1 (2).

Notice

(9) Before giving an approval under clause (5) (c), the Director shall give at least 15 days notice to the current owner, lessee, occupier or other person known to have an interest in all or part of the mine, mine hazard or mining lands. 2001, c. 9, Sched. L, s. 1 (2).

Condition of approval

(10) The Director of Mine Rehabilitation may, as a condition of an approval under clause (5) (c), require that any machinery or personal property repossessed or realized upon be sold or otherwise disposed of by the lender and that all or part of the proceeds be directed to the preservation or protection of the values of all or part of the mine, mine hazard or mining lands. 2001, c. 9, Sched. L, s. 1 (2).

Refusal by Director

(11) The Director of Mine Rehabilitation may refuse to give an approval under clause (5) (c) if not satisfied that repossessing or realizing upon the machinery or personal property will not adversely affect the proper preservation and protection of the value of all or part of the mine, mine hazard or mining lands. 2001, c. 9, Sched. L, s. 1 (2).

Appeal to the Tribunal

- (12) The secured lender or other interested party may appeal to the Tribunal,
 - (a) an approval given by the Director under clause (5) (c) or a refusal to give an approval under that clause; or
 - (b) any terms or conditions that the Director imposes on an approval given under clause (5) (c). 2001, c. 9, Sched. L, s. 1 (2); 2017, c. 8, Sched. 17, s. 7 (1).

Same

(13) Section 152 applies with necessary modifications to an appeal under subsection (12). 2001, c. 9, Sched. L, s. 1 (2).

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 1 (1-4) - 30/01/1996; 1997, c. 40, s. 1 - 18/12/1997; 1999, c. 12, Sched. O, s. 1 (1-3) - 30/06/2000

2001, c. 9, Sched. L, s. 1 (1, 2) - 19/07/2001

2009, c. 21, s. 1 (1, 2) - 01/11/2012; 2009, c. 21, s. 1 (3-7), 101 (2) - 28/10/2009; 2009, c. 33, Sched. 23, s. 1 (1, 2) - 15/12/2009

2010, c. 18, s. 23 - 01/11/2012

2017, c. 6, Sched. 2, s. 1 (1, 3, 5, 6, 8) - 10/04/2018; 2017, c. 6, Sched. 2, s. 1 (2, 4, 7, 9-12) - 09/01/2018; 2017, c. 8, Sched. 17, s. 7 (1-3) - 01/04/2018

2020, c. 34, Sched. 8, s. 1 - 08/12/2020

Purpose

2 The purpose of this Act is to encourage prospecting, registration of mining claims and exploration for the development of mineral resources, in a manner consistent with the recognition and affirmation of existing Aboriginal and treaty rights in section 35 of the *Constitution Act, 1982*, including the duty to consult, and to minimize the impact of these activities on public health and safety and the environment. 2009, c. 21, s. 2; 2017, c. 6, Sched. 2, s. 2.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 2 - 30/01/1996

2009, c. 21, s. 2 - 28/10/2009

2017, c. 6, Sched. 2, s. 2 - 10/04/2018

Application to sales, etc., for other purposes

3 Nothing in this Act affects the sale, lease or location, for agricultural or other purposes, of any land opened for sale or free grant under the *Public Lands Act* or otherwise. R.S.O. 1990, c. M.14, s. 3.

PART I ADMINISTRATION

Administrative matters

Public lands and regulations

4 (1) All public lands for mining purposes and for the purposes of the mineral industry and all regulations made with respect to mines or minerals or mining or mining lands or mining rights or the mineral industry shall be administered by the Minister. R.S.O. 1990, c. M.14, s. 4 (1).

Execution of instruments

(2) All patents, leases, licences or other instruments of title and all agreements, contracts or other writings relating to mines or minerals or mining lands or mining rights or the mineral industry shall be signed and executed by the Minister or by the Deputy Minister. R.S.O. 1990, c. M.14, s. 4 (2).

Immunity for acts done in good faith

(3) No action or other proceeding for damages shall be instituted against the Minister, the Deputy Minister or any officer or employee of the Ministry or anyone acting under the authority of the Minister or Deputy Minister for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty. R.S.O. 1990, c. M.14, s. 4 (3).

Crown liability

(4) Subsection (3) does not, by reason of subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (3) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (3) had not been enacted. R.S.O. 1990, c. M.14, s. 4 (4); 2019, c. 7, Sched. 17, s. 102.

Delegation of Minister's powers, etc.

(5) Where under this Act a power or duty is granted to or vested in the Minister, the Minister may in writing delegate that power or duty to the Deputy Minister or to any officer or employee of the Ministry, subject to such limitations, conditions and requirements as the Minister sets out in the delegation. R.S.O. 1990, c. M.14, s. 4 (5).

Delegation of Deputy Minister's powers and duties

(5.1) Where under this Act a power or duty is granted to or vested in the Deputy Minister, the Deputy Minister may in writing delegate that power or duty to any officer or employee of the Ministry, subject to such limitations, conditions and requirements as the Deputy Minister sets out in the delegation. 1999, c. 12, Sched. O, s. 2 (1).

Exception

(5.2) Subsection (5.1) does not apply to the duty set out in subsection (2). 1999, c. 12, Sched. O, s. 2 (1).

Persons authorized to take affidavits

(6) The Minister may authorize officers or employees of the Ministry to administer oaths and to take or receive affidavits, declarations and affirmations authorized by law for the purposes of or incidental to the administration and enforcement of this Act. 1999, c. 12, Sched. O, s. 2 (2).

Powers of authorized persons

(7) An authorized person has all the powers of a commissioner for taking affidavits under the *Commissioners for Taking Affidavits Act* in respect of the oaths, affidavits, declarations or affirmations mentioned in subsection (6). 1999, c. 12, Sched. O, s. 2 (2); 2020, c. 7, Sched. 4, s. 14.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 2 (1, 2) - 30/06/2000

2019, c. 7, Sched. 17, s. 102 - 01/07/2019

2020, c. 7, Sched. 4, s. 14 - 12/05/2020

Mining lands administration system

4.1 (1) The Minister shall establish and maintain an electronic administration system, to be known as the mining lands administration system, for all or some of the following purposes:

1. Administering public lands for mining purposes and for the purposes of the mineral industry, in a manner that is consistent with subsection 4 (1).
2. Administering this Act with respect to,
 - i. prospectors' licences,
 - ii. mineral tenure, including mining rights, mining leases, licences of occupation for mining purposes and mining claims,
 - iii. exploration plans and exploration permits, and
 - iv. such other matters concerning mining administration as may be prescribed.
3. Allowing licensees to register mining claims electronically in accordance with section 38.
4. Creating and maintaining the provincial grid to assist in the registration of mining claims and for other mining purposes.
5. Creating and recording records, abstracts and maps for mining and mineral purposes in an electronic format.
6. Providing the public with access to information in the mining claims registry described in section 7 through electronic means and in accordance with any directive made under subsection (2).
7. Producing reports, documents and other information relating to any matters referred to in paragraphs 1 to 6. 2017, c. 6, Sched. 2, s. 3.

Directive re: public use of system

(2) In addition to any requirements specified in this Act or the regulations, the Minister may make directives relating to the use of the mining lands administration system by a person seeking to register a mining claim or to effect any transaction with respect to a mining claim or other mining lands or mining rights and the directives may specify,

- (a) information that must be submitted by the person;
- (b) the format in which the information must be submitted; and
- (c) any other requirement to ensure proper functioning of the mining lands administration system. 2017, c. 6, Sched. 2, s. 3.

Same, format

(3) A directive made under clause (2) (b) may permit information with respect to a mining claim or other mining lands or mining rights to be submitted to the Ministry by means other than the mining lands administration system and in a format other than an electronic format in such circumstances or subject to such conditions as may be specified in the directive. 2017, c. 6, Sched. 2, s. 3.

Same, classes

(4) A directive made under subsection (2) may specify different requirements for different classes of users or for different circumstances. 2017, c. 6, Sched. 2, s. 3.

Publication of directive

(5) The Minister shall publish a directive made under subsection (2) electronically in a location on the mining lands administration system that is likely to come to the attention of a person who wishes to use of the system for a reason described in that subsection or shall publish it in the prescribed manner. 2017, c. 6, Sched. 2, s. 3.

Non-application of *Legislation Act, 2006*, Part III

(6) Part III of the *Legislation Act, 2006* does not apply to a directive made under subsection (2). 2017, c. 6, Sched. 2, s. 3.

Submitting document

(7) A document submitted electronically under the mining lands administration system is submitted for purposes of this Act when the document is entered electronically into the mining lands administration system using the technology established by the Minister and in accordance with the directives made by the Minister. 2017, c. 6, Sched. 2, s. 3.

Section Amendments with date in force (d/m/y)

2017, c. 6, Sched. 2, s. 3 - 09/01/2018

Officers and employees

5 The Minister may appoint officers or employees of the Ministry, and other persons, to exercise powers and perform duties under this Act, as specified in the appointment. 1999, c. 12, Sched. O, s. 3.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 3 - 30/06/2000

Provincial mining recorders

6 (1) The Minister may appoint as many provincial mining recorders as he or she considers advisable from among the officers or employees of the Ministry. 1999, c. 12, Sched. O, s. 3.

Jurisdiction of recorder

(2) A recorder has jurisdiction throughout Ontario. 1999, c. 12, Sched. O, s. 3.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 3 - 30/06/2000

Mining claims registry

7 (1) The Provincial Recording Office shall maintain the mining claims registry,

- (a) in an electronic format, subject to subsections (3) and (4); and
- (b) in accordance with the requirements established under the *Archives and Recordkeeping Act, 2006*. 2017, c. 6, Sched. 2, s. 4.

Content of mining claims registry

(2) The mining claims registry shall include,

- (a) records of all mining claims;
- (b) maps showing the location of all mining claims;
- (c) information about each claim holder as may be prescribed; and
- (d) for each mining claim,
 - (i) an abstract in which all transfers, assessment work reports, exploration plans, exploration permits, orders, agreements, instruments, notes and other entries relating to the mining claim are recorded,
 - (ii) any assessment work reports, exploration plans and exploration permits relating to the mining claim, and
 - (iii) any orders, agreements, instruments or other documents relating to the mining claim that are in an electronic format, subject to a direction made by the Minister under subsection (3.1). 2017, c. 6, Sched. 2, s. 4.

Exception

(3) The Minister may direct that certain instruments or documents relating to a mining claim that are received in a format other than an electronic format be maintained as part of the mining claims registry in the format in which they are received or in such other format as the Minister directs. 2017, c. 6, Sched. 2, s. 4.

Documents excluded from registry

(3.1) The Minister may, in his or her discretion, direct that certain instruments or documents referred to in subclause (2) (d) (iii), or certain classes of such instruments or documents, not be included in the mining claim registry. 2017, c. 6, Sched. 2, s. 4.

Legacy claims

(4) The Provincial Recording Office shall maintain all records, maps, documents or information required under subsection (2) with respect to legacy claims in an electronic format as part of the mining claims registry, but they may also be maintained, together with other historical information, in other formats as the Minister directs. 2017, c. 6, Sched. 2, s. 4.

Public availability

(4.1) The records, maps, documents and information referred to in subsections (2) and (4) shall be made available to the public,

- (a) through the mining lands administration system on a website of the Government of Ontario approved for this purpose or through such other means as may be determined in accordance with the regulations; and
- (b) at the Provincial Recording Office during normal business hours or at such other locations and times as the Minister directs. 2017, c. 6, Sched. 2, s. 4.

Same

(4.2) Subject to any prescribed conditions, the instruments and documents referred to in subsection (3) that are maintained as part of the mining claims registry shall be made available to the public in the prescribed manner and place. 2017, c. 6, Sched. 2, s. 4.

Interpretation, recording, record, etc.

(4.3) For greater certainty and unless the contrary intention appears,

- (a) any reference in this Act or the regulations to the recording of an entry, note, instrument or document is a reference to the entering of the entry, note, instrument or document in the mining claims registry;
- (b) any reference in this Act or the regulations to a recorded claim holder is a reference to the holder of a mining claim registered in the mining claims registry; and
- (c) any reference in this Act or the regulations to a recorded right or interest is a reference to a right or interest that has been noted in the mining claims registry. 2017, c. 6, Sched. 2, s. 4.

Personal information

(5) Any personal information maintained under this section is maintained for the purpose of creating a record that is accessible to the general public, as described in section 37 of the *Freedom of Information and Protection of Privacy Act*. 2009, c. 21, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 3 - 30/01/1996; 1999, c. 12, Sched. O, s. 4 - 30/06/2000

2009, c. 21, s. 3 - 28/10/2009

2017, c. 6, Sched. 2, s. 4 - 10/04/2018

Deletion, correction and amendment to registry

8 (1) A recorder may,

- (a) delete, correct or amend an entry in the mining claims registry in accordance with the regulations;
- (b) delete, correct or amend an entry in the mining claims registry, if the registration does not comply with this Act or the regulations; and
- (c) make entries in the mining claims registry with respect to documents received in other than electronic format and delete, correct and amend entries in the mining claims registry to reflect such documents. 2017, c. 6, Sched. 2, s. 5.

Notice of deletion, etc.

(2) A recorder shall notify any affected person in the prescribed manner, if the recorder deletes, corrects, amends or makes an entry in the mining claims registry in accordance with subsection (1). 2017, c. 6, Sched. 2, s. 5.

Same

(3) A recorder may give notice under subsection (2) before or after deleting, correcting, amending or making the entry. 2017, c. 6, Sched. 2, s. 5.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 4 - 30/01/1996; 1999, c. 12, Sched. O, s. 5 - 30/06/2000

2009, c. 21, s. 3 - 28/10/2009

2017, c. 6, Sched. 2, s. 5 - 10/04/2018

Patented mining claims, application of Acts

8.1 The *Land Titles Act* or the *Registry Act*, as the case may be, applies with respect to a mining claim once the mining claim has been patented. 2017, c. 6, Sched. 2, s. 5.

Section Amendments with date in force (d/m/y)

2017, c. 6, Sched. 2, s. 5 - 10/04/2018

Evidence of records

9 (1) Every copy of or extract from a recorded entry or any document filed in the Provincial Recording Office, certified by a recorder to be a true copy or extract, shall be received in any court as proof, in the absence of evidence to the contrary, of the matter certified without proof of the recorder's appointment, authority or signature. 1999, c. 12, Sched. O, s. 6.

Computer print-out, etc., admissible evidence

(2) If an entry or document under subsection (1) is recorded or filed electronically or on a magnetic medium, any copy or extract produced from the record or medium that is in readily understandable form is admissible in evidence to the same extent as the original entry or document. 1999, c. 12, Sched. O, s. 6.

Same

(3) If a record in the Provincial Recording Office is recorded electronically or on a magnetic medium and there is no original written record corresponding to it, any writing produced from the record or medium that is in readily understandable form is admissible in evidence to the same extent as the record would be if it were an original written record. 1999, c. 12, Sched. O, s. 6.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 6 - 30/06/2000

Experts, etc.

10 The Minister may retain the services of any professor, instructor, or other person to investigate the mineral resources of Ontario, or for any work in connection with this Act, and may pay that person for such services at such rate as is agreed upon, out of the money that is appropriated by the Legislature for that purpose. R.S.O. 1990, c. M.14, s. 10; 2006, c. 35, Sched. C, s. 67 (1).

Section Amendments with date in force (d/m/y)

2006, c. 35, Sched. C, s. 67 (1) - 20/08/2007

11 REPEALED: 2009, c. 21, s. 4.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 4 - 28/10/2009

Officers not to be interested in lands or claims

12 (1) No officer appointed under this Act shall directly or indirectly, by himself or herself or by any other person, purchase or become interested in any mining lands, mining rights or mining claims situate in Ontario. R.S.O. 1990, c. M.14, s. 12 (1).

Waiver by Deputy Minister

(2) Where the Deputy Minister is satisfied that an officer has in good faith acquired an interest referred to in subsection (1) for other than mining purposes, the Deputy Minister may in writing waive the application of subsection (1) to the officer. R.S.O. 1990, c. M.14, s. 12 (2).

Penalty

(3) Any officer contravening subsection (1) forfeits his or her office. R.S.O. 1990, c. M.14, s. 12 (3).

Recorders are commissioners

13 Every recorder is by virtue of his or her office a commissioner for taking affidavits in Ontario. R.S.O. 1990, c. M.14, s. 13; 2017, c. 6, Sched. 2, s. 6.

Section Amendments with date in force (d/m/y)

2017, c. 6, Sched. 2, s. 6 - 09/01/2018

14 REPEALED: 1999, c. 12, Sched. O, s. 7.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 7 - 30/06/2000

Posting, filing and service

Posting and filing

15 (1) A notice, order or document to be posted or filed under this Act, except under section 92 or a provision in Part IV, shall be posted in such place and manner as the Minister directs or filed in such manner as the Minister directs. 2017, c. 6, Sched. 2, s. 7.

Service

(2) Any notice, order or document relating to a licensee or claim holder is sufficiently served upon the licensee or claim holder if delivered or sent by mail to their address for service as shown in the mining lands administration system. 2017, c. 6, Sched. 2, s. 7.

Same

(3) Where service is made by mail under subsection (2) it is deemed to have been made on the fifth day after the day of mailing. 2017, c. 6, Sched. 2, s. 7.

Change of address

(4) A licensee or claim holder shall update the mining lands administration system with respect to any change of address for service. 2017, c. 6, Sched. 2, s. 7.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 8 - 30/06/2000

2017, c. 6, Sched. 2, s. 7 - 10/04/2018

When document received

16 Any document required or permitted to be filed or recorded under this Act that is received at an office specified in a notice issued by the Minister after 4:30 p.m. local time where the office specified in the notice is located is deemed to have been received on the next day that the office is open for business. 2017, c. 6, Sched. 2, s. 7.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 8 - 30/06/2000

2017, c. 6, Sched. 2, s. 7 - 10/04/2018

17 REPEALED: 2017, c. 6, Sched. 2, s. 7.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 8 - 30/06/2000

2009, c. 21, s. 5 - 04/04/2011

2017, c. 6, Sched. 2, s. 7 - 10/04/2018

Licence required

18 No person shall, without a prospector's licence, do any of the following with respect to land that has not been registered as part of a mining claim and for which the mining rights are held by the Crown:

1. Prospect.
2. Register a mining claim. 2017, c. 6, Sched. 2, s. 8.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 9 - 30/06/2000

2009, c. 21, s. 6 - 01/11/2012

2017, c. 6, Sched. 2, s. 8 - 10/04/2018

Prospector's licences

19 (1) Any person who is 18 years or older may obtain a prospector's licence online through the mining lands administration system if the person has successfully completed the prescribed *Mining Act* awareness program within 60 days before the day he or she accesses the system to obtain the licence. 2017, c. 6, Sched. 2, s. 9 (1).

Term of licence

(2) A licence shall be effective as of the date it is obtained online and shall expire on the day before the fifth anniversary of that date. 2017, c. 6, Sched. 2, s. 9 (1).

(3) REPEALED: 2002, c. 18, Sched. M, s. 1.

Licence not transferable

(4) A licence is not transferable. R.S.O. 1990, c. M.14, s. 19 (4).

(5)-(8) REPEALED: 2017, c. 6, Sched. 2, s. 9 (2).

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 5 (1, 2) - 30/01/1996; 1997, c. 40, s. 7 - 18/12/1997; 1999, c. 12, Sched. O, s. 10 - 30/06/2000

2002, c. 18, Sched. M, s. 1 - 16/12/2002

2009, c. 21, s. 7 (1) - 01/11/2012; 2009, c. 21, s. 7 (2, 3) - 28/10/2009

2017, c. 6, Sched. 2, s. 9 (1, 2) - 10/04/2018

Numbering of licences

20 Every prospector's licence shall be numbered. 1999, c. 12, Sched. O, s. 11.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 11 - 30/06/2000

Renewal of licence

21 (1) At any time within the 60-day period that precedes the expiry of a licence, the licensee may obtain a renewal of the licence online through the mining lands administration system if the licensee has successfully completed the prescribed *Mining Act* awareness program within that 60-day period. 2017, c. 6, Sched. 2, s. 10.

Notice of expiration of licence

(2) Notice of the expiration of a licence shall be given to the holder of the licence electronically through the mining lands administration system not later than 60 days before the expiry date. 2017, c. 6, Sched. 2, s. 10.

Term of renewal

(3) A renewed licence shall be effective immediately after the day the previous licence expires and shall expire on the day before the fifth anniversary of the day it became effective. 2017, c. 6, Sched. 2, s. 10.

Lifetime renewal after 25 years

(4) Despite subsection (3), a renewed licence shall be effective for a term equal to the remainder of the licensee's life if, at the time of the renewal, the licensee has held a licence for a total of 25 years. 2017, c. 6, Sched. 2, s. 10.

Discretionary lifetime renewal

(5) Despite subsection (3), the Minister may, whenever a licence is to be renewed, direct that the licence be renewed for a term equal to the remainder of the licensee's life. 2017, c. 6, Sched. 2, s. 10.

No fee for lifetime renewal

(6) No fee shall be established or charged under section 177.1 for the lifetime renewal of a licence under subsection (4) or (5). 2017, c. 6, Sched. 2, s. 10.

Exception

(7) The Minister may, in his or her discretion, waive the requirement for a prospector to complete the prescribed *Mining Act* awareness program in the case of a lifetime renewal of a licence under subsection (4) or (5). 2017, c. 6, Sched. 2, s. 10.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 6 - 30/01/1996; 1999, c. 12, Sched. O, s. 12 - 30/06/2000

2009, c. 21, s. 8 (1, 2) - 01/11/2012

2017, c. 6, Sched. 2, s. 10 - 10/04/2018

Accidental destruction or loss of licence

22 If a prospector's licence is accidentally destroyed or lost, the licensee may obtain a duplicate of the licence online through the mining lands administration system. 2017, c. 6, Sched. 2, s. 11.

Section Amendments with date in force (d/m/y)

1997, c. 40, s. 7 - 18/12/1997

2009, c. 21, s. 9 - 28/10/2009

2017, c. 6, Sched. 2, s. 11 - 10/04/2018

Limitation

23 (1) No person shall apply for or hold more than one prospector's licence at a time. R.S.O. 1990, c. M.14, s. 23 (1); 2009, c. 21, s. 10 (1).

(2) REPEALED: 2009, c. 21, s. 10 (2).

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 10 (1, 2) - 28/10/2009

Production of licence

24 Every licensee shall upon demand produce and exhibit his or her licence to an inspector or a recorder. R.S.O. 1990, c. M.14, s. 24.

25 REPEALED: 2009, c. 21, s. 11.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 7 - 30/01/1996; 1997, c. 40, s. 7 - 18/12/1997

2009, c. 21, s. 11 - 28/10/2009

Revocation, suspension and cancellation of claims, etc. of licence

26 (1) Where the Tribunal finds, after a hearing, that a licensee has been guilty of a wilful contravention of any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the Tribunal, revoke the licence of the licensee and a licence shall not thereafter be issued to such licensee without the authority of the Minister. R.S.O. 1990, c. M.14, s. 26 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Idem

(2) Where a licence is revoked under subsection (1), the Minister shall determine and notify the holder of the licence revoked of the period of time during which a licence shall not be issued to him. R.S.O. 1990, c. M.14, s. 26 (2).

Suspension or revocation of licence

(3) Where a recorder finds, after a hearing, that a licensee has contravened any of the provisions of this Act or the regulations, the Minister may, upon the recommendation of the recorder, suspend or revoke the licence of the licensee. R.S.O. 1990, c. M.14, s. 26 (3); 2000, c. 26, Sched. M, s. 1.

Idem

(4) Where a licence is suspended under subsection (3), the Minister shall determine and notify the holder of the licence suspended of the period of time during which the licence is suspended. R.S.O. 1990, c. M.14, s. 26 (4).

Rights of licensee under suspension

(5) While a licence is suspended under subsection (3), the licensee may renew the licence but the licensee may not register a mining claim. 2017, c. 6, Sched. 2, s. 12 (1).

Where holder of mining claim contravenes Act

(6) Where the recorder finds, after a hearing, that a holder of a mining claim has contravened any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the recorder, order that the holder may not acquire an unpatented mining claim or interest therein through transfer or obtain an extension of time in which to perform work or to apply for lease on any unpatented mining claim recorded in the name of the holder. R.S.O. 1990, c. M.14, s. 26 (6).

Cancellation of mining claims

(7) Where the Tribunal finds, after a hearing, that a holder of a mining claim has been guilty of a wilful contravention of any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the Tribunal, declare any mining claims of the holder to be cancelled and upon cancellation all rights of the holder in or to mining claim lands cease. R.S.O. 1990, c. M.14, s. 26 (7); 2017, c. 8, Sched. 17, s. 7 (1).

Order pending hearing

(8) Pending the holding of a hearing by the Tribunal or a recorder on any matter under this section, the Tribunal or the recorder, as the case may be, may order that any mining claim of the licensee or holder whose conduct is in question shall not, before the conclusion of the hearing and final disposition of the matter, be transferred to any other person. 2017, c. 8, Sched. 17, s. 7 (4).

Prohibition against registration of claims, etc.

(9) Where mining claims are cancelled under subsection (7), the former holder of the mining claims may not register a mining claim or acquire an unpatented mining claim or interest in such a claim through transfer for such period of time as the Minister determines, and the Minister shall notify the former holder of the period of time so determined. 2017, c. 6, Sched. 2, s. 12 (2).

Appeal

(10) A finding by the Tribunal that a licensee or holder of a mining claim has wilfully contravened this Act or the regulations or by a recorder that a licensee or holder of a mining claim has contravened this Act or the regulations, as the case may be, may be appealed in like manner as any decision of the Tribunal or recorder, respectively, and the Minister shall give effect to the decision on the appeal. R.S.O. 1990, c. M.14, s. 26 (10); 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 1 - 26/12/2000

2009, c. 21, s. 101 (1) - 28/10/2009

2017, c. 6, Sched. 2, s. 12 (1, 2) - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1, 4) - 01/04/2018

PART II MINING CLAIMS

LANDS OPEN

Where licensee may prospect for minerals

27 Except where otherwise provided, the holder of a prospector's licence may prospect for minerals and register a mining claim on any,

- (a) Crown lands, surveyed or unsurveyed;

- (b) lands, the mines, minerals or mining rights whereof have been reserved by the Crown in the location, sale, patent or lease of such lands where they have been located, sold, patented or leased after the 6th day of May, 1913, not at the time,
- (c) registered as a mining claim, including a mining claim that has lapsed or been abandoned, cancelled or forfeited if the cells related to that claim have not been re-opened for mining claims registration;
- (c.1) included in a part of a boundary cell that is outside of the limits of any boundary claims registered with respect to the boundary cell;
- (d) withdrawn, under this Act or any other Act or by order in council or other competent authority, from prospecting, mining claim registration, location or sale or, before the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* comes into force, from staking; or
- (e) declared before the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* comes into force, by any authority referred to in clause (d), to be not open for prospecting, staking or sale as mining claims. R.S.O. 1990, c. M.14, s. 27; 1996, c. 1, Sched. O, s. 8; 2009, c. 21, s. 101 (1, 4); 2017, c. 6, Sched. 2, s. 13.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 8 - 30/01/1996

2009, c. 21, s. 101 (1, 4) - 28/10/2009

2017, c. 6, Sched. 2, s. 13 (1, 2) - 10/04/2018

Claim may be registered

28 (1) A licensee may register a mining claim on any land open for prospecting and, subject to the other provisions of this Act, may work such claim and transfer his or her interest therein to another person, but, where the surface rights in the land have been granted, sold, leased or located by the Crown, compensation must be made as provided by section 79. R.S.O. 1990, c. M.14, s. 28; 2009, c. 21, s. 101 (1); 2017, c. 6, Sched. 2, s. 14 (1).

Application under other Act

(2) A licensee may register a mining claim with respect to any minerals or rights that no applicant is specifically requesting to acquire in an application accepted under the *Public Lands Act* or any other Act. 2000, c. 26, Sched. M, s. 2; 2009, c. 21, s. 101 (1); 2017, c. 6, Sched. 2, s. 14 (2).

Priority of application

(3) If an applicant is specifically requesting to acquire minerals or rights in an application accepted under the *Public Lands Act* or any other Act, the application shall have priority over any mining claim registered during the time that the application is pending. 2000, c. 26, Sched. M, s. 2; 2017, c. 6, Sched. 2, s. 14 (3).

Addition to mining claim

(4) If the application lapses, is withdrawn or is not accepted or approved, a mining claim registered during the time that the application was pending shall be deemed to be amended to include the minerals and rights that were the subject of the application, as if the application had never existed. 2000, c. 26, Sched. M, s. 2; 2017, c. 6, Sched. 2, s. 14 (4).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 2 - 26/12/2000

2009, c. 21, s. 101 (1) - 28/10/2009

2017, c. 6, Sched. 2, s. 14 (1-4) - 10/04/2018

RESTRICTED LANDS

Land not open for registration without consent of Minister

29 (1) No mining claim shall be registered except with the consent of the Minister,

- (a) on any land that is a lot within a registered plan of subdivision;
- (b) on any land for which the surface rights have been subdivided, surveyed or sold or otherwise disposed of by the Ministry of Natural Resources for summer resort purposes;
- (c) on any land that is a residential or cottage lot smaller than one hectare in area;

- (d) where a residential or cottage lot is one hectare in area or larger, on any land that is,
 - (i) within 100 metres of a residential or cottage dwelling on the lot, and
 - (ii) within the property boundary line;
- (e) on any land that is railway land, including the station grounds, switching grounds, yard or right-of-way of a railway;
- (f) on any land that is being used for a natural gas, oil or water pipeline corridor;
- (g) on any land that is part of an airport;
- (h) on any land that is improved municipal land used for public purposes, including public buildings, sports fields, arenas, libraries, parks and skating rinks; or
- (i) on any land that contains an artificial reservoir, dam, or any building, structure or lands being used in conjunction with the operation of such artificial reservoir or dam. 2009, c. 21, s. 12; 2017, c. 6, Sched. 2, s. 15 (1).

Where mining claim registered without consent

(2) If a registered mining claim includes land described in subsection (1) and the licensee who registered the claim did not obtain the consent of the Minister prior to registering the claim, the Minister, if he or she is satisfied that the failure to obtain prior consent was inadvertent and without knowledge that the claim included lands described in subsection (1), may subsequently provide his or her consent to the registration of the claim and the claim as registered is deemed to include those lands. 2017, c. 6, Sched. 2, s. 15 (2).

Land not open for registration without consent of Commission

(3) No mining claim shall be registered upon any land transferred to or vested in the Ontario Northland Transportation Commission without the consent of the Commission. 2009, c. 21, s. 12; 2017, c. 6, Sched. 2, s. 15 (3).

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 9 - 30/01/1996

2009, c. 21, s. 12 - 01/04/2013

2017, c. 6, Sched. 2, s. 15 (1-3) - 10/04/2018

Lands upon which claim may not be registered

30 No mining claim shall be registered on any land,

- (a) for which the mining rights have been sold, located, leased or included in a licence of occupation;
- (b) for which an application brought in good faith is pending in the Ministry of Natural Resources under the *Public Lands Act* or any other Act, and in which the applicant may acquire the minerals that are included in the application;
- (c) where the Minister or the Minister of Transportation certifies that the land is required for the development of water power or for a highway or for some other purpose in the public interest;
- (d) in an Indian reserve, except as provided by *The Indian Lands Act, 1924*;
- (e) within 45 metres of a church, cemetery, or burial ground;
- (f) in respect of which a note of pending proceedings has been issued under subsection 64 (2), (2.1) or (2.2), and the note has not been cancelled; or
- (g) that is located in the Far North, if a community based land use plan has designated the lands for a use inconsistent with mineral exploration and development. 2009, c. 21, s. 12; 2017, c. 6, Sched. 2, s. 16.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 134 (1) - 01/01/1991

2000, c. 26, Sched. M, s. 3 (1-3) - 26/12/2000

2009, c. 21, s. 12 - 01/04/2013

2017, c. 6, Sched. 2, s. 16 - 10/04/2018

Provincial parks

31 On and after the day subsection 16 (1) of the *Provincial Parks and Conservation Reserves Act, 2006* is proclaimed in force, prospecting or the registration of mining claims or the development of mineral interests or the working of mines in provincial parks and conservation reserves is prohibited. 2006, c. 12, s. 63; 2009, c. 21, s. 101 (4); 2017, c. 6, Sched. 2, s. 17.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 134 (2) - 01/09/1990

2006, c. 12, s. 63 - 04/09/2007

2009, c. 21, s. 101 (4) - 28/10/2009

2017, c. 6, Sched. 2, s. 17 - 10/04/2018

32 REPEALED: 2009, c. 21, s. 13.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 13 - 01/04/2013

Valuable water powers not included in claim

33 (1) A water power that lies within the limits of a mining claim and that is capable of producing 150 horsepower or more at low water mark in its natural condition shall not be deemed to be part of the claim for the use of the holder of the claim. 1999, c. 12, Sched. O, s. 13.

Road allowance

(2) A road allowance of 20 metres in width shall be reserved on both sides of the water, together with such additional area of land as a recorder or the Tribunal considers necessary for the development and utilization of the water power. 1999, c. 12, Sched. O, s. 13; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 13 - 30/06/2000

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Surface operations near highway

34 Where a mining claim adjoins or is adjacent to a highway or road maintained by the Ministry of Transportation, no surface mining operations shall be carried out within 45 metres of the limits of the highway or road without the written consent of the Minister of Transportation. 1999, c. 12, Sched. O, s. 13; 2017, c. 6, Sched. 2, s. 18.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 13 - 30/06/2000

2017, c. 6, Sched. 2, s. 18 - 10/04/2018

Withdrawal of lands

35 (1) The Minister may, by order signed by him or her, withdraw from prospecting, mining claim registration, sale and lease any lands, mining rights or surface rights that are the property of the Crown, and the lands, mining rights or surface rights shall remain withdrawn until reopened by the Minister. 2009, c. 21, s. 14 (1); 2017, c. 6, Sched. 2, s. 19 (1).

Factors to consider

(2) In making an order under subsection (1), the Minister may consider any factors that he or she considers appropriate, including,

- (a) whether the lands, mining rights or surface rights are required for developing or operating public highways, renewable energy projects or power transmission lines or for another use that would benefit the public, whether the order would be consistent with any prescribed land use designation that may be made with respect to the Far North and whether the lands meet the prescribed criteria as a site of Aboriginal cultural significance; and
- (b) any other factors that may be prescribed. 2009, c. 21, s. 14 (1).

Pre-existing rights and tenure

(3) A withdrawal order issued under subsection (1) does not affect pre-existing mining rights and tenure such as mining claims, mining leases or licences of occupation. 2009, c. 21, s. 14 (1).

Reopening of lands

(4) The Minister may, by order signed by him or her, revoke all or part of a withdrawal order made under subsection (1) and reopen for prospecting, mining claim registration, sale and lease any of the lands, mining rights or surface rights or parts of them withdrawn under this section. 2009, c. 21, s. 14 (1); 2017, c. 6, Sched. 2, s. 19 (2).

Copy of order sent to recorder

(4.1) Where the Minister makes an order under subsection (1) or (4), the Minister shall promptly provide a copy of the order to the recorder's office. 2009, c. 21, s. 14 (1).

Posting and filing copy

(4.2) On receiving a copy of the order, the recorder shall promptly note the order in the mining lands administration system and may post it on the Internet. 2017, c. 6, Sched. 2, s. 19 (3).

(5) REPEALED: 2009, c. 21, s. 14 (2).

Order not a regulation

(6) An order under subsection (1) or (4) shall be deemed not to be a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. R.S.O. 1990, c. M.14, s. 35 (6); 2006, c. 21, Sched. F, s. 136 (1); 2009, c. 21, s. 14 (3).

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 10 - 30/01/1996; 1999, c. 12, Sched. O, s. 14 - 30/06/2000

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

2009, c. 21, s. 14 (1-3) - 01/11/2012

2017, c. 6, Sched. 2, s. 19 (1-3) - 10/04/2018

Southern Ontario and Northern Ontario

35.1 (1) In this section,

“Northern Ontario” means that part of the province of Ontario lying north of the south shores of the French River, Lake Nipissing and Mattawa River; (“Nord de l’Ontario”)

“Southern Ontario” means that part of the province that is not in Northern Ontario. (“Sud de l’Ontario”) 2009, c. 21, s. 15 (1).

Southern Ontario

(2) In Southern Ontario, for lands where there is a surface rights owner and the mining rights are held by the Crown, the mining rights shall be deemed to be withdrawn from prospecting, mining claim registration, sale and lease as of the day this subsection comes into force. 2009, c. 21, s. 15 (1); 2017, c. 6, Sched. 2, s. 20 (1).

Exception

(3) Despite subsection (2), any mining claims, mining leases or licences of occupation for mining rights existing on the day this section comes into force shall not be affected by the deemed withdrawal under that subsection and shall remain open for prospecting, sale and lease. 2009, c. 21, s. 15 (1); 2017, c. 6, Sched. 2, s. 20 (2).

Reversion to Crown

(4) If a mining claim, lease or licence of occupation described in subsection (3) reverts to the Crown by forfeiture, expiry, termination or otherwise, those mining rights shall, upon the reversion to the Crown, be deemed to be withdrawn from prospecting, mining claim registration, sale and lease. 2009, c. 21, s. 15 (1); 2017, c. 6, Sched. 2, s. 20 (3).

Application to open lands

(5) If mining rights have been deemed withdrawn under subsection (2), a surface rights owner may apply to the Minister for an order opening the mining rights for the lands or any part of them for prospecting, mining claim registration, sale and lease and the Minister may issue the order. 2009, c. 21, s. 15 (1); 2017, c. 6, Sched. 2, s. 20 (4).

Relief from forfeiture

(6) Subsection (4) does not affect any powers of the recorder or Tribunal to grant relief from forfeiture or to make related orders under section 49, or any powers of the Minister to revoke, cancel or annul a forfeiture or termination under subsection 185 (1). 2009, c. 21, s. 15 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Same

(7) Where a recorder or Tribunal grants relief from forfeiture under section 49 or where the Minister revokes, cancels or annuls a forfeiture or termination under subsection 185 (1), the mining rights are no longer deemed withdrawn under subsection (4). 2009, c. 21, s. 15 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Northern Ontario

(8) In Northern Ontario, for lands where there is a surface rights owner and the mining rights are held by the Crown, the Minister may issue an order withdrawing the mining rights from prospecting, mining claim registration, sale and lease upon the surface rights owner applying for the order. 2009, c. 21, s. 15 (2); 2017, c. 6, Sched. 2, s. 20 (5).

Factors to consider

(9) In deciding whether to issue an order under subsection (8), the Minister shall consider the mineral potential of the lands as assessed by the Minister and any other criteria that may be prescribed. 2009, c. 21, s. 15 (2).

Exception

(10) Despite subsection (8), any mining claims, mining leases or licences of occupation for mining rights existing on the day the Minister issues an order under that subsection shall not be affected by the order and shall remain open for prospecting, sale and lease. 2009, c. 21, s. 15 (2).

Application to open lands

(11) If mining rights have been withdrawn by an order under subsection (8), a surface rights owner may apply to the Minister for an order opening the mining rights for the lands or any part of them for prospecting, mining claim registration, sale and lease and the Minister may issue the order. 2009, c. 21, s. 15 (2); 2017, c. 6, Sched. 2, s. 20 (6).

Manner of opening

(12) If the Minister issues an order opening the mining rights for lands under subsection (5) or (11), the mining rights shall be opened in accordance with the regulations. 2017, c. 6, Sched. 2, s. 20 (7).

Not a regulation

(13) An order under subsection (8) or (11) is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2009, c. 21, s. 15 (2).

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 15 (1) - 28/10/2009; 2009, c. 21, s. 15 (2) - 01/01/2011

2017, c. 6, Sched. 2, s. 20 (1-7) - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

36 REPEALED: 2009, c. 21, s. 16.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 16 - 28/10/2009

37 REPEALED: 2009, c. 21, s. 17.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 17 - 01/11/2012

REGISTRATION OF MINING CLAIMS

Registration of mining claims

38 (1) Subject to clauses 38.2 (7) (c) and 38.3 (4) (c) and subsection 38.5 (3), all mining claims shall be registered in accordance with this section. 2017, c. 6, Sched. 2, s. 22.

Registration by licensee

(2) A licensee who wishes to register a mining claim shall do so in accordance with the following procedures:

1. Access the mining lands administration system and register a cell claim electronically by identifying the cells on the provincial grid that are to be included in the claim and follow the directives established by the Minister under subsection 4.1 (2).
2. Follow such other rules or procedures as may be prescribed. 2017, c. 6, Sched. 2, s. 22.

Single and multi-cell claims

- (3) A licensee may register a cell claim in relation to,
- (a) a single cell on the provincial grid that is not a boundary cell; or
 - (b) two or more cells on the provincial grid that are not boundary cells, subject to any limitations that may be prescribed or set out in the directives established by the Minister under subsection 4.1 (2). 2017, c. 6, Sched. 2, s. 22.

Land included in cell claim

- (4) A cell claim registered under this Act applies with respect to all the land included in the relevant cells identified on the provincial grid as being part of the claim, subject to subsection (5). 2017, c. 6, Sched. 2, s. 22.

Lands not open for registration, cell claims

- (5) The registration of a cell claim for a cell on the provincial grid that includes land not open for mining claim registration under this Act does not invalidate the claim, but the land that is not open for mining claim registration does not form part of the cell claim. 2017, c. 6, Sched. 2, s. 22.

Lands becoming open for registration, cell claims

- (6) Where land in a cell that was not open for mining claims registration becomes open for mining claims registration and there is a cell claim registered for the cell in good standing, the land in question becomes part of the registered cell claim. 2017, c. 6, Sched. 2, s. 22.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 18 - 28/10/2009

2017, c. 6, Sched. 2, s. 22 - 08/02/2018

Transition, legacy claims

- 38.1** (1) All legacy claims shall be delineated on the provincial grid in accordance with subsections (2), (3) and (4) and then converted, in accordance with section 38.2, to mining claims registered in the mining claims registry. 2017, c. 6, Sched. 2, s. 22.

Determination of legacy claim location

- (2) For the purpose of delineating a legacy claim on the provincial grid, a recorder shall,
- (a) gather information as to the precise location of the boundaries of the legacy claim using the best available information including,
 - (i) the information that was filed with the application to record the legacy claim made under section 44 of this Act, as that section read before the day section 26 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* came into force, and
 - (ii) information gathered by means of inspections, Global Positioning System geo-referencing data, surveys or other means of verifying claim boundaries; and
 - (b) make a final determination as to the location of the legacy claim based on the information gathered under clause (a). 2017, c. 6, Sched. 2, s. 22.

Same

- (3) The power to make a final determination as to the location of a legacy claim under clause (2) (b) includes,
- (a) the power to decide or settle any disputes as to overlapping legacy claims and adjust the boundaries of the claim; and
 - (b) the power to adjust boundaries of a legacy claim, as staked by the claim holder or as described in the application to record a map staked claim, based on any information gathered under clause (2) (a). 2017, c. 6, Sched. 2, s. 22.

Delineation

- (4) The recorder shall ensure that the location of a legacy claim is delineated on the provincial grid so as to accurately reflect the determination made under subsections (2) and (3). 2017, c. 6, Sched. 2, s. 22.

Effect of delineation

- (5) From the day it is delineated on the provincial grid until it is converted to a mining claim under section 38.2, a legacy claim applies with respect to the land included in the delineated area on the provincial grid, regardless of where the claim was,

- (a) marked out on the ground, based on the ground staking requirements at the time when the claim was staked;
- (b) indicated to be in the application to record a map staked claim; or
- (c) indicated on the Ministry's maps of mining claims before the delineation. 2017, c. 6, Sched. 2, s. 22.

No appeal

(6) A determination made by a recorder as to the location of a legacy claim under subsections (2) and (3) and the resulting delineation of the legacy claim on the provincial grid made under subsection (4) are final and not subject to appeal to the Tribunal under section 112. 2017, c. 6, Sched. 2, s. 22; 2017, c. 8, Sched. 17, s. 8 (3).

Continuation of legacy claim until conversion

(7) After a legacy claim is delineated on the provincial grid under this section and until the day the legacy claim is converted to a mining claim under section 38.2,

- (a) all rights and obligations that arose under this Act and applied with respect to the legacy claim immediately before the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* came into force shall continue to apply to the legacy claim as delineated on the provincial grid;
- (b) all agreements, liens, orders and other documents that were recorded on the abstract of the legacy claim or that otherwise purported to affect the legacy claim immediately before the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* came into force shall continue to apply to the legacy claim as delineated on the provincial grid; and
- (c) any exploration plan or exploration permit that was in effect with respect to the legacy claim immediately before the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* came into force continues to apply to the legacy claim as delineated on the provincial grid. 2017, c. 6, Sched. 2, s. 22.

Section Amendments with date in force (d/m/y)

2017, c. 6, Sched. 2, s. 22 - 08/02/2018; 2017, c. 8, Sched. 17, s. 8 (3) - 01/04/2018

Conversion of legacy claims to mining claims

Definition

38.2 (1) In this section,

“conversion date” means the day set by the Minister by regulation for the purposes of this section. 2017, c. 6, Sched. 2, s. 22.

Conversion

(2) Subject to the regulations, on the conversion date, all legacy claims are converted, in accordance with the following rules, to mining claims registered in the mining claims registry:

1. If, immediately before the conversion date, a legacy claim as delineated under section 38.1 includes an entire cell on the provincial grid, the portion of the legacy claim corresponding to the cell is converted to a separate cell claim for the entire cell.
2. If, immediately before the conversion date, a legacy claim as delineated under section 38.1 includes a part of a cell on the provincial grid, the portion of the legacy claim delineated in the cell is converted to a separate cell claim for the entire cell, subject to the rules set out in paragraphs 3, 4, 5 and 6.
3. If, immediately before the conversion date, two or more legacy claims as delineated under section 38.1 each include a part of a cell on the provincial grid and if two or more of the legacy claims are held by different claim holders,
 - i. the cell becomes a boundary cell for the purposes of this Act,
 - ii. any legacy claim or portion of a legacy claim delineated in the cell that is held by a claim holder who does not hold any other legacy claims or portions of legacy claims delineated in the cell is converted to a separate boundary claim for the corresponding part of the boundary cell, and
 - iii. any two or more legacy claims or portions of legacy claims delineated in the cell that are held by the same claim holder merge into one claim and are converted to a single boundary claim for the corresponding parts of the boundary cell, even if the legacy claims or portions of legacy claims were not contiguous, subject to paragraph 4.
4. If a claim holder of two or more legacy claims or portions of legacy claims described in subparagraph 3 iii elects under subsection (3) to convert two or more of the legacy claims or portions of legacy claims to separate boundary claims,

each legacy claim or portion of a legacy claim identified in the election is converted to a separate boundary claim for the corresponding part of the boundary cell.

5. If, immediately before the conversion date, two or more legacy claims as delineated under section 38.1 each include a part of a cell on the provincial grid and all the legacy claims are held by the same claim holder, the legacy claims, or portions of the legacy claims, delineated in the cell, merge into one claim and are all converted to a single cell claim for the entire cell, subject to paragraph 6.
6. If a claim holder of two or more legacy claims described in paragraph 5 elects under subsection (4) to convert all or portions of each legacy claim to boundary claims,
 - i. a cell on the provincial grid that includes all or a portion of the two or more legacy claims becomes a boundary cell for purposes of this Act, and
 - ii. each legacy claim, or portion of a legacy claim, delineated in the cell referred to in subparagraph i, is converted to a separate boundary claim for the corresponding part of the boundary cell. 2017, c. 6, Sched. 2, s. 22.

Election to convert to separate boundary claims

(3) At such time before the conversion date as may be determined by regulation, the holder of two or more legacy claims, all or portions of which would otherwise be merged and converted to a single boundary claim upon conversion under subparagraph 3 iii of subsection (2), may elect to prevent the merger and to have the legacy claims or portions of the legacy claims converted to separate boundary claims under paragraph 4 of subsection (2). 2017, c. 6, Sched. 2, s. 22.

Election to convert to boundary claims

(4) At such time before the conversion date as may be determined by regulation, the holder of two or more legacy claims, all or portions of which would otherwise be merged and converted to a single cell claim upon conversion under paragraph 5 of subsection (2), may elect to prevent the merger and to have the legacy claims or portions of the legacy claims converted to a separate boundary claim under paragraph 6 of subsection (2). 2017, c. 6, Sched. 2, s. 22.

Same

(5) An election under subsection (3) or (4) shall be made in accordance with the regulations. 2017, c. 6, Sched. 2, s. 22.

Group claim holder

(6) If two or more legacy claims are held by a group of persons, the two or more claim holders of the legacy claims shall be considered the same claim holder for the purposes of the conversion of legacy claims under paragraphs 3 and 5 of subsection (2), if the group of persons consists of the same persons holding the same proportionate interests in each legacy claim. 2017, c. 6, Sched. 2, s. 22.

Effect of conversion

- (7) Upon the conversion of a legacy claim to one or more cell claims and boundary claims in accordance with subsection (2),
- (a) a person who held a legacy claim immediately before the conversion date shall hold the number of cell claims and any boundary claims that result from the conversion of the legacy claim;
 - (b) subject to the regulations, all rights or obligations arising under this Act that existed immediately before the conversion date in respect of the legacy claim continue after the conversion date,
 - (i) in respect of each of the resulting cell claims, and
 - (ii) in respect of any area in a boundary cell that is covered by a resulting boundary claim but not in respect of any area of the boundary cell that is not part of the boundary claim;
 - (c) all cell claims and boundary claims that result from the conversion are deemed to be registered in accordance with subsection 38 (2) for the purposes of this Act;
 - (d) a cell claim that results from the conversion applies to the entire cell, subject to the regulations; and
 - (e) the anniversary date of a cell claim or boundary claim that results from the conversion of a legacy claim under this section shall be determined in accordance with the regulations. 2017, c. 6, Sched. 2, s. 22.

Same

(8) Where there are agreements, liens, orders and other documents that are recorded on the abstract of a legacy claim or that otherwise purport to affect a legacy claim, the agreements, liens, orders and other documents continue in effect, with necessary modifications, with respect to any cell claim and, if applicable, any boundary claim resulting from the delineation and conversion of the legacy claim. 2017, c. 6, Sched. 2, s. 22.

Same

(9) Agreements, liens, orders and other documents that are continued in effect under subsection (8) are enforceable only if they were enforceable before they were continued. 2017, c. 6, Sched. 2, s. 22.

Recording of agreements, liens, etc.

(10) When a legacy claim is converted to a cell claim or a boundary claim, a recorder shall, in accordance with the regulations, record on the abstract for each resulting cell claim or boundary claim the agreements, liens, orders and other documents that are recorded on the abstract for the legacy claim or that otherwise purport to affect the legacy claim. 2017, c. 6, Sched. 2, s. 22.

Minister referring matters to Tribunal

(11) The Minister may refer issues related to the agreements, liens, orders or other documents that have been recorded on the abstract for a cell claim or boundary claim, as referred to in subsection (10), to the Tribunal and the Tribunal may, upon notice to all interested parties, review the issues and resolve them. 2017, c. 6, Sched. 2, s. 22; 2017, c. 8, Sched. 17, s. 8 (3, 4).

Exploration plans, exploration permits

(12) Where an exploration plan or exploration permit is in effect with respect to a legacy claim before the conversion date, the exploration plan or exploration permit continues in effect after the conversion date with respect to any cell claim or boundary claim that results from the conversion of the legacy claim but only with respect to the land in the cell claim or boundary claim that was part of the legacy claim as delineated under section 38.1. 2017, c. 6, Sched. 2, s. 22.

Same

(13) Where an exploration plan or exploration permit is continued in effect under subsection (12), the exploration plan or exploration permit is deemed to be amended to reflect the new mining claim numbers to which it applies and a Director of Exploration shall notify the claim holder identified in the exploration plan or exploration permit in the prescribed manner. 2017, c. 6, Sched. 2, s. 22.

Regulation by Minister

(14) The Minister may make a regulation setting the conversion date for the purposes of this section. 2017, c. 6, Sched. 2, s. 22.

Section Amendments with date in force (d/m/y)

2017, c. 6, Sched. 2, s. 22 - 08/02/2018; 2017, c. 8, Sched. 17, s. 8 (3, 4) - 01/04/2018

Boundary claims

38.3 (1) If the conversion of a legacy claim under section 38.2 results in the existence of one or more boundary claims, each boundary claim continues indefinitely until it is converted to a cell claim in accordance with subsection (2) or (3), so long as the claim holder continues to comply with the requirements of this Act. 2017, c. 6, Sched. 2, s. 22.

Change of boundary claim upon forfeiture, etc.

(2) If a boundary claim is forfeited, abandoned or cancelled, and there remains only one boundary claim within the boundary cell, then, on the day of the forfeiture, abandonment or cancellation,

- (a) the cell is no longer a boundary cell for purposes of this Act; and
- (b) the remaining boundary claim becomes a single cell claim for the entire cell. 2017, c. 6, Sched. 2, s. 22.

Election to merge boundary claims

(3) If two or more boundary claims are registered with respect to a cell on the provincial grid and are all held by the same claim holder, the claim holder may elect, in accordance with the regulations, to merge the boundary claims to a single cell claim for the entire cell and on the day the election is made,

- (a) the cell is no longer a boundary cell for the purposes of this Act; and
- (b) the claim holder's boundary claims for portions of the cell become a single cell claim for the entire cell. 2017, c. 6, Sched. 2, s. 22.

Effect of boundary claim changes

(4) Where one or more boundary claims become a single cell claim under clause (2) (b) or (3) (b),

- (a) the holder of the boundary claim or claims, as the case may be, shall be the holder of the cell claim for the entire cell;

- (b) subject to the regulations, all rights and obligations arising under this Act in respect of the boundary claim or claims continue in respect of the cell claim;
- (c) the resulting cell claim is deemed to be registered as a cell claim for the purposes of subsection 38 (2);
- (d) the resulting cell claim applies to the entire cell, subject to the regulations; and
- (e) the anniversary date of the resulting cell claim shall be determined in accordance with the regulations. 2017, c. 6, Sched. 2, s. 22.

Section Amendments with date in force (d/m/y)

2017, c. 6, Sched. 2, s. 22 - 08/02/2018

Limitations on remedies

38.4 (1) No cause of action arises against the Crown, a member or former member of the Executive Council or an employee or agent or former employee or agent of the Crown as a direct or indirect result of any of the following:

1. The delineation of a legacy claim on the provincial grid pursuant to section 38.1 or any boundary adjustments made by a recorder to delineate a legacy claim on the grid under that section, or anything done or not done in accordance with the delineation of the claim or adjustment of its boundaries or regulations made in respect of the delineation or adjustment.
2. The conversion of a legacy claim into a cell claim or boundary claim under section 38.2 or regulations made in respect of the conversion of legacy claims.
3. The entry on the abstract for cell claims under section 38.2 of agreements, liens, orders and other documents that are recorded on the abstract for the legacy claim or that otherwise purport to affect the legacy claim or the failure to make such an entry.
4. The change of a boundary claim to a cell claim under clause 38.3 (2) (b) or (3) (b).
5. The change of a boundary cell to a cell on the provincial grid under clause 38.3 (2) (a) or (3) (a).
6. The enactment of sections 38, 38.1, 38.2, 38.3, this section and section 38.5, the repeal of any provision of this Act by the *Aggregate Resources and Mining Modernization Act, 2017*, the making or revocation of any regulations under this Act in relation to the enactment of sections 38, 38.1, 38.2, 38.3, this section and section 38.5 or anything done or not done in accordance with those sections or the regulations made in relation to them. 2017, c. 6, Sched. 2, s. 22.

Same

(2) Without limiting the generality of subsection (1), that subsection applies to an action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages, including loss of revenue and loss of profit, or any other remedy or relief. 2017, c. 6, Sched. 2, s. 22.

Proceeding barred

(3) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, that is directly or indirectly based on or related to anything referred to in subsection (1), may be brought or maintained against any person referred to in subsection (1). 2017, c. 6, Sched. 2, s. 22.

Same

(4) Subsection (3) applies regardless of whether the cause of action on which the proceeding is purportedly based arose before or after the coming into force of section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017*. 2017, c. 6, Sched. 2, s. 22.

Proceeding set aside

(5) Any proceeding referred to in subsection (3) commenced before the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* comes into force is deemed to have been dismissed without costs on that day. 2017, c. 6, Sched. 2, s. 22.

No expropriation or injurious affection

(6) Nothing done or not done in accordance with the provisions referred to in subsection (1) or the regulations made in respect of them constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law. 2017, c. 6, Sched. 2, s. 22.

Exception, proceeding by the Crown

(7) This section does not apply to a proceeding commenced by the Crown and nothing in this section precludes a proceeding commenced by the Crown. 2017, c. 6, Sched. 2, s. 22.

Section Amendments with date in force (d/m/y)

2017, c. 6, Sched. 2, s. 22 - 08/02/2018

Transition, registration of disputed claims by Ministry

38.5 (1) Despite section 38, after the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* comes into force, a recorder, the Tribunal or a court, as the case may be, may order that the Ministry register a mining claim on behalf of a licensee in accordance with the procedures referred to in subsection 38 (2) if all of the circumstances described in subsection (2) are met. 2017, c. 6, Sched. 2, s. 22; 2017, c. 8, Sched. 17, s. 8 (3).

Time of order

(2) An order may be made under subsection (1) if,

- (a) before the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* comes into force,
 - (i) the licensee staked a mining claim in accordance with section 38, as that section read before the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* comes into force, and applied to a recorder to record the claim, and
 - (ii) the recorder did not record the mining claim referred to in clause (a) but filed the application under subsection 46 (3), as that subsection read before the day section 27 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* comes into force; and
- (b) on the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* comes into force, the application under subsection 46 (3) is the subject of a dispute relating to the validity or boundaries of a claim and the dispute is either before the recorder, subject to an appeal or other proceeding before the Tribunal or on appeal from the Tribunal to the courts. 2017, c. 6, Sched. 2, s. 22; 2017, c. 8, Sched. 17, s. 8 (3).

Same

(3) Where an order is made under subsection (1) to register a mining claim on behalf of a licensee, a cell claim shall be registered for each cell that was included, in whole or in part, in the land staked by the licensee, subject to any determination as to the location of the claim made by the recorder, Tribunal or court and subject to the following rules:

- 1. No mining claim shall be registered until after the conversion date prescribed under section 38.2.
- 2. No cell claim shall be registered with respect to a cell if a cell claim was previously registered with respect to that cell either as a result of the conversion of legacy claims under section 38.2 or otherwise.
- 3. No cell claim shall be registered with respect to a part of a cell that is not open for registration in accordance with subsection 38 (5). 2017, c. 6, Sched. 2, s. 22; 2017, c. 8, Sched. 17, s. 8 (3).

Section Amendments with date in force (d/m/y)

2017, c. 6, Sched. 2, s. 22 - 08/02/2018; 2017, c. 8, Sched. 17, s. 8 (3) - 01/04/2018

Amalgamation of claims

38.6 A cell claim may be amalgamated with other cell claims in accordance with the regulations. 2017, c. 6, Sched. 2, s. 22.

Section Amendments with date in force (d/m/y)

2017, c. 6, Sched. 2, s. 22 - 08/02/2018

Mining claims on agricultural lands

39 (1) Where the Minister certifies that land is suitable for disposition for agricultural purposes, a mining claim registered on the land does not give the claim holder any right, title or interest in or to the surface rights. 2017, c. 6, Sched. 2, s. 23.

Where surface rights necessary for mining operations

(2) Where surface rights on any such land are necessary to the carrying on of mining operations, the Minister may determine the part of the surface rights so required and, if not previously disposed of, may sell or award the surface rights or such part thereof to the claim holder as the Minister considers essential to the efficient carrying on of mining operations, and he or she

may require the claim holder to have such surveys made at the expense of the claim holder as he or she considers proper. R.S.O. 1990, c. M.14, s. 39 (2).

Section Amendments with date in force (d/m/y)

2017, c. 6, Sched. 2, s. 23 - 10/04/2018

Crown reservation

40 (1) Where a mining claim includes land covered with water or bordering on water, the surface rights over a width of no more than 120 metres from the high water mark may be reserved for the Crown. 1999, c. 12, Sched. O, s. 15.

Same

(2) Where a highway or road constructed or maintained by the Ministry of Transportation crosses a mining claim, the surface rights over a width of no more than 90 metres, measured from the outside limits of the right of way of the highway or road along both sides of the highway or road, may be reserved for the Crown. 1999, c. 12, Sched. O, s. 15.

Application of Crown reservation to unpatented mining claims

(3) The reservations of surface rights authorized by subsections (1) and (2) shall be deemed to apply to and to have been made on all unpatented mining claims unless such reservation or reservations are waived by the Minister. R.S.O. 1990, c. M.14, s. 40 (3).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 15 - 30/06/2000

Licences of occupation

Annual rental

41 (1) Despite the provisions of a licence of occupation, there shall be paid, in advance, the prescribed annual rental for the licence of occupation. R.S.O. 1990, c. M.14, s. 41 (1).

When annual rental to be paid

(2) Where a licence of occupation does not specify a date for the payment of the annual rental, the annual rental shall be paid on the anniversary of the effective date of the licence. R.S.O. 1990, c. M.14, s. 41 (2).

Interest

(2.1) Where payment of the rental under any such licence is not paid within the required time, interest at the prescribed rate, compounded annually, shall forthwith be added to the amount owing in each year that the amount remains unpaid. 1999, c. 12, Sched. O, s. 16.

Reduction or waiver of interest owing

(2.2) The Minister may reduce or waive the amount of any interest added to rental payments under subsection (2.1). 2002, c. 18, Sched. M, s. 2.

Termination of licence of occupation

(3) Where payment of the rental under any such licence is in arrears for two years or more, the licence may be terminated by an instrument in writing, and all rights and powers therein contained as well as all rights and claims of the licensee, his or her successors or assigns, in or to the lands covered by the licence, cease, but the lands or mining rights contained therein are not open for prospecting, mining claim registration, sale or lease under this Act until a date fixed by the Deputy Minister, at least two weeks' notice of which shall be published in *The Ontario Gazette*. R.S.O. 1990, c. M.14, s. 41 (3); 2009, c. 21, s. 101 (4); 2017, c. 6, Sched. 2, s. 24.

Reinstatement

(4) Where there is no adverse interest, the Minister may, upon such terms as the Minister considers just, reinstate a licence terminated under subsection (3). R.S.O. 1990, c. M.14, s. 41 (4).

Licence challengeable only by Minister

(4.1) With the exception of the Minister, no person may, for any reason, challenge the validity of a licence of occupation. 2002, c. 18, Sched. M, s. 2.

When Minister may challenge

(4.2) The Minister may challenge the validity of a licence of occupation at any time. 2002, c. 18, Sched. M, s. 2.

Restriction on transfer etc.

(5) A licence or the term or terms that it creates shall not be transferred, mortgaged, charged, sublet or made subject to a debenture without the written consent of the Minister or an officer duly authorized by the Minister. 2000, c. 26, Sched. M, s. 4.

Lease may be issued under s. 81

(6) The holder of a licence of occupation, upon application in writing therefor and upon the surrender of the licence of occupation, may be issued a lease under section 81 and the rental for each year of the term thereof shall be that prescribed for the purposes of section 81 for years after the first year of a term. R.S.O. 1990, c. M.14, s. 41 (6).

Application

(7) This section applies only to a licence of occupation issued under section 52 of *The Mining Act*, being chapter 241 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, and any licence of occupation heretofore issued without a provision for an annual payment. R.S.O. 1990, c. M.14, s. 41 (7).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 16 - 30/06/2000

2000, c. 26, Sched. M, s. 4 - 26/12/2000

2002, c. 18, Sched. M, s. 2 - 16/12/2002

2009, c. 21, s. 101 (4) - 28/10/2009

2017, c. 6, Sched. 2, s. 24 - 10/04/2018

Revocation of licence if not used for mining purposes

41.1 (1) The lands, surface rights or mining rights held under a licence of occupation issued under this Act shall be used solely for mining purposes and, if they are used for other purposes, the Minister may, subject to the approval of the Lieutenant Governor in Council, revoke the licence of occupation. 2009, c. 21, s. 19.

Same

(2) Subsection (1) applies in respect of all licences of occupation, including those issued before the day this section came into force. 2009, c. 21, s. 19.

Notice of revocation

(3) Notice of the revocation of a licence of occupation shall be given to the holder of the licence at least 30 days before the revocation takes effect and shall be sent to the last known address for the licence holder in the Ministry's records. 2009, c. 21, s. 19.

Authority to revoke is not a limitation

(4) The authority to revoke a licence of occupation under subsection (1) does not limit the application of any provision in this Act or in a licence of occupation that also authorizes the termination, cancellation or revocation of a licence of occupation. 2009, c. 21, s. 19.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 19 - 28/10/2009

42 REPEALED: 2017, c. 6, Sched. 2, s. 26.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 11 - 30/01/1996; 1999, c. 12, Sched. O, s. 17 - 30/06/2000

2009, c. 21, s. 20 (1, 2) - 28/10/2009

2017, c. 6, Sched. 2, s. 26 - 10/04/2018

43 REPEALED: 2017, c. 6, Sched. 2, s. 26.

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 5 - 26/12/2000

2009, c. 21, s. 21 (1, 2) - 28/10/2009

2017, c. 6, Sched. 2, s. 26 - 10/04/2018

44 REPEALED: 2017, c. 6, Sched. 2, s. 26.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 12 (1, 2) - 30/01/1996; 1997, c. 40, s. 7 - 18/12/1997; 1999, c. 12, Sched. O, s. 18 (1, 2) - 30/06/2000

2009, c. 21, s. 22 - 04/04/2011

2017, c. 6, Sched. 2, s. 26 - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

45 REPEALED: 1999, c. 12, Sched. O, s. 19.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 19 - 30/06/2000

Mining claim where surface rights owner

46 (1) If a mining claim is registered in respect of land for which there is a surface rights owner, the recorded claim holder shall, within 60 days after the mining claim is registered,

- (a) in accordance with the regulations, give confirmation of registration of the mining claim to the surface rights owner and verify that confirmation was given; or
- (b) apply to a recorder for an order waiving confirmation. 2017, c. 6, Sched. 2, s. 27.

Order to waive confirmation

(2) A recorder may issue an order waiving confirmation if he or she determines that it is not feasible to provide confirmation of registration of the mining claim to the surface rights owner. 2017, c. 6, Sched. 2, s. 27.

Claim invalid if no confirmation

(3) If the recorded claim holder does not comply with subsection (1) and if no order waiving confirmation is issued under subsection (2), the mining claim becomes invalid 60 days after the date the mining claim is registered. 2017, c. 6, Sched. 2, s. 27.

Cancellation of mining claim

(4) If a mining claim becomes invalid under subsection (3), the mining lands administration system shall automatically,

- (a) cancel the mining claim;
- (b) make a note of the cancellation on the abstract of the mining claim; and
- (c) notify the recorded claim holder in writing of the cancellation. 2017, c. 6, Sched. 2, s. 27.

Exception, legacy claims

(5) The requirement in subsection (1) does not apply with respect to a mining claim that is deemed to be registered as the result of the claim's conversion from a legacy claim to a cell claim under section 38.2. 2017, c. 6, Sched. 2, s. 27.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 20 - 30/06/2000

2009, c. 21, s. 23 (1, 2) - 01/01/2011

2017, c. 6, Sched. 2, s. 27 - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

46.1 REPEALED: 2017, c. 6, Sched. 2, s. 27.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 24 - 04/04/2011

2017, c. 6, Sched. 2, s. 27 - 10/04/2018

False statement

47 A recorder or the Tribunal may, after a hearing, cancel the mining claim of a recorded claim holder who knowingly made a false statement,

- (a) in the application to record the mining claim, with respect to a legacy claim, even after the legacy claim has been converted to a cell claim or a boundary claim; or

- (b) when providing information in the process of registering the mining claim, with respect to a cell claim. 2017, c. 6, Sched. 2, s. 27; 2017, c. 8, Sched. 17, s. 8 (3).

Section Amendments with date in force (d/m/y)

1997, c. 40, s. 7 - 18/12/1997

2009, c. 21, s. 25, 101 (4) - 28/10/2009

2017, c. 6, Sched. 2, s. 27 - 10/04/2018; 2017, c. 8, Sched. 17, s. 8 (3) - 10/04/2018

DISPUTES

Dispute of registered claim

48 (1) A person alleging that a registered mining claim is invalid in whole or in part may file a dispute with a recorder in the prescribed manner and the recorder shall file the dispute and enter a note of the dispute on the abstract of the disputed claim. 2017, c. 6, Sched. 2, s. 28.

Same

(2) A dispute shall contain the prescribed information and shall be dealt with in accordance with the regulations. 2017, c. 6, Sched. 2, s. 28.

When not to be received

(3) A dispute that may be filed under this section shall not be filed, nor shall a note of the dispute be entered on the abstract for a mining claim, after any of the following events has occurred:

1. The first anniversary of the registration of the claim.
2. The performance and filing of the first prescribed unit of assessment work and, where necessary, its approval.
3. In the case of a dispute as to the validity of a legacy claim, the conversion of the legacy claim under section 38.2.
4. Adjudication upon the validity of the mining claim by a recorder or the Tribunal.
5. The filing of another dispute of the mining claim and its notation on the abstract for the mining claim. 2017, c. 6, Sched. 2, s. 28; 2017, c. 8, Sched. 17, s. 8 (3).

Exception

(4) Despite paragraphs 4 and 5 of subsection (3), a dispute of a mining claim may be filed under this section even though the validity of the claim has already been adjudicated upon or another dispute has already been filed if,

- (a) the Tribunal grants leave for the dispute to be filed; and
- (b) none of the events described in paragraphs 1, 2 or 3 of subsection (3) have occurred. 2017, c. 6, Sched. 2, s. 28; 2017, c. 8, Sched. 17, s. 8 (3).

Where assessment work subsequently approved

(5) Where a note of a dispute is entered on the abstract for a mining claim after the first prescribed unit of assessment work has been performed and filed but before the assessment work has been approved, where approval is necessary, the dispute is deemed to have been resolved in favour of the holder or holders of the claim if the assessment work is subsequently approved. 2017, c. 6, Sched. 2, s. 28.

Change to abstract of claim

(6) Where subsection (5) applies, the recorder shall strike out the note of the dispute entered on the abstract of the claim and notify the disputant of his or her action and the reason for it. 2017, c. 6, Sched. 2, s. 28.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 13 (1, 2) - 30/01/1996; 1997, c. 40, s. 7 - 18/12/1997; 1999, c. 12, Sched. O, s. 21 (1-5) - 30/06/2000

2000, c. 26, Sched. M, s. 6 - 26/12/2000

2009, c. 21, s. 26 (1, 2, 4, 5) - 28/10/2009; 2009, c. 21, s. 26 (3) - 01/01/2011

2017, c. 6, Sched. 2, s. 28 - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018; 2017, c. 8, Sched. 17, s. 8 (3) - 10/04/2018

ADMINISTRATIVE ERROR

Relief from forfeiture

49 (1) A recorder may by order relieve an unpatented mining claim that is subject to forfeiture as a result of an administrative error on the part of the Crown from the forfeiture. R.S.O. 1990, c. M.14, s. 49 (1); 2017, c. 6, Sched. 2, s. 29 (1).

Previous registration

(2) If during the time that a claim referred to in subsection (1) was subject to forfeiture a licensee registered a mining claim for the same cell, a recorder,

- (a) may make an order with respect to relief from forfeiture, subject to such terms and conditions as the recorder considers appropriate; or
- (b) may at any time prior to making an order, refer the matter to the Tribunal. 2017, c. 6, Sched. 2, s. 29 (2); 2017, c. 8, Sched. 17, s. 8 (3).

Order by Tribunal

(3) On a reference under subsection (2), the Tribunal may make such order, subject to such conditions, as the Tribunal considers appropriate. R.S.O. 1990, c. M.14, s. 49 (3); 2017, c. 8, Sched. 17, s. 7 (1).

Extension of time

(4) An order under subsection (1), (2) or (3) may grant an extension of time for performing and reporting any work required to be performed or for applying and paying for a lease in respect of the claim or provide for the payment of any fees in respect of the claim. R.S.O. 1990, c. M.14, s. 49 (4); 2009, c. 21, s. 27 (2).

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 27 (1, 2) - 28/10/2009

2017, c. 6, Sched. 2, s. 29 (1, 2) - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018; 2017, c. 8, Sched. 17, s. 8 (3) - 10/04/2018

RIGHTS OF LICENSEE

Rights in claim

50 (1) The registration of a mining claim or the acquisition of any right or interest in a mining claim by any person does not confer upon that person,

- (a) any right, title, interest or claim in or to the mining claim other than the right to proceed as is in this Act provided to perform the prescribed assessment work or to obtain a lease from the Crown and, prior to the performance, filing and approval of the first prescribed unit of assessment work, the person is merely a licensee of the Crown and after that period and until he or she obtains a lease the person is a tenant at will of the Crown in respect of the mining claim; or
- (b) any right to take, remove or otherwise dispose of any minerals found in, upon or under the mining claim. R.S.O. 1990, c. M.14, s. 50 (1); 2009, c. 21, s. 101 (4); 2017, c. 6, Sched. 2, s. 30.

Surface rights

(2) The holder of a mining claim does not have any right, title or claim to the surface rights of the claim other than the right, subject to the requirements of this Act, to enter upon, use and occupy such part or parts thereof as are necessary for the purpose of prospecting and the efficient exploration, development and operation of the mines, minerals and mining rights therein. R.S.O. 1990, c. M.14, s. 50 (2); 2009, c. 21, s. 28 (1).

Exploration work

(2.1) Despite subsection (2), the holder of a mining claim shall not enter upon, use or occupy any part of a mining claim for any exploration work on the claim unless the requirements in sections 78.2 and 78.3 and in the regulations have been met. 2009, c. 21, s. 28 (2).

Taxation

(3) The holder of an unpatented mining claim is not liable to assessment or taxation for municipal or school purposes in respect of such unpatented mining claim. R.S.O. 1990, c. M.14, s. 50 (3).

Same

(4) The holder of a licence of occupation issued under this Act or any predecessor Act is not liable to assessment or taxation for municipal or school purposes in respect to the licence except with respect to improvements for which the holder would be liable to assessment or taxation if the lands were held under a patent. 1999, c. 12, Sched. O, s. 22.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 22 - 30/06/2000

2009, c. 21, s. 28 (1), 101 (4) - 28/10/2009; 2009, c. 21, s. 28 (2) - 01/11/2012

2017, c. 6, Sched. 2, s. 30 - 10/04/2018

Surface rights on unpatented mining claim

51 (1) Except as in this Act is otherwise provided, the holder of an unpatented mining claim has the right prior to any subsequent right to the user of the surface rights, except the right to sand, peat and gravel, for prospecting and the efficient exploration, development and operation of the mines, minerals and mining rights. R.S.O. 1990, c. M.14, s. 51 (1); 2009, c. 21, s. 29 (1).

Claim holder not consenting to proposed use or disposition

(2) Despite subsection (1), a recorder may, in the circumstances described in subsection (2.1) and if the claim holder does not consent to the proposed disposition under clause (2.1) (a) or disposition or use under clause (2.1) (b),

- (a) refer the matter to the Tribunal; or
- (b) upon giving all interested persons at least 90 days notice of a hearing in the prescribed manner and, after hearing any interested persons that appear, make an order on such terms and conditions as the recorder considers appropriate with respect to the claim holder's consent to the proposed disposition or use. 2017, c. 6, Sched. 2, s. 31 (1); 2017, c. 8, Sched. 17, s. 8 (3).

Surface rights required under the *Public Lands Act* or for public benefit

(2.1) Subsection (2) applies where,

- (a) an application has been made under the *Public Lands Act* for the disposition of the surface rights in whole or in part; or
- (b) the surface rights or portions of them are required for developing and operating a public highway, a renewable energy project, a power transmission line or a pipeline for oil, gas or water or for another use that would benefit the public. 2017, c. 6, Sched. 2, s. 31 (1).

Where application referred to Tribunal

(3) Where a matter is referred to the Tribunal under clause (2) (a), the Tribunal shall, upon giving all interested persons at least 90 days notice of a hearing and, after hearing any interested persons that appear, make an order on such terms and conditions as the Tribunal considers appropriate with respect to the claim holder's consent to the proposed disposition or use. 2017, c. 6, Sched. 2, s. 31 (1); 2017, c. 8, Sched. 17, s. 8 (3).

Minister's order to restrict part of surface rights

(4) Despite subsection (1), the Minister may by order impose restrictions on a mining claim holder's right to the use of portions of the surface rights of a mining claim if,

- (a) the portions of the surface rights are on lands that meet the prescribed criteria as sites of Aboriginal cultural significance; or
- (b) any of the prescribed circumstances apply. 2009, c. 21, s. 29 (2).

Same

(5) Before making an order under subsection (4), the Minister shall,

- (a) give the claim holder written notice of the Minister's intention to make an order under subsection (4), setting out the proposed restrictions and the reasons for making the order; and
- (b) give the claim holder an opportunity to make representations to the Minister, within 30 days of the date of the notice given under clause (a). 2009, c. 21, s. 29 (2).

Minister's order

(6) A Minister's order under subsection (4) is not appealable and is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2009, c. 21, s. 29 (2); 2017, c. 6, Sched. 2, s. 31 (2).

Related changes

(7) A recorder shall make any changes to the applicable mining claim abstracts that are necessary to reflect any order made under this section, or any agreement made with the claim holder with respect to the use of surface rights for the purposes of this section. 2009, c. 21, s. 29 (2).

Survey of surface rights

(8) Where an order is made under this section, or any agreement is made with the claim holder with respect to the use of surface rights for the purposes of this section, the Minister may require a survey of the surface rights or of the portion of them that is affected by the order or agreement, and the survey shall be provided at the expense of the person who has acquired the surface rights or the use of them. 2009, c. 21, s. 29 (2).

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 29 (1) - 28/10/2009; 2009, c. 21, s. 29 (2) - 01/11/2012

2017, c. 6, Sched. 2, s. 31 (1) - 10/04/2018; 2017, c. 6, Sched. 2, s. 31 (2) - 09/01/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018; 2017, c. 8, Sched. 17, s. 8 (3) - 10/04/2018

Permission to test mineral content

52 (1) No person shall mine, mill or refine more than the prescribed quantity of mineral bearing substance from an unpatented mining claim for the purpose of testing mineral content without first obtaining the Minister's written permission. 2009, c. 21, s. 30.

Conditions

(2) Permission granted under subsection (1) shall be for a specified time, shall cover a specified quantity of mineral bearing substance and shall be subject to such conditions as the Minister may impose. 2009, c. 21, s. 30; 2017, c. 6, Sched. 2, s. 32.

Requirements under ss. 78.2 and 78.3

(2.1) A person who obtains permission under subsection (1) is not exempt from complying with the requirements set out in sections 78.2 and 78.3 and, if applicable, the requirements in section 140 for a certified closure plan. 2009, c. 21, s. 30.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 52 (2.1) of the Act is amended by striking out "certified" and substituting "filed". (See: 2019, c. 14, Sched. 7, s. 2)

Sale of end product

(3) The end product of mining, milling and refining permitted under subsection (1), except as provided in subsection (4), shall not be sold or otherwise disposed of until the mining claim from which the minerals were taken is leased under this Act. R.S.O. 1990, c. M.14, s. 52 (3).

Disposition of proceeds

(4) Subsection (3) does not apply where the Minister gives written permission for the sale or disposition and where the Minister does so, the sale or disposition shall be in accordance with such terms as the Minister may impose. R.S.O. 1990, c. M.14, s. 52 (4).

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 30 - 01/11/2012

2017, c. 6, Sched. 2, s. 32 - 09/01/2018

2019, c. 14, Sched. 7, s. 2 - not in force

Where claim, lands or rights abandoned, etc.

53 (1) Where the holder, licensee, lessee or owner of a mining claim, mining lands or mining rights abandons or surrenders the claim, lands or rights or where the mining claim, mining lands or mining rights are cancelled, forfeited or terminated under this Act or any other Act or the regulations thereunder, that person may take from the claim, lands or rights any buildings, structures, machinery, chattels, personal property and, except in the case of an unpatented mining claim, any ore or mineral belonging to and extracted from the claim, lands or rights by that person and any slimes or tailings not otherwise owned, within six months after the abandonment, surrender, cancellation, forfeiture or termination or within such further time as is fixed by the Minister, and, in default of doing so, all the buildings, structures, machinery, chattels, personal property,

ore, mineral, slimes and tailings belong to the Crown unless the Minister directs otherwise within two years after the abandonment, surrender, cancellation, forfeiture or termination and may be sold or otherwise disposed of by the Minister upon such terms and conditions as he or she considers expedient. R.S.O. 1990, c. M.14, s. 53 (1); 1996, c. 1, Sched. O, s. 14.

Licensee has no rights in buildings, etc., acquired by Crown

(2) Unless ordered otherwise by the Minister, the registration of a mining claim does not confer upon the licensee any right respecting buildings, structures, machinery, chattels, personal property, ore, mineral, slimes and tailings acquired by the Crown under subsection (1). R.S.O. 1990, c. M.14, s. 53 (2); 2017, c. 6, Sched. 2, s. 33.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 14 - 30/01/1996

2017, c. 6, Sched. 2, s. 33 - 10/04/2018

Improper use of land

54 (1) Where a mining claim is registered on land and it appears that the land is being used other than as mining land or for a purpose other than that of the mineral industry, the Minister may direct the Tribunal to hold a hearing. 2017, c. 6, Sched. 2, s. 34; 2017, c. 8, Sched. 17, s. 8 (3).

Cancellation

(2) If, after a hearing held on notice to all interested persons, the Tribunal is satisfied that the land is being used other than as mining land or for a purpose other than that of the mineral industry, it may make an order cancelling the claim. 1999, c. 12, Sched. O, s. 23; 2017, c. 8, Sched. 17, s. 7 (1, 5).

Same

(3) An order cancelling a claim takes effect on being filed with the recorder. 1999, c. 12, Sched. O, s. 23.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 23 - 30/06/2000

2009, c. 21, s. 101 (2) - 28/10/2009

2017, c. 6, Sched. 2, s. 34 - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1, 5) - 01/04/2018; 2017, c. 8, Sched. 17, s. 8 (3) - 10/04/2018

Townsites on unpatented claims

55 (1) Where the Minister recommends the establishment or extension of a townsite on an unpatented mining claim, the Lieutenant Governor in Council may reserve the surface rights on any such claim or parts of any such claim as may be necessary for townsite purposes. R.S.O. 1990, c. M.14, s. 55 (1).

Regulations

(2) The Lieutenant Governor in Council may make such regulations as the Lieutenant Governor in Council considers necessary for the better carrying out of this section. R.S.O. 1990, c. M.14, s. 55 (2).

56 REPEALED: 2017, c. 6, Sched. 2, s. 35.

Section Amendments with date in force (d/m/y)

2017, c. 6, Sched. 2, s. 35 - 10/04/2018

TRUSTS, AGREEMENTS AND TRANSFERS

Claim “in trust”

57 (1) Notice of a trust, express, implied or constructive, relating to an unpatented mining claim shall not be entered on the record or be received by a recorder. R.S.O. 1990, c. M.14, s. 57 (1).

Describing licensee as trustee, etc., effect of

(2) Describing the holder of the mining claim as a trustee, whether the beneficiary or object of the trust is mentioned or not, does not impose upon any person dealing with the holder the duty of making any inquiry as to the holder's power to deal therewith, but the holder may deal with the claim as if such description had not been inserted. R.S.O. 1990, c. M.14, s. 57 (2).

Saving of rights of others

(3) Nothing in this section relieves the holder of the mining claim who is in fact a trustee thereof or of any part or share thereof or interest therein from liability as between the holder and any person, mining partnership or company for whom the holder is a trustee, but such liability continues as if this section had not been enacted, and nothing in this Act relieves the holder from any personal liability or obligation. R.S.O. 1990, c. M.14, s. 57 (3).

Agreements and transfers

Agreement made before registration of claim

58 (1) Where a person registers a mining claim, no other person is entitled to enforce a claim, right or interest to or in the mining claim, or to or in any mining lands or mining rights arising from the mining claim, that was contracted for or acquired before the mining claim was registered unless a written document acknowledging the claim, right or interest was signed by the registered claim holder or there exists some other material evidence of the claim, right or interest and, if such acknowledgement or evidence is provided, the *Statute of Frauds* does not apply. 2017, c. 6, Sched. 2, s. 36.

Sales or transfers after registration

(2) No person is entitled to enforce any agreement for the sale or transfer of a mining claim, of any mining lands or mining rights arising from the mining claim, or of any interest in or concerning the claim, lands or rights, that was entered into after the registration of the mining claim or the recording of the mining lands or mining rights, unless the agreement, or a note or memorandum thereof, is in writing and signed by the person against whom it is sought to be enforced or by that person's lawfully authorized agent. 2017, c. 6, Sched. 2, s. 36.

Transition, converted mining claims

(3) Despite subsections (1) and (2), if a mining claim was staked and recorded on a day before the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* came into force and then converted from a legacy claim under section 38.2 and deemed to have been registered under subsection 38 (2),

- (a) subsection (1) applies to any claim, right or interest in the staking and recording of the claim that was contracted for or acquired by a person before the claim was staked; and
- (b) subsection (2) applies to any agreement that was entered into after the staking of the legacy claim. 2017, c. 6, Sched. 2, s. 36.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 101 (4) - 28/10/2009

2017, c. 6, Sched. 2, s. 36 - 10/04/2018

Transfer

59 A mining claim is transferable, except,

- (a) if the claim is on land for which there is a surface rights owner, unless,
 - (i) the requirements in clause 46 (1) (a) have been met, or
 - (ii) an order waiving confirmation has been issued under subsection 46 (2); or
- (b) if an application for lease has been made with respect to the mining claim, unless the Minister gives written consent for the transfer. 2009, c. 21, s. 31; 2017, c. 6, Sched. 2, s. 37.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 31 - 04/04/2011

2017, c. 6, Sched. 2, s. 37 - 10/04/2018

59.1 REPEALED: 2009, c. 21, s. 31.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 15 - 30/01/1996

2009, c. 21, s. 31 - 04/04/2011

RECORDING DOCUMENTS

Recording instruments

60 (1) Except as otherwise expressly provided in this Act, no transfer or assignment of a mining claim and no agreement or other instrument affecting a mining claim or affecting a recorded right or interest acquired under this Act shall be recorded in the mining claims registry unless it satisfies the directives made by the Minister under subsection 4.1 (2) relating to the use of the mining lands administration system. 2017, c. 6, Sched. 2, s. 38.

Same

(1.1) Nothing in this section limits the authority of a recorder to delete, correct, amend or make entries on the abstract for a mining claim in accordance with this Act. 2017, c. 6, Sched. 2, s. 38.

Corporations

(2) An instrument mentioned in subsection (1) that is executed by a corporation shall not be recorded unless an authorized person has signed the instrument and,

- (a) the corporation's seal is affixed to the instrument; or
- (b) the instrument contains a statement by the person that he or she has authority to bind the corporation. 2001, c. 9, Sched. L, s. 2.

(3) REPEALED: 2001, c. 9, Sched. L, s. 2.

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. L, s. 2 - 19/07/2001

2017, c. 6, Sched. 2, s. 38 - 10/04/2018

Priority

61 After a mining claim or other right or interest acquired under this Act has been recorded in the mining claims registry, every instrument other than a will affecting the claim or an interest therein is void as against a subsequent purchaser or transferee for valuable consideration without actual notice unless the instrument is recorded in the mining claims registry before the recording of the instrument under which the subsequent purchaser or transferee claims. R.S.O. 1990, c. M.14, s. 61; 2017, c. 6, Sched. 2, s. 39.

Section Amendments with date in force (d/m/y)

2017, c. 6, Sched. 2, s. 39 - 10/04/2018

Recording to be notice

62 The recording under this Act of an instrument relating to a mining claim constitutes notice of the instrument to all persons claiming an interest in the claim after the instrument is recorded even if there is a defect in the requirements for recording. 1999, c. 12, Sched. O, s. 24.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 24 - 30/06/2000

Where actual notice prevails

63 (1) Priority of recording prevails unless before the prior recording there has been actual notice of the prior instrument by the party claiming under the prior recording. R.S.O. 1990, c. M.14, s. 63 (1).

(2) REPEALED: 2017, c. 6, Sched. 2, s. 40.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 25 - 30/06/2000

2017, c. 6, Sched. 2, s. 40 - 10/04/2018

Recording orders, judgments, certificates, writs

64 (1) A recorder shall enter upon the mining claim abstract of any unpatented mining claim or other recorded right or interest a note of any order or decision made by him or her affecting the same, giving its date and effect and the date of the entry, and he or she shall, upon receiving an order or decision of the Tribunal, or an order, judgment or certificate in an appeal from the Tribunal, or a certified or sworn copy thereof, file the same and enter a note thereof upon the mining claim abstract of the claim or right or interest affected. 2009, c. 21, s. 32 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Proceeding pending before recorder

(2) Where any proceeding or dispute that may be brought before a recorder is pending before a recorder, he or she may make a note of the pending proceeding on the applicable mining claim abstracts. 2009, c. 21, s. 32 (1).

Proceeding pending before Tribunal

(2.1) Where any proceeding that may be brought before the Tribunal or any appeal from a decision of a recorder is pending before the Tribunal, the Tribunal may make an order requiring a recorder to make a note of the pending proceeding on the applicable mining claim abstracts. 2009, c. 21, s. 32 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Proceeding pending before court

(2.2) Where a proceeding relating to a mining claim or other recorded right, or any interest relating to such a claim or right is pending before a court, the Tribunal may, upon the request of any party to the proceeding, make an order confirming that the proceeding is pending and requiring a recorder to make a note of the pending proceeding on the applicable mining claim abstracts. 2009, c. 21, s. 32 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Order provided to recorder's office

(2.3) If the Tribunal makes an order under subsection (2.1) or (2.2), the Tribunal shall provide the order to the recorder's office. 2009, c. 21, s. 32 (1); 2017, c. 8, Sched. 17, s. 7 (1).

No notice until note is recorded

(3) A note of pending proceedings or an order of the Tribunal made under subsection (2.1) or (2.2) does not constitute notice to any person of the pending proceeding until a note of the pending proceeding is made on the applicable mining claim abstracts. 2009, c. 21, s. 32 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Mining claim deemed not to be forfeited

(3.1) Where a note of pending proceedings is made on a mining claim abstract, the mining claim shall be deemed not to be forfeited to the Crown under clause 72 (1) (b) until the note of pending proceedings is cancelled. 2009, c. 21, s. 32 (1).

Cancellation of note of pending proceedings

(4) A recorder shall cancel a note of pending proceedings made under subsection (2) on any or all applicable mining claim abstracts if the recorder is satisfied that the note is no longer required. 2009, c. 21, s. 32 (1).

Same

(4.1) A recorder shall cancel a note of pending proceedings made under subsection (2.1) or (2.2) on any or all applicable mining claim abstracts if a party to the proceedings, or a recorder, requests a cancellation from the Tribunal and the Tribunal issues an order to cancel the note and provides the order to the recorder's office. 2009, c. 21, s. 32 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Notice of cancellation

(4.2) Upon the cancellation of a note of pending proceedings, the recorder's office shall notify all interested persons of the cancellation in the prescribed manner. 2017, c. 6, Sched. 2, s. 41 (1).

Exclusion of time

(5) When a note of pending proceedings is cancelled, the Tribunal or a recorder, as the case may be, may exclude from the time period within which work on the affected mining claim must be performed or reported, or both, or within which application and payment for lease may be made, the period of time, or a part of the period, during which the note of pending proceedings was in effect, and may set a new anniversary date for the claim. 2009, c. 21, s. 32 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Same

(5.1) When excluding time under subsection (5), the Tribunal or a recorder may take into account whether the claim holder contributed to any unreasonable delay in settling the proceedings for which the note of pending proceedings was made. 2009, c. 21, s. 32 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Filing of certified writ with recorder

(6) A copy of a writ of seizure and sale may be filed with the recorder if it has been certified by the sheriff for the area or a bailiff of the division of the Small Claims Court to be a true copy of the writ. 1999, c. 12, Sched. O, s. 26 (2).

Recording of writ

(7) Upon being given the number or a description of every mining claim held by the judgment debtor named in a writ of seizure and sale filed with the recorder under subsection (6) and upon receiving the required fee, the recorder shall record the writ on the abstract for each mining claim so identified. 2017, c. 6, Sched. 2, s. 41 (2).

Effect of recording writ

(8) If a writ of seizure and sale is recorded on the abstract for a mining claim, the writ binds the judgment debtor's interest in the claim and the sheriff or bailiff may treat the interest as if it were goods and chattels subject to a writ of seizure and sale. 2017, c. 6, Sched. 2, s. 41 (2).

Recording of transfer

(9) If a sheriff or bailiff sells a judgment debtor's interest in a mining claim under a writ of seizure and sale, the recorder may record the transfer of the claim to the purchaser on the abstract for the claim and the transfer has the same effect as if the judgment debtor had transferred the claim. 2017, c. 6, Sched. 2, s. 41 (2).

Certified copy, fee

(10) A certified copy of the writ of seizure and sale may be obtained from the sheriff or bailiff on payment of any required fee and the fee, together with the fee paid for recording the writ, shall be added to the judgment debt. 1999, c. 12, Sched. O, s. 26 (4).

Keeping claim in good standing

(11) Once a writ of seizure and sale is recorded on the abstract for a mining claim, the sheriff, bailiff or judgment creditor may do anything that the judgment debtor could have done to keep the claim or interest in good standing, and the cost of doing so shall be added to the judgment debt. 1999, c. 12, Sched. O, s. 26 (4); 2017, c. 6, Sched. 2, s. 41 (3).

Where writ discharged

(12) A recorder may amend the abstract for a mining claim to note the discharge of a writ of seizure and sale that was previously recorded if any of the following documents are filed with a recorder:

1. A certificate from the sheriff or bailiff indicating that the judgment debt that gave rise to the writ has been satisfied.
2. A release of the judgment debt from the judgment creditor.
3. An order by the Tribunal directing that the abstract for the mining claim be amended to note the discharge of the writ. 2017, c. 6, Sched. 2, s. 41 (4); 2017, c. 8, Sched. 17, s. 8 (3).

Writ ceasing to bind mining claim

(13) Upon a discharge of a writ of seizure and sale being noted in the abstract for a mining claim, the writ shall cease to bind the claim holder's interest in the mining claim. 2017, c. 6, Sched. 2, s. 41 (4).

Section Amendments with date in force (d/m/y)

1997, c. 40, s. 7 - 18/12/1997; 1999, c. 12, Sched. O, s. 26 (1-4) - 30/06/2000

2009, c. 21, s. 32 (1, 2) - 28/10/2009

2017, c. 6, Sched. 2, s. 41 (1-4) - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018; 2017, c. 8, Sched. 17, s. 8 (3) - 10/04/2018

ASSESSMENT WORK**Assessment work or payments**

65 (1) After a mining claim is registered, the claim holder shall perform or cause to be performed the annual units of assessment work required in accordance with the regulations or may, in the prescribed circumstances and to the extent permitted by regulation, make payments in place of assessment work in accordance with the regulations. 2017, c. 6, Sched. 2, s. 42 (1).

Report

(2) Every mining claim holder shall submit a report of the assessment work done and of any payments made for the purpose of complying with subsection (1), together with such other information as may be prescribed. 2009, c. 21, s. 33.

When report must be received

(3) The report must be received by the mining lands administration system on or before the anniversary date of the mining claim. 2017, c. 6, Sched. 2, s. 42 (2).

Same

(4) If a date earlier than the anniversary date is prescribed for the submission of a report regarding a specific type of assessment work, the report must be submitted to the mining lands administration system on or before the prescribed date. 2017, c. 6, Sched. 2, s. 42 (2).

Credits measured in dollars spent

(5) For the purpose of subsection (1), assessment work credits shall be measured in terms of dollars spent. 2009, c. 21, s. 33.

No dispute

(6) A recorder shall not receive and file, or record against a mining claim, any dispute relating to assessment work or to payments made in place of assessment work. 2009, c. 21, s. 33.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 16 - 30/01/1996; 1999, c. 12, Sched. O, s. 27 - 30/06/2000

2000, c. 26, Sched. M, s. 7 - 26/12/2000

2009, c. 21, s. 33 - 01/11/2012

2017, c. 6, Sched. 2, s. 42 (1, 2) - 10/04/2018

Types of work eligible for credits, etc.

66 (1) The types of work that are eligible for assessment work credits, the method of calculating and approving the credits for work performed or payments made in place of assessment work, and the distribution of assessment work credits to mining claims shall be determined in accordance with the regulations. 2009, c. 21, s. 34 (1); 2017, c. 6, Sched. 2, s. 43 (1).

Prospecting and regional surveys

(2) Prospecting and regional surveys performed on Crown lands before the registration of a mining claim are eligible for assessment work credits in such manner as is prescribed. R.S.O. 1990, c. M.14, s. 66 (2); 1996, c. 1, Sched. O, s. 17; 2009, c. 21, s. 34 (2); 2017, c. 6, Sched. 2, s. 43 (2).

Work on mining lands

(3) Assessment work performed on mining lands or payments made in place of assessment work may be allocated to contiguous unpatented mining claims in the prescribed manner. 2009, c. 21, s. 34 (3).

Decision

(4) With respect to any report of assessment work or payments made under section 65 by a mining claim holder, the Minister shall, based on the prescribed rules, determine,

- (a) whether the type of work reported is eligible for assessment work credits; and
- (b) the amount of assessment work credits to be assigned to the work reported and the distribution of the credits to mining claims. 2017, c. 6, Sched. 2, s. 43 (3).

No appeal

(5) A decision under subsection (4) is final and is not subject to appeal. 1999, c. 12, Sched. O, s. 28.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 134 (3) - 09/12/1994; 1996, c. 1, Sched. O, s. 17 - 30/01/1996; 1999, c. 12, Sched. O, s. 28 - 30/06/2000

2009, c. 21, s. 34 (1, 3) - 01/11/2012; 2009, c. 21, s. 34 (2, 4) - 28/10/2009

2017, c. 6, Sched. 2, s. 43 (1-3) - 10/04/2018

Exclusion of time and work

67 (1) A holder may, in accordance with this section, obtain an order,

- (a) excluding a period of time in computing the time within which work on a mining claim must be performed or reported, or both, or within which application and payment for a lease may be made;
- (b) fixing the date or dates by which the next or any prescribed unit of assessment work must be performed or reported, or both, or by which a payment in place of assessment work must be made, or by which an application and payment for lease may be made; and
- (c) relieving the holder of a requirement to perform units of assessment work or to make payments for any period excluded. 2009, c. 21, s. 35.

Anniversary date changed

(2) Where a period of time for doing something under this Act is excluded, the next anniversary date after the exclusion in respect of the mining claim involved may be a date that falls after the anniversary date that would have occurred, except for this provision, by up to the number of days that equals the number of days of the exclusion, and all subsequent anniversary dates shall be adjusted accordingly. 2009, c. 21, s. 35.

Order by recorder or Tribunal

(3) The recorder or the Tribunal may make an order described in subsection (1) if the holder provides the recorder or Tribunal with satisfactory evidence of a refusal, prohibition, deferral or delay referred to in this section, but the order may exclude only the following periods of time:

1. The time during which a permit under the *Forest Fires Prevention Act* or the *Public Lands Act* that is necessary for the beginning or carrying on of work under this Act is refused.
2. The time during which the performance of work under this Act is prohibited under the Acts referred to in paragraph 1 or any other Act.
3. The time during which the holder defers the start of work under this Act or is delayed in performing it at the Crown's request or by the Crown's actions. 2009, c. 21, s. 35; 2017, c. 8, Sched. 17, s. 7 (1).

Minister's order

(4) The Minister may make an order described in subsection (1) if the holder applies to the Minister within 30 days before an anniversary date and the Minister is satisfied that special circumstances exist. 2009, c. 21, s. 35.

When order may be made

(5) The Minister may make an order under subsection (4) before or after the anniversary date. 2009, c. 21, s. 35.

Claim holder's interest continues

(6) If a holder applies for an order under subsection (4) within the required time, then the holder's interest in the mining claim shall not cease and the claim shall not forfeit under section 72 unless and until the Minister decides not to make the order. 2017, c. 6, Sched. 2, s. 44.

Notice

(7) If the Minister decides not to make an order under subsection (4), the Minister shall notify the claim holder in writing and, if the decision is made after the anniversary date of the mining claim, the claim holder's interest in the mining claim shall be deemed to have ceased under section 72, and the mining claim shall be deemed to have forfeited under that section, as of the anniversary date of the mining claim. 2017, c. 6, Sched. 2, s. 44.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 18 - 30/01/1996

2000, c. 26, Sched. M, s. 8, 17 - 26/12/2000

2009, c. 21, s. 35 - 01/11/2012

2017, c. 6, Sched. 2, s. 44 - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Proportionate contribution by co-owners

68 Where two or more persons are the holders of an unpatented mining claim, they shall contribute proportionately to their respective interests, or as they otherwise agree between themselves, to the work required to be done thereon or to a survey, patent or the first year's rental of a lease, and, in case of default by any holder, the Tribunal, upon the application of any other holder and upon notice to and after hearing all persons interested or such of them as appear, may make an order vesting the interest of the defaulter in the other co-owners or in any of them upon such terms and conditions and in such proportions as it considers just. R.S.O. 1990, c. M.14, s. 68; 2017, c. 8, Sched. 17, s. 7 (1, 6).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (1, 6) - 01/04/2018

Charge of person doing work on mining claim

69 Where the holder of an interest in a mining claim has made default in payment for work performed thereon by a person not the holder of an interest in the mining claim, the Tribunal, upon the application of such person and upon notice to and

after hearing all persons interested or such of them as appear, may make an order vesting the interest in the mining claim of the holder in default, or any part of such interest, in the applicant. R.S.O. 1990, c. M.14, s. 69; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

ABANDONMENT

Abandoning a mining claim

Right to abandon claim

70 (1) The holder of a mining claim may abandon the claim at any time in such manner and on such conditions as are prescribed by submitting an application for abandonment to a recorder. 2017, c. 6, Sched. 2, s. 45.

Partial abandonment of cell claim

(2) The holder of a cell claim that includes more than one cell may abandon part of the claim with respect to a cell or cells that form part of the claim, in such manner and on such conditions as are prescribed, by submitting an application for partial abandonment to a recorder, but the abandonment shall only be with respect to entire cells. 2017, c. 6, Sched. 2, s. 45.

Notice of abandonment

- (3) The recorder,
- (a) shall consider the application for abandonment under subsection (1) or the application for partial abandonment under subsection (2); and
 - (b) where satisfied that the application meets the prescribed conditions, shall post a notice indicating that the mining claim is abandoned or partially abandoned and the notice shall include a description of the claim or the part of the claim that is abandoned. 2017, c. 6, Sched. 2, s. 45.

Notification of recorded holder of mining claim

- (4) The recorder shall,
- (a) notify the recorded holder of the mining claim of the notice of abandonment or the notice of partial abandonment, where the recorder posts a notice of abandonment or partial abandonment under subsection (3); or
 - (b) notify the recorded holder of the mining claim of his or her decision not to post a notice of abandonment or partial abandonment and provide reasons for not posting it, where the recorder does not post a notice of abandonment or partial abandonment. 2017, c. 6, Sched. 2, s. 45.

When land open for registration

(5) Where a mining claim is abandoned or partially abandoned under subsection (3), the land in the cells on the provincial grid corresponding to the abandoned or partially abandoned claim shall become open for the registration of mining claims as of 10:00 a.m. eastern standard time or eastern daylight saving time, as the case may be, on the second day after the posting of the notice of abandonment or partial abandonment by the recorder under subsection (3), unless the land is otherwise not open for the registration of mining claims under any other provision of this Act. 2017, c. 6, Sched. 2, s. 45.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 70 (5) of the Act is amended by striking out “or eastern daylight saving time, as the case may be”. (See: 2020, c. 28, s. 4 (1))

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 19 (1-3) - 30/01/1996; 1999, c. 12, Sched. O, s. 29 - 30/06/2000

2001, c. 9, Sched. L, s. 3 - 19/07/2001

2009, c. 21, s. 36 (1, 2) - 28/10/2009

2017, c. 6, Sched. 2, s. 45 - 10/04/2018

2020, c. 28, s. 4 (1) - not in force

71 REPEALED: 2017, c. 6, Sched. 2, s. 46.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 101 (2, 4) - 28/10/2009

2017, c. 6, Sched. 2, s. 46 - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

FORFEITURE

Forfeiture of mining claim

72 (1) Subject to subsections 67 (6) and 73 (3), all the interest of the holder of an unpatented mining claim ceases and the claim is forfeited, without any declaration, entry on a record or act on the part of the Crown, if the claim holder fails to do either of the following on or before the anniversary date of the mining claim as required by section 65:

1. Perform the prescribed assessment work or make a payment in place of the assessment work.
2. File a report of the assessment work done or any payments made in place of the work assessment. 2017, c. 6, Sched. 2, s. 47.

Notice of forfeiture

(1.1) The Ministry shall give notice that a mining claim may be forfeited under subsection (1) to the claim holder at least 30 days before the anniversary date of the mining claim. 2017, c. 6, Sched. 2, s. 47.

When land open for registration

(1.2) Where a mining claim is forfeited under subsection (1), the land in the cells on the provincial grid corresponding to the forfeited claim shall become open for the registration of mining claims as of 10:00 a.m. eastern standard time or eastern daylight saving time, as the case may be, on the second day after the forfeiture, unless the land is otherwise not open for the registration of mining claims under any other provision of this Act. 2017, c. 6, Sched. 2, s. 47.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 72 (1.2) of the Act is amended by striking out “or eastern daylight saving time, as the case may be”. (See: 2020, c. 28, s. 4 (2))

Exception

(1.3) Subsection (1) does not apply where the claim holder, after meeting all the requirements under this Act, makes an application and payment for a lease under section 81. 2017, c. 6, Sched. 2, s. 47.

Proceedings as to forfeiture

(2) No person, other than the Minister or an officer of the Ministry or a person interested in the property affected, is entitled to raise any question of forfeiture except by leave of the Tribunal, and proceedings raising questions of forfeiture shall not be deemed to be or be entered as disputes under section 48. R.S.O. 1990, c. M.14, s. 72 (2); 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 37 - 01/11/2012; 2009, c. 21, s. 101 (4) - 28/10/2009

2017, c. 6, Sched. 2, s. 47 - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

2020, c. 28, s. 4 (2) - not in force

72.1 REPEALED: 2017, c. 6, Sched. 2, s. 48.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 30 - 30/06/2000

2000, c. 26, Sched. M, s. 9 - 26/12/2000

2017, c. 6, Sched. 2, s. 48 - 10/04/2018

Extension of time

73 (1) A recorder may order an extension of time for performing assessment work or filing a report on such work if an application for the extension is made within 30 days of the anniversary date of the mining claim and the recorder is satisfied that the prescribed conditions for an extension are met. 2017, c. 6, Sched. 2, s. 49.

When order may be made

(2) The recorder may make an order under subsection (1) before or after the anniversary date of the mining claim. 2017, c. 6, Sched. 2, s. 49.

Claim holder's interest continues

(3) If a claim holder applies for an order under subsection (1) within the required time, then the holder's interest in the mining claim shall not cease and the claim shall not forfeit under section 72 unless and until the recorder decides not to make the order. 2017, c. 6, Sched. 2, s. 49.

Notice

(4) If the recorder decides not to make an order under subsection (1), the recorder shall notify the claim holder in writing and, if the decision is made after the anniversary date of the mining claim, the claim holder's interest in the mining claim shall be deemed to have ceased under section 72, and the claim shall be deemed to have been forfeited under that section, as of the anniversary date of the mining claim. 2017, c. 6, Sched. 2, s. 49.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 20 - 30/01/1996; 1999, c. 12, Sched. O, s. 31 - 30/06/2000

2017, c. 6, Sched. 2, s. 49 - 10/04/2018

Minister's orders in special circumstances

73.1 (1) If the Minister is satisfied that special circumstances exist, the Minister may, without an application and on the Minister's own initiative, make any of the following orders with respect to all mining claims or one or more classes of mining claims:

1. An order described in subsection 67 (1).
2. An order described in subsection 73 (1). 2020, c. 34, Sched. 8, s. 2.

When order may be made

(2) The Minister may make an order under this section with respect to a mining claim before or after its anniversary date. 2020, c. 34, Sched. 8, s. 2.

If anniversary date changed

(3) If the Minister makes an order described in subsection 67 (1) excluding a period of time for doing something under this Act, subsection 67 (2) applies with necessary modifications with respect to the applicable anniversary dates. 2020, c. 34, Sched. 8, s. 2.

If order made after anniversary date

(4) If the Minister makes an order under this section with respect to a mining claim after its anniversary date, the claim holder's interest in the mining claim is deemed not to have ceased under section 72 and the mining claim is deemed not to be forfeit under that section. 2020, c. 34, Sched. 8, s. 2.

Copy of order sent to recorder

(5) The Minister shall promptly provide a copy of an order made under this section to the recorder's office. 2020, c. 34, Sched. 8, s. 2.

Posting and filing copy

- (6) On receiving a copy of the order, a recorder shall,
- (a) promptly note the order in the mining lands administration system and record the order on the abstract of the mining claims to which the order applies, and may post the order on the Internet; and
 - (b) take the steps necessary to give effect to the order. 2020, c. 34, Sched. 8, s. 2.

Not a regulation

(7) Part III (Regulations) of the *Legislation Act, 2006* does not apply with respect to an order made under this section. 2020, c. 34, Sched. 8, s. 2.

Section Amendments with date in force (d/m/y)

2020, c. 34, Sched. 8, s. 2 - 08/12/2020

Death of claim holder

74 (1) Where the Provincial Recording Office is notified of the death of the holder of an unpatented mining claim, the mining claim shall not be forfeited under section 72, and shall not otherwise lapse or be cancelled under any provision of this Act, until after the day that is 12 months after the day of the claim holder's death. 2017, c. 6, Sched. 2, s. 50.

Vesting of claim

(2) If the holder of an unpatented mining claim dies, the Tribunal may, upon application made before the day the claim becomes forfeit under subsection (1), make an order,

- (a) vesting the mining claim in the representative of the deceased claim holder or in any person with an interest in the claim, as the Tribunal considers appropriate; and
- (b) extending the time for performing the assessment work, or making payments in place of the assessment work, that is required under section 65 or for applying for a lease under section 81. 2017, c. 6, Sched. 2, s. 50; 2017, c. 8, Sched. 17, s. 8 (3).

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 101 (1, 2) - 28/10/2009

2017, c. 6, Sched. 2, s. 50 - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018; 2017, c. 8, Sched. 17, s. 8 (3) - 10/04/2018

INSPECTION OF CLAIMS

Inspection by Tribunal, recorder or inspector

75 (1) The Tribunal or the recorder, or a person appointed by the Tribunal or the recorder, may inspect a mining claim at any time, with or without notice to the holder, for the purpose of ascertaining whether this Act has been complied with. 2017, c. 6, Sched. 2, s. 51; 2017, c. 8, Sched. 17, s. 8 (3).

Limitation on inspection

(2) Despite subsection (1), if at least one year has elapsed since the registration of a mining claim, or if the first prescribed unit of assessment work has been performed, filed and approved, no inspection shall be made under this section for the purpose of ascertaining whether the claim has been registered in the manner required under this Act unless ordered by the Minister under subsection 76 (5). 2017, c. 6, Sched. 2, s. 51.

Reinspection

(2.1) If no notice, or less than seven clear days notice, is given to the holder before the inspection is carried out, the holder may apply to the recorder or the Tribunal for a reinspection within 15 days of the recording of the decision or within a further period of not more than 15 days as is allowed by the Tribunal. 1999, c. 12, Sched. O, s. 32; 2017, c. 8, Sched. 17, s. 7 (1).

Duty to grant reinspection

(2.2) If it appears that the holder has been prejudiced by the failure to give notice or to give sufficient notice, the application for a reinspection shall be granted. 1999, c. 12, Sched. O, s. 32.

View or inspection in disputes, appeals, etc.

(3) The Tribunal or recorder may in any dispute, appeal or other proceeding before him, her or it make or order, with or without notice, a view or inspection of any mining claim or of any lands or other property. R.S.O. 1990, c. M.14, s. 75 (3); 2017, c. 8, Sched. 17, s. 7 (1, 7).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 32 - 30/06/2000

2009, c. 21, s. 38, 101 (2) - 28/10/2009

2017, c. 6, Sched. 2, s. 51 - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1, 7) - 01/04/2018; 2017, c. 8, Sched. 17, s. 8 (3) - 10/04/2018

Inspection report and subsequent cancellation of claim

Filing and entry of report

76 (1) A report of each inspection, except when made merely for the purpose of a dispute, appeal or other proceeding, shall be made in writing by the inspecting officer and shall be filed in the office of the recorder, who shall forthwith enter upon the record of the claim a note stating the effect of the report and the date of the entry. R.S.O. 1990, c. M.14, s. 76 (1).

Cancelling claim upon report

(2) Upon receipt of a report under subsection (1), a recorder shall,

- (a) notify the holder of the claim and the disputant and other interested parties, if any, of the receipt and effect of the report in the prescribed manner; and
- (b) if based upon the report the recorder is of the opinion that the claim should be cancelled, note on the abstract of the claim that it has been cancelled and include the fact of the cancellation in the notice given under clause (a). 2017, c. 6, Sched. 2, s. 52 (1).

Appeal from cancellation

(3) An appeal from the cancellation of the claim may be taken to the Tribunal by the holder of the claim or by the disputant or other interested party, within the time and in the manner provided by section 112. R.S.O. 1990, c. M.14, s. 76 (3); 2017, c. 8, Sched. 17, s. 7 (1).

Lands open for claim registration

(4) Where a mining claim is cancelled under clause (2) (b), the land in the cells on the provincial grid corresponding to the cancelled claim shall become open for the registration of mining claims at the time determined under subsection (4.1), unless the land is otherwise not open for the registration of mining claims under any other provision of this Act. 2017, c. 6, Sched. 2, s. 52 (2).

Same

(4.1) Lands referred to in subsection (4) shall become open for registration of mining claims,

- (a) at 10:00 a.m. eastern standard time or eastern daylight time, as the case may be, on the day after the time for filing a notice of an appeal expires under subsection 112 (4); or
- (b) if the claim holder whose mining claim was cancelled under subsection (2) files a notice of appeal under section 112 of the recorder's decision to cancel the mining claim, at 10:00 a.m. eastern standard time or eastern daylight time, as the case may be, on the day after the day of the final disposition of the appeal. 2017, c. 6, Sched. 2, s. 52 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 76 (4.1) of the Act is amended by striking out "or eastern daylight time, as the case may be" wherever it appears. (See: 2020, c. 28, s. 4 (3))

Inspection ordered by Minister

(5) Despite subsection 48 (3), the Minister may challenge the validity of a mining claim at any time during the life of the claim and may direct the recorder or any other person to inspect the claim in accordance with section 75. R.S.O. 1990, c. M.14, s. 76 (5); 1999, c. 12, Sched. O, s. 33 (3); 2017, c. 6, Sched. 2, s. 52 (3).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 33 (1-3) - 30/06/2000

2000, c. 26, Sched. M, s. 10 - 26/12/2000

2017, c. 6, Sched. 2, s. 52 (1-3) - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

2020, c. 28, s. 4 (3) - not in force

Right of holder to copy of report

77 The holder of a mining claim or the disputant or other person interested is entitled to receive from the recorder a certified copy of any report of inspection of the claim filed with the recorder. R.S.O. 1990, c. M.14, s. 77; 1997, c. 40, s. 7; 2009, c. 21, s. 39.

Section Amendments with date in force (d/m/y)

1997, c. 40, s. 7 - 18/12/1997

2009, c. 21, s. 39 - 28/10/2009

EXPLORATION PLANS AND PERMITS

Directors of Exploration Plans and Permits

78 The Minister may appoint one or more officers or employees in the Ministry as Directors of Exploration. 2009, c. 21, s. 40.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 21 - 30/01/1996; 1999, c. 12, Sched. O, s. 34 - 30/06/2000

2000, c. 26, Sched. M, s. 11 - 26/12/2000

2002, c. 18, Sched. M, s. 3 - 16/12/2002

2009, c. 21, s. 40 - 01/11/2012

Application

78.1 Sections 78.2, 78.3, 78.5 and 78.6 apply in accordance with the regulations. 2009, c. 21, s. 40.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 40 - 01/11/2012

Exploration plan

78.2 (1) No person shall carry out an activity prescribed for the purposes of this section on a mining claim, mining lease or licence of occupation for mining purposes unless the person has submitted an exploration plan, in accordance with any prescribed requirements, including any Aboriginal consultation that may be prescribed. 2009, c. 21, s. 40.

Activities to comply with requirements

(2) All activities described in an exploration plan that are carried out shall be carried out in accordance with any prescribed requirements. 2009, c. 21, s. 40.

Exploration permit required

(3) If an exploration plan includes an activity prescribed for the purposes of section 78.3, the person shall not carry out any such activity unless the person has obtained an exploration permit. 2017, c. 6, Sched. 2, s. 53.

Exploration permit allowed by regulation

(4) Despite anything in this section, a person may apply under section 78.3 for an exploration permit to carry out an activity prescribed for the purposes of this section if permitted to do so by regulation. 2017, c. 6, Sched. 2, s. 53.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 40 - 01/11/2012

2017, c. 6, Sched. 2, s. 53 - 09/01/2018

When exploration permit required

78.3 (1) No person shall carry out an activity prescribed for the purposes of this section on a mining claim, mining lease or licence of occupation for mining purposes unless the person has applied for and been issued an exploration permit. 2009, c. 21, s. 40.

Exploration permit required by Director

(1.1) The Director of Exploration may, in the prescribed circumstances, require a person to obtain an exploration permit if the person is carrying out any activity that constitutes early exploration for the purposes of Ontario Regulation 308/12 (Exploration Plans and Exploration Permits) made under this Act, but is not prescribed for the purposes of this section. 2017, c. 6, Sched. 2, s. 54 (1).

Application for exploration permit

(2) An application for an exploration permit shall be made to a Director of Exploration, and in deciding whether to issue a permit and what terms and conditions should apply to the permit, the Director shall consider,

- (a) the purpose of this Act;
- (b) whether Aboriginal consultation has occurred in accordance with any prescribed requirements, which may include consideration of any arrangements that have been made with Aboriginal communities that may be affected by the exploration;
- (c) any arrangements that may have been made with surface rights owners; and
- (d) any other prescribed circumstances. 2009, c. 21, s. 40.

Conditions

(3) An exploration permit is subject to the prescribed standard terms and conditions and to any additional terms and conditions that the Director determines are appropriate. 2009, c. 21, s. 40.

Same, waiver of standard terms and conditions

(3.1) If permitted by regulation, the Director may, where he or she is of the opinion that it is reasonable to do so, waive some or all of the standard terms and conditions that would otherwise apply to an exploration permit. 2017, c. 6, Sched. 2, s. 54 (2).

Activities to comply with requirements

(4) All activities described in an exploration permit that are carried out shall be carried out in accordance with the terms and conditions of the permit and the regulations. 2009, c. 21, s. 40.

Amendment or renewal of permit

(5) The Director may, after considering the factors listed in subsection (2), amend or renew an exploration permit. 2009, c. 21, s. 40.

Reconsideration

(6) If a decision of the Director under this section is disputed in accordance with this Act or the regulations and a recommendation is made that the Director reconsider his or her decision, the Director shall reconsider his or her decision and, where appropriate, may make a new decision based on any recommendations or determinations made. 2009, c. 21, s. 40.

No activities during dispute

(7) If a decision of the Director under this section is disputed in accordance with this Act or the regulations, no person shall carry out any activity that is a subject of the decision until a final determination under this Act or the regulations has been made. 2009, c. 21, s. 40.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 40 - 01/11/2012

2017, c. 6, Sched. 2, s. 54 (1, 2) - 09/01/2018

Transferees, assignees and successors of exploration plan

78.4 (1) Any transferee, assignee or successor of a person who submitted an exploration plan under subsection 78.2 (1) shall comply with subsections 78.2 (2) and (3) in respect of that exploration plan. 2009, c. 21, s. 40.

Transferees, assignees and successors of exploration permit

(2) Any permit that is issued under section 78.3 is binding upon and enforceable against any transferee, assignee or successor of the person to whom the permit was issued. 2009, c. 21, s. 40.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 40 - 01/11/2012

Contravention

78.5 (1) Where it is found that a prescribed activity is being carried out in contravention of this Act or the regulations relating to exploration plans or exploration permits, an inspector or a Director may by order,

- (a) require that the exploration activities cease until the contraventions are addressed to the satisfaction of a Director and the order to cease activity has been revoked; or
- (b) where the contravention is with respect to an exploration permit, cancel the permit. 2009, c. 21, s. 40.

Other permits

(2) A person who submits an exploration plan or obtains an exploration permit under this section is not exempt from complying with any other requirements that are set out under this Act or any other Act. 2009, c. 21, s. 40.

Offence continues

(3) A person who continues an activity or causes an activity to be continued in contravention of an order made under clause (1) (a) is guilty of an offence and, in addition to any other penalty imposed under this Act, is liable on conviction to a fine of not more than \$2,500 for each day the activity is continued in contravention of the order. 2009, c. 21, s. 40.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 40 - 01/11/2012

Liability for rehabilitation

78.6 If a mining claim, mining lease or licence of occupation for mining purposes is transferred or assigned, the transferee or assignee is liable for any rehabilitation obligations imposed under this Part or under an exploration plan or exploration permit with respect to the claim, lease or licence regardless of when or by whom those obligations were created. 2009, c. 21, s. 40.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 40 - 01/11/2012

SURFACE RIGHTS COMPENSATION

Surface rights compensation

Definition

79 (1) In this section,

“surface rights holder” means a person to whom the surface rights of land have been granted, sold, leased or located. 2009, c. 21, s. 41 (2).

Right to compensation

(2) Where there is a surface rights holder of land or where land is occupied by a person who has made improvements on it that, in the opinion of the Minister, entitles that person to compensation, a person who satisfies the requirements described in subsection (2.1) shall compensate the surface rights holder or the occupant of the land, as the case may be, for damages sustained to the surface rights by the prospecting, exploration activities or mining operations. 2017, c. 6, Sched. 2, s. 55 (1).

Same

(2.1) For the purposes of subsection (2), a person may be liable to compensate a surface rights holder or the occupant of lands where the person,

- (a) prospects;
- (b) is the holder of a mining claim or an exploratory licence of occupation and performs exploration activities;
- (c) is the holder of a mining licence of occupation or lessee or owner of mining lands and carries on mining operations; or
- (d) formerly held a mining claim or exploratory licence of occupation that has expired or has been cancelled, abandoned or forfeited and prospected or performed exploration activities in respect of the claim. 2017, c. 6, Sched. 2, s. 55 (1).

Right of holder of mining claim, etc., to compensation

(3) Every person who damages exploration workings or surveyed boundary markers delineating mining lands shall compensate the holder of the mining claim or the licence of occupation or the owner or lessee of the mining lands, as the case may be, for damages sustained. 2017, c. 6, Sched. 2, s. 55 (2).

Determination of compensation by Tribunal

(4) In default of agreement and upon application made by either party, the amount and the time and manner of payment of compensation under subsection (2) or (3) shall be determined by the Tribunal after a hearing and, subject to appeal to the Divisional Court where the amount claimed exceeds \$1,000, the Tribunal’s order is final. R.S.O. 1990, c. M.14, s. 79 (4); 2009, c. 21, s. 41 (4); 2017, c. 8, Sched. 17, s. 7 (1).

Prohibiting work pending settlement

(5) The Tribunal may order the giving of security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, prospecting, mining claim registration or working by any person. 2017, c. 6, Sched. 2, s. 55 (3); 2017, c. 8, Sched. 17, s. 8 (3).

Lien for compensation

(6) The compensation is a special lien upon any mining claim or mining lands, as the case may be, and no prospecting, mining claim registration or performing of work, except by leave of the Tribunal, shall be done by any person after the time fixed for the payment or securing of the compensation, unless the compensation has been paid or secured as directed. 2017, c. 6, Sched. 2, s. 55 (3); 2017, c. 8, Sched. 17, s. 8 (3).

Power of Tribunal to vary, etc., order

(7) The Tribunal, on notice to all interested parties and for good cause shown, on such terms as seem just, may by subsequent order or award at any time change, supplement, alter, vary or rescind any order made under this section. R.S.O. 1990, c. M.14, s. 79 (7); 2017, c. 8, Sched. 17, s. 7 (1).

Priorities

(8) In a hearing under subsection (4), the Tribunal shall take into account which of the rights was applied for first and, except where injustice would result, shall give the holder of those rights due priority in the consideration of the dispute between the parties. R.S.O. 1990, c. M.14, s. 79 (8); 2017, c. 8, Sched. 17, s. 7 (1).

Filing of agreement or order in office of recorder

(9) Where unpatented mining claims are affected by an agreement entered into in respect of the compensation referred to in subsection (2), or by an order made under subsection (4), the agreement or a certified copy of the order, as the case may be, may be filed by the person to whom the compensation is payable in the office of the recorder. R.S.O. 1990, c. M.14, s. 79 (9); 1997, c. 40, s. 7; 2009, c. 21, s. 41 (5).

Registration of order or agreement

(10) Where an unpatented mining claim is subsequently leased, the Minister shall cause any agreement or order filed in the recorder's office under subsection (9) that affects the leased lands to be registered against the lands in the proper land registry office and the person to whom the compensation is payable is entitled to enforce the terms of the agreement or order against the lessee and, subject to the *Registry Act* and the *Land Titles Act*, against any subsequent lessee of the land. R.S.O. 1990, c. M.14, s. 79 (10).

Section Amendments with date in force (d/m/y)

1997, c. 40, s. 7 - 18/12/1997

2009, c. 21, s. 41 (1-3) - 01/11/2012; 2009, c. 21, s. 41 (4, 5), 101 (2-4) - 28/10/2009

2017, c. 6, Sched. 2, s. 55 (1-3) - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018; 2017, c. 8, Sched. 17, s. 8 (3) - 10/04/2018

Reduction in size of claim

80 (1) The Tribunal or the recorder may reduce the size of a mining claim registered where the surface rights have been granted, sold, leased or located by excluding a cell or cells, if, in the opinion of the Tribunal or the recorder, a smaller size is sufficient for exploring for and developing the minerals within the claim, but the reduction shall not be such that it results in the mining claim containing partial cells. 2017, c. 6, Sched. 2, s. 56 (1); 2017, c. 8, Sched. 17, s. 8 (3, 5).

Exclusion of part of surface rights

(2) The Tribunal or the recorder may exclude from any mining claim such part of the surface rights as may be necessary for the occupation and utilization of buildings or improvements erected or made thereon prior to the time the claim was registered. R.S.O. 1990, c. M.14, s. 80 (2); 2009, c. 21, s. 101 (2); 2017, c. 8, Sched. 17, s. 7 (1); 2017, c. 6, Sched. 2, s. 56 (2).

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 101 (2) - 28/10/2009

2017, c. 6, Sched. 2, s. 56 (1, 2) - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1, 8) - 01/04/2018; 2017, c. 8, Sched. 17, s. 8 (3, 5) - 10/04/2018

ISSUE OF LEASE FOR MINING CLAIM

Lease of mining claim

Right to lease of claim

81 (1) Upon compliance with this Act and the regulations and upon payment of the rent for the first year, the holder of a mining claim is entitled to a lease of the claim. R.S.O. 1990, c. M.14, s. 81 (1).

Application for lease

(2) The application and payment for a lease may not be made to a recorder until the applicant,

- (a) has performed the fifth prescribed unit of assessment work on a mining claim or, if a regulation provides that payment may be made in place of performing some or all assessment work, has made the payment and performed the work as required by the regulation; and
- (b) has reported any assessment work performed and, if necessary, has received approval for the work. 2009, c. 21, s. 42 (1).

Same

(2.0.1) The application shall be accompanied by,

- (a) if a survey is required under section 95 or 96, a plan of survey approved by the Surveyor General; and
- (b) an agreement or an order of the Tribunal indicating that surface rights compensation, if any, has been paid, secured or settled. 2009, c. 21, s. 42 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Resolution of disputes over encumbrances on mining claim

(2.1) For the purpose of issuing a lease under this section, the Minister may refer the matter to the Tribunal and the Tribunal shall, upon notice to all interested parties, determine any issues relating to encumbrances or any other right or interest recorded on the abstract of an unpatented mining claim that appears to affect the claim. 2017, c. 6, Sched. 2, s. 58 (1); 2017, c. 8, Sched. 17, s. 8 (3, 6).

Term of lease

(3) A lease under this section shall be for a term of twenty-one years at the prescribed rental, payable in advance, for the first year and at the prescribed rate for each subsequent year. R.S.O. 1990, c. M.14, s. 81 (3).

Lease of mining rights

(4) The holder of a mining claim may elect to apply for a lease of the mining rights only. R.S.O. 1990, c. M.14, s. 81 (4).

Rental

(5) Where a lease under this section is for mining rights only, the rental shall be at the prescribed rate for such a lease. R.S.O. 1990, c. M.14, s. 81 (5).

Renewal of lease

(6) Subject to subsections (8) and (10), a lease under this section is renewable for further terms of 21 years. 1999, c. 12, Sched. O, s. 35 (3); 2020, c. 34, Sched. 8, s. 3 (1).

Application

(6.1) Application for a renewal shall be made in the 90-day period before the expiry of the lease or such further period as the Minister considers appropriate. 1999, c. 12, Sched. O, s. 35 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 81 (6.1) of the Act is amended by adding “through the mining lands administration system” after “shall be made”. (See: 2020, c. 34, Sched. 8, s. 3 (2))

Date of renewal

(6.2) A lease that is renewed shall date from the day after the expiry of the lease. 1999, c. 12, Sched. O, s. 35 (3).

Late renewal

(6.3) If an application for renewal is approved after the day the lease expires,

- (a) until the day before the renewal is approved, the expired lease continues to apply; and
- (b) on and after the day the renewal is approved, the new lease is deemed to have applied as of the day after the expiry of the previous lease, despite clause (a). 2009, c. 21, s. 42 (3).

Renewal lease rental

(7) The annual rental for a renewal lease is the prescribed amount, payable in advance. R.S.O. 1990, c. M.14, s. 81 (7).

Refusal to renew lease

(8) The Minister shall refuse to renew a lease unless,

- (a) the production of minerals has occurred continuously for more than one year since the issuance or last renewal of the lease; or
- (b) the lessee has demonstrated to the satisfaction of the Minister a reasonable effort to bring the property into production. R.S.O. 1990, c. M.14, s. 81 (8).

(9) REPEALED: 2017, c. 6, Sched. 2, s. 58 (2).

Interest

(9.1) Where payment of the rental under a lease is not paid within the required time, interest at the prescribed rate, compounded annually, shall forthwith be added to the amount owing in each year that the amount remains unpaid. 1999, c. 12, Sched. O, s. 35 (4).

Reduction or waiver of interest owing

(9.2) The Minister may reduce or waive the amount of any interest added to rental payments under subsection (9.1). 2002, c. 18, Sched. M, s. 4.

Termination of lease for arrears of rent

(10) Where payment of the rental under any such lease is in arrears for two years or more, the lease may be terminated by an instrument in writing. R.S.O. 1990, c. M.14, s. 81 (10).

Notice of termination of lease

(11) Where application for renewal of a lease is not made within the time set out in subsection (6) or where a renewal of a lease is refused under subsection (8) or where a lease has been terminated under subsection (10), the Minister may cause a notice of termination to be registered in the proper land registry office, and the land registrar shall, upon receipt of the notice, duly register it, and thereupon all the interests of the lessee, the lessee's heirs, executors, administrators and assigns shall be deemed to have ceased and determined, and the lands included in such lease are revested in the Crown freed and discharged from every claim. R.S.O. 1990, c. M.14, s. 81 (11).

Registration of notice of termination

(12) Upon registration of the notice in the proper land registry office, the *Land Titles Act* or the *Registry Act*, as the case may be, ceases to apply to the lands, and the land registrar shall note that fact in the register. R.S.O. 1990, c. M.14, s. 81 (12); 1999, c. 12, Sched. O, s. 35 (5).

Lands vested in Crown on termination of lease

(13) When a lease is terminated under this section, the lease and all rights and powers therein contained, as well as all rights and claims of the lessee, the lessee's heirs, executors, administrators or assigns in or to the lands covered by the lease, cease, and the lands are vested in the Crown, freed and discharged from every claim and are not open for prospecting, mining claim registration, sale or lease under this Act until a date fixed by the Deputy Minister, two weeks' notice of which shall be published in *The Ontario Gazette*. R.S.O. 1990, c. M.14, s. 81 (13); 2009, c. 21, s. 101 (4); 2017, c. 6, Sched. 2, s. 58 (3).

Restriction on transfer, etc.

(14) A lease, a renewal of a lease or the term or terms that a lease creates shall not be transferred, mortgaged, charged, sublet or made subject to a debenture, unless the lessee applies to the Minister, and the Minister gives his or her written consent to the transaction. 2009, c. 21, s. 42 (4).

Disposition of surface rights

(15) Any surface rights reserved in a lease or renewal thereof may be dealt with under the *Aggregate Resources Act*, or under the *Public Lands Act* or the regulations made under those Acts. R.S.O. 1990, c. M.14, s. 81 (15).

(16)-(18) REPEALED: 2017, c. 6, Sched. 2, s. 58 (4).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 134 (4) - 09/12/1994; 1997, c. 40, s. 7 - 18/12/1997; 1999, c. 12, Sched. O, s. 35 (1-6) - 30/06/2000

2000, c. 26, Sched. M, s. 12 - 26/12/2000

2002, c. 18, Sched. M, s. 4 - 16/12/2002

2009, c. 21, s. 42 (1) - 01/04/2013; 2009, c. 21, s. 42 (2-4), 101 (4) - 28/10/2009; 2009, c. 21, s. 42 (5, 6) - 01/11/2012

2017, c. 6, Sched. 2, s. 58 (1-4) - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1, 9) - 01/04/2018; 2017, c. 8, Sched. 17, s. 8 (3, 6) - 10/04/2018

2020, c. 34, Sched. 8, s. 3 (1) - 08/12/2020; 2020, c. 34, Sched. 8, s. 3 (2) - not in force

Leases issued under particular provisions

Definition

82 (1) In this section,

“lease” means a lease, or the renewal of a lease, of mining rights or of surface rights, or of both mining rights and surface rights, issued under section 47, 52 or 100 of *The Mining Act*, being chapter 241 of the Revised Statutes of Ontario, 1960, or a predecessor of that Act. 1999, c. 12, Sched. O, s. 36 (1); 2009, c. 21, s. 43.

Amount of rent

(2) Despite any rental that may be provided for in a lease, the annual rental for the lease is as prescribed. 1999, c. 12, Sched. O, s. 36 (1).

Renewal of lease

(3) A lease of mining rights under clause (a) of the definition of “lease” in subsection (1) is renewable for further terms of 10 years. 1999, c. 12, Sched. O, s. 36 (1).

Application

(4) Application for a renewal shall be made in the 90-day period before the expiry of the lease or such further period as the Minister considers appropriate. 1999, c. 12, Sched. O, s. 36 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 82 (4) of the Act is amended by adding “through the mining lands administration system” after “shall be made”. (See: 2020, c. 34, Sched. 8, s. 4)

Date of renewal

(4.1) A lease that is renewed shall date from the day after the expiry of the lease. 1999, c. 12, Sched. O, s. 36 (1).

Interest

(4.2) Where payment of the rental under a lease is not paid within the required time, interest at the prescribed rate, compounded annually, shall forthwith be added to the amount owing in each year that the amount remains unpaid. 1999, c. 12, Sched. O, s. 36 (1).

Reduction or waiver of interest owing

(4.3) The Minister may reduce or waive the amount of any interest added to rental payments under subsection (4.2). 2002, c. 18, Sched. M, s. 5.

Termination of lease for arrears of rent

(5) Where payment of the rental under a lease is in arrears for two years or more, the lease may be terminated by an instrument in writing. R.S.O. 1990, c. M.14, s. 82 (5).

Notice of termination of lease

(6) Where application for renewal of a lease is not made within the time set out in subsection (4) or where a lease has been terminated under subsection (5), the Minister may cause a notice of termination to be registered in the proper land registry office, and the land registrar shall, upon receipt of the notice, duly register it, and thereupon all the interests of the lessee, the lessee’s heirs, executors, administrators, successors and assigns shall be deemed to have ceased and determined, and the land included in such lease is revested in the Crown, freed and discharged from every claim. R.S.O. 1990, c. M.14, s. 82 (6); 1996, c. 1, Sched. O, s. 22.

Certain Acts not to apply to forfeited lands

(7) Upon registration of the notice under subsection (5) in the land registry office, the *Land Titles Act* or the *Registry Act*, as the case may be, ceases to apply to the lands, and the land registrar shall note that fact in his or her register. R.S.O. 1990, c. M.14, s. 82 (7); 1999, c. 12, Sched. O, s. 36 (2).

Lands vested in Crown on termination of lease

(8) When a lease is terminated under this section, the lease and all rights and powers therein contained, as well as all rights and claims of the lessee, the lessee’s heirs, executors, administrators or assigns in or to the lands covered by the lease, cease, and such lands are vested in the Crown, freed and discharged from every claim and are not open for prospecting, mining claim registration, sale or lease under this Act until a date fixed by the Deputy Minister, two weeks’ notice of which shall be published in *The Ontario Gazette*. R.S.O. 1990, c. M.14, s. 82 (8); 2009, c. 21, s. 101 (4); 2017, c. 6, Sched. 2, s. 59.

Lease may be issued under s. 81

(9) The holder of a lease, upon application in writing therefor and upon the surrender of the lease and upon meeting the conditions set out in subsection 81 (8), may be issued a lease under section 81 for a term of twenty-one years and the rental for each year of the term thereof shall be that prescribed for the purposes of section 81 for years after the first year of a term. R.S.O. 1990, c. M.14, s. 82 (9).

Restriction on transfer etc.

(10) A lease, a renewal of lease or the term or terms that a lease creates shall not be transferred, mortgaged, charged, sublet or made subject to a debenture without the written consent of the Minister or an officer duly authorized by the Minister. 2000, c. 26, Sched. M, s. 13.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 22 - 30/01/1996; 1999, c. 12, Sched. O, s. 36 (1, 2) - 30/06/2000

2000, c. 26, Sched. M, s. 13 - 26/12/2000

2002, c. 18, Sched. M, s. 5 - 16/12/2002

2009, c. 21, s. 43, 101 (4) - 28/10/2009

2017, c. 6, Sched. 2, s. 59 - 10/04/2018

2020, c. 34, Sched. 8, s. 4 - not in force

Exchange of lease

83 (1) The holder of a lease issued under this Act, upon application to the Minister, and upon the surrender of the lease, may be issued one or more replacement leases in exchange for that lease, on such terms and conditions as the Minister considers appropriate. 2009, c. 21, s. 44.

No expansion of rights

(2) A replacement lease issued under subsection (1) shall not include surface rights or mining rights that were not included in the surrendered lease. 2009, c. 21, s. 44.

Separate surface rights and mining rights

(3) A holder, upon so requesting in the application under subsection (1), may be issued separate replacement leases for the surface rights and for the mining rights for the land, provided that the surrendered lease is for both mining rights and surface rights, but land held under a replacement lease for surface rights shall be used solely for mining purposes. 2009, c. 21, s. 44.

Terms of replacement leases

(4) Replacement leases issued under subsection (1) or (2) may be for a different tenure than that of the original lease, but they shall,

- (a) in the case of one replacement lease, cover the same area of land as the surrendered lease covered or a smaller area;
- (b) in the case of two or more replacement leases, cover together the same area of land as the surrendered lease covered or a smaller area;
- (c) be for a term equal to the balance of the surrendered lease; and
- (d) be at the applicable rental rate per hectare, as prescribed. 2009, c. 21, s. 44.

Application of s. 81

(5) Subsections 81 (6), (6.1), (6.2), (6.3), (8), (10), (11), (12), (13) and (14) apply with necessary modifications to leases issued under this section. 2009, c. 21, s. 44; 2020, c. 34, Sched. 8, s. 5 (1).

Consolidation of leases

(6) The holder of two or more leases of the same tenure may apply to the Minister to have the leases consolidated into a single lease. 2009, c. 21, s. 44.

Interest

(7) Where payment of the rental under a lease is not paid within the required time, interest at the prescribed rate, compounded annually, shall be added to the amount owing in each year that the amount remains unpaid. 2009, c. 21, s. 44.

Reduction or waiver of interest owing

(8) The Minister may reduce or waive the amount of any interest added to rental payments under subsection (7). 2020, c. 34, Sched. 8, s. 5 (2).

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 23 - 30/01/1996; 1997, c. 40, s. 7 - 18/12/1997; 1999, c. 12, Sched. O, s. 37 - 30/06/2000

2009, c. 21, s. 44 - 04/04/2011

2020, c. 34, Sched. 8, s. 5 (1, 2) - 08/12/2020

Lease of surface rights

84 (1) Upon application by a lessee or owner of mining rights or a holder of a mining licence of occupation, the Minister may lease any available surface rights inside or outside the lands covered by the lease, patent or licence of occupation required by the applicant for any purpose essential to mining or mining exploration, including for constructing a shaft or buildings or disposing of tailings or other waste material. 1999, c. 12, Sched. O, s. 38 (1).

Application for lease of surface rights

- (2) An application for a lease of surface rights shall provide such details as the Minister requires, including,
- (a) the specific purposes for which the surface rights are required;
 - (b) an adequate description and plan or sketch of the area where the applied for surface rights are located;
 - (c) the first year's rental; and
 - (d) proof of ownership of, or of being the holder of the licence of occupation for, the mining lands or mining rights that are the basis of the application. 1999, c. 12, Sched. O, s. 38 (1); 2009, c. 21, s. 45 (1).

Survey

- (3) The Minister may require the applicant to furnish a survey prepared by an Ontario land surveyor and approved by the Surveyor General, and the cost of the survey shall be borne by the applicant. R.S.O. 1990, c. M.14, s. 84 (3); 1994, c. 27, s. 134 (5).

Amount of rent

- (4) The annual rental of a lease or renewal under this section is the prescribed amount, payable in advance. R.S.O. 1990, c. M.14, s. 84 (4).

Interest

- (4.1) Where payment of the rental under a lease is not paid within the required time, interest at the prescribed rate, compounded annually, shall forthwith be added to the amount owing in each year that the amount remains unpaid. 1999, c. 12, Sched. O, s. 38 (2).

Reduction or waiver of interest owing

- (4.2) The Minister may reduce or waive the amount of any interest added to rental payments under subsection (4.1). 2002, c. 18, Sched. M, s. 6.

Term of lease

- (5) A lease issued under this section shall be for a term of twenty-one years, but, where the mining lands or mining rights that are the basis of the application are held under a mining lease, the term shall be coterminous with the mining lease. R.S.O. 1990, c. M.14, s. 84 (5).

Application of s. 81

- (6) Subsections 81 (6), (6.1), (6.2), (6.3), (8), (10), (11), (12), (13) and (14) apply with necessary modifications to leases issued under this section, but, where the mining lands or mining rights that are the basis of the application are held under a mining lease, the renewal term shall be coterminous with the mining lease. 2009, c. 21, s. 45 (2); 2020, c. 34, Sched. 8, s. 6.

Termination of lease where lands forfeited

- (7) Where the mining lands or mining rights that are the basis for a lease issued under this section are revested in or are forfeited or revert to the Crown, the lease is forfeited, and subsections 81 (11), (12) and (13) apply. R.S.O. 1990, c. M.14, s. 84 (7).

Holder of lease and holder of land to be same person

- (8) Where the holder of a lease issued under this section ceases to be the holder of the lands or mining rights in respect of which the lease was issued, the lease is forfeited, and subsections 81 (11), (12) and (13) apply. R.S.O. 1990, c. M.14, s. 84 (8).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 134 (5) - 09/12/1994; 1999, c. 12, Sched. O, s. 38 (1-3) - 30/06/2000

2002, c. 18, Sched. M, s. 6 - 16/12/2002

2009, c. 21, s. 45 (1) - 01/01/2011; 2009, c. 21, s. 45 (2) - 28/10/2009

2020, c. 34, Sched. 8, s. 6 - 08/12/2020

Lease void where lands used other than for mining industry

- 85** The lands, surface rights or mining rights held under a lease that has been or will be issued under this Act shall be used solely for the purposes of the mining industry, and, in default thereof and on the recommendation of the Tribunal, the

Lieutenant Governor in Council may declare the lease void, and subsections 81 (11), (12) and (13) apply. R.S.O. 1990, c. M.14, s. 85; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Adjoining fractions and gores

85.1 (1) If an adjoining fraction or gore is identified that the Minister determines should form part of a lease of a mining claim, the Minister may direct that the fraction or gore be included in the lease without the fraction or gore being registered as a mining claim. 2020, c. 34, Sched. 8, s. 7.

Same

(2) Subsection (1) applies regardless of whether the fraction or gore is identified through the surveying of the mining claim in relation to an application for the lease or at some other time before the issuance of the lease. 2020, c. 34, Sched. 8, s. 7.

Section Amendments with date in force (d/m/y)

2020, c. 34, Sched. 8, s. 7 - 08/12/2020

Reservations, etc., in leases

86 (1) Every lease issued under this Act shall contain the following reservations or provisions:

Reservation for roads

1. Provided that nothing whatsoever herein contained shall prevent or interfere with the free user of any public or travelled road or highway crossing the hereinbefore described premises.

Reservation for power, petroleum, etc.

2. Reserving unto Us, Our Heirs and Successors such use of the land hereby demised for all such works as may be necessary for the development of water power and the development, transmission and distribution of electrical power, natural gas, petroleum and petroleum products, including the construction, maintenance and operation of roads, railroads, transmission lines and stations, flumes, pipelines, dams, power houses and other works and structures without any liability by Us to the Lessee.

Reservation for railways

3. Reserving the right to grant without compensation to any person or corporation the right-of-way necessary for the construction and operation of one or more railways over or across the lands herein leased without let or hindrance from the Lessee where such railway or railways shall not manifestly or materially interfere with the mining operations carried on upon the said premises.

Reservation for navigable waters

4. Saving, Excepting and Reserving unto Us, Our Heirs and Successors the free use, passage and enjoyment of, in, over and upon all navigable waters which shall or may hereafter be found on or under or to be flowing through or upon any part of the said parcel or tract of land hereby demised as aforesaid and reserving also right of access to the shores of all rivers, streams and lakes for all vessels, boats and persons, together with the right to use so much of the banks thereof not exceeding one chain in depth from the highwater mark as may be necessary for fishery or public purposes.

Provided that, should the premises herein described or any part thereof be covered by navigable waters, this lease shall be subject to the provisions of the *Navigable Waters Protection Act* (Canada), the *Beds of Navigable Waters Act* and the *Lakes and Rivers Improvement Act*.

Reservation for fishing

5. Provided that nothing herein contained shall in any manner restrict fishing or fishing rights in any navigable waters covering the premises hereby demised and that the Lessee shall not do any act resulting in damage to fishing or the fishing industry in the waters or to nets or other appliances used in fishing in the waters.

Reservation for land under navigable waters

6. Provided that these presents shall not vest in the Lessee any right, claim or title to the land under navigable waters which may be included within the limits of the herein described premises, but the Lessee shall have the exclusive right to extract the minerals therefrom during the term of these presents. R.S.O. 1990, c. M.14, s. 86 (1).

Where item 2 of subs. (1) does not apply

(2) Item 2 of subsection (1) does not apply to a lease of the mining rights only. R.S.O. 1990, c. M.14, s. 86 (2).

Other reservations

(3) The Minister may direct the inclusion of other reservations or provisions provided for in this Act or not inconsistent with the intent of this Act. R.S.O. 1990, c. M.14, s. 86 (3).

Omission of reservations, etc.

(4) The Minister may omit reservations or provisions contained in subsection (1) from a lease issued under section 84 where such reservations or provisions are contrary to the purpose of the lease. R.S.O. 1990, c. M.14, s. 86 (4).

Provision re Aboriginal or treaty rights

86.1 Every lease issued under this Act, including leases issued or renewed before the enactment of this section, shall include or be deemed to include the following provision:

The Lessee's rights under this lease are subject to the protection provided for existing Aboriginal or treaty rights in section 35 of the *Constitution Act, 1982* and the Lessee shall conduct itself on the demised premises in a manner consistent with the protection provided to any such rights.

2009, c. 21, s. 46.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 46 - 28/10/2009

Reservation for roads

87 (1) Every patent or lease issued under this Act shall contain a reservation for road purposes of 10 per cent of the surface rights of the land granted or leased, as the case may be, and the Crown or its officers or agents may lay out and construct roads where considered proper on the lands so granted or leased. R.S.O. 1990, c. M.14, s. 87 (1).

Reservation of surface rights

(2) Every patent or lease issued under this Act shall contain a reservation of the surface rights on and over any public or colonization road or any highway crossing the land granted or leased at the date of issue of the patent or lease. R.S.O. 1990, c. M.14, s. 87 (2).

Exception

(3) Subsections (1) and (2) do not apply to patents or leases of the mining rights only. R.S.O. 1990, c. M.14, s. 87 (3).

Reservation of land to read as reservation of surface rights

(4) Where a patent or lease has been issued under this Act or any predecessor thereof containing a reservation for road purposes of 5 per cent or of 10 per cent of the lands granted, and the Crown or its officers or agents did not occupy lands under such reservation, prior to the 1st day of May, 1963, for laying out and constructing roads, such reservation shall now read as a reservation of 5 per cent of the surface rights or 10 per cent of the surface rights, as the case may be. R.S.O. 1990, c. M.14, s. 87 (4).

Form of patent

88 Every patent of Crown lands or mining rights by which it is intended to vest in the patentee the mines and minerals therein or a part thereof or any rights in connection therewith shall state that it was issued under this Act or the former Act under which it was issued. R.S.O. 1990, c. M.14, s. 88.

Disposal of surface rights

89 (1) In a patent or lease of a mining claim, the Minister shall reserve all surface rights and other rights excluded by or withdrawn under this Act or that have otherwise been alienated by the Crown. R.S.O. 1990, c. M.14, s. 89 (1).

Disposition of surface rights

(2) Any surface rights reserved under this section may be dealt with under the *Aggregate Resources Act* or under the *Public Lands Act* or the regulations made under those Acts. R.S.O. 1990, c. M.14, s. 89 (2).

Patents issued under this Act to vest minerals

90 (1) Every patent of Crown lands that purports to be issued under this Act, unless it is otherwise expressly stated, vests in the patentee of the estate thereby granted all title of the Crown in such lands and all mines and minerals therein. R.S.O. 1990, c. M.14, s. 90 (1).

Application of *Conveyancing and Law of Property Act*

(2) Despite section 19 of the *Conveyancing and Law of Property Act*, where a patent or lease of a mining claim was or is issued under this Act on or after the 1st day of July, 1914, and the patent or lease reserves the surface rights, section 16 of the *Conveyancing and Law of Property Act* applies if the surface rights were the property of the Crown and were not applied for or occupied at the time that the mining claim was registered or, if the mining claim was staked and recorded under this Act before the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* comes into force, at the time it was staked and recorded. R.S.O. 1990, c. M.14, s. 90 (2); 2009, c. 21, s. 101 (2); 2017, c. 6, Sched. 2, s. 60.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 101 (2) - 28/10/2009

2017, c. 6, Sched. 2, s. 60 - 10/04/2018

Condition of patent ores to be treated in Canada

91 (1) All lands, claims or mining rights patented, leased or otherwise disposed of under this or any other Act or by any authority whatsoever are subject to the condition that all ores or minerals raised or removed therefrom shall be treated and refined in Canada so as to yield refined metal or other product suitable for direct use in the arts without further treatment, in default whereof the Lieutenant Governor in Council may declare the lease, patent or other form of title of such lands, claims or mining rights to be void, and the order in council so declaring shall be registered in the proper land registry office, or in the case of a licence of occupation, filed in the Minister's office, whereupon such lands, claims or mining rights revert to and become vested in Her Majesty, Her heirs and successors, freed and discharged of any interest or claim of any other person. R.S.O. 1990, c. M.14, s. 91 (1).

Idem

(2) For the purposes of subsection (1), the Minister may determine the stage of refinement at which any mineral substance is refined metal or other product suitable for direct use in the arts without further treatment. R.S.O. 1990, c. M.14, s. 91 (2).

Exemptions

(3) The Lieutenant Governor in Council may exempt any lands, claims or mining rights from the operation of this section for such period of time as seems proper. R.S.O. 1990, c. M.14, s. 91 (3).

Where conflict, section prevails

(4) Where there is any conflict between the provisions of this section and the provisions of any general or special Act, the provisions of this section prevail. R.S.O. 1990, c. M.14, s. 91 (4).

Reservation of trees and right of entry

92 (1) Every patent or lease of Crown lands issued under this Act shall contain a reservation to the Crown of all timber and trees standing, being or hereafter found growing upon the lands thereby granted or leased, and of the right to enter upon such lands to carry on forestry, to cut and remove any timber or trees thereon, and to make necessary roads for such purposes. R.S.O. 1990, c. M.14, s. 92 (1).

Exercise of rights reserved

(2) The rights reserved in subsection (1) may be exercised by any person holding a licence or permit from the Crown when authorized to do so by the Minister. R.S.O. 1990, c. M.14, s. 92 (2).

Ownership of trees remains in Crown

(3) All timber and trees on Crown lands on which a mining claim has been registered remain the property of the Crown, and the Crown may enter upon such lands to carry on forestry, to cut and remove any timber or trees thereon, and to make necessary roads for such purpose. R.S.O. 1990, c. M.14, s. 92 (3); 2009, c. 21, s. 101 (2); 2017, c. 6, Sched. 2, s. 61 (1).

Conditions under which holder, owner or lessee may cut trees

(4) Despite subsection (1) and (3) and subject to subsections (5) and (6), the recorded holder of a mining claim registered with respect to Crown lands or the owner or lessee of lands acquired under this Act may cut such trees on those Crown lands or acquired lands as may be necessary for building, fencing or fuel purposes or for any other purpose necessary for the development or working of the minerals thereon. 2017, c. 6, Sched. 2, s. 61 (2).

Idem

(5) Where a licence or permit from the Crown to cut timber on the land has not been granted, the recorded holder, owner or lessee may, on application to the Minister, be granted permission to cut and use the trees for the purposes mentioned in subsection (4) either without payment or on such terms and conditions as the Minister imposes. R.S.O. 1990, c. M.14, s. 92 (5).

Idem

(6) Where a licence or permit from the Crown to cut timber on the lands has been granted, the recorded holder, owner or lessee shall compensate the timber licensee or permittee for the trees cut or used by the holder, owner or lessee. R.S.O. 1990, c. M.14, s. 92 (6).

Determination of disputes

(7) Where a dispute arises between the recorded holder, owner or lessee and the timber licensee or permittee as to the value or quantity of the trees cut or used under subsection (6), the Minister shall determine the dispute and his or her decision is final. R.S.O. 1990, c. M.14, s. 92 (7).

Holder, etc., of mining rights not to cut trees

(8) This section does not confer upon the recorded holder or the owner or lessee of the mining rights any right to cut trees upon,

- (a) the lands with respect to which the holder has registered a mining claim; or
- (b) the lands on which the owner or lessee has acquired only the mining rights. 2017, c. 6, Sched. 2, s. 61 (3).

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 101 (2) - 28/10/2009

2017, c. 6, Sched. 2, s. 61 (1-3) - 10/04/2018

Cancellation of erroneous patents

93 Where letters patent, leases, licences or other instruments of title have been issued to or in the name of the wrong person through mistake, or contain any clerical error or misnomer, or a wrong description of the land intended to be granted, the Deputy Minister, if there is no adverse claim and whether or not the land has been registered under the *Land Titles Act* or the *Registry Act*, may direct the defective instrument to be cancelled and a correct one to be issued in its stead and the corrected instrument shall relate back to the date of the one so cancelled and has the same effect as if issued on the date of the cancelled instrument. R.S.O. 1990, c. M.14, s. 93.

Surveys under annulments

94 Where patents, leases, licences or other instruments of title have been issued under this Act for any land or mining rights affected by an annulment under subsection 7 (1) of the *Public Lands Act*, the Deputy Minister, whether or not the land has been registered under the *Land Titles Act* or the *Registry Act*, may cause such instrument of title to be cancelled and an instrument containing a revised description of the land or mining rights to be issued in its stead, and the corrected instrument shall relate back to the date of the one so cancelled and has the same effect as if issued on the date of the cancelled instrument. R.S.O. 1990, c. M.14, s. 94.

SURVEY OF CLAIM

Surveys

When survey required in unsurveyed territory

95 (1) Before a lease or licence of occupation of a mining claim in unsurveyed territory is applied for, the claim shall be surveyed by an Ontario land surveyor at the expense of the applicant, but no survey of a mining claim, except a perimeter survey consented to by the Minister under subsection (3), shall be made without the written consent of the recorder. R.S.O. 1990, c. M.14, s. 95 (1).

Prescribed methods of surveying

(2) Subject to the *Surveys Act*, the prescribed methods and procedures shall be followed in the surveying of mining claims unless the Minister orders otherwise. R.S.O. 1990, c. M.14, s. 95 (2); 2001, c. 9, Sched. L, s. 4.

Perimeter survey

(3) Where two or more mining claims in unsurveyed territory are contiguous and are registered in the same name, the Minister may, upon application therefor, consent to a perimeter survey being made of the circumference of the contiguous claims in lieu of a survey under subsection (1). 2017, c. 6, Sched. 2, s. 62 (1).

Minister to issue written instructions

(4) Where the Minister consents to a perimeter survey being made under subsection (3), he or she shall issue written instructions prescribing its conduct and filing. R.S.O. 1990, c. M.14, s. 95 (4).

Rental where perimeter survey made

(5) Where a perimeter survey is made under subsection (3), the rental shall be computed on the total area of the claims within the perimeter survey. 2017, c. 6, Sched. 2, s. 62 (2).

(6) REPEALED: 2017, c. 6, Sched. 2, s. 62 (2).

Inspection before perimeter survey made

(7) Before a perimeter survey is made, the Minister may order the inspection of the mining claims proposed to be included in the perimeter survey and an inspector or other officer of the Ministry shall prepare and submit to the Minister a report and plan according to the instructions provided by the Minister and the survey shall not be directed to be made unless the Minister is satisfied that the requirements of this Act have been complied with. R.S.O. 1990, c. M.14, s. 95 (7).

Fee

(8) The fee for an inspection under subsection (7) is the amount set by the Minister, payable in advance, and the Minister may require the applicant to provide the inspector with suitable transportation to the location of the claims. R.S.O. 1990, c. M.14, s. 95 (8); 1997, c. 40, s. 2.

Cancellation of work

(9) Where, after a perimeter survey has been made, one or more of the claims within the perimeter survey is cancelled for any reason or where the holder of a recorded interest ceases to be the holder of an undivided interest in the whole, the survey is void, and thereupon the recorder shall cancel the entry on the record and he or she shall also cancel the work recorded on account of the survey. R.S.O. 1990, c. M.14, s. 95 (9).

Section Amendments with date in force (d/m/y)

1997, c. 40, s. 2 - 18/12/1997

2001, c. 9, Sched. L, s. 4 - 19/07/2001

2009, c. 21, s. 47 - 01/11/2012

2017, c. 6, Sched. 2, s. 62 (1, 2) - 10/04/2018

Minister may direct survey of claim in surveyed territory

96 Where, upon an application for a lease or licence of occupation of a mining claim in surveyed territory, the Minister is of opinion that a survey is necessary, he or she may direct that a survey thereof be made at the expense of the applicant, and the survey, unless otherwise ordered, shall comply with the same requirements as a survey of a mining claim or the perimeter survey of mining claims in unsurveyed territory. R.S.O. 1990, c. M.14, s. 96.

97 REPEALED: 2017, c. 6, Sched. 2, s. 63.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 101 (2, 4) - 28/10/2009

2017, c. 6, Sched. 2, s. 63 - 10/04/2018

PART III (s. 98) REPEALED: 1997, c. 40, s. 3.

Section Amendments with date in force (d/m/y)

1997, c. 40, s. 3 - 18/12/1997

PART IV

OIL, GAS, UNDERGROUND STORAGE AND SALT SOLUTION MINING

99 REPEALED: 2009, c. 21, s. 49.

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 40 - 18/12/1998

2000, c. 26, Sched. L, s. 6 (1) - 06/12/2000

2009, c. 21, s. 48, 49 - 28/10/2009

Exploration licences

100 The Minister may issue exploration licences for the purposes of exploring and drilling for oil and gas on Crown land. 1998, c. 18, Sched. I, s. 40.

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 40 - 18/12/1998

Production leases

101 The Minister may issue the following types of production leases:

1. Leases for the drilling for and production of oil and gas on Crown land.
2. Leases for the drilling for and production of salt by solution mining on Crown land. 2009, c. 21, s. 50.

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 40 - 18/12/1998

2009, c. 21, s. 50 - 28/10/2009

Storage leases

101.1 (1) The Minister may issue storage leases for the temporary storage of hydrocarbons and other prescribed substances in underground formations on Crown land. 2000, c. 26, Sched. L, s. 6 (2).

Same

(2) A storage lease does not authorize the permanent disposal of any substance. 2000, c. 26, Sched. L, s. 6 (2).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. L, s. 6 (2) - 06/12/2000

Overlapping licences and leases

101.2 Despite the definition of “Crown land” in section 1, the Minister may issue an exploration licence, production lease or storage lease under this Part in respect of land that is already subject to a licence or lease under this Part. 2000, c. 26, Sched. L, s. 6 (2).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. L, s. 6 (2) - 06/12/2000

Licence and lease regulations

102 (1) The Minister may make regulations,

- (a) prescribing other substances for the purpose of section 101.1;
- (b) respecting the tendering of exploration licence and storage lease rights;
- (c) respecting the application for and issuance of exploration licences, production leases and storage leases;
- (d) respecting the terms and conditions of exploration licences, production leases and storage leases;
- (e) respecting exploration licence, production lease and storage lease rentals, royalties and other payments;
- (f) respecting minimum exploration licence work requirements;
- (g) respecting the transfer, assignment, surrender and termination of exploration licences, production leases and storage leases;
- (h) respecting the disposition or tendering of exploration licence, production lease and storage lease rights on cancellation or termination of an exploration licence, production lease or storage lease. 2000, c. 26, Sched. L, s. 6 (3).

Previous regulations

(2) The regulations made by the Lieutenant Governor in Council under this section, as it read immediately before this subsection came into force, shall be deemed to have been made by the Minister under subsection (1). 2000, c. 26, Sched. L, s. 6 (3).

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 40 - 18/12/1998

2000, c. 26, Sched. L, s. 6 (3) - 06/12/2000

PART V COMMENCEMENT OF SURFACE MINING OF NON-METALLIC MINERALS

Commencement of surface mining

103 (1) A person who proposes to commence the surface mining on Crown land of non-metallic minerals, excluding natural gas, petroleum and aggregate as defined in the *Aggregate Resources Act*, shall proceed by complying with the requirements of Part II of this Act. 1994, c. 27, s. 134 (6).

Same

(2) A person who proposes to commence the surface mining on Crown land of aggregate as defined in the *Aggregate Resources Act* shall proceed by applying for and obtaining an aggregate permit or a licence under the *Aggregate Resources Act* and may also obtain a lease from the Crown for the lands affected by complying with the provisions of Part II of this Act. 1994, c. 27, s. 134 (6).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 134 (6) - 09/12/1994

Registration of mining claim

104 Although an aggregate permit or a licence has been obtained under the *Aggregate Resources Act*, any licensee under this Act may register a mining claim or claims on Crown land affected by the permit or licence, in which case the provisions of this Act apply and any question of property damage shall be determined in the manner set out in section 79. R.S.O. 1990, c. M.14, s. 104; 2009, c. 21, s. 101 (1); 2017, c. 6, Sched. 2, s. 64.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 101 (1) - 28/10/2009

2017, c. 6, Sched. 2, s. 64 - 10/04/2018

PART VI MINING AND LANDS TRIBUNAL

Jurisdiction

105 (1) No action lies and no other proceeding shall be taken in any court as to any matter or thing concerning any right, privilege or interest conferred by or under the authority of this Act, but every claim, question and dispute in respect of the matter or thing shall be determined by the Tribunal except as otherwise provided in section 171 or elsewhere in this Act and except for matters relating to consultation with Aboriginal communities, Aboriginal or treaty rights or to the assertion of Aboriginal or treaty rights. 2009, c. 21, s. 51; 2017, c. 8, Sched. 17, s. 7 (1).

Same

(2) In the exercise of the power conferred by this section, the Tribunal may make such order or give such directions as it considers necessary to make effective and enforce compliance with its decision. 2009, c. 21, s. 51; 2017, c. 8, Sched. 17, s. 7 (1, 11).

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 51 - 28/10/2009; 2017, c. 8, Sched. 17, s. 7 (1, 11) - 01/04/2018

Crown patents

106 (1) The Tribunal has no power or authority to declare forfeited or void or to cancel or annul any Crown patent issued for lands, mining land, mining claims or mining rights, but every action and every proceeding to declare forfeited or void or to

cancel or annul any such Crown patent may be brought or taken in the Superior Court of Justice. R.S.O. 1990, c. M.14, s. 106 (1); 2000, c. 26, Sched. M, s. 17; 2017, c. 8, Sched. 17, s. 7 (1).

Where cancellations permitted

(2) Subsection (1) does not apply to cancellations or forfeitures provided for in this Act or in the patent. R.S.O. 1990, c. M.14, s. 106 (2).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 17 - 26/12/2000

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Transfer of proceeding to Superior Court of Justice

107 A party to a proceeding under this Act brought before the Tribunal and involving any right, privilege or interest or in connection with any patented lands, mining lands, mining claims or mining rights, may, at any stage of the proceeding, apply to the Superior Court of Justice for an order transferring the proceeding to that court. R.S.O. 1990, c. M.14, s. 107; 2000, c. 26, Sched. M, s. 17; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 17 - 26/12/2000

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Reference from court to Tribunal

108 Where in the opinion of the court in which an action is brought the proceeding may be more conveniently dealt with or disposed of by the Tribunal, the court may, upon the application of a party or otherwise and at any stage of the proceeding, refer the action or any question therein to the Tribunal as a referee on such terms as to the court seems just and the Tribunal shall thereafter give directions for the continuance of the proceeding before the Tribunal, and, subject to the order of reference, all costs are in the Tribunal's discretion. R.S.O. 1990, c. M.14, s. 108; 2017, c. 8, Sched. 17, s. 7 (1, 12).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (1, 12) - 01/04/2018

Transfer from court to Tribunal

109 Where a proceeding that should have been taken before the Tribunal is brought in a court, the court may, upon the application of a party or otherwise and at any stage of the proceeding, transfer it to the Tribunal. R.S.O. 1990, c. M.14, s. 109; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Disputes

110 (1) A recorder may hear and, subject to the right of appeal provided in section 112, determine disputes between persons with respect to unpatented mining claims. 1999, c. 12, Sched. O, s. 39 (1).

Same

(2) If a dispute relates to whether the provisions of this Act regarding mining claims have been complied with, the recorder shall hear and determine the dispute unless,

- (a) the Tribunal orders otherwise; or
- (b) the Tribunal agrees to hear and determine the question pursuant to a request made by the recorder. 1999, c. 12, Sched. O, s. 39 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Note of decision

(3) The recorder shall,

- (a) record a detailed note of all decisions that he or she makes;
- (b) notify all persons affected by a decision in the prescribed manner; and
- (c) make any necessary changes in the mining claims registry to reflect the decision. 2017, c. 6, Sched. 2, s. 65 (1).

(4) REPEALED: 1999, c. 12, Sched. O, s. 39 (2).

Finality of decision

(5) The decision of the recorder is final and binding unless appealed from as provided in section 112. R.S.O. 1990, c. M.14, s. 110 (5).

(6) REPEALED: 2017, c. 6, Sched. 2, s. 65 (2).

(7) REPEALED: 1999, c. 12, Sched. O, s. 39 (3).

(8)-(10) REPEALED: 2017, c. 6, Sched. 2, s. 65 (2).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 39 (1-5) - 30/06/2000

2017, c. 6, Sched. 2, s. 65 (1, 2) - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Proceedings before recorder

Directions as to conduct of proceedings

111 (1) The recorder may give directions for the conduct and carrying on of proceedings before him or her, and in so doing the cheapest and simplest methods of determining the questions arising that afford to all interested parties an adequate opportunity of knowing the issues in the proceedings and of presenting material and making representations on their behalf shall be adopted. R.S.O. 1990, c. M.14, s. 111 (1).

Reasons for decision

(2) The recorder shall give reasons for any decision made in proceedings before him or her. R.S.O. 1990, c. M.14, s. 111 (2).

Enforcement of decision

(3) A copy of the final decision of a recorder may be filed with the Superior Court of Justice under section 19 of the *Statutory Powers Procedure Act*, which applies thereto. R.S.O. 1990, c. M.14, s. 111 (3); 2000, c. 26, Sched. M, s. 17.

Application of *Statutory Powers Procedure Act*

(4) Except as provided in subsection (3), the *Statutory Powers Procedure Act* does not apply to proceedings before the recorder. R.S.O. 1990, c. M.14, s. 111 (4).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 17 - 26/12/2000

Appeal to Tribunal

112 (1) A person affected by a decision of or by any act or thing, whether ministerial, administrative or judicial, done, or refused or neglected to be done by a recorder may appeal to the Tribunal, except where the appeal is with respect to consultation with Aboriginal communities, Aboriginal or treaty rights or to the assertion of Aboriginal or treaty rights. R.S.O. 1990, c. M.14, s. 112 (1); 2009, c. 21, s. 52 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Where public interest affected

(2) Where, in the opinion of the Minister, the public interest is affected by a decision, act or thing mentioned in subsection (1), an officer or employee of the Ministry designated by the Minister for that purpose may,

(a) be added as a party to an appeal taken under subsection (1); or

(b) take an appeal under subsection (1), in which case no fee in respect of the appeal is payable. R.S.O. 1990, c. M.14, s. 112 (2).

Appeal

(3) An appeal to the Tribunal shall be by notice of appeal. 1999, c. 12, Sched. O, s. 40; 2009, c. 21, s. 52 (2); 2017, c. 8, Sched. 17, s. 7 (1).

Service and filing of appeal

(4) The appellant shall file the notice of appeal with the Tribunal and serve it on the recorder and all other affected parties within 30 days after the recording of the decision or the doing of the other act or thing that is the subject of the appeal. 1999, c. 12, Sched. O, s. 40; 2017, c. 8, Sched. 17, s. 7 (1).

Extension of time for service

(5) If an appeal has been properly filed but service has not been effected in accordance with subsection (4) despite reasonable efforts to do so and the Tribunal is otherwise satisfied that the case is a proper one for appeal, the Tribunal may extend the time for service and may make such order for substitutional or other service as it considers just. 1999, c. 12, Sched. O, s. 40; 2017, c. 8, Sched. 17, s. 7 (1, 13).

Appeal by affected person

- (6) The Tribunal may allow a person other than the appellant to appeal the decision, act or thing if the person,
- (a) is affected by the decision, act or thing;
 - (b) has not been notified as provided under section 76 or 110;
 - (c) has apparently suffered substantial injustice; and
 - (d) has not caused undue delay. 1999, c. 12, Sched. O, s. 40; 2017, c. 8, Sched. 17, s. 7 (1).

Service

(7) The notice of appeal shall indicate an address in Ontario at which the appellant may be served with any notice or document relating to the appeal. 1999, c. 12, Sched. O, s. 40.

Sufficient service

(8) A notice or document is sufficiently served on the appellant if it is left with an adult at that address or if it is sent to the appellant at that address. 1999, c. 12, Sched. O, s. 40.

Same

(9) If no address for service is given as required under subsection (7), any notice or document relating to the appeal may be served on the appellant by posting a copy of it. 1999, c. 12, Sched. O, s. 40.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 40 - 30/06/2000

2009, c. 21, s. 52 (1, 2) - 28/10/2009

2017, c. 8, Sched. 17, s. 7 (1, 13) - 01/04/2018

Hearing

113 The Tribunal shall determine,

- (a) an appeal from a recorder, after a hearing by way of a new hearing; and
- (b) a dispute referred to in section 48 or a claim, question, dispute or other matter within its jurisdiction after a hearing, pursuant to an appointment fixing the time and place for the hearing. R.S.O. 1990, c. M.14, s. 113; 2017, c. 8, Sched. 17, s. 7 (1, 14).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (1, 14) - 01/04/2018

Application for appointment for hearing

114 (1) Application to the Tribunal for an appointment for a hearing may be made in writing by any party to the proceeding upon such notice and to such persons as the Tribunal directs. R.S.O. 1990, c. M.14, s. 114 (1); 1997, c. 40, s. 7; 2009, c. 21, s. 53; 2017, c. 8, Sched. 17, s. 7 (1).

Time for hearing

(2) The Tribunal may fix such time for a hearing as will permit the matter to be disposed of as promptly as possible, allowing adequate time to the parties to prepare their cases but, unless all parties consent thereto, the hearing shall be held not less than ten days after service of the appointment for the hearing on the parties. R.S.O. 1990, c. M.14, s. 114 (2); 2017, c. 8, Sched. 17, s. 7 (1).

Place for a hearing

(3) The Tribunal shall select as the place for a hearing such place as it considers most convenient for the parties in the district, upper-tier municipality or local municipality or in one of them in which the lands or mining rights affected are situate

unless it appears to the Tribunal desirable that the hearing should be in some other municipality or district. 2002, c. 17, Sched. F, Table; 2017, c. 8, Sched. 17, s. 7 (1, 15).

Leave for hearing

(4) In any matter or proceeding, other than an appeal, in any case where leave to take the proceeding is necessary, the Tribunal may give leave upon such terms as to security for costs or otherwise as the Tribunal considers just. R.S.O. 1990, c. M.14, s. 114 (4); 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

1997, c. 40, s. 7 - 18/12/1997

2002, c. 17, Sched. F, Table - 01/01/2003

2009, c. 21, s. 53 - 28/10/2009

2017, c. 8, Sched. 17, s. 7 (1, 15) - 01/04/2018

Service of appointment for hearing

115 (1) The Tribunal shall cause a copy of an appointment for a hearing before it to be served upon all parties, which shall, except in the case of an appeal or a dispute under section 48, state briefly the particulars of the right or question in issue or of the dispute. R.S.O. 1990, c. M.14, s. 115 (1); 2017, c. 8, Sched. 17, s. 7 (1, 16).

Hearing may proceed in absence of party

(2) The appointment shall state that if a person has been served and does not attend the hearing, the Tribunal may proceed in that person's absence and that person is not entitled to notice of any further proceedings. R.S.O. 1990, c. M.14, s. 115 (2); 2017, c. 8, Sched. 17, s. 7 (1).

Statutory Powers Procedure Act

(3) Service of the appointment by mail constitutes reasonable notice for the purpose of subsection 6 (1) of the *Statutory Powers Procedure Act*. 1999, c. 12, Sched. O, s. 41.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 41 - 30/06/2000

2017, c. 8, Sched. 17, s. 7 (1, 16) - 01/04/2018

Powers of Tribunal re proceedings

116 (1) Sections 114 and 115 apply despite the *Statutory Powers Procedure Act* and, subject to that Act, the Tribunal may,

- (a) give directions for having any matter or proceeding heard and decided without unnecessary formality;
- (b) order the filing or serving of statements, particulars, objections or answers, the production of documents and things, under oath or otherwise, and the making of amendments;
- (c) give such other directions respecting the procedure and hearing as it considers proper;
- (d) make any appointment, notice or other proceeding returnable forthwith or at such time as it considers proper;
- (e) order or allow such substituted or other service as it considers proper;
- (f) upon the application of a party to the proceedings, order the examination of any other party before an official examiner appointed under the *Courts of Justice Act*; and
- (g) order any party to the proceedings who intends to present evidence at the hearing to file with the Tribunal and serve on each of the other parties, prior to the appearance of any witness and within such time as the Tribunal directs, a statement indicating the evidence intended to be relied upon. R.S.O. 1990, c. M.14, s. 116 (1); 2017, c. 8, Sched. 17, s. 7 (1, 17).

Taking of evidence

(2) The Tribunal may take or order the evidence of any witness to be taken at any place in or out of Ontario. R.S.O. 1990, c. M.14, s. 116 (2); 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (1, 17) - 01/04/2018

Decision of Tribunal

117 Despite the *Statutory Powers Procedure Act*, the Tribunal may hear and dispose of any application not involving the final determination of the matter or proceeding, either on or without notice, at any place it considers convenient, and the Tribunal's decision upon any such application is final and is not subject to appeal but, where the Tribunal makes its decision without notice, it may later reconsider and amend such decision. 2017, c. 8, Sched. 17, s. 7 (18).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (18) - 01/04/2018

Expert assistance

118 The Tribunal may obtain the assistance of engineers, surveyors or other scientific persons who may, under the Tribunal's order, view and examine the property in question, and in giving a decision the Tribunal may give such weight to their opinion or report as it considers proper. 2017, c. 8, Sched. 17, s. 7 (18).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (18) - 01/04/2018

Tribunal may call for evidence and view property

119 (1) The Tribunal, in addition to hearing the evidence adduced by the parties, may require and receive such other evidence as it considers proper, and may view and examine the property in question and give a decision upon such evidence or view and examination, or may appoint a person to make an inspection of the property, and may receive as evidence and act upon the report of the person so appointed. 2017, c. 8, Sched. 17, s. 7 (18).

Statement of view or special knowledge

(2) Where the Tribunal proceeds partly on a view or on any special knowledge or skill possessed by the Tribunal itself, the Tribunal shall put in writing a statement of the same sufficiently full to enable a judgment to be formed of the weight that should be given thereto. 2017, c. 8, Sched. 17, s. 7 (18).

View only

(3) Where the parties consent in writing, the Tribunal may proceed wholly upon a view, and in such case its decision is final and is not subject to appeal. 2017, c. 8, Sched. 17, s. 7 (18).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (18) - 01/04/2018

Disclosure of evidence to parties

120 Where the Tribunal receives any opinion, report or evidence under section 118 or 119 in a proceeding before the Tribunal, the opinion, report or evidence shall be disclosed to the parties to the proceeding who, if they so request, shall be afforded an opportunity of cross-examining the person expressing the opinion, making the report or giving the evidence. 2017, c. 8, Sched. 17, s. 7 (18).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (18) - 01/04/2018

Decision on the merits

121 The Tribunal shall give a decision upon the real merits and substantial justice of the case. 2017, c. 8, Sched. 17, s. 7 (18).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (18) - 01/04/2018

Security for costs

122 Where the Tribunal considers the matter or proceeding vexatious or where it is brought by a person residing out of Ontario, the Tribunal may order that such security for costs as it considers proper be given and that in default of such security being given within the time limited or in default of speedy prosecution the matter or proceeding be dismissed. 2017, c. 8, Sched. 17, s. 7 (18).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (18) - 01/04/2018

Use of court rooms, etc.

123 Where the hearing is to be held at a place where a court house is situate, the Tribunal has the right to use the court room, and where the hearing is to take place in a municipality in which there is a hall belonging to the municipality, but no court room, the Tribunal has the right to use the hall. R.S.O. 1990, c. M.14, s. 123; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Sheriffs, etc., to assist

124 Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Tribunal in the exercise of the powers conferred on the Tribunal by this Act whenever required to do so and shall upon the certificate of the Tribunal be paid the same fees as for similar services in carrying out the orders of a judge of the Superior Court of Justice. R.S.O. 1990, c. M.14, s. 124; 2000, c. 26, Sched. M, s. 17; 2017, c. 8, Sched. 17, s. 7 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, the French version of section 124 of the Act is amended. (See: 2019, c. 14, Sched. 7, s. 3)

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 17 - 26/12/2000

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

2019, c. 14, Sched. 7, s. 3 - not in force

Recording of evidence

125 The evidence taken before the Tribunal shall be recorded and, if required, copies or a transcript thereof shall be furnished upon the same terms as in the Superior Court of Justice. R.S.O. 1990, c. M.14, s. 125; 2000, c. 26, Sched. M, s. 17; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 17 - 26/12/2000

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Costs

126 The Tribunal may in its discretion award costs to any party, and may direct that such costs be assessed by an assessment officer or may order that a lump sum be paid in lieu of assessed costs. R.S.O. 1990, c. M.14, s. 126; 2017, c. 8, Sched. 17, s. 7 (1, 19).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (1, 19) - 01/04/2018

Scale of costs

127 (1) The costs and disbursements payable upon proceedings before the Tribunal shall be according to the tariff of the Superior Court of Justice. R.S.O. 1990, c. M.14, s. 127 (1); 2000, c. 26, Sched. M, s. 17; 2017, c. 8, Sched. 17, s. 7 (1).

Counsel fees

(2) The Tribunal has the same powers as an assessment officer of the Superior Court of Justice with respect to counsel fees. R.S.O. 1990, c. M.14, s. 127 (2); 2000, c. 26, Sched. M, s. 17; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 17 - 26/12/2000

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Witness fees

128 The fee and attendance money to be paid to a witness before the Tribunal or recorder shall be according to the Superior Court of Justice scale. R.S.O. 1990, c. M.14, s. 128; 2000, c. 26, Sched. M, s. 17; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 17 - 26/12/2000

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Decision of Tribunal

Form of decision

129 (1) Except where inapplicable, the decision of the Tribunal shall be in the form of an order or judgment, but need not show upon its face that any proceeding or notice was had or given or that any circumstance existed necessary to give jurisdiction to make the order or judgment. R.S.O. 1990, c. M.14, s. 129 (1); 2017, c. 8, Sched. 17, s. 7 (1).

When order of Tribunal takes effect

(2) Every order or judgment of the Tribunal shall take effect immediately upon its signing, subject to any express provision therein. R.S.O. 1990, c. M.14, s. 129 (2); 2017, c. 8, Sched. 17, s. 7 (1).

Oral reasons

(3) Despite section 17 of the *Statutory Powers Procedure Act*, the reasons for a decision of the Tribunal may be delivered orally. R.S.O. 1990, c. M.14, s. 129 (3); 2017, c. 8, Sched. 17, s. 7 (1).

Order sent to recorder

(4) The Tribunal shall forward a copy of each order or judgment to a recorder who shall amend the records in the mining claims registry as necessary. 2017, c. 6, Sched. 2, s. 66; 2017, c. 8, Sched. 17, s. 8 (3).

Notice of amendment to records

(5) As soon as possible after amending the records in accordance with subsection (4), a recorder shall, in the prescribed manner, give notice in writing of the amendment of the records to the parties to the hearing before the Tribunal. 2017, c. 6, Sched. 2, s. 66; 2017, c. 8, Sched. 17, s. 8 (3).

(6) REPEALED: 1994, c. 27, s. 130.

(7) REPEALED: 1999, c. 12, Sched. O, s. 42 (3).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 130 - 09/12/1994; 1996, c. 1, Sched. O, s. 24 - 30/01/1996; 1999, c. 12, Sched. O, s. 42 (1-3) - 30/06/2000

2017, c. 6, Sched. 2, s. 66 - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018; 2017, c. 8, Sched. 17, s. 8 (3) - 10/04/2018

Final order or judgment

130 The Tribunal shall send to the parties an order or judgment of the Tribunal that finally disposes of any matter at issue. 1999, c. 12, Sched. O, s. 43; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 43 - 30/06/2000

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Certified copy of order or judgment

131 Any party to a proceeding is entitled to a certified copy of any order or judgment. R.S.O. 1990, c. M.14, s. 131; 1997, c. 40, s. 7; 2009, c. 21, s. 54.

Section Amendments with date in force (d/m/y)

1997, c. 40, s. 7 - 18/12/1997

2009, c. 21, s. 54 - 28/10/2009

Stay of proceedings

132 Where a certified copy of a final decision of a recorder has been filed with the Superior Court of Justice under section 19 of the *Statutory Powers Procedure Act*, the Tribunal or the court may stay proceedings therein if an appeal from the decision is brought until final disposition of the appeal. R.S.O. 1990, c. M.14, s. 132; 2000, c. 26, Sched. M, s. 17; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 17 - 26/12/2000

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Appeal to Divisional Court

133 Where not otherwise provided, an appeal lies to the Divisional Court from any decision of the Tribunal, including an order dismissing a matter or proceeding under section 122. R.S.O. 1990, c. M.14, s. 133; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Appeal procedures

Time for appeal

134 (1) Except in the case of a reference under section 108 or the *Arbitration Act, 1991*, an order or judgment of the Tribunal is final and conclusive unless, where an appeal may be brought, it is brought within 30 days after notice of the order or judgment is sent under section 130. 1999, c. 12, Sched. O, s. 44 (1); 2009, c. 21, s. 55; 2017, c. 8, Sched. 17, s. 7 (1).

Notice of appeal

(2) The appeal shall be brought by filing a notice of appeal with the Divisional Court and the appellant shall send a copy of the notice of appeal to the Tribunal, the recorder and the parties to the hearing before the Tribunal. 1999, c. 12, Sched. O, s. 44 (2); 2017, c. 8, Sched. 17, s. 7 (1).

Transmission of documents

(3) On receiving a copy of the notice of appeal, the Tribunal shall send the order or judgment appealed from to the Divisional Court, along with the exhibits, papers and other documents filed on the hearing before the Tribunal. 1999, c. 12, Sched. O, s. 44 (2); 2017, c. 8, Sched. 17, s. 7 (1).

(4) REPEALED: 1999, c. 12, Sched. O, s. 44 (3).

Practice

(5) The practice and procedure on an appeal including the form of notice of appeal, service of the notice of appeal on the parties, and the disposition of costs on an appeal, shall be governed by the rules of court. R.S.O. 1990, c. M.14, s. 134 (5).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 44 (1-3) - 30/06/2000

2009, c. 21, s. 55 - 28/10/2009

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Judicial review

135 (1) No application for judicial review and no other proceeding may be brought to call into question,

- (a) any decision of a recorder more than 30 days after the recording of the decision;
- (b) any order or judgment of the Tribunal more than 30 days after notice of the order or judgment is sent under section 130; or
- (c) the validity of anything done by a recorder or any other officer appointed under this Act more than 30 days after it was done. 1999, c. 12, Sched. O, s. 45; 2017, c. 8, Sched. 17, s. 7 (1).

Other proceedings

(1.1) Despite subsection (1), a proceeding may be brought calling into question any of the matters mentioned in subsection (1) more than 30 days after the recording, notice or other action mentioned in that subsection where this Act specifically permits the proceeding to be brought within a greater period of time. 1999, c. 12, Sched. O, s. 45.

No extension of time

(2) Despite anything in the *Judicial Review Procedure Act*, no court may extend any limitation of time fixed in subsection (1). R.S.O. 1990, c. M.14, s. 135 (2).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 45 - 30/06/2000

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Defects in form

136 Where the validity of a proceeding before the Tribunal or a recorder is called into question in any court on the ground of any defect of form or substance or failure to comply with this Act or the regulations, although the defect or failure is established, the court shall not, if no substantial wrong or injustice has been thereby done or occasioned, invalidate the proceeding by reason thereof, but shall confirm the proceeding, and, upon such confirmation, the proceeding shall be and be deemed to have been valid and effective from the time when it would otherwise have been effective but for such defect or failure. R.S.O. 1990, c. M.14, s. 136; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Power to extend time

137 Where power is conferred by this Act to extend the time for doing an act or taking a proceeding, unless otherwise expressly provided, the power may be exercised as well after as before the expiration of the time allowed or prescribed for doing the act or taking the proceeding. R.S.O. 1990, c. M.14, s. 137.

Time expiring on Saturday, etc.

138 (1) Where the time limited for any proceeding or for the doing of anything in one of the following offices expires or falls upon a Saturday, Sunday, holiday or any other day on which the relevant office is closed, the time so limited extends to and the thing may be done on the day next following that is not a Saturday, Sunday, holiday or other day on which the relevant office is closed:

1. The Provincial Recording Office.
2. An office of a Director of Mine Rehabilitation.
3. An office of a Director of Exploration.
4. An office of the Tribunal.
5. An office of the Minister or of the Deputy Minister. 2017, c. 6, Sched. 2, s. 67; 2017, c. 8, Sched. 17, s. 8 (3).

Time expiring when system down

(2) Where the time limited for doing anything that requires accessing the Ministry's mining lands administration system falls on a day on which that system is not available for any reason, a recorder may order, before or after the expiry of the time, an extension of time, subject to the regulations. 2017, c. 6, Sched. 2, s. 67.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 138 of the Act is amended by adding the following subsection: (See: 2020, c. 34, Sched. 8, s. 8)

Same, effect on leases

(2.1) If a recorder grants an extension of time under subsection (2) in relation to an application to renew a lease under this Act, the lease is deemed not to expire or have expired, as the case may be, until the expiry of the extension of time. 2020, c. 34, Sched. 8, s. 8.

Extension of time, assessment work

(3) If a recorder grants an extension of time with respect to a deadline for submitting a report of assessment work or making payments in place of assessment work for a mining claim after the anniversary date of the mining claim, the claim holder's interest in the mining claim is deemed not to have ceased under section 72 and the mining claim is deemed not to be forfeit under that section. 2017, c. 6, Sched. 2, s. 67.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 25 - 30/01/1996

2017, c. 6, Sched. 2, s. 67 - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018; 2017, c. 8, Sched. 17, s. 8 (3) - 10/04/2018

2020, c. 34, Sched. 8, s. 8 - not in force

PART VII REHABILITATION OF MINING LANDS

Definitions and application of Part

Definitions

139 (1) In this Part,

“advanced exploration” means the excavation of an exploratory shaft, adit or decline, the extraction of prescribed material in excess of the prescribed quantity, whether the extraction involves the disturbance or movement of prescribed material located above or below the surface of the ground, the installation of a mill for test purposes or any other prescribed work; (“exploration avancée”)

“adverse effect” means,

- (a) injury or damage to property,
- (b) harm or material discomfort to any person,
- (c) a detrimental effect on any person’s health,
- (d) impairment of any person’s safety,
- (e) a severe detrimental effect on the environment; (“conséquence préjudiciable”)

“closed out” means that the final stage of closure has been reached and that all the requirements of a closure plan have been complied with; (“fermé”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “closed out” in subsection 139 (1) of the Act is amended by adding “filed” before “closure plan”. (See: 2019, c. 14, Sched. 7, s. 4 (1))

“closure” means the temporary suspension, inactivity or close out of advanced exploration, mining or mine production; (“fermeture”)

“closure plan” means a plan to rehabilitate a site or mine hazard that has been prepared in the prescribed manner and filed in accordance with this Act and that includes provision in the prescribed manner of financial assurance to the Crown for the performance of the closure plan requirements; (“plan de fermeture”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “closure plan” in subsection 139 (1) of the Act is repealed and the following substituted: (See: 2019, c. 14, Sched. 7, s. 4 (2))

“closure plan” means a plan prepared under this Part to rehabilitate a site or mine hazard; (“plan de fermeture”)

“Director” means a Director of Mine Rehabilitation appointed under subsection 153 (2); (“directeur”)

“inactivity” means the indefinite suspension of a project in accordance with a filed closure plan where protective measures are in place but the site is not being continuously monitored by the proponent; (“inactivité”)

“mine production” means mining that is producing any mineral or mineral-bearing substance for immediate sale or stockpiling for future sale, and includes the development of a mine for such purposes; (“production minière”)

“progressive rehabilitation” means rehabilitation done continually and sequentially during the entire period that a project or mine hazard exists; (“réhabilitation progressive”)

“project” means a mine or the activity of advanced exploration, mining or mine production; (“projet”)

“proponent” means the holder of an unpatented mining claim or licence of occupation or an owner as defined in section 1; (“promoteur”)

“protective measures” means steps taken in accordance with the prescribed standards to protect public health and safety, property and the environment; (“mesures de protection”)

“rehabilitate” means measures, including protective measures, taken in accordance with the prescribed standards to treat a site or mine hazard so that the use or condition of the site,

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “rehabilitate” in subsection 139 (1) of the Act is amended by striking out “measures, including protective measures, taken” in the portion before clause (a) and substituting “to take measures, including protective measures”. (See: 2019, c. 14, Sched. 7, s. 4 (3))

- (a) is restored to its former use or condition, or
- (b) is made suitable for a use that the Director sees fit; (“réhabiliter”)

“site” means the land or lands on which a project or mine hazard is located; (“lieu”)

“temporary suspension” means the planned or unplanned suspension of a project in accordance with a filed closure plan where protective measures are in place and the site is being monitored continuously by the proponent. (“suspension temporaire”) 1996, c. 1, Sched. O, s. 26.

Application of Part

- (2) Without restricting the scope of this Part, this Part applies to projects including,
- (a) the underground mining of minerals, excluding natural gas, petroleum and salt by brining method;
 - (b) the surface mining of metallic minerals;
 - (c) the surface mining of non-metallic minerals, excluding natural gas, petroleum and aggregate as defined in the *Aggregate Resources Act*, on land that is not Crown land;
 - (d) advanced exploration on mining lands. 1996, c. 1, Sched. O, s. 26.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 134 (7) - 09/12/1994; 1996, c. 1, Sched. O, s. 26 - 30/06/2000; 1999, c. 12, Sched. O, s. 46 - 30/06/2000

2019, c. 14, Sched. 7, s. 4 (1-3) - not in force

PROGRESSIVE REHABILITATION

Progressive rehabilitation

139.1 (1) A proponent shall take all reasonable steps to progressively rehabilitate a site whether or not closure has commenced or a closure plan has been filed. 1996, c. 1, Sched. O, s. 26.

Report required

(2) A proponent who undertakes progressive rehabilitation of a site without being subject to a closure plan shall complete the rehabilitation work to the appropriate prescribed standard and submit to the Director a report prepared in the prescribed form within 60 days of the completion of the work. 1996, c. 1, Sched. O, s. 26.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 139.1 (2) is amended by striking out “being subject to a closure plan” and substituting “a filed closure plan”. (See: 2019, c. 14, Sched. 7, s. 5)

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 26 - 30/06/2000

2019, c. 14, Sched. 7, s. 5 - not in force

VOLUNTARY REHABILITATION

Approval to rehabilitate

139.2 (1) Any person may apply to the Director for approval to rehabilitate a mine hazard on Crown land or on any other prescribed land. 2007, c. 7, Sched. 22, s. 1.

Application

- (2) An application under subsection (1) must be made in the prescribed manner and must contain,
- (a) a description of the land on which the mine hazard is located;
 - (b) a rehabilitation plan setting out how the rehabilitation will meet the prescribed standards. 2007, c. 7, Sched. 22, s. 1.

Determination of application

(3) The Director shall review the application and shall determine whether to grant written approval for the rehabilitation of the mine hazard or to reject the application. 2007, c. 7, Sched. 22, s. 1.

Conditions

(4) The Director may grant approval under subsection (3) subject to any conditions, including conditions that require the applicant to modify the rehabilitation plan. 2007, c. 7, Sched. 22, s. 1.

Aboriginal consultation

(4.1) In determining whether to grant approval for the rehabilitation of the mine hazard, the Director shall consider whether Aboriginal community consultation has occurred in accordance with any prescribed requirements. 2009, c. 21, s. 56.

Modifying rehabilitation plan

(5) A person who receives approval under subsection (3) may apply to the Director to modify the rehabilitation plan and if the Director permits the modification, the rehabilitation plan shall be modified accordingly. 2007, c. 7, Sched. 22, s. 1.

Rehabilitation plan

(6) Nothing in subsection (3) requires a person to rehabilitate the mine hazard, but if the person proceeds with the rehabilitation, the person shall rehabilitate the mine hazard in accordance with the rehabilitation plan. 2007, c. 7, Sched. 22, s. 1.

No orders

(7) On and after the day that a person begins rehabilitation of a mine hazard pursuant to an approval granted under subsection (3),

- (a) no order or direction under section 7, 8, 18, 43 or 157.1 of the *Environmental Protection Act* or section 16.1, 16.2, 31, 32 or 61 of the *Ontario Water Resources Act* shall be issued to the person in respect of the land described in the rehabilitation plan; and
- (b) no order shall be issued under section 97 of the *Environmental Protection Act* in respect of a pollutant that spilled on, in or under the lands described in the rehabilitation plan, unless the person conducting the rehabilitation caused or permitted the spill. 2007, c. 7, Sched. 22, s. 1.

Orders before rehabilitation

(8) Nothing in subsection (7) affects the validity of an order made before the person begins rehabilitation. 2007, c. 7, Sched. 22, s. 1.

Acts or omissions unrelated to rehabilitation

(9) Despite subsection (7), the orders and directions mentioned in that subsection may be issued to the person in respect of the land described in the rehabilitation plan if the order or direction is in respect of an act or omission of the person that is unrelated to the rehabilitation. 2007, c. 7, Sched. 22, s. 1.

Definitions

(10) In this section,

“pollutant” has the same meaning as in subsection 91 (1) of *Environmental Protection Act*; (“polluant”)

“spill” has the same meaning as in subsection 91 (1) of *Environmental Protection Act*. (“déversement”) 2007, c. 7, Sched. 22, s. 1.

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 22, s. 1 - 05/07/2007

2009, c. 21, s. 56 - 01/11/2012

Rehabilitation not in accordance with plan

139.3 (1) If the Director has reasonable grounds for determining that a person who has begun rehabilitation pursuant to an approval under subsection 139.2 (3) is not conducting the rehabilitation of the mine hazard in accordance with the rehabilitation plan, the Director shall notify the person of the determination and the reasons for it. 2007, c. 7, Sched. 22, s. 1.

Time for response

(2) The notice referred to in subsection (1) shall specify a day by which a person may respond under subsection (3) or (4). 2007, c. 7, Sched. 22, s. 1.

Request for reconsideration

(3) A person who receives a notice under subsection (1) may request that the Director reconsider the determination and may make written submissions or submit materials in support of the request, and after considering the request the Director,

- (a) shall confirm, modify or revoke the determination; and
- (b) may modify the rehabilitation plan. 2007, c. 7, Sched. 22, s. 1.

Application to modify the plan

(4) In addition to making a request under subsection (3), a person who receives a notice under subsection (1) may apply to the Director to modify the rehabilitation plan, and if the Director permits the modification, the rehabilitation plan shall be modified accordingly. 2007, c. 7, Sched. 22, s. 1.

Order to rehabilitate

(5) If a person who receives a notice under subsection (1) does not respond under subsection (3) or (4) by the day specified in the notice, the Director may issue an order to the person to rehabilitate the mine hazard in accordance with the rehabilitation plan. 2007, c. 7, Sched. 22, s. 1.

Same

(6) An order under subsection (5) shall specify a day by which the rehabilitation must be completed. 2007, c. 7, Sched. 22, s. 1.

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 22, s. 1 - 05/07/2007

No appeal

139.4 Any decision made by the Director under section 139.2 or 139.3 is final and is not subject to appeal. 2007, c. 7, Sched. 22, s. 1.

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 22, s. 1 - 05/07/2007

Immunity

139.5 Despite subsection 4(4), no action or other proceeding shall be brought against the Crown, the Minister or an employee or agent of the Crown for any act or omission arising out of or in relation to the review or approval of a rehabilitation plan under section 139.2 or any modification to the plan. 2007, c. 7, Sched. 22, s. 1.

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 22, s. 1 - 05/07/2007

ADVANCED EXPLORATION AND MINE PRODUCTION

Note: On a day to be named by proclamation of the Lieutenant Governor, the heading before section 140 of the Act is repealed and the following substituted: (See: 2019, c. 14, Sched. 7, s. 6)

ADVANCED EXPLORATION AND MINE PRODUCTION — CLOSURE PLANS

Advanced exploration

140 (1) No proponent other than a proponent who is subject to a closure plan shall commence or recommence advanced exploration unless,

- (a) the proponent has given a Notice of Project Status to the Director in the prescribed manner;
- (b) the proponent has given public notice if required under subsection (3);
- (c) Aboriginal consultation has been conducted in accordance with the regulations, which may provide that the Director, in considering whether he or she is satisfied that appropriate consultation has been carried out, may take into account any arrangements that have been made with Aboriginal communities potentially affected by the advanced exploration;
- (d) the proponent has filed a certified closure plan with the Director as required under subsection (4); and
- (e) the proponent has received a written acknowledgment of receipt of the certified closure plan from the Director. 2009, c. 21, s. 57.

Amendments

(2) If a proponent files an amendment to a certified closure plan under subsection 143 (2), the proponent shall not commence any of the advanced exploration mentioned in the amendment until it has received the Director's written notice that the amendment has been filed pursuant to subsection 143 (8). 2009, c. 21, s. 57.

Public notice

(3) Within 45 days after receiving the notice under clause (1) (a), the Director may require the proponent to give public notice of the advanced exploration project at the prescribed time and in the prescribed manner. 2009, c. 21, s. 57.

Closure plan

(4) The proponent of an advanced exploration project shall file with the Director a closure plan certified in the prescribed manner certifying that the plan complies with the prescribed requirements and, if the proponent has been required to give public notice, the proponent shall file the closure plan after giving the public notice. 2009, c. 21, s. 57.

Acknowledgment of receipt

(5) Within 45 days after the filing of the certified closure plan, the Director shall,

- (a) give the proponent written acknowledgment that he or she has received the closure plan; or
- (b) return the closure plan for refiling if it does not sufficiently address all of the prescribed requirements for a certified closure plan. 2009, c. 21, s. 57.

Effect of acknowledgment

(6) The certified closure plan of a proponent who receives a written acknowledgment of receipt under clause (5) (a) is considered filed as of the date indicated on the written acknowledgment of receipt. 2009, c. 21, s. 57.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 140 of the Act is repealed and the following substituted: (See: 2019, c. 14, Sched. 7, s. 6)

Advanced exploration

140 (1) No proponent shall commence advanced exploration unless the following conditions have been satisfied:

1. The proponent has given a Notice of Project Status to the Director in the prescribed manner and within the prescribed time period, if any.
2. If the Director has required the proponent, within 45 days after receiving the notice under paragraph 1, to give public notice of the advanced exploration, the proponent has given public notice at the prescribed time and in the prescribed manner.
3. The Director is satisfied that appropriate consultation with Aboriginal communities has been carried out in accordance with the regulations, which may include taking into account arrangements that have been reached with Aboriginal communities potentially affected by the advanced exploration.
4. After the conditions set out in paragraphs 2 and 3 have been met, the proponent has submitted to the Director a closure plan that,
 - i. includes financial assurance as required under this Act and the regulations, and
 - ii. meets any other prescribed requirements.
5. The proponent has received written confirmation from the Director that the closure plan has been filed. 2019, c. 14, Sched. 7, s. 6.

Filing or returning closure plan

(2) No later than 45 days after a proponent has submitted a closure plan, the Director shall,

- (a) file the closure plan and give the proponent written confirmation that the closure plan has been filed as of the date of the written confirmation; or
- (b) decide not to file the closure plan and return it to the proponent for resubmission, if the submitted closure plan does not meet the requirements of this Act and the regulations. 2019, c. 14, Sched. 7, s. 6.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 26 - 30/06/2000; 1999, c. 12, Sched. O, s. 47 - 30/06/2000

2009, c. 21, s. 57 - 01/11/2012

2019, c. 14, Sched. 7, s. 6 - not in force

Mine production

141 (1) No proponent other than a proponent who is subject to a closure plan shall commence or recommence mine production unless,

- (a) the proponent has given a Notice of Project Status to the Director in the prescribed manner;
- (b) the proponent has given public notice at the prescribed time and in the prescribed manner;
- (c) Aboriginal consultation has been conducted in accordance with the regulations, which may provide that the Director, in considering whether he or she is satisfied that appropriate consultation has been carried out, may take into account any arrangements that have been made with Aboriginal communities potentially affected by the mine production;
- (d) the proponent has filed a certified closure plan with the Director as required under subsection (3); and
- (e) the proponent has received a written acknowledgment of receipt of the certified closure plan from the Director. 2009, c. 21, s. 57.

Amendments

(2) If a proponent files an amendment to a certified closure plan under subsection 143 (2), the proponent shall not commence any of the mine production mentioned in the amendment until it has received the Director's written notice that the amendment has been filed pursuant to subsection 143 (8). 2009, c. 21, s. 57.

Closure plan

(3) After public notice has been given under clause (1) (b), the proponent shall file with the Director a closure plan certified in the prescribed manner certifying that the plan complies with the prescribed requirements. 2009, c. 21, s. 57.

Acknowledgment of receipt

- (4) Within 45 days after the filing of the certified closure plan, the Director shall,
- (a) give the proponent written acknowledgment that he or she has received the closure plan; or
 - (b) return the closure plan for refiling if it does not sufficiently address all of the prescribed requirements for a certified closure plan. 2009, c. 21, s. 57.

Effect of acknowledgment

(5) The certified closure plan of a proponent who receives a written acknowledgment of receipt under clause (4) (a) is considered filed as of the date indicated on the written acknowledgment of receipt. 2009, c. 21, s. 57.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 141 of the Act is repealed and the following substituted: (See: 2019, c. 14, Sched. 7, s. 6)

Mine production

141 (1) No proponent shall commence mine production unless the following conditions have been satisfied:

1. The proponent has given a Notice of Project Status to the Director in the prescribed manner and within the prescribed time period, if any.
2. The proponent has given public notice at the prescribed time and in the prescribed manner.
3. The Director is satisfied that appropriate consultation with Aboriginal communities has been carried out in accordance with the regulations, which may include taking into account arrangements that have been reached with Aboriginal communities potentially affected by the mine production.
4. After the conditions set out in paragraphs 2 and 3 have been met, the proponent has submitted to the Director a closure plan that,
 - i. includes financial assurance as required under this Act and the regulations, and
 - ii. meets any other prescribed requirements.
5. The proponent has received written confirmation from the Director that the closure plan has been filed. 2019, c. 14, Sched. 7, s. 6.

Filing or returning closure plan

(2) No later than 45 days after a proponent has submitted a closure plan, the Director shall,

- (a) file the closure plan and give the proponent written confirmation that the closure plan has been filed as of the date of the written confirmation; or
- (b) decide not to file the closure plan and return it to the proponent for resubmission, if the submitted plan does not meet the requirements of this Act and the regulations. 2019, c. 14, Sched. 7, s. 6.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 26 - 30/06/2000

2009, c. 21, s. 57 - 01/11/2012

2019, c. 14, Sched. 7, s. 6 - not in force

Recommencing after suspension, inactivity

141.1 (1) This section applies in respect of a proponent who has a filed closure plan under section 140 or 141 for a project if the project has been in a state of temporary suspension or inactivity. 2019, c. 14, Sched. 7, s. 6.

Prohibition

(2) A proponent mentioned in subsection (1) shall not recommence the advanced exploration or mine production after the temporary suspension or inactivity unless the following conditions have been met:

1. The proponent has given a new Notice of Project Status and, if applicable, a Notice of Material Change to the Director, in the prescribed manner and within the prescribed time period, if any.
2. An amendment to the filed closure plan, if required under section 143, has been filed in accordance with that section. 2019, c. 14, Sched. 7, s. 6.

Section Amendments with date in force (d/m/y)

2019, c. 14, Sched. 7, s. 6 - not in force

Compliance with filed closure plan

141.2 A proponent who has a filed closure plan or a filed amendment to a closure plan shall comply with the closure plan or the closure plan as amended, as the case may be. 2019, c. 14, Sched. 7, s. 6.

Section Amendments with date in force (d/m/y)

2019, c. 14, Sched. 7, s. 6 - not in force

Approval of closure plan

142 The provisions of this Part that apply with respect to closure plans filed under section 140, 141 or 147 apply with respect to closure plans approved under this section, as it read before the day section 58 of the *Mining Amendment Act, 2009* came into force. 2009, c. 21, s. 58.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 26 - 30/06/2000

2009, c. 21, s. 58 - 28/10/2009

CLOSURE PLANS

Note: On a day to be named by proclamation of the Lieutenant Governor, the heading before section 143 of the Act is repealed and the following substituted: (See: 2019, c. 14, Sched. 7, s. 7)

AMENDMENTS, CHANGES TO CLOSURE PLANS

Compliance with certified closure plan

143 (1) A proponent who has filed a certified closure plan under this Part shall comply with the closure plan. 1996, c. 1, Sched. O, s. 26.

Amendments

(2) The proponent may file, or the Director may at any time, by order, require that the proponent file, within the time specified in the order, amendments to the certified closure plan that have been certified in the prescribed form and manner, including amendments respecting an increase in the amount of financial assurance. 1996, c. 1, Sched. O, s. 26.

Required changes

(3) The Director may at any time, by order, require changes to a filed closure plan or to amendments to a closure plan filed under subsection (2). 1996, c. 1, Sched. O, s. 26.

Same, mine hazard under subs. 147 (1)

(3.1) If a change ordered under subsection (3) is to a closure plan filed with respect to a mine hazard under subsection 147 (1) or to amendments to such a closure plan and the order requires that a new schedule for completing the rehabilitation of the mine hazard be filed, the person affected by the order shall file the new schedule immediately. 2002, c. 18, Sched. M, s. 7.

Exception

(3.2) An order for a change to a closure plan filed with respect to a mine hazard under subsection 147 (1) or to amendments to such a closure plan that requires that a new schedule for completing the rehabilitation of the mine hazard be filed may not,

- (a) despite subsection (4), be referred to an independent third party under that subsection; or
- (b) despite clause 152 (1) (b), be appealed under that clause. 2002, c. 18, Sched. M, s. 7.

Same

(3.3) If an order under subsection (3.2) requiring the filing of a new schedule for completing the rehabilitation of the mine hazard orders other changes as well, those other changes may be referred to an independent third party under subsection (4) or be appealed under clause 152 (1) (b). 2002, c. 18, Sched. M, s. 7.

Referral to independent third party

(4) If changes are required under subsection (3), in addition to appealing any of them to the Tribunal under clause 152 (1) (b), the proponent may, within 30 days after receiving the order requiring changes, notify the Director of the desire to have any of them that are not appealed to the Tribunal referred for a decision to an independent third party agreed upon by the proponent and the Director. 1996, c. 1, Sched. O, s. 26; 2017, c. 8, Sched. 17, s. 7 (1).

No agreement on third party

(5) If the proponent and the Director are unable to agree on an independent third party within 45 days after the Director receives the notice of referral under subsection (4), the proponent who wishes to dispute the changes may appeal to the Tribunal any of the changes that the proponent desired to have referred, despite the 30 day period provided for appeal in subsection 152 (2), within 75 days after sending the notice of referral, failing which the changes that are not appealed shall be deemed to be accepted by the proponent. 1996, c. 1, Sched. O, s. 26; 2017, c. 8, Sched. 17, s. 7 (1).

Costs

(6) All costs incurred by an independent third party in connection with any work performed pursuant to a referral shall be borne by the proponent. 1996, c. 1, Sched. O, s. 26.

Decision final

(7) The decision of an independent third party is final and binds the proponent and the Director, and the closure plan shall be deemed to have been amended accordingly. 1996, c. 1, Sched. O, s. 26.

Effect of filing of amendments

(8) Upon receipt of the Director's written notice that amendments have been filed, the project shall operate subject to the certified closure plan as amended. 1996, c. 1, Sched. O, s. 26.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 143 of the Act is repealed and the following substituted: (See: 2019, c. 14, Sched. 7, s. 7)

Amendments proposed by proponent

143 (1) A proponent shall not undertake advanced exploration or mine production activities that are not included in and consistent with the proponent's filed closure plan for the project unless the following conditions have been satisfied:

1. The proponent has given a Notice of Material Change to the Director in the prescribed manner.
2. If the Director has required the proponent, within 45 days after receiving the notice under paragraph 1, to give public notice of the proposed amendment, the proponent has given public notice at the prescribed time and in the prescribed manner.
3. The Director is satisfied that appropriate consultation with Aboriginal communities has been carried out in accordance with the regulations, which may include taking into account arrangements that have been reached with Aboriginal communities potentially affected by the activities.

4. After the conditions set out in paragraphs 2 and 3 have been met, the proponent has submitted to the Director an amendment to the closure plan that,
 - i. includes financial assurance as required under this Act and the regulations, and
 - ii. meets any prescribed requirements.
5. The proponent has received written confirmation from the Director that the amendment to the closure plan has been filed. 2019, c. 14, Sched. 7, s. 7.

Amendments, ordered by Director

(2) The Director may at any time, by order, require that the proponent submit, within the time specified in the order and in accordance with the order, amendments to a filed closure plan or amendments to filed amendments to a closure plan, which may include requirements to increase the amount of financial assurance. 2019, c. 14, Sched. 7, s. 7.

Filing or returning of amendment to closure plan

- (3) No later than 45 days after a proponent has submitted an amendment to a closure plan, the Director shall,
- (a) file the amendment and give the proponent written confirmation that the amendment has been filed as of the date of the written confirmation; or
 - (b) decide not to file the amendment and return it to the proponent for resubmission, if the submitted amendment does not meet the requirements of this Act and the regulations. 2019, c. 14, Sched. 7, s. 7.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 26 - 30/06/2000

2002, c. 18, Sched. M, s. 7 - 16/12/2002

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

2019, c. 14, Sched. 7, s. 7 - not in force

Specified changes by order

143.1 (1) The Director may at any time, by order, require changes to a filed closure plan or to filed amendments to a closure plan. 2019, c. 14, Sched. 7, s. 7.

Same, mine hazard under s. 147 (1)

(2) If a change ordered under subsection (1) is to a closure plan for a mine hazard under subsection 147 (1) or to amendments to such a closure plan and the order requires that a new schedule for completing the rehabilitation of the mine hazard be submitted, the following rules apply:

1. The person affected by the order shall submit the new schedule immediately.
2. The portion of the order that requires the submission of a new schedule for completing the rehabilitation of the mine hazard shall not be,
 - i. referred to an independent third party under subsection (3), or
 - ii. appealed under clause 152 (1) (b). 2019, c. 14, Sched. 7, s. 7.

Referral to independent third party

(3) Subject to paragraph 2 of subsection (2), if changes are required under subsection (1), in addition to appealing any of them to the Tribunal under clause 152 (1) (b), the proponent may, within 30 days after receiving the order requiring changes, notify the Director of the desire to have any of them that are not appealed to the Tribunal referred for a decision to an independent third party agreed upon by the proponent and the Director. 2019, c. 14, Sched. 7, s. 7.

No agreement on third party

(4) If the proponent and the Director are unable to agree on an independent third party within 45 days after the Director receives the notice of referral under subsection (3), the proponent who wishes to dispute the changes may appeal to the Tribunal any of the changes that the proponent desired to have referred, despite the 30 day period provided for appeal in subsection 152 (2), within 75 days after sending the notice of referral, failing which the changes that are not appealed shall be deemed to be accepted by the proponent. 2019, c. 14, Sched. 7, s. 7.

Costs

(5) All costs incurred by an independent third party in connection with any work performed pursuant to a referral shall be borne by the proponent. 2019, c. 14, Sched. 7, s. 7.

Decision final

(6) The decision of an independent third party is final and binds the proponent and the Director, and an amendment to the closure plan shall be deemed to have been filed accordingly. 2019, c. 14, Sched. 7, s. 7.

Section Amendments with date in force (d/m/y)

2019, c. 14, Sched. 7, s. 7 - not in force

Notices required

Notice closure has begun

144 (1) A proponent shall forthwith notify the Director in the prescribed form and manner of the commencement of closure and of any change in the stage of closure reached. 1996, c. 1, Sched. O, s. 26.

Notice of material changes

(2) A proponent shall forthwith notify the Director in the prescribed form and manner if,

- (a) an expansion or alteration of the project is planned;
- (b) the ownership, occupancy, management or control of the project has changed; or
- (c) any other material change has occurred that could reasonably be expected to have a material effect on the adequacy of the closure plan. 1996, c. 1, Sched. O, s. 26.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 134 (8, 9) - 09/12/1994; 1996, c. 1, Sched. O, s. 26 - 30/06/2000

FINANCIAL ASSURANCE

Form and amount of financial assurance

145 (1) The financial assurance required as part of a closure plan shall be in one of the following forms and shall be in the amount specified in the closure plan filed with the Director or any amendment to it:

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 145 (1) of the Act is amended by striking out the portion before paragraph 1 and substituting the following: (See: 2019, c. 14, Sched. 7, s. 8 (1))

Form and amount of financial assurance

(1) The financial assurance required as part of a closure plan shall be in one of the following forms and shall be in the amount specified in the closure plan or amendment to a closure plan submitted to the Director, as the case may be:

1. Cash.
2. A letter of credit from a bank named in Schedule I or II to the *Bank Act* (Canada).
3. A bond of an insurer licensed under the *Insurance Act* to write surety and fidelity insurance.
4. A mining reclamation trust as defined in the *Income Tax Act* (Canada).
5. Compliance with a corporate financial test in the prescribed manner.
6. Any other form of security or any other guarantee or protection, including a pledge of assets, a sinking fund or royalties per tonne, that is acceptable to the Director. 1996, c. 1, Sched. O, s. 26; 1997, c. 19, s. 36; 2017, c. 6, Sched. 2, s. 68.

Director's order

(2) If the Director has reasonable and probable grounds for believing that a rehabilitation measure required by a filed closure plan in respect of which financial assurance was given has not been or will not be carried out in accordance with the plan, he or she may, by order, provide for the performance of the rehabilitation measure in the manner set out in subsection (5). 1996, c. 1, Sched. O, s. 26.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 145 (2) of the Act is repealed and the following substituted: (See: 2019, c. 14, Sched. 7, s. 8 (2))

Director's order

(2) If the Director has reasonable and probable grounds for believing that a rehabilitation measure required by a filed closure plan in respect of which financial assurance was given has not been or will not be carried out in accordance with the plan, he or she may, by order, provide for the performance of the rehabilitation measure in the manner set out in subsection (5). 2019, c. 14, Sched. 7, s. 8 (2).

Notice

(3) The Director shall give the proponent written notice of his or her intention to issue the order referred to in subsection (2) at least 15 days prior to the date the order is to be issued. 1996, c. 1, Sched. O, s. 26.

Parties affected

(4) Both the notice and the order referred to in this section shall be directed,

(a) to the proponent who filed the closure plan or to their successor; and

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 145 (4) (a) of the Act is amended by striking out "filed" and substituting "submitted". (See: 2019, c. 14, Sched. 7, s. 8 (3))

(b) to any person who, to the Director's knowledge, provided the financial assurance for or on behalf of the proponent or to that person's successor or assignee. 1996, c. 1, Sched. O, s. 26.

Realization of security

(5) Upon the issuance of an order by the Director under subsection (2), the Crown may use any cash, realize any letter of credit or bond or enforce any other security, guarantee or protection provided or obtained as financial assurance for the performance of the rehabilitation measures and may carry out those measures, or appoint an agent to do so, as the Director considers necessary. 1996, c. 1, Sched. O, s. 26.

Change of financial assurance

(6) If the financial assurance provided under subsection (1) is in a form other than cash, a letter of credit, a bond or a mining reclamation trust or if the proponent fails to comply in the prescribed manner with a corporate financial test, the Director may require, in the prescribed manner, that the proponent forthwith provide cash, a letter of credit, a bond or other security, guarantee or protection acceptable to the Director or that the proponent make provision for a mining reclamation trust. 1996, c. 1, Sched. O, s. 26.

Application for reduction in financial assurance

(7) A proponent may apply to the Director for a reduction of the required financial assurance to an amount consistent with the financial requirements of the rehabilitation measures left to be completed if,

(a) rehabilitation work has been performed in accordance with a filed closure plan; or

(b) a reduction in the required financial assurance is justified in a notice submitted under subsection 144 (2). 1996, c. 1, Sched. O, s. 26.

Special purpose account

(8) The amount of any cash provided as financial assurance under subsection (1) shall be paid into a special purpose account. 1996, c. 1, Sched. O, s. 26.

Payments out of account

(9) The cost of any rehabilitation measures performed by the Crown or an agent of the Crown under this Part with respect to a filed closure plan and the amount of any reduction paid in cash under subsection (7) shall be paid by the Minister of Finance out of the special purpose account. 1996, c. 1, Sched. O, s. 26.

Confidentiality

(10) The Director or any person who works for the Director's office shall preserve confidentiality with respect to all financial and commercial information relating to the establishment of a proponent's financial assurance. 1996, c. 1, Sched. O, s. 26.

F.O.I. Act

(11) Subsection (10) prevails over the *Freedom of Information and Protection of Privacy Act*. 1996, c. 1, Sched. O, s. 26.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 26 - 30/06/2000; 1997, c. 19, s. 36 - 10/10/1997

2017, c. 6, Sched. 2, s. 68 - 09/01/2018

2019, c. 14, Sched. 7, s. 8 (1-3) - not in force

146 REPEALED: 2009, c. 21, s. 59.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 26 - 30/06/2000

2006, c. 35, Sched. C, s. 67 (2) - 20/08/2007

2009, c. 21, s. 59 - 28/10/2009

MINE HAZARDS

Mine hazards, closure plan

147 (1) The Director may, in writing, order any proponent of any lands on which a mine hazard exists or any prior holder of an unpatented mining claim on any such lands, other than a current or prior holder of an unpatented mining claim with respect to a mine hazard that was created by others prior to the registration of the claim and that has not been materially disturbed or affected by the current or prior holder, as the case may be, since the registration of the claim, to file within the time specified in the order a certified closure plan to rehabilitate the mine hazard, and the proponent or prior holder shall file the certified closure plan within that time or any extension of time granted by the Director. 1996, c. 1, Sched. O, s. 26; 2017, c. 6, Sched. 2, s. 69 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 147 (1) of the Act is amended by striking out “to file within the time specified in the order a certified closure plan to rehabilitate the mine hazard, and the proponent or prior holder shall file the certified closure plan” and substituting “to submit within the time specified in the order a closure plan to rehabilitate the site or mine hazard and the proponent or prior holder shall submit the closure plan”. (See: 2019, c. 14, Sched. 7, s. 9)

Transition, application to converted mining claims

(1.1) Despite subsection (1), if an unpatented mining claim referred to in that subsection was staked and recorded on a day before the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* came into force and then converted from a legacy claim under section 38.2 and deemed to have been registered under subsection 38 (2), any reference in subsection (1) to the registration of the claim shall be deemed to be a reference to the staking of the claim. 2017, c. 6, Sched. 2, s. 69 (2).

Crown intervention

(2) If the proponent or prior holder of an unpatented mining claim does not comply with an order of the Director under subsection (1), the Director may, after having given notice to the proponent or prior holder in the prescribed time and manner, have the Crown or an agent of the Crown enter the lands to rehabilitate the mine hazard. 1996, c. 1, Sched. O, s. 26.

Recommendation that lease be voided

(3) If the proponent does not comply with the Director’s order under subsection (1) and is a lessee of the lands on which the mine hazard exists, the Director may recommend to the Minister that the lease be declared void on condition that the Director indicate in the notice referred to in subsection (2) the intention to make such a recommendation. 1996, c. 1, Sched. O, s. 26.

Declaration that lease void

(4) On the recommendation of the Minister, the Lieutenant Governor in Council may declare the lease void, in which case subsections 81 (11), (12) and (13) apply with necessary modifications. 1996, c. 1, Sched. O, s. 26.

Offence

(5) Failure to comply with an order under subsection (1) constitutes an offence that continues for each day during which the failure continues. 1996, c. 1, Sched. O, s. 26.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 26 - 30/06/2000

2017, c. 6, Sched. 2, s. 69 (1, 2) - 10/04/2018

2019, c. 14, Sched. 7, s. 9 - not in force

EMERGENCY POWERS

Emergencies

Duty to act

148 (1) Subject to subsection (9), the proponent of a mine hazard that causes or is likely to cause an immediate and dangerous adverse effect shall forthwith do everything practicable to prevent, eliminate and ameliorate it. 1996, c. 1, Sched. O, s. 26.

Order to rehabilitate site

(2) If the Minister has reasonable grounds for believing that a mine hazard is causing or is likely to cause an immediate and dangerous adverse effect, the Minister may order the proponent to rehabilitate the mine hazard upon such terms as he or she may specify. 1996, c. 1, Sched. O, s. 26.

Minister's directions

(3) If the Minister has reasonable grounds for believing that a mine hazard is causing or is likely to cause an immediate and dangerous adverse effect, the Minister may, in the circumstances specified in subsection (4), give directions in accordance with subsection (5) to the employees and agents of the Ministry. 1996, c. 1, Sched. O, s. 26.

Where Minister may give directions

(4) The Minister may give directions in accordance with subsection (5) if he or she is of the opinion that it is in the public interest to do so and,

- (a) he or she is of the opinion that the proponent will not carry out promptly the work required to prevent, eliminate and ameliorate the adverse effect;
- (b) he or she is of the opinion that the proponent cannot be readily identified or located and that as a result the duty imposed by subsection (1) will not be carried out promptly;
- (c) the proponent of the mine hazard requests the Minister's assistance in order to carry out the duty imposed by subsection (1); or
- (d) there is no proponent of the mine hazard and the mine hazard is located on Crown land or on prescribed land. 1996, c. 1, Sched. O, s. 26; 2017, c. 6, Sched. 2, s. 70 (1).

Contents of directions

(5) Under this section, the Minister may direct the employees and agents of the Ministry to do everything practicable, or to do such work and take such action as may be specified in the directions, in respect of the prevention, elimination and amelioration of the adverse effect. 1996, c. 1, Sched. O, s. 26.

Employees and agents

(6) No Act, regulation, by-law, order, permit, closure plan, approval or licence bars the employees and agents of the Ministry from acting in accordance with the directions given by the Minister under this section. 1996, c. 1, Sched. O, s. 26.

Hearing

(7) The Minister need not hold, or afford to any person an opportunity for, a hearing before giving directions under this section. 1996, c. 1, Sched. O, s. 26.

Continuing offence

(8) Failure to comply with an order under subsection (2) constitutes an offence that continues for each day during which the failure continues. 1996, c. 1, Sched. O, s. 26.

Where section does not apply

(9) Nothing in this section applies to a holder of an unpatented mining claim with respect to a mine hazard that was created by others prior to the registration of the claim and that has not been materially disturbed or affected by the holder of the unpatented mining claim since the registration of the claim. 1996, c. 1, Sched. O, s. 26; 2017, c. 6, Sched. 2, s. 70 (2).

Transition, application to converted mining claims

(10) Despite subsection (9), if an unpatented mining claim referred to in that subsection was staked and recorded on a day before the day section 22 of Schedule 2 to the *Aggregate Resources and Mining Modernization Act, 2017* came into force and then converted from a legacy claim under section 38.2 and deemed to have been registered under subsection 38 (2), any reference in subsection (9) to the registration of the claim shall be deemed to be a reference to the staking of the claim. 2017, c. 6, Sched. 2, s. 70 (3).

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 26 - 30/06/2000

2017, c. 6, Sched. 2, s. 70 (1) - 09/01/2018; 2017, c. 6, Sched. 2, s. 70 (2, 3) - 10/04/2018

SURRENDER**Refusal of voluntary surrender**

149 The Minister may refuse to accept a voluntary surrender of mining lands or mining rights under section 183 if he or she has reasonable grounds for believing that a proponent has failed to rehabilitate the site in accordance with a filed closure plan or, if no closure plan has been filed, in accordance with the prescribed standards for site rehabilitation. 1996, c. 1, Sched. O, s. 26.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 26 - 30/06/2000

Surrender by agreement

149.1 (1) The Minister may accept a surrender of mining lands from a proponent on the conditions specified by the Minister if,

- (a) the project relating to the mining lands is closed out; or
- (b) the project relating to the mining lands is not closed out only because it is subject to long-term maintenance and monitoring by the proponent. 2001, c. 9, Sched. L, s. 5.

Special purpose account

(2) Money received from the proponent of a project as part of an agreement for the surrender of mining lands shall be placed in a special purpose account for use in the rehabilitation of mining lands generally. 1996, c. 1, Sched. O, s. 26.

Payments out of account

(3) The cost of any work performed by the Crown or an agent of the Crown under this section shall be paid by the Minister of Finance out of the special purpose account. 1996, c. 1, Sched. O, s. 26.

No liability

(4) Despite subsections 7 (1) and 8 (1) and sections 17, 18, 43 and 44 of the *Environmental Protection Act*, a proponent who surrenders mining lands under this section is not liable under those provisions. 1996, c. 1, Sched. O, s. 26.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 26 - 30/06/2000

2001, c. 9, Sched. L, s. 5 - 19/07/2001

150 REPEALED: 2009, c. 21, s. 60.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 27 - 30/01/1996

2009, c. 21, s. 60 - 28/10/2009

COST OF WORK COMPLETED**Where cost debt due to Crown**

151 (1) If the Crown or an agent of the Crown carries out rehabilitation measures under subsection 147 (2) or does any work under subsection 148 (5), the resulting cost to the Crown is a debt due to the Crown by the proponent that,

- (a) forms a lien and a charge on the site in favour of the Crown, realizable by action for sale of any part or all of the land or lands subject to it, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands; and
- (b) is recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected. 1996, c. 1, Sched. O, s. 28.

Same

(2) The cost to the Crown of carrying out the rehabilitation measures under clause 153.2 (4) (b) is a debt due to the Crown by the proponent recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected. 1996, c. 1, Sched. O, s. 28.

Same

(3) If the Crown or an agent of the Crown carries out rehabilitation measures under subsection 145 (5) and the financial assurance held by the Crown is insufficient to cover the total cost incurred by the Crown in completing the rehabilitation measures, the extra cost not covered by the financial assurance is a debt due to the Crown by the proponent that,

- (a) forms a lien and a charge on the site in favour of the Crown realizable by action for sale of any part or all of the land or lands comprising the site subject to the lien, including any buildings, structures, machinery, chattels or personal property situate in, on, over or under the land or lands; and
- (b) is recoverable by the Crown in any court in which a debt or money demand of a similar amount may be collected. 1996, c. 1, Sched. O, s. 28.

Registration as charge

(4) Notice of the debt described in subsections (1) and (3) may be registered as a charge in the proper land registry office and no transfer of or other dealing with the site shall take place until the debt is paid and the notice is cancelled. 1996, c. 1, Sched. O, s. 28; 2009, c. 21, s. 61 (1).

Cessation of charge

(5) The Director may have a cessation of charge registered in the proper land registry office, on such terms as he or she considers acceptable including settlement of the debt or terms of payment, with respect to,

- (a) a lien and charge described in subsection (1) or (3); or
- (b) a lien and charge that was imposed with respect to rehabilitation work done by the Crown under a predecessor of this Act. 2017, c. 6, Sched. 2, s. 71.

Same

(6) Upon the Director registering a cessation of charge with respect to a lien and charge described in clause (5) (a) or (b), the lien and charge is void and of no effect. 2017, c. 6, Sched. 2, s. 71.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 28 - 30/06/2000

2009, c. 21, s. 61 (1, 2) - 28/10/2009

2017, c. 6, Sched. 2, s. 71 - 09/01/2018

HEARINGS AND APPEALS

Appeals

Appeal to Tribunal

152 (1) A proponent may appeal to the Tribunal,

- (a) an order requiring the filing of a certified closure plan under subsection 147 (1);
- (b) an order requiring changes to a certified closure plan or to amendments to a certified closure plan under subsection 143 (3); or
- (c) an order for the performance of rehabilitation measures under subsection 145 (2).
- (d) REPEALED: 2009, c. 21, s. 62.

1996, c. 1, Sched. O, s. 28; 2009, c. 21, s. 62; 2017, c. 8, Sched. 17, s. 7 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 152 (1) of the Act is repealed and the following substituted: (See: 2019, c. 14, Sched. 7, s. 10 (1))

(1) A proponent may appeal to the Tribunal,

- (a) an order requiring the submission of a closure plan under subsection 147 (1);
- (b) an order requiring changes to a filed closure plan or to filed amendments to a closure plan under section 143.1; or

(c) an order for the performance of rehabilitation measures under subsection 145 (2). 2019, c. 14, Sched. 7, s. 10 (1).

Notice

(2) The proponent may appeal an order or action under subsection (1) if, within 30 days after receiving the Director's order or being informed of the Director's action, the proponent serves the Director with the prescribed notice requiring a hearing before the Tribunal. 1996, c. 1, Sched. O, s. 28; 2017, c. 8, Sched. 17, s. 7 (1).

Hearing

(3) The Director shall refer the matter to the Tribunal for a hearing within 30 days after being served. 1996, c. 1, Sched. O, s. 28; 2017, c. 8, Sched. 17, s. 7 (1).

Automatic stay unless removed

(4) Upon service on the Director of the notice under subsection (2), the Director's order is stayed until the Tribunal disposes of the appeal unless the Director applies, upon notice, for a removal of the stay. 1996, c. 1, Sched. O, s. 28; 2017, c. 8, Sched. 17, s. 7 (1).

Grounds for removal of stay

(5) The Tribunal may remove the stay if the matter being appealed relates to changes to a closure plan or to amendments to a closure plan, or to the performance of rehabilitation measures. 1996, c. 1, Sched. O, s. 28; 2017, c. 8, Sched. 17, s. 7 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 152 (5) of the Act is amended by striking out "changes to a closure plan or to amendments to a closure plan" and substituting "changes to a filed closure plan or to filed amendments to a closure plan". (See: 2019, c. 14, Sched. 7, s. 10 (2))

Refusal by Tribunal

(6) Despite subsection (4), the Tribunal shall refuse to hear an appeal of an order for changes to a closure plan or to amendments to a closure plan that require an increased amount of financial assurance unless the proponent has provided the Director, along with the notice of appeal, with the increased amount of financial assurance required, which amount shall be held by the Crown pending the outcome of the appeal. 1996, c. 1, Sched. O, s. 28; 2017, c. 8, Sched. 17, s. 7 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 152 (6) of the Act is amended by striking out "changes to a closure plan or to amendments to a closure plan" and substituting "changes to a filed closure plan or to filed amendments to a closure plan". (See: 2019, c. 14, Sched. 7, s. 10 (3))

Waiver

(7) The Tribunal upon application with notice by the proponent may waive the requirement under subsection (6) if the Tribunal considers it just to do so. 1996, c. 1, Sched. O, s. 28; 2017, c. 8, Sched. 17, s. 7 (1).

Power of Tribunal on appeal

(8) Upon hearing the proponent's appeal, the Tribunal may confirm, alter or revoke the Director's order or action that is the subject-matter of the appeal. 1996, c. 1, Sched. O, s. 28; 2017, c. 8, Sched. 17, s. 7 (1).

Procedure

(9) Sections 114, 115, 116 and 118 to 131 of this Act apply to appeals under this section with necessary modifications. 1996, c. 1, Sched. O, s. 28.

Appeal to Divisional Court

(10) An appeal lies to the Divisional Court on a question of law from any decision of the Tribunal under subsection (8) in accordance with the rules of court. 1996, c. 1, Sched. O, s. 28; 2017, c. 8, Sched. 17, s. 7 (1).

Appeal to Minister

(11) A party to a hearing before the Tribunal may, within 30 days after receipt of the Tribunal's decision or within 30 days after final disposition of an appeal, if any, under subsection (10), appeal in writing to the Minister on any matter other than a question of law, and the Minister shall confirm, alter or revoke the decision of the Tribunal as to the matter in appeal as the Minister considers to be in the public interest. 1996, c. 1, Sched. O, s. 28; 2017, c. 8, Sched. 17, s. 7 (1).

Parties

(12) The person requiring the hearing, the Director and any other person specified by the Tribunal are parties to the hearing. 1996, c. 1, Sched. O, s. 28; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 28 - 30/06/2000

2009, c. 21, s. 62 - 28/10/2009

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

2019, c. 14, Sched. 7, s. 10 (1-3) - not in force

MISCELLANEOUS

Officers and directors

Mineral development officers

153 (1) The Minister may appoint as mineral development officers such employees of the Ministry as the Minister considers necessary to co-ordinate and expedite communication between the mining industry, the public and affected ministries and agencies of the Government of Ontario. 1996, c. 1, Sched. O, s. 28.

Directors

(2) The Minister may appoint one or more officers or employees of the Ministry as Directors of Mine Rehabilitation. 1996, c. 1, Sched. O, s. 28.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 28 - 30/06/2000; 1999, c. 12, Sched. O, s. 48 (1, 2) - 30/06/2000

Immunity

153.1 Despite subsection 4 (4), no action or other proceeding shall be brought against the Crown, the Minister or an employee or agent of the Crown for any act or omission arising out of or in relation to the filing, approval, review or acceptance of a closure plan or amendments to a closure plan under this Part or its predecessor. 1996, c. 1, Sched. O, s. 28.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 28 - 30/06/2000

Director's powers regarding transfers, etc.

153.2 (1) If a proponent is subject to a court order or an order of the Director, the Tribunal or the Minister under this Part, the Director may,

- (a) register the order against the land or lands comprising the site in the proper land registry office prohibiting any person with an interest in the land from dealing with it without the Director's consent; and
- (b) may apply to a judge of the Superior Court of Justice for an injunction preventing the sale of the land or lands comprising the site, including any buildings, structures, machinery, chattels or personal property on the site. 1996, c. 1, Sched. O, s. 28; 2000, c. 26, Sched. M, s. 17; 2017, c. 8, Sched. 17, s. 7 (1).

Transfer of lease, licence

(2) If the proponent who is subject to an order referred to in subsection (1) is a lessee or the holder of a licence of occupation, the Director may recommend that the Minister not consent to the transfer of the lease or licence. 1996, c. 1, Sched. O, s. 28.

No abandonment of mining claim

(3) Despite section 70, if the proponent is the holder of a mining claim on which a mine hazard has been created by the proponent or a mine hazard created by others prior to the registration of the claim has been materially disturbed or affected by the proponent after the registration of the claim, and the Director has reasonable grounds for believing that the proponent has failed to rehabilitate such a mine hazard in accordance with a closure plan or, where no closure plan has been filed, with the prescribed standards for rehabilitation, the Director may order the proponent to comply with the closure plan or to rehabilitate such a mine hazard in accordance with the prescribed standards, as applicable, and the proponent shall not abandon the mining claim. 1996, c. 1, Sched. O, s. 28; 2017, c. 6, Sched. 2, s. 72.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 153.2 (3) of the Act is amended by striking out "in accordance with a closure plan or, where no closure plan has been filed, with the prescribed standards for rehabilitation, the Director may order the proponent to comply with the closure plan" and substituting "in accordance with a filed closure plan or, where no closure plan has been filed, with the prescribed standards for rehabilitation, the Director may order the proponent to comply with the filed closure plan". (See: 2019, c. 14, Sched. 7, s. 11 (1))

Realization of security

(4) If a proponent fails to comply with an order referred to in subsection (3), the Director may,

- (a) realize on the financial assurance under section 145 if the proponent is subject to a closure plan;
- (b) have the Crown or an agent of the Crown carry out rehabilitation measures in accordance with the prescribed standards if the proponent is not subject to a closure plan. 1996, c. 1, Sched. O, s. 28.

Continuing offence

(5) Failure to comply with an order of the Director, Tribunal or Minister constitutes an offence that continues for each day during which the failure continues. 1996, c. 1, Sched. O, s. 28; 2017, c. 8, Sched. 17, s. 7 (1).

No assignment of closure plan

(6) A closure plan filed under this Part is binding on the heirs, assigns and successors of the proponent who filed it and may not be assigned without the Director's consent. 1996, c. 1, Sched. O, s. 28.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 153.2 (6) of the Act is repealed and the following substituted: (See: 2019, c. 14, Sched. 7, s. 11 (2))

Transfer of closure plan

(6) A proponent may transfer a filed closure plan to another person if the Director has consented in writing to the transfer and the transfer is carried out in accordance with such terms and conditions as the Director specifies in writing. 2019, c. 14, Sched. 7, s. 11 (2).

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 28 - 30/06/2000

2000, c. 26, Sched. M, s. 17 - 26/12/2000

2017, c. 6, Sched. 2, s. 72 - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

2019, c. 14, Sched. 7, s. 11 (1, 2) - not in force

Liability of lessee, patentee concerning mine hazards

153.3 (1) A lessee or patentee of mining rights is, unless a contrary intention is shown, liable in respect of the rehabilitation under this Part of all mine hazards on, in or under the lands, regardless of when and by whom the mine hazards were created. 1996, c. 1, Sched. O, s. 28.

When lease expires

- (2) This Part continues to apply with respect to a proponent who is a lessee until the earlier of,
 - (a) the day that is two years after the expiry of the lease; and
 - (b) the date the lands that were subject to the lease are re-opened for prospecting, mining claim registration, sale or lease or for any alienation or disposition of the lands under this Act. 1996, c. 1, Sched. O, s. 28; 2017, c. 6, Sched. 2, s. 73.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 28 - 30/06/2000

2017, c. 6, Sched. 2, s. 73 - 10/04/2018

Method of service

- 153.4** (1) If, under this Part, a notice must be given or an order served, they are sufficiently given or served if they are,
 - (a) delivered personally;
 - (b) sent by mail;
 - (c) sent by courier;
 - (d) sent by facsimile transmission if the original is sent within 15 days of the date on which the facsimile transmission was sent; or
 - (e) given or served in the prescribed manner. 1996, c. 1, Sched. O, s. 28; 1999, c. 12, Sched. O, s. 49 (1).

Deemed service

(2) Delivery or service by mail or courier shall be deemed to be made on the fifth day after the day of mailing unless the intended recipient establishes that, acting in good faith, they did not receive the notice or order until a later date for reasons beyond their control. 1996, c. 1, Sched. O, s. 28; 1999, c. 12, Sched. O, s. 49 (2).

Where delivery or service made by Ministry

(3) A notice to be given or an order to be served by the Ministry shall be addressed to the intended recipient at the recipient's last address for service on the Ministry's records except if facsimile transmission is chosen, in which case the notice or order must be successfully sent to the recipient's last known facsimile telephone number on the Ministry's records. 1996, c. 1, Sched. O, s. 28.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 28 - 30/06/2000; 1999, c. 12, Sched. O, s. 49 (1, 2) - 30/06/2000

Notice for amending and revoking orders

153.5 If a Director or the Minister amends or revokes any order, he or she shall give written notice to the person to whom the order is directed. 2009, c. 21, s. 63.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 63 - 28/10/2009

Note: The following transitional provisions, enacted as section 39 of Schedule O to the *Savings and Restructuring Act, 1996*, were proclaimed into force on June 30, 2000.

Transition, existing projects

39 (1) A closure plan accepted by the Director before June 30, 2000 under Part VII of the Act, as it read immediately before that day, shall be deemed to have been filed as a certified closure plan under Part VII of the Act, as amended by Schedule O of the *Savings and Restructuring Act, 1996*. 2000, c. 26, Sched. M, s. 18 (1).

Same

(2) If, before June 30, 2000, a proponent submitted a proposed closure plan to the Director under Part VII of the Act as it read immediately before that day and if, before the later of April 1, 1996 and the day this section comes into force,

- (a) the proponent's proposal with respect to the form and amount of the financial assurance to be provided under the closure plan has been accepted by the Director, the proposed closure plan shall be deemed to have been filed as a certified closure plan under Part VII of the Act, as amended by Schedule O of the *Savings and Restructuring Act, 1996*;
- (b) the proponent's proposal with respect to the form and amount of the financial assurance to be provided under the closure plan has not been accepted by the Director, the proponent shall file a certified closure plan under Part VII of the Act, as amended by Schedule O of the *Savings and Restructuring Act, 1996*. 1996, c. 1, Sched. O, s. 39 (2); 2000, c. 26, Sched. M, s. 18 (2).

Same

(2.1) Despite Part VII of the Act, as it read immediately before June 30, 2000, if, under clause (2) (a), the Director accepts the proponent's proposal with respect to the form and amount of the financial assurance, the proponent shall, within 90 days of June 30, 2000,

- (a) deliver the financial assurance to the Director; or
- (b) file with the Director a certified amendment of compliance with the corporate financial test mentioned in paragraph 5 of subsection 145 (1) of the Act, as re-enacted by Schedule O of the *Savings and Restructuring Act, 1996*. 2000, c. 26, Sched. M, s. 18 (3).

Same

(3) If, before June 30, 2000, a proponent has been notified of the date by which the proponent must submit a proposed closure plan under subsection 147 (3) of the Act as it read immediately before the day this section comes into force, the proponent shall, on or before the date for submission indicated in the notice, file a certified closure plan with the Director under Part VII of the Act, as amended by Schedule O of the *Savings and Restructuring Act, 1996*. 1996, c. 1, Sched. O, s. 39 (3).

See: 1996, c. 1, Sched. O, ss. 39, 40 (2); 2000, c. 26, Sched. M, s. 18.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 39 (1-3) - 30/06/2000

2000, c. 26, Sched. M, s. 18 (1-3) - 26/12/2000

PART VIII ROYALTY ON DIAMONDS

Interpretation

154 (1) In this Part and in section 167.1,

“diamond mine” means a mine at which diamonds are produced as part of the output of the mine; (“mine de diamants”)

“fiscal year” means fiscal period as defined in section 249.1 of the *Income Tax Act* (Canada); (“exercice”)

“grant from the Crown” includes a patent, lease, licence of occupation, permit or any other form of grant from the Crown; (“concession de la Couronne”)

“net value of the output” means, in relation to a diamond mine, the amount determined in accordance with the regulations; (“valeur nette de la production”)

“operator”, in respect of a diamond mine, includes,

- (a) a person who has the right to work a diamond mine and produce diamonds from it, personally or through agents or employees or together with one or more other persons, and
- (b) a person who has the right to receive a share of the proceeds, the profits or the net value of the output of a diamond mine or who has an interest in a diamond mine, whether as a member of a joint venture, as a member of a partnership, or as a beneficiary of a trust that has the right to work the diamond mine and produce diamonds from it, but does not include any person whose only right or interest is the right to receive royalties; (“exploitant”)

“representative of an operator” includes the president, manager, secretary and any other officer, director, agent or representative of an operator. (“représentant d’un exploitant”) 2007, c. 7, Sched. 22, s. 2; 2009, c. 21, s. 64.

Output

(2) A diamond is considered to be produced as part of the output of a diamond mine if the conditions set out in the regulations are met. 2007, c. 7, Sched. 22, s. 2.

Section Amendments with date in force (d/m/y)

1996, c. 30, s. 71 - 27/06/1997

2007, c. 7, Sched. 22, s. 2 - 05/07/2007

2009, c. 21, s. 64 (1-3) - 28/10/2009

Royalty payable on diamonds

154.1 (1) Every operator of a diamond mine shall, for each fiscal year of the operator, pay to the Crown the amount of the royalty determined under section 154.2 in respect of the net value of the output of the diamond mine for the year that is produced by the operator under the authority of a grant from the Crown. 2007, c. 7, Sched. 22, s. 2.

Same

(2) The royalty is payable in respect of all diamonds produced after March 22, 2007. 2007, c. 7, Sched. 22, s. 2.

When payable

(3) An operator shall pay the royalty referred to in subsection (1) by the prescribed date. 2007, c. 7, Sched. 22, s. 2.

Royalty reserved to Crown

(4) Every grant from the Crown issued after March 22, 2007 is subject to a reserve to the Crown of a royalty as contemplated by subsection (1). 2007, c. 7, Sched. 22, s. 2.

No relief

(5) Nothing in subsection (4) relieves an operator from the obligation set out in subsection (1). 2007, c. 7, Sched. 22, s. 2.

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 22, s. 2 - 05/07/2007

Rate of royalty

154.2 (1) Subject to subsection (2), the royalty payable in respect of a diamond mine for a fiscal year of an operator is the lesser of,

- (a) 13 per cent of the net value of the output of the diamond mine for the year; and
- (b) the amount determined in accordance with the Table to this section. 2007, c. 7, Sched. 22, s. 2; 2009, c. 21, s. 65 (1).

Short years

(2) Where a mine is in production for less than 12 months in a fiscal year or a fiscal year of an operator is less than 12 months, each dollar amount in Column 1 of the Table to this section shall be multiplied by one-twelfth times the number of months in the fiscal year that the mine was in production or the number of months in the shortened fiscal year, as the case may be. 2009, c. 21, s. 65 (2).

TABLE

Item	Column 1 Net value of the output for the year	Column 2 Royalty payable on that portion of the net value of the output
1.	on the first \$10,000	0
2.	on the next portion of the net value up to but not including \$5 million	5%
3.	on the next portion of the net value up to but not including \$10 million	6%
4.	on the next portion of the net value up to but not including \$15 million	7%
5.	on the next portion of the net value up to but not including \$20 million	8%
6.	on the next portion of the net value up to but not including \$25 million	9%
7.	on the next portion of the net value up to but not including \$30 million	10%
8.	on the next portion of the net value up to but not including \$35 million	11%
9.	on the next portion of the net value up to but not including \$40 million	12%
10.	on the next portion of the net value up to but not including \$45 million	13%
11.	on the next portion of the net value	14%

2007, c. 7, Sched. 22, s. 2.

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 22, s. 2 - 05/07/2007

2009, c. 21, s. 65 (1, 2) - 28/10/2009

Notice of royalty

154.3 (1) The Minister shall examine a return delivered by an operator of a diamond mine under subsection 154.5 (1) and shall, as soon as reasonably possible, send a notice of royalty to the operator setting out the amount of the royalty, interest and penalties, if any, payable in respect of the mine for the fiscal year. 2009, c. 21, s. 66.

Revised notice of royalty

(2) The Minister may send one or more revised notices of royalty to an operator of a diamond mine setting out the amount of the royalty, interest and penalties, if any, payable for a fiscal year in respect of the mine,

- (a) at any time within the four-year period after sending the notice under subsection (1); and
- (b) at any time, if the operator made a fraudulent or negligent misrepresentation in supplying to the Minister information upon which the calculation of the amount of the royalty was based. 2009, c. 21, s. 66.

Amount payable

(3) The amount of the royalty set out in a notice of royalty or in the most recent revised notice of royalty for the fiscal year shall be considered to be the amount payable on the date prescribed for the purposes of subsection 154.1 (3), and any interest or penalties payable under section 154.4 shall be calculated on that amount and in respect of that date. 2009, c. 21, s. 66.

Review of amount of royalty, interest or penalties

(4) The amount of the royalty, interest or penalties set out in a notice of royalty or revised notice of royalty may be reviewed in accordance with the procedures set out in the regulations. 2009, c. 21, s. 66.

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 22, s. 2 - 05/07/2007

2009, c. 21, s. 66 - 28/10/2009

Interest and penalties

154.4 An operator shall pay such interest and penalties as are prescribed on late payments of the royalty for a fiscal year. 2007, c. 7, Sched. 22, s. 2; 2009, c. 21, s. 67.

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 22, s. 2 - 05/07/2007

2009, c. 21, s. 67 - 28/10/2009

Information required by Minister

154.5 (1) An operator shall deliver to the Minister such notices, returns and information as are required by the regulations. 2007, c. 7, Sched. 22, s. 2.

When return demanded

(2) An operator, whether or not liable to pay a royalty under this Part for a fiscal year and whether or not a return has been filed under subsection (1), shall, on demand from the Minister, served personally or by registered mail, file with the Minister a royalty return containing the information required by the regulations for the fiscal year indicated in the demand. 2009, c. 21, s. 68.

Form and time

(3) Notices, returns and information required under subsection (1) or (2) shall be delivered to the Minister at the prescribed times and in the manner specified by the Minister. 2009, c. 21, s. 68.

Time extension for filing returns, etc.

(4) The Minister may extend the time for delivering notices, returns and other information required under subsection (1) or (2) before or after the date by which such notice, return or other information is required to be delivered under this Act or the regulations. 2009, c. 21, s. 68.

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 22, s. 2 - 05/07/2007

2009, c. 21, s. 68 - 28/10/2009

Records

154.6 (1) Every operator shall keep at an office in Ontario,

- (a) all books, records and other documents relating to the determination of the royalty payable under this Part; and
- (b) any other prescribed documents and information. 2007, c. 7, Sched. 22, s. 2; 2009, c. 21, s. 69 (1).

Audit and inspection

(2) Any person authorized by the Minister may at all reasonable times, for any purpose related to the administration or enforcement of this Part, enter into any premises or place where an operator's business is carried on or any property is kept or anything is done in connection with that business or any books, records or other documents are or should be kept pursuant to this Part, and,

- (a) audit or examine the books, records and other documents that relate or may relate to the amount of the royalty payable under this Part;
- (b) examine property described in an inventory or any property, process or matter, an examination of which may, in the person's opinion, assist him or her in determining the amount of any royalty payable under this Part; and
- (c) require any representative of an operator that is liable to pay or considered possibly liable to pay a royalty under this Part and any other person on the premises of such operator to give all reasonable assistance with the audit or examination and to answer all questions relating to the audit or examination either orally or, if he or she so requires, in writing, on oath or affirmation or by statutory declaration and, for that purpose, require such person to attend at the premises or place with him or her. 2009, c. 21, s. 69 (2).

Same

(3) The Minister may, for any purpose relating to the administration or enforcement of this Part, by registered letter or by a demand served personally or delivered by a courier service, require from an operator or from a representative of an operator,

- (a) any information or additional information or a return as required by section 154.5; or

- (b) production, or production on oath or affirmation, of any books, records or other documents, within such reasonable time as is stipulated therein. 2009, c. 21, s. 69 (2).

Same

(4) The Minister may, by registered letter or by a demand served personally or delivered by a courier service, require the production, under oath or affirmation or otherwise, by any person, partnership, syndicate, trust or corporation, or by his, her or its agent or officer, of any books, records or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his, her or its agent or officer, for the purpose of determining the amount of royalty, if any, payable under this Part by an operator and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand. 2009, c. 21, s. 69 (2).

Same

(5) The Minister may, for any purpose related to the administration or enforcement of this Part, authorize any person to make such inquiry as he or she deems necessary with reference to anything relating to the administration or enforcement of this Part. 2009, c. 21, s. 69 (2).

Copies

(6) Where a book, record or other document has been examined or produced under this section, the person by whom it is examined or to whom it is produced or any employee or officer authorized for the purpose may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister, or a person authorized by the Minister, to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. 2009, c. 21, s. 69 (2).

Print-out admissible in evidence

(7) The Minister or a person authorized by the Minister may, for any purpose related to the administration or enforcement of this Part, reproduce from original data stored electronically any document previously issued by the Minister under this Part, and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way. 2009, c. 21, s. 69 (2).

Same

(8) If the data contained on a return or other document received by the Minister from an operator has been stored electronically by the Minister on computer disk or other electronic medium and the return or other document has been destroyed by a person so authorized by the Minister, a document, accompanied by the certificate of the Minister or of a person authorized by the Minister, stating that the document is a print-out of the data contained on the return or other document received and stored electronically by the Minister and certifying that the information contained in the document is a true and accurate representation of the data contained on the return or document delivered by the operator is admissible in evidence and shall have the same probative force as the original return or document would have had if it had been proved in the ordinary way. 2009, c. 21, s. 69 (2).

Compliance

(9) No person shall prevent or attempt to prevent any person from doing anything that he or she is authorized by this section to do and, despite any other law to the contrary, every person shall, unless unable to do so, do everything the person is required by this section to do. 2009, c. 21, s. 69 (2).

Administration of oaths and affirmations

(10) Declarations or affidavits in connection with returns delivered under this Part or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or affirmation, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefore. 2009, c. 21, s. 69 (2).

Powers of inquiry

(11) For the purpose of an inquiry authorized under subsection (5), the person authorized to make the inquiry has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act. 2009, c. 21, s. 69 (2).

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 22, s. 2 - 05/07/2007

2009, c. 21, s. 69 (1, 2) - 28/10/2009

Confidential information

154.7 (1) Every person employed or formerly employed in the administration or enforcement of this Part and every person who acts or has acted on behalf of the Minister in the administration or enforcement of this Part shall preserve secrecy with respect to all information that comes or came to his or her knowledge in the course of his or her duties and shall not knowingly communicate any of those matters to any other person, except,

- (a) as may be required in connection with the administration and enforcement of this Part or for use in the development and evaluation of fiscal policy for the Crown;
- (b) to counsel for the person required by this section to preserve secrecy;
- (c) with the consent of the person to whom the information or material relates; or
- (d) to an inspector or investigator designated under the *Export and Import of Rough Diamonds Act* (Canada) for any purpose relating to the administration or enforcement of that Act, including the confirmation of information contained in an application submitted by an operator of a diamond mine for a Canadian certificate for the export of rough diamonds. 2009, c. 21, s. 70.

FIPPA

(2) Subsection (1) prevails over the *Freedom of Information and Protection of Privacy Act*. 2009, c. 21, s. 70.

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 22, s. 2 - 05/07/2007

2009, c. 21, s. 70 - 28/10/2009

Removal of diamonds

154.8 An operator of a diamond mine shall ensure that the conditions set out in the regulations are met before any diamonds produced at the mine are removed from the mine or sold. 2007, c. 7, Sched. 22, s. 2.

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 22, s. 2 - 05/07/2007

Administration

154.9 (1) The Minister, on behalf of the Crown, may enter into agreements with the Minister of Finance or the Minister of Revenue respecting the administration and enforcement of this Part. 2007, c. 7, Sched. 22, s. 2.

Regulations re agreement

(2) An agreement entered into under subsection (1) shall be in accordance with any regulations governing the terms of the agreement. 2007, c. 7, Sched. 22, s. 2.

Section Amendments with date in force (d/m/y)

2007, c. 7, Sched. 22, s. 2 - 05/07/2007

PART IX STATISTICAL RETURNS

Reports

Annual report

155 (1) For the purposes of tabulation, every owner of a mine shall, on or before the 31st day of March in each year, send to the Minister on the forms provided a report of activities for the preceding year ending on the 31st day of December showing,

- (a) the nature of the work performed and the sums spent on mining and exploration;
- (b) the sums allocated for capital expenditures and repairs;
- (c) the current state of ore reserves;
- (d) the quantity and value of mineral production;
- (e) the number of employees; and
- (f) the revenues and expenses entailed in mining and exploration activities,

and the report shall be accompanied by such other information, plans and documents as the Minister requires, including, without limiting the scope of the requirement, information, plans and documents respecting,

- (g) inventory;
- (h) fuel and electricity consumed;
- (i) mining supplies and materials used;
- (j) non-mining supplies and materials used;
- (k) mining products, shipments and destinations;
- (l) non-mining products;
- (m) production details; and
- (n) wastes produced. R.S.O. 1990, c. M.14, s. 155 (1).

Monthly or quarterly report

(2) The Minister may require an owner to send monthly or quarterly reports within such times as the Minister specifies. R.S.O. 1990, c. M.14, s. 155 (2).

Bankruptcy, etc.

(3) In the event of the bankruptcy or winding-up of an owner, the trustee or liquidator shall, at the request of the Minister, send the report to the Minister. R.S.O. 1990, c. M.14, s. 155 (3).

Pit or quarry operations

(4) The Minister may require a licensee or permittee operating a pit or quarry under the *Aggregate Resources Act* to send information to the Minister in accordance with this section, and, where the Minister does so, subsections (1), (2) and (3) apply with necessary modifications. R.S.O. 1990, c. M.14, s. 155 (4).

PART X INSPECTIONS

Inspectors

156 The Minister may appoint any person or class of persons as an inspector, including a geologist employed in the Ministry, and may limit the functions and powers of an inspector in the document making the appointment. 2009, c. 21, s. 71.

Section Amendments with date in force (d/m/y)

1997, c. 38, s. 1 (1) - 18/12/1997

2009, c. 21, s. 71 - 28/10/2009

Functions of an inspector

157 The functions of an inspector may include any or all of the following:

1. Gathering information, including geoscience information respecting minerals or other materials or substances occurring on or beneath the surface of the ground, by any means, including by performing technical surveys, taking measurements and taking representative samples for the purpose of testing and analysis.
2. Preparing any reports, maps or data sets as may be required by the Minister or any other employee in the Ministry in the performance of that person's duties under the Act.
3. Determining the nature and extent of any existing or potential mine hazards on mining lands.
4. Determining if the terms and conditions of licences, leases, exploration plans, permits, closure plans, and any other approvals issued under this Act are being complied with.
5. Determining if any orders issued under this Act are being complied with.
6. Determining if this Act and the regulations are being complied with.
7. Any other functions that may be imposed or required for the administration of this Act. 2009, c. 21, s. 71.

Section Amendments with date in force (d/m/y)

1997, c. 38, s. 1 (1) - 18/12/1997

Powers of an inspector

158 (1) For the purpose of carrying out his or her functions under this Act, an inspector may, without warrant, at any reasonable time, gather information and make inspections and inquiries and, in the exercise of that authority, may,

- (a) enter into or onto any place, mining lands or other lands or premises connected or associated with any mining claim registration, exploration activity, mine, advanced exploration project, abandoned mine or mine hazard, other than a room or place actually used as a dwelling;
- (b) make such inspections, examinations, inquiries, tests or photographic or other record considered necessary in carrying out his or functions;
- (c) be accompanied or assisted by any person authorized by the inspector;
- (d) request the production of any documents relevant to the inspection, including but not limited to drawings, specifications, plans, licences, leases, permits, records, receipts or reports;
- (e) on giving a receipt therefor, remove any documents, including drawings, specifications, plans, licences, leases, permits, records, receipts or reports for the purposes of making copies of them and shall promptly return them to the person from whom they were taken;
- (f) use or cause to be used any computer or other device for the purpose of examining information contained in or available to the computer or other device, and may produce or cause to be produced a printout or other output from the computer system or other device;
- (g) inspect any work related to rehabilitation required or performed under this Act;
- (h) make reasonable inquiries of any person, orally or in writing; and
- (i) perform technical surveys and take measurements and representative samples, as may be considered necessary in carrying out his or her functions. 2009, c. 21, s. 71; 2017, c. 6, Sched. 2, s. 74.

Inspection to be permitted

(2) A person shall, on request of an inspector, permit an inspector to gather information and otherwise carry out any inspection or inquiry pursuant to this Act and shall facilitate the work of the inspector. 2009, c. 21, s. 71.

Obstruction prohibited

(3) No person shall hinder or obstruct an inspector in the lawful performance of his or her functions or provide the inspector with false information or refuse to furnish information required for the purposes of an inspection under this Act. 2009, c. 21, s. 71.

Inspection warrant

(4) A provincial judge or justice of the peace may issue or renew a warrant authorizing the inspector to do anything set out in subsection (1) and as may be further specified in the warrant and for the period set out in the warrant, if the judge or justice is satisfied on the evidence under oath of an inspector that there are reasonable grounds for believing that it is appropriate for the administration of this Act for the inspector to do anything set out in subsection (1), and that the inspector may be unable to effectively carry out his or her functions without a warrant because,

- (a) a person has prevented the inspector from doing anything set out in subsection (1);
- (b) there are reasonable grounds for believing a person may prevent an inspector from doing anything set out in subsection (1); or
- (c) it is impractical due to the remoteness of the place to be inspected, or for any other reason, for the inspector to obtain a warrant under this section without delay if access is denied. 2009, c. 21, s. 71.

Assistance

(5) A warrant issued under subsection (4) may authorize any person specified in the warrant to accompany and assist the inspector in the execution of the warrant. 2009, c. 21, s. 71.

Execution of warrants

(6) A warrant issued under subsection (4) shall be executed at a time that is reasonable in view of any activity that is conducted on the land or at the place or at such time as the warrant may specify. 2009, c. 21, s. 71.

Duration of warrants

(7) A warrant issued under subsection (4) shall be valid for 30 days or for such shorter period as may be specified in it. 2009, c. 21, s. 71.

Admissibility of copies

(8) Copies of, or extracts from, documents or things removed under this section and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts. 2009, c. 21, s. 71.

Identification

(9) An inspector who is acting under this Act shall, on request, produce identification and evidence of his or her appointment as an inspector. 2009, c. 21, s. 71.

Assistance of police

(10) An inspector may require a member of a police force to assist him or her for the purpose of carrying out his or her functions and powers under this Act. 2009, c. 21, s. 71.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 158 (10) of the Act is amended by striking out “police force” and substituting “police service”. (See: 2019, c. 1, Sched. 4, s. 31)

Section Amendments with date in force (d/m/y)

1997, c. 38, s. 1 (1) - 18/12/1997

2009, c. 21, s. 71 - 28/10/2009

2017, c. 6, Sched. 2, s. 74 - 10/04/2018

2018, c. 3, Sched. 5, s. 33 - no effect - see 2019, c. 1, Sched. 3, s. 5 - 26/03/2019

2019, c. 1, Sched. 4, s. 31 - not in force

159-163 REPEALED: 1997, c. 38, s. 1 (1).

Section Amendments with date in force (d/m/y)

1997, c. 38, s. 1 (1) - 18/12/1997

PART XI OFFENCES, PENALTIES AND PROSECUTIONS

Offences

164 (1) Every person who,

- (a) prospects, explores, occupies or works any Crown lands or mining rights for minerals otherwise than in accordance with this Act;
- (b) performs or causes to be performed on any Crown lands, or on any lands where the mining rights belong to the Crown, any drilling for the purpose of,
 - (i) locating minerals, except where such Crown lands or mining rights have been registered as a mining claim in accordance with this Act, or
 - (ii) locating oil and gas, except where authorized by an exploration licence or production lease issued in accordance with Part IV of this Act;
- (c) defaces, alters, removes or disturbs any post, stake, picket, boundary line, figure, writing or other mark lawfully placed, standing or made under this Act;
- (d) pulls down, injures or defaces any rules or notices posted up by the owner or manager of a mine or plant;
- (e) obstructs the Tribunal or any officer or inspector appointed under this Act in the execution of their duty;
- (f) being the owner of a mine, refuses or neglects to furnish to the Tribunal or to any person appointed by the Tribunal or to any officer or inspector appointed under this Act the means necessary for making an entry, inspection, examination or inquiry in relation to a mine under this Act;
- (g) unlawfully registers a mining claim;

- (h) acts in contravention of this Act in any particular not otherwise mentioned;
- (i) contravenes any provision of this Act or any regulation for the contravention of which no other penalty is provided;
- (j) makes any material change in the wording or numbering of a prospector's licence after its issue; or
- (k) attempts to do any of the acts mentioned in clauses (a) to (j) or anything else that is an offence under this Act,

is guilty of an offence against this Act and on conviction is liable to a fine of not more than \$100,000 or to imprisonment for a term of not more than one year, or both. R.S.O. 1990, c. M.14, s. 164 (1); 1996, c. 1, Sched. O, s. 29; 1997, c. 38, s. 1 (2); 1997, c. 40, s. 4; 2009, c. 21, ss. 72 (1-7), 101 (3); 2017, c. 6, Sched. 2, s. 75 (1, 2); 2017, c. 8, Sched. 17, s. 7 (1, 20, 21).

False statements

(2) Every person is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 who knowingly makes a false statement,

- (a) in any information entered in or document submitted to the mining lands administration system; or

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 164 (2) (a) of the Act is amended by striking out "submitted" and substituting "filed, made or submitted". (See: 2019, c. 14, Sched. 7, s. 12 (1))

- (b) in an application, certificate, report, statement or other document filed or made as required by or under this Act or the regulations. 2017, c. 6, Sched. 2, s. 75 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 164 (2) (b) of the Act is amended by striking out "filed or made" and substituting "filed, made or submitted". (See: 2019, c. 14, Sched. 7, s. 12 (2))

Destruction, etc., of rehabilitation works

(3) Every person who alters, destroys, removes or impairs any rehabilitation work made in accordance with this Act or a filed closure plan, or made by the Crown, without the written consent of the Minister, is guilty of an offence and on conviction is liable to a fine of not more than \$500,000 or to imprisonment for a term of not more than one year, or both. 2009, c. 21, s. 72 (9).

Corporations

(4) If a corporation commits an offence under this Act or the regulations, an officer, director, employee or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted for the offence. 2009, c. 21, s. 72 (9).

Employers and principals

(5) In a prosecution for an offence under this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the defendant acting in the course of employment or agency, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the defendant establishes that the offence was committed without the knowledge or consent of the defendant. 2009, c. 21, s. 72 (9).

Same

(6) In a prosecution for an offence under this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by a person in the course of performing any activity related to an exploration plan, exploration permit or other authorization issued to the defendant, whether or not the person is identified or has been prosecuted for the offence, unless the defendant establishes that the offence was committed without the knowledge or consent of the defendant. 2009, c. 21, s. 72 (9).

Additional penalties

(7) The court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may, on its own initiative or on the motion of the prosecutor make one or more of the following orders:

1. An order to increase a fine imposed upon the person by an amount equal to the amount of monetary benefit acquired by, or that accrued to, the person as a result of the commission of the offence, despite the imposition of the maximum fine provided for that offence.
2. An order that the person take such action as the court directs within the time specified in the order to prevent, eliminate or ameliorate damage that results from or is directly or indirectly connected to the commission of the offence and may include in such order the requirement to file an exploration plan, closure plan, or to apply for an exploration permit, as may be appropriate in the circumstances.
3. An order that the person comply with any order, notice, direction, requirement or report made under this Act that results from or is directly or indirectly connected to the commission of the offence. 2009, c. 21, s. 72 (9).

Other conditions

(8) An order under subsection (7) may contain such other conditions relating to the circumstances of the offence and of the person who committed or contributed to the commission of the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to rehabilitation of the person. 2009, c. 21, s. 72 (9).

Variation of order

(9) The court that made an order under subsection (7) may make any changes in or additions to the conditions set out in the order that in the opinion of the court are rendered desirable by a change in circumstances,

- (a) on its own initiative at any time; or
- (b) on application by the prosecutor, by the person convicted or by a person authorized under the *Law Society Act* to represent the person convicted, with notice to the other party, after a hearing or, with the consent of the parties, without a hearing. 2009, c. 21, s. 72 (9).

Failure to comply with an order

(10) If a person fails to comply with an order made or varied under subsection (7) or (9), the Minister may take such action as he or she considers appropriate to rehabilitate the mining lands, and any cost or expense incurred in the rehabilitation is a debt to the Crown and may be recovered by the Minister in a court of competent jurisdiction in an action against the person. 2009, c. 21, s. 72 (9).

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 29 (1-5) - 30/01/1996; 1997, c. 38, s. 1 (2) - 18/12/1997; 1997, c. 40, s. 4 - 18/12/1997

2009, c. 21, s. 72 (1-9), 101 (3) - 28/10/2009

2017, c. 6, Sched. 2, s. 75 (1-3) - 10/04/2018; 2017, c. 8, Sched. 17, s. 7 (1, 20, 21) - 01/04/2018

2019, c. 14, Sched. 7, s. 12 (1, 2) - not in force

Smelters

165 (1) No person shall construct or cause to be constructed a plant for the smelting, roasting, refining or other treatment of ores or minerals that may result in the escape or release into the open air of sulphur, arsenic or other fumes in quantities that may injure trees or other vegetation unless and until the site of the plant has been approved by the Lieutenant Governor in Council. R.S.O. 1990, c. M.14, s. 165 (1).

Offence

(2) Every person who constructs or causes to be constructed a plant for the smelting, roasting, refining or other treatment of ores or minerals without the approval of the Lieutenant Governor in Council and sulphur, arsenic or other fumes escape or are released therefrom into the open air and injure trees or other vegetation is guilty of an offence and on conviction is liable to a fine of not more than \$30,000 for every day upon which such fumes escape or are released therefrom into the open air or to imprisonment for a term of not more than one year, or both. R.S.O. 1990, c. M.14, s. 165 (2); 2009, c. 21, s. 73.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 73 - 28/10/2009

Disobeying order or award of Tribunal

166 Every person who wilfully neglects or refuses to obey any order or award of the Tribunal, except for the payment of money, is, in addition to any other liability, liable to a fine of not more than \$100,000 or to imprisonment for a term of not more than one year, or both. R.S.O. 1990, c. M.14, s. 166; 2009, c. 21, s. 74; 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 74 - 28/10/2009

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Penalty for offence against Part VII

167 (1) Every person who contravenes any provision of Part VII or the regulations made in respect thereto is guilty of an offence and on conviction is liable to a fine of not more than \$30,000 for each day on which the offence occurs or continues, or to imprisonment for a term of not more than two years, or both. R.S.O. 1990, c. M.14, s. 167 (1); 2009, c. 21, s. 75 (1).

Failure to comply with order of Director, Tribunal or Minister

(2) Every person who is subject to an order of the Director, Tribunal or Minister under Part VII and who fails to take all reasonable steps to obey the conditions of the order is guilty of an offence and on conviction is liable to a fine of not more than \$30,000 for each day on which the offence occurs or continues, or to imprisonment for a term of not more than two years, or both. R.S.O. 1990, c. M.14, s. 167 (2); 1996, c. 1, Sched. O, s. 30 (1); 2009, c. 21, s. 75 (2); 2017, c. 8, Sched. 17, s. 7 (22).

Application for restraining order

(3) The Director may apply at any time to a judge of the Superior Court of Justice for an order prohibiting advanced exploration, mining or mine production on a site if any person fails to,

- (a) comply with section 140 or 141 before commencing or recommencing a project;
- (b) comply with a filed closure plan as required under subsection 143 (1); or
- (c) submit a material change notice required under subsection 144 (2). 1996, c. 1, Sched. O, s. 30 (2); 2000, c. 26, Sched. M, s. 17.

(4)-(8) REPEALED: 2009, c. 21, s. 75 (3).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 134 (10) - 09/12/1994; 1996, c. 1, Sched. O, s. 30 (1-3) - 30/06/2000

2000, c. 26, Sched. M, s. 17 - 26/12/2000

2009, c. 21, s. 75 (1-3) - 28/10/2009

2017, c. 8, Sched. 17, s. 7 (22) - 01/04/2018

Offences under Part VIII

Failure to deliver return

167.1 (1) Every operator that fails to deliver a return as and when required by section 154.5 is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a penalty equal to the total of,

- (a) an amount equal to 5 per cent of the operator's royalty payable under Part VIII for the fiscal year that was unpaid when the return was required to be filed; and
- (b) the product obtained when 1 per cent of the royalty payable under Part VIII for the fiscal year that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 12, from the date on which the return was required to be filed to the date on which the return was filed. 2009, c. 21, s. 76.

Penalty for hindrance, etc.

(2) Every person who fails to comply with or contravenes subsection 154.6 (9) is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of \$200 for each day during which the default or contravention continues. 2009, c. 21, s. 76.

Penalty for disclosure of confidential information

(3) Every person who contravenes subsection 154.7 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. 2009, c. 21, s. 76.

Officers of corporations

(4) Where an operator is guilty of an offence under Part VIII, any officer, director or agent of the operator who directed, authorized, assented to, acquiesced in, or participated in the offence is a party to and guilty of the offence and, on conviction, is liable to the penalty for the offence whether or not the operator has been prosecuted or convicted. 2009, c. 21, s. 76.

Time for laying information

(5) Despite section 169, an information in respect of an offence against Part VIII shall be laid within six years of the time when the matter of the information arose. 2009, c. 21, s. 76.

False statements

(6) Every person who has,

- (a) made, or participated in, assented to or acquiesced in the making of false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under Part VIII;

- (b) destroyed, altered, mutilated, secreted or otherwise disposed of the books, records or other documents of an operator in order to evade payment of the royalty imposed by Part VIII;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in books, records or other documents of an operator;
- (d) wilfully in any manner evaded or attempted to evade compliance with Part VIII or payment of a royalty imposed by Part VIII; or
- (e) conspired with any person to commit an offence described by clauses (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided, is liable on conviction to a fine of not less than the greater of \$500 or 50 per cent of the amount of the royalty that should have been shown to be payable or that was sought to be evaded and not more than double the amount of the royalty that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years or to both fine and imprisonment. 2009, c. 21, s. 76.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 76 - 28/10/2009

Offence

168 Every owner of a mine and every licensee or permittee operating a pit or quarry under the *Aggregate Resources Act*, who contravenes section 155, or who makes a report under that section that is, to the owner's, licensee's or permittee's knowledge, false in any particular, is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 for each day on which the offence occurs or is continued. R.S.O. 1990, c. M.14, s. 168; 2009, c. 21, s. 77.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 77 - 28/10/2009

Limitation

169 A prosecution for an offence under this Act shall not be commenced more than two years after the later of,

- (a) the day on which the offence was committed; and
- (b) the day on which evidence of the offence first came to the attention of an inspector appointed under this Act. 2009, c. 21, s. 78.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 31 - 30/06/2000; 1997, c. 38, s. 1 (3, 4) - 18/12/1997

2009, c. 21, s. 78 - 28/10/2009

Procedure on prosecutions

170 Except as to offences against section 12, every prosecution for an offence against or for the recovery of a penalty imposed by or under the authority of this Act shall take place before the Ontario Court of Justice, and, save as is herein otherwise provided, the *Provincial Offences Act* applies to every such prosecution. R.S.O. 1990, c. M.14, s. 170; 2000, c. 26, Sched. M, s. 14; 2017, c. 8, Sched. 17, s. 7 (23).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 14 - 26/12/2000

2017, c. 8, Sched. 17, s. 7 (23) - 01/04/2018

PART XII GENERAL PROVISIONS

ABORIGINAL CONSULTATION – DISPUTE RESOLUTION

Dispute resolution

170.1 (1) The Minister may designate one or more individuals, or a body, to hear and consider disputes arising under this Act relating to consultation with Aboriginal communities, Aboriginal or treaty rights or to the assertion of Aboriginal or treaty rights, including disputes that may occur,

- (a) in relation to decisions on the issue, amendment, renewal or cancellation of, or the terms and conditions imposed on, an exploration permit issued under section 78.3;

- (b) under clause 140 (1) (c) or 141 (1) (c); and
- (c) in any other prescribed circumstance. 2009, c. 21, s. 79.

Same

(2) The individuals or body designated under subsection (1) shall hear and consider the dispute, in accordance with any requirements set out in the regulations, and shall make a report to the Minister setting out recommendations. 2009, c. 21, s. 79.

Minister's powers

- (3) After considering the report and recommendations made, the Minister may,
 - (a) confirm, vary or rescind a Director's decision in respect of an exploration permit issued under section 78.3;
 - (b) provide such further direction or support as he or she considers appropriate respecting any consultation undertaken for the purpose of clause 140 (1) (c) or 141 (1) (c); or
 - (c) take any actions that he or she considers appropriate in the circumstances. 2009, c. 21, s. 79.

Notice of decision

(4) The Minister shall provide written notice, with reasons, to the parties to the dispute resolution process of anything done or decided by the Minister under subsection (3). 2009, c. 21, s. 79.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 79 - 01/11/2012

LIEN FOR WAGES

Application of *Construction Act*

171 (1) Except as provided in this Act, the *Construction Act* applies to mines, mining claims, mining lands and connected works. 2017, c. 24, s. 78 (1).

Registration of lien

(2) Where the lands and mining rights have not been patented, the registration provided for in the *Construction Act* shall be in the office of the recorder. R.S.O. 1990, c. M.14, s. 171 (2); 2017, c. 24, s. 78 (2).

Lien where claim for wages

(3) When the claim is for wages in connection with a mine, mining claim, mining lands or works connected therewith, in addition to the rights and remedies afforded by the *Construction Act*, the claimant has a lien upon any other property of the owner in or on such mine, mining claim, mining land or works for a sum not exceeding thirty days wages, and this claim may be enforced under that Act. R.S.O. 1990, c. M.14, s. 171 (3); 2017, c. 24, s. 78 (2).

Cancellation of claim

(4) When the Tribunal is satisfied that a claim for lien recorded as provided in this section is not made in good faith or is made for some improper purpose or where the owner is unduly embarrassed thereby, the Tribunal may make an order cancelling the lien upon such terms as to security or otherwise as it deems proper. R.S.O. 1990, c. M.14, s. 171 (4); 2017, c. 8, Sched. 17, s. 7 (1, 24).

Lien on unpatented lands

(5) A lien upon unpatented land does not affect the rights of the Crown. R.S.O. 1990, c. M.14, s. 171 (5).

Section Amendments with date in force (d/m/y)

2017, c. 8, Sched. 17, s. 7 (1, 24) - 01/04/2018

2017, c. 24, s. 78 (1, 2) - 01/07/2018

172 REPEALED: 1999, c. 12, Sched. O, s. 50.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 50 - 30/06/2000

EXPLORATORY DRILLING

173 REPEALED: 1999, c. 12, Sched. O, s. 50.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 50 - 30/06/2000

Assaying and testing laboratories

174 The Minister, out of the money that is appropriated by the Legislature for the purpose, may establish, maintain and operate assaying and testing laboratories for sampling, assaying, testing, analysing or determining rocks, ores, minerals and other substances. R.S.O 1990, c. M.14, s. 174.

RIGHTS AND EASEMENTS

Rights over other lands that may be conferred by Tribunal

175 (1) Where required for or in connection with the proper working of a mine, mill for treating ore, quarry or oil or gas well, the owner, lessee or holder of it or the person entitled to work it may, subject as hereinafter provided, obtain and have vested in him, her or it by order of the Tribunal, made after hearing such parties interested as appear or on appeal from the Tribunal,

- (a) the right to open, construct, put in, maintain and use ditches, tunnels, adits, pipes, conduits, flumes and other works through, over or upon any land for the drainage, conveyance or passage of water;
- (b) the right to discharge water upon any land or by, through or into any existing means of drainage whether natural or artificial;
- (c) the right to drain off, lower or divert the water of any lake, pond, river, stream or watercourse, or any other water, although the water or part thereof may be on the land of or owned by any other person or that any other person may have rights or interests in or to such water or the use thereof;
- (d) the right to collect and dam back water, although it may overflow other land;
- (e) the right to take or divert and use for or in connection with the working of his, her or its own mine, quarry or oil or gas well and bring thereto for such use any specified water, and to construct and maintain dams and other works and do all other things necessary or convenient therefor;
- (f) rights of way or passage through or over any land or water, and the right to construct, improve, maintain and use suitable roads, tramways, aerial tramways, channels, waterways, passages and other means of transit and transportation upon, through or over any land or water, together with such other rights of entry upon and use of land and water as may be necessary or convenient therefor;
- (g) the right to transmit electricity or any other kind of power, or have it transmitted, through or over any land or water in any form or manner and to do everything necessary or convenient therefor;
- (h) the right to enter upon and use for or in connection with the working of his own mine, quarry or oil or gas well a specified area of other land;
- (i) the right to deposit tailings, slimes or other waste products upon any land, or to discharge the same into any water, the effects of such deposit or discharge not being injurious to life or health;
- (j) rights of way or passage through or over any land or water, and the right to construct, improve, maintain and use works to transport oil, gas or salt in solution from his, her or its own wells. R.S.O. 1990, c. M.14, s. 175 (1); 2009, c. 21, s. 80; 2017, c. 8, Sched. 17, s. 7 (1).

Compensation

(2) No such right shall be granted unless any injury or damage caused to any other person thereby can be adequately compensated for and unless in all the circumstances it seems reasonable and fitting to grant the right, and it shall not be granted until, in the case where injury or damage has already been suffered, compensation has been determined by the Tribunal, and the amount thereof paid, and in the exercise of any right so granted no unnecessary injury or damage shall be done to the land, property, rights or interests of other persons, and all injury and damage that may be caused to any person by the granting and exercise of any right obtained under this section shall be fully compensated for. R.S.O. 1990, c. M.14, s. 175 (2); 2017, c. 8, Sched. 17, s. 7 (1).

How fixed

(3) The order granting the right shall fix such compensation, or shall provide for the ascertainment thereof, and shall contain any provisions that are considered proper for securing the same and for protecting the rights and interests of any person whose land, property, rights or interests are affected or endangered, and, if considered proper, may require the applicant to make grants or concessions to or construct works or do any other thing for, or for the benefit of, that person or that person's

land or property, and such order may in all cases be upon such terms, and may grant the right upon such conditions and for such time as are considered proper. R.S.O. 1990, c. M.14, s. 175 (3).

Material to be filed on application

(4) In every application for such an order, the applicant, in addition to anything else required or directed, shall file in duplicate with the Tribunal a clear and precise statement of the right or rights being applied for, of the land or property affected and the owner or owners thereof so far as they can be ascertained, a map or plan of the locality showing the land and water involved, and definite and detailed plans and specifications of the works or things proposed to be constructed or done and, for the purpose of preparing the same, the Tribunal may authorize the applicant, and the applicant's engineers and assistants to enter upon the land of any other person and make such examinations and measurements as may be necessary, and such statement, map or plan and plans and specifications may, by order, be amended or altered or modified at any stage of the proceedings and the Tribunal may give directions as to the notice to be given to the parties interested, the time and manner of service and the particulars to be furnished to such parties respectively. R.S.O. 1990, c. M.14, s. 175 (4); 2017, c. 8, Sched. 17, s. 7 (1).

Definition

(5) This section applies to and against all patented and unpatented lands and the word "lands" in this section includes any right or interest in lands. R.S.O. 1990, c. M.14, s. 175 (5).

Idem

(6) Subject to any change therein or rescission thereof by subsequent order of the Tribunal, all rights and benefits created by any order of the Tribunal heretofore or hereafter made under this section run with and are appurtenant and incident to the lands thereby benefited and all burdens and obligations created or imposed by any such order run with and are binding on all lands in respect of which they were created or imposed and such order continues valid and binding in respect of all lands thereby affected despite forfeiture thereof by the Crown or sale thereof because of unpaid taxes, it being expressly declared that the Crown or any municipality or any person acquiring such land is bound by such order in the same manner and to the same extent as the owner thereof at the time such order was made. R.S.O. 1990, c. M.14, s. 175 (6); 2017, c. 8, Sched. 17, s. 7 (1).

Idem

(7) Every such order shall contain proper descriptions of the lands thereby benefited and of all other lands thereby affected sufficient for purposes of registration, and there shall be attached thereto a plan or plans showing clearly the lands thereby benefited and all other lands thereby affected. R.S.O. 1990, c. M.14, s. 175 (7).

Notice

(8) Notice of hearing of all applications under this section shall be given to the Minister in the same manner as notice to any other interested person. R.S.O. 1990, c. M.14, s. 175 (8).

Copy to be filed

(9) A copy of every order made under this section, certified to be a true copy by the Tribunal, shall be immediately filed by the applicant in the Provincial Recording Office, and, if any patented lands are thereby affected, a copy of such order so certified shall be filed in the land registry office for the district in which the lands are situate. R.S.O. 1990, c. M.14, s. 175 (9); 1999, c. 12, Sched. O, s. 51; 2017, c. 8, Sched. 17, s. 7 (25).

Particulars to be entered

(10) The recorder or land registrar, as the case may be, shall enter particulars of such order against the titles of the lands thereby affected. R.S.O. 1990, c. M.14, s. 175 (10).

Where Ministry to send copy

(11) Where unpatented mining claims affected by any such order are subsequently patented or leased, a copy of such order so certified shall be sent to the proper land registry office by the Ministry with the grant or lease. R.S.O. 1990, c. M.14, s. 175 (11).

Failure to file

(12) Unless such order is so filed in the land registry office for the district in which the lands are situate, a purchaser for value without notice of patented lands affected by any such order is not bound thereby. R.S.O. 1990, c. M.14, s. 175 (12).

Tribunal may change order or award

(13) The Tribunal, for good cause shown and on such terms as seem just, may by subsequent order or award at any time change, supplement, alter, vary or rescind any order made under the authority of this section. R.S.O. 1990, c. M.14, s. 175 (13); 2017, c. 8, Sched. 17, s. 7 (1).

Rights not to be exercised until after expiration of time for appeal

(14) Rights granted under this section shall not be exercised until the time for appealing from the order granting the rights has expired or, where an appeal is entered, until the appeal is disposed of, but from and after such time, subject to any restriction or postponement provided for in the order, the person to whom any such right is granted may enter upon any land or property and exercise the right so granted, and any person who after such time obstructs the exercise of any such right or wilfully neglects or refuses to obey any order made under this section is guilty of an offence against this Act and, in addition to any other liability, is liable on conviction to a fine of not more than \$250 for each day such obstruction, neglect or refusal continues. R.S.O. 1990, c. M.14, s. 175 (14).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 51 - 30/06/2000

2009, c. 21, s. 80 (1-4) - 28/10/2009

2017, c. 8, Sched. 17, s. 7 (1, 25) - 01/04/2018

REGULATIONS

Regulations

176 (1) The Lieutenant Governor in Council may make regulations generally,

1. governing the opening, construction, maintenance and use of roads to, through or over mining claims, mining locations or lands sold or leased as mining lands or recorded as mining claims or locations under this Act or a predecessor thereof, and for the opening, construction or maintenance and use of ditches, aqueducts or raceways through, over or upon such claims, locations or lands for the conveying and passage of water for mining purposes;
 - 1.1 governing the provincial grid;
 - 1.2 governing the mining claims registry;
 - 1.3 governing the Ministry's mining lands administration system;
2. governing documents required, permitted or provided for, by or under this Act, including the use and delivery of the documents;
 - 2.0.1 respecting a recorder's powers to delete, correct, amend or make entries in the mining claims registry;
 - 2.1 prescribing additional restrictions or requirements respecting the lands with respect to which mining claims shall not be registered for the purposes of subsection 29 (1) and section 30;
 - 2.2 governing mining claims;
 - 2.3 governing the requirements for obtaining a prospector's licence or renewal of a licence, including prescribing the *Mining Act* awareness program and the evidence required to prove successful completion of the program;
 - 2.4 prescribing factors to be considered by the Minister in making an order to withdraw lands under subsection 35 (1);
3. governing the assessment of the mineral potential of lands and prescribing additional criteria for the purposes of subsection 35.1 (9);
 - 3.1 governing the manner in which mining rights that have been withdrawn under section 35.1 are opened;
4. governing confirmation of registration of mining claims and verification of the confirmation for the purposes of section 46;
5. prescribing the annual rental for a licence of occupation;
6. REPEALED: 2017, c. 6, Sched. 2, s. 76 (7).
 - 6.1 prescribing additional circumstances in which the Minister may make an order under subsection 51 (4);

7. prescribing the quantity of mineral bearing substances that require permission to be obtained, and prescribing any terms and conditions upon which permission may be granted to mine, mill and refine mineral bearing substance from an unpatented mining claim, for purposes of section 52;
8. governing the annual units of assessment work to be performed by the holder of a mining claim, the circumstances in which a claim holder may make payments instead of performing annual units of assessment work, limitations on the substitution of payments for units of assessment work, the amount of such payments and the allocation of such payments as assessment work credits;
9. prescribing, for the purposes of subsection 65 (4), the date reports in respect of specified types of assessment work shall be filed;
10. prescribing the types of work eligible for assessment work credits, the method of calculating and approving credits for work performed and the manner of distribution of credits to mining claims;
11. prescribing the manner in which prospecting and regional surveys performed before mining claims registration are eligible for assessment work credits;
12. prescribing the manner in which assessment work performed on mining lands, or payments made instead of assessment work, may be allocated to contiguous unpatented mining claims;
13. prescribing the conditions on which an extension of time for the performing of and filing a report on assessment work may be allowed by a recorder;
14. prescribing the annual rental for the first year for a lease of a mining claim, the rate for each subsequent year and the annual rental for a renewal lease;
15. REPEALED: 2017, c. 6, Sched. 2, s. 76 (9).
16. prescribing the additional assessment work to be performed in respect of any excess area of a mining claim or in respect of excess average area of mining claims within a perimeter survey;
17. respecting abandoning a mining claim, in whole or in part, under section 70;
- 17.1 prescribing exploration activities or classes of exploration activities for which the prescribed requirements must be met or for which an exploration plan or an exploration permit is required, and prescribing circumstances in which an activity must be dealt with under an exploration permit and circumstances in which the Director of Exploration may require an exploration permit;
- 17.2 governing the application for and issue, refusal, renewal, amendment and cancellation of exploration permits and prescribing their standard terms and conditions and governing the resolution of disputes relating to a refusal to issue or renew an exploration permit, a cancellation or amendment of an exploration permit, or relating to terms and conditions imposed on an exploration permit;
- 17.2.1 respecting the waiver of standard terms and conditions that apply to an exploration permit for the purposes of subsection 78.3 (3.1);
- 17.3 governing how the activities described in an exploration plan or exploration permit are carried out and requiring the prescribed rehabilitation activities to be performed;
- 17.4 governing how objections regarding exploration plans are to be made and the process for addressing the objections;
- 17.5 providing that sections 78.2, 78.3, 78.5 and 78.6 apply to a region of Ontario on and after the date specified for the region;
18. prescribing the annual rental of a lease referred to in section 82;
19. prescribing the annual rental of a lease or renewal lease of surface rights referred to in section 84;
- 19.1 where a rental is to be prescribed under this Act, prescribing a minimum rent or a method of calculating rent;
20. governing the surveying of mining claims, including prescribing the methods and procedures to be followed when conducting such surveys;
- 20.1 respecting extensions of time that may be ordered under subsection 138 (2), including prescribing conditions for the extension;
21. prescribing rates of interest for the purposes of this Act;

22. respecting the manner and time of registering an unpatented mining claim to be held by the owner, lessee or holder with respect to lands or parts of lands under subsection 183 (3);
23. prescribing, for the purposes of section 187, the amount of tax to be paid for each hectare and prescribing a minimum tax or a method of calculating tax;
24. prescribing classes of instruments and documents that may be filed through transmission by electronic means in such manner as is prescribed;
- 24.1 governing whether land is used for mining purposes for the purpose of subsection 189 (1.1);
- 24.2 governing whether land is a site of Aboriginal cultural significance;
- 24.3 requiring consultation with Aboriginal communities in the prescribed circumstances and governing all aspects of Aboriginal consultation under this Act, including the manner in which any consultation that may occur under this Act is to be conducted and providing for the delegation of certain procedural aspects of the consultation;
- 24.4 setting out requirements respecting the dispute resolution process referred to in section 170.1 and otherwise governing the process, and prescribing the circumstances in which the process shall or may be used;
- 24.5 REPEALED: 2017, c. 6, Sched. 2, s. 76 (15).
25. defining any word or expression for the purposes of this Act and the regulations that has not already been expressly defined in this Act;
26. respecting anything in this Act that is required or permitted to be prescribed or to be done by or in accordance with the regulations or that is subject to the regulations or required to be authorized, specified or provided in or by the regulations. R.S.O. 1990, c. M.14, s. 176 (1); 1994, c. 27, s. 134 (11); 1996, c. 1, Sched. O, s. 32 (1); 1997, c. 40, s. 5 (1); 1999, c. 12, Sched. O, s. 52 (1-3); 2006, c. 33, Sched. R, s. 1; 2007, c. 7, Sched. 22, s. 3 (1); 2009, c. 21, s. 81 (1-9), 101 (4); 2017, c. 6, Sched. 2, s. 76.

Regulations, transition

(1.1) The Lieutenant Governor in Council may make regulations governing transitional matters arising from the enactment of the *Aggregate Resources and Mining Modernization Act, 2017* that, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate implementation of amendments to this Act made by the *Aggregate Resources and Mining Modernization Act, 2017*, including regulations,

- (a) governing the delineation of legacy claims on the provincial grid under section 38.1 and the powers and duties of recorders with respect to the delineation;
- (b) governing the conversion of legacy claims to mining claims under section 38.2 including the election that may be made by a legacy claim holder under subsection 38.2 (4);
- (c) governing the cell claims and boundary claims that result from the conversion of legacy claims to mining claims under section 38.2 including determining the circumstances in which such cell claims do not apply to an entire cell for the purposes of clause 38.2 (7) (d);
- (d) governing the determination of the anniversary date of a cell claim or boundary claim for the purposes of clauses 38.2 (7) (e) and 38.3 (4) (e);
- (e) governing the circumstances in which boundary claims may be changed to mining claims for an entire cell under section 38.3 including the election that may be made by the holder of two or more boundary claims under subsection 38.3 (3);
- (f) governing the cell claims that result from a change of a boundary claim to a mining claim for an entire cell under section 38.3 including determining the circumstances in which such cell claims do not apply to an entire cell for the purposes of clause 38.3 (4) (d). 2017, c. 6, Sched. 2, s. 76 (17).

Same

(1.2) A regulation made under subsection (1.1) may provide that it applies despite this Act. 2017, c. 6, Sched. 2, s. 76 (17).

Idem

(2) The Lieutenant Governor in Council may make regulations relating to Part VII,

1. prescribing the manner of preparing closure plans, their form and content, including their certification and reporting requirements, and the information, particulars, maps and plans to be included therein;

2. prescribing standards for rehabilitation;
3. prescribing standards for the protective measures to be taken in respect of the closure of a mine;
4. prescribing the form and manner and time of giving public notice;
5. prescribing the form and manner in which notice is to be given to the Director and to the proponent;
6. prescribing the form of a report under subsection 139.1 (2);
7. prescribing corporate financial tests for the purposes of section 145;
- 7.1 prescribing the manner in which the Director may require other forms of financial assurance under subsection 145 (6);
8. REPEALED: 2009, c. 21, s. 81 (11).
9. REPEALED: 1996, c. 1, Sched. O, s. 32 (4).
10. prescribing material and quantities of material extracted, and other types of work that are to be classified as advanced exploration work;
11. prescribing time periods within which duties under Part VII shall be complied with;
12. prescribing anything that by Part VII is to be or may be prescribed;
13. authorizing a person specified in the regulations to exempt a proponent from complying with any standard, procedure or requirement in a regulation respecting closure plans if the specified person determines that the closure plan meets or exceeds the objectives of the provision;
14. prescribing other circumstances under which a proponent, or project, or any class thereof, need not comply with a regulation, or a provision thereof, made under this subsection. R.S.O. 1990, c. M.14, s. 176 (2); 1994, c. 27, s. 134 (12); 1996, c. 1, Sched. O, s. 32 (2-5); 1997, c. 40, s. 5 (2); 2009, c. 21, s. 81 (11).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 176 (2) of the Act is amended by adding the following paragraph: (See: 2019, c. 14, Sched. 7, s. 13)

15. governing transitional matters arising from the enactment of Schedule 7 to the *Better for People, Smarter for Business Act, 2019* that, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of the amendments to this Act made by that Schedule.

Same

- (2.1) A regulation made under paragraph 6, 7 or 7.1 of subsection (2) shall not come into force unless,
- (a) the regulation was published in *The Ontario Gazette* at least four weeks before the regulation comes into force; or
 - (b) the Minister states that the regulation must come into force before clause (a) can be complied with and gives reasons for that statement. 1996, c. 1, Sched. O, s. 32 (6).

Regulations re Part VIII

- (2.1.1) The Lieutenant Governor in Council may make regulations relating to Part VIII,
- (a) governing the valuation of diamonds;
 - (b) prescribing requirements respecting the manner in which diamonds must be handled, prepared and processed before valuation;
 - (c) defining “net value of the output” for the purposes of subsection 154 (1);
 - (d) prescribing conditions for the purposes of determining if a diamond is part of the output of a diamond mine;
 - (e) governing the payment, collection and administration of royalties for the purposes of Part VIII;
 - (f) setting out a procedure by which the amount set out in a notice of royalty or revised notice of royalty may be reviewed;
 - (g) governing the calculation of interest and penalties on late payments of royalties under Part VIII;
 - (h) specifying the notices, returns and information that an operator of a diamond mine is required to deliver to the Minister for the purposes of section 154.5, including,
 - (i) information relating to the output of the mine,

- (ii) notices requiring the operator to inform the Minister of the gross value or net value of the output of the diamond mine,
- (iii) descriptions of how diamonds produced at the diamond mine are handled, prepared and processed before they are removed from the mine or sold, and
- (iv) sufficient information for the Minister to assess the amount of the royalty payable under Part VIII;
- (i) prescribing conditions that must be met before any diamonds produced at a diamond mine are removed or sold;
- (j) governing the terms of an agreement referred to in section 154.9 respecting the administration and enforcement of Part VIII;
- (k) prescribing anything that is to be or may be prescribed by Part VIII;
- (l) respecting any other matter that the Lieutenant Governor in Council considers necessary or desirable in relation to royalties under Part VIII. 2007, c. 7, Sched. 22, s. 3 (2).

Regulations may be general or particular

(2.2) A regulation made under subsection (1), (2) or (2.1.1) may be general or particular in application, may be limited as to time or place or both and may provide that it applies only to the area or areas designated by the Minister. 1997, c. 40, s. 5 (3); 2007, c. 7, Sched. 22, s. 3 (3).

Minister's designations

(2.3) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a Minister's designation that is permitted by subsection (2.2). 1997, c. 40, s. 5 (3); 2006, c. 21, Sched. F, s. 136 (1).

Incorporation by reference

(2.4) If a regulation made under this section incorporates a document by reference, in whole or in part, the document may be incorporated,

- (a) with such changes as the Lieutenant Governor in Council considers necessary; or
- (b) as amended from time to time, whether the amendment to the document was made before or after the regulation was made. 2009, c. 21, s. 81 (12).

Same

(2.5) Subsection (2.4) applies to a regulation made under this Act even if the regulation was made before subsection (2.4) came into force. 2009, c. 21, s. 81 (12).

Access to incorporated document and earlier versions

(2.6) When a document is incorporated by reference as described in subsection (2.4), the Minister responsible for the administration of the Part of this Act under which the regulation is made shall take steps to ensure that,

- (a) the incorporated document is readily available to the public, on and after the day the provision containing the reference comes into force;
- (b) the incorporated document and any earlier versions of it that were previously incorporated into the regulation or into a predecessor of the regulation remain readily available to the public; and
- (c) where a document is incorporated as amended from time to time, the version of the document that exists on the day the regulation comes into force and all versions of the document that are made after that day and until the regulation is revoked, remain readily available to the public. 2009, c. 21, s. 81 (12).

Minister may issue or validate licence, lease or patent

(3) Despite anything in this Act, in special circumstances the Minister may, subject to the approval of the Lieutenant Governor in Council, issue or validate unpatented mining claims, or a licence of occupation, lease or patent of any mining lands or mining rights on such terms and conditions as the Minister considers appropriate. R.S.O. 1990, c. M.14, s. 176 (3); 1996, c. 1, Sched. O, s. 32 (7); 1999, c. 12, Sched. O, s. 52 (4).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 134 (11, 12) - 09/12/1994; 1996, c. 1, Sched. O, s. 32 (1, 6, 7) - 30/01/1996; 1996, c. 1, Sched. O, s. 32 (2-5) - 30/06/2000; 1997, c. 40, s. 5 (1-3) - 18/12/1997; 1999, c. 12, Sched. O, s. 52 (1-4) - 30/06/2000

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007; 2006, c. 33, Sched. R, s. 1 - 20/12/2006

2007, c. 7, Sched. 22, s. 3 (1-3) - 05/07/2007

2009, c. 21, s. 81 (1, 3, 5) - 01/01/2011; 2009, c. 21, s. 81 (2, 4, 6, 7, 9-12), 101 (4) - 28/10/2009; 2009, c. 21, s. 81 (8) - 01/11/2012

2017, c. 6, Sched. 2, s. 76 (1, 2, 5, 9, 11, 12, 15-17) - 09/01/2018; 2017, c. 6, Sched. 2, s. 76 (3, 4, 6-8, 10, 13, 14) - 10/04/2018

2019, c. 14, Sched. 7, s. 13 - not in force

Transmission of electricity and entering on lands without consent of owner

177 With the consent of the Lieutenant Governor in Council and on such terms as the Lieutenant Governor in Council sees fit, any company authorized to supply electrical power or energy or compressed air, or both, may from time to time construct, maintain and operate transmission lines, air pipe lines, substations and other conveniences for the transmission of electrical power or energy or compressed air, or both, and for any of such purposes may enter upon, take and use any mining lands or any privilege or easement required by such company for such purposes without the consent of the owner thereof, but subject to the payment of such compensation or annual rent for the privilege or easement required and authorized as is determined by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may from time to time revoke or vary the terms upon which any right conferred under this section may be exercised. R.S.O. 1990, c. M.14, s. 177; 1999, c. 12, Sched. O, s. 53.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 53 - 30/06/2000

FEES AND COSTS

Fees

177.1 (1) The Minister may establish and charge fees in respect of anything that any person or entity is authorized or required to do under this Act. 2009, c. 21, s. 82.

Public notice

(2) The Minister shall take such steps as are advisable to make the amount of any fee charged publicly available. 2009, c. 21, s. 82.

Exempt

(3) The power to establish and charge a fee includes the power to exempt a person from paying the fee. 2009, c. 21, s. 82.

Non-application

(4) Part III of the *Legislation Act, 2006* does not apply with respect to the establishment of fees under this section. 2017, c. 6, Sched. 2, s. 77.

Section Amendments with date in force (d/m/y)

1997, c. 40, s. 6 - 18/12/1997

2009, c. 21, s. 82 - 28/10/2009

2017, c. 6, Sched. 2, s. 77 - 09/01/2018

No fee to record order upon direction of Tribunal

178 Where an order is made by the Tribunal or on appeal from the Tribunal's decision, and it is in the public interest that the order be recorded, and the order would not otherwise be recorded, the Tribunal may direct the recorder to record the order without fee. R.S.O. 1990, c. M.14, s. 178; 2017, c. 6, Sched. 2, s. 78; 2017, c. 8, Sched. 17, s. 7 (1, 26).

Section Amendments with date in force (d/m/y)

2017, c. 6, Sched. 2, s. 78 - 09/01/2018; 2017, c. 8, Sched. 17, s. 7 (1, 26) - 01/04/2018

Costs

178.1 Where a rent or fee required under this Act is not paid as required by this Act or an order issued under this Act, the cost of recovering the rent or fee may be added to the debt owed to the Crown. 2009, c. 21, s. 83.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 83 - 10/04/2018

FORMS

Forms

178.2 (1) The Minister may approve forms for any purpose of this Act, specify the procedure for the use of the forms, and require their use for any purpose of this Act, and the forms may provide for such information to be furnished as the Minister may require. 2009, c. 21, s. 84.

Prescribed form

(2) Despite subsection (1), if a form is prescribed for a purpose, the Minister shall not approve a form for the same purpose. 2009, c. 21, s. 84.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 84 - 28/10/2009

CANCELLATION OF PATENTS

Lands and mining rights to be withdrawn from exploration on repeal of patent or lease at instance of Crown

179 (1) Where a patent or lease of mining lands or mining rights is by proceedings in the Superior Court of Justice at the instance of the Crown repealed or avoided, the lands and mining rights thereupon become and are withdrawn from exploration, discovery, mining claim registration, lease or sale, and every discovery upon and claim to the lands or mining rights and to the mines or minerals on, in or under such lands made or existing at any time before the repeal or avoidance of the patent or lease become and are void, and the lands, mining rights, mines and minerals are thenceforth vested in the Crown freed and discharged of and from every claim. R.S.O. 1990, c. M.14, s. 179 (1); 2000, c. 26, Sched. M, s. 17; 2009, c. 21, s. 101 (4); 2017, c. 6, Sched. 2, s. 79 (1).

Registration of order

(2) The land registrar of the land titles or registry division in which any lands or rights mentioned in a court order made under subsection (1) are situate shall, upon receipt of the order, register it and the order is absolute and conclusive proof of the vesting in the Crown of the lands or rights affected by the order and the vesting in the Crown is not open to attack in any court by reason of the omission of any act or thing leading up to the order repealing or avoiding the patent or lease. R.S.O. 1990, c. M.14, s. 179 (2).

Non-application of certain Acts

(3) Upon registration of the court order in the land registry office, the *Registry Act* or the *Land Titles Act*, as the case may be, ceases to apply to the lands or rights affected by the order, and the land registrar shall note that fact in the register. R.S.O. 1990, c. M.14, s. 179 (3); 2002, c. 18, Sched. M, s. 8.

Opening lands for prospecting, etc.

(4) The lands and mining rights vested in the Crown under this section are not open for prospecting, mining claim registration or lease under this Act until a date fixed by the Deputy Minister, two weeks' notice of which shall be published in *The Ontario Gazette*. R.S.O. 1990, c. M.14, s. 179 (4); 2009, c. 21, s. 101 (4); 2017, c. 6, Sched. 2, s. 79 (2).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 17 - 26/12/2000

2002, c. 18, Sched. M, s. 8 - 16/12/2002

2009, c. 21, s. 101 (4) - 28/10/2009

2017, c. 6, Sched. 2, s. 79 (1, 2) - 10/04/2018

REVERSION OF MINING LANDS TO CROWN

Reversion to Crown

180 Where a freehold or leasehold interest in mining lands or mining rights reverts, other than by transfer to the Crown, the land or rights may be dealt with as unpatented Crown land. R.S.O. 1990, c. M.14, s. 180.

VESTING OF MINING RIGHTS: FORMER CANADA COMPANY LANDS

Vesting of Crown interest in mining rights in owners of the surface rights

180.1 Any interest of the Crown in the mining rights relating to the lands described in the indentures recited in *The Canada Company's Lands Act, 1922* is vested in the registered owners of the surface rights of those lands, subject to all registered encumbrances against the surface rights. 1997, c. 38, s. 1 (5).

Section Amendments with date in force (d/m/y)

1997, c. 38, s. 1 (5) - 18/12/1997

DEFAULT OF CO-OWNERS, ETC.

Co-ownership

Definition

181 (1) In this section,

“co-owner” includes co-lessee and co-licensee, and a corporation with share capital and a shareholder thereof shall be deemed to be co-owners. R.S.O. 1990, c. M.14, s. 181 (1).

Procedure to enforce claim for payment of rents or expenditures by one co-owner against another

(2) Where lands or mining rights that are subject to rents or expenditures for development work are held by two or more co-owners and all such rents or expenditures have been paid by one or more of them and the other or others has or have neglected or refused to pay that other's or those others' proportion of the rents or expenditures for a period of four or more consecutive years, the Tribunal, upon the application of any co-owner or co-owners who has or have paid the rents or met the expenditures for the period of four or more consecutive years immediately prior to the date of the application and upon the receipt of such other information and particulars as the Tribunal requires, may make an order requiring the delinquent co-owner or co-owners to pay, within three months of the date of the order or such further time as the Tribunal may fix, the delinquent owner's or co-owners' fair proportion of the rents or expenditures to the co-owner or co-owners who has or have paid all the rents or expenditures, together with interest at the prescribed percentage rate per year compounded yearly, and such costs of the application as are allowed by the Tribunal. R.S.O. 1990, c. M.14, s. 181 (2); 2017, c. 8, Sched. 17, s. 7 (1, 27).

Service of order

(3) An order made under this section shall be served in such manner as the Tribunal directs. R.S.O. 1990, c. M.14, s. 181 (3); 2017, c. 8, Sched. 17, s. 7 (1).

Dispute as to liability

(4) If a co-owner upon whom an order made under subsection (2) has been served disputes his, her or its liability to another co-owner or otherwise to make any payment under the order or the amount thereof, the co-owner may, within the time limited by the order for making the payment, apply to the Tribunal for a hearing and the Tribunal shall, after a hearing, determine the dispute and may affirm, amend or rescind the order or make such other order as it considers just, and, if the Tribunal orders that a payment be made, it may fix the time for payment thereof. R.S.O. 1990, c. M.14, s. 181 (4); 1996, c. 1, Sched. O, s. 33; 2017, c. 8, Sched. 17, s. 7 (1, 28).

Vesting order

(5) Where the time for payment fixed by an order made under subsection (2) has expired and no application for determination of a dispute has been made, or where the time fixed by an order made under subsection (4) has expired, and where such additional time, if any, as has been granted by the Tribunal has expired, if it is proved to the satisfaction of the Tribunal that the payment has not been made, the Tribunal may make an order vesting the interest of the delinquent co-owner or co-owners in the lands or mining rights to which the payment relates in the co-owner or co-owners who has or have paid the rents or made the expenditure. R.S.O. 1990, c. M.14, s. 181 (5); 1996, c. 1, Sched. O, s. 33; 2017, c. 8, Sched. 17, s. 7 (1, 29).

Death of delinquent

(6) Where a delinquent co-owner has died either before or after default in respect of that co-owner's portion and no person has taken out administration of the estate or has obtained probate of the will, any order made under this section may be directed to and served upon his or her heirs. R.S.O. 1990, c. M.14, s. 181 (6).

Order against corporation

(7) An order made under this section against a corporation shall be directed to the corporation only. R.S.O. 1990, c. M.14, s. 181 (7).

(8) REPEALED: 2009, c. 21, s. 85.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 33 - 30/01/1996; 1997, c. 40, s. 7 - 18/12/1997

2009, c. 21, s. 85 - 01/01/2011

2017, c. 8, Sched. 17, s. 7 (1, 27-29) - 01/04/2018

MINERAL RIGHTS UNDER ROADS

Mineral rights under roads

182 (1) The corporation of any municipality in that part of Ontario lying south of the French River, Lake Nipissing and the Mattawa River, wherever minerals are found, may sell or lease, by public auction or otherwise, the right to take minerals found upon or under any roads over which the municipality has jurisdiction, if considered expedient to do so. 2002, c. 17, Sched. F, Table.

No sale or lease until after notice

(2) No such sale or lease shall take place until after due notice of the intended by-law has been posted up in six of the most public places in the immediate neighbourhood of such road for at least one month previous to the time fixed for considering the by-law. R.S.O. 1990, c. M.14, s. 182 (2).

Sale or lease not to interfere with public travel

(3) The deed conveyance or lease to the purchaser or lessee under the by-law shall contain a proviso protecting the road for public travel and preventing any user of the granted rights that would interfere with public travel. R.S.O. 1990, c. M.14, s. 182 (3).

In northern part of Province

(4) In the remaining parts of Ontario, the mines, minerals, and mining rights in, on or under all common and public highways and road allowances are vested in the Crown, and may be sold, leased or otherwise disposed of under this Act. R.S.O. 1990, c. M.14, s. 182 (4).

Rights of adjoining landowners

(5) Where a mining location or any mining lands adjoin a common and public highway or road allowance and the mineral vein or deposit thereon extends into or under the highway or road allowance, its owner has the right to lease the mines, minerals and mining rights in, on or under the same, subject to this Act, or where there are mining locations or mining lands on both sides of such highway or road allowance, such rights accrue to the owner or owners on both sides thereof as respects the half of such highway or road allowance adjoining the owner's or owners' lands. R.S.O. 1990, c. M.14, s. 182 (5).

Exception

(6) Subsections (4) and (5) do not apply to highways on lands granted before the 1st day of May, 1904 by the Crown under a predecessor of this Act, or in the grant whereof the mines and minerals were not reserved to the Crown. R.S.O. 1990, c. M.14, s. 182 (6).

Patent or lease to protect public travel

(7) The patent or lease of such mines, minerals and mining rights shall contain a proviso protecting the road for public travel and preventing any user of the granted rights that would interfere with public travel unless a road in lieu thereof has been provided and accepted by the municipal corporation having control of the road. R.S.O. 1990, c. M.14, s. 182 (7).

Previously acquired rights preserved

(8) Subsections (4) to (7) do not affect any rights acquired from or any agreement made or entered into with any municipal corporation under this section prior to the 1st day of May, 1904. R.S.O. 1990, c. M.14, s. 182 (8).

Definition

(9) In this section,

“minerals” includes oil and gas. 2009, c. 21, s. 86.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 54 - 30/06/2000

2002, c. 17, Sched. F, Table - 01/01/2003

2009, c. 21, s. 86 - 28/10/2009

SURRENDER OF LANDS

Voluntary surrender of mining lands

183 (1) The owner, lessee or holder of any mining lands or mining rights granted under this Act or any other Act may surrender such lands or mining rights to the Crown only upon such terms as are acceptable to the Minister, and thereupon the Minister may cause a notice of determination to be filed in the proper land registry office. R.S.O. 1990, c. M.14, s. 183 (1); 1996, c. 1, Sched. O, s. 34.

Holding unpatented mining claims

(2) An owner, lessee or holder of any mining lands or mining rights granted under this Act who surrenders their mining lands or mining rights under subsection (1) may file a notice with the recorder indicating that the owner, lessee or holder wishes to hold unpatented mining claims in respect of the lands or part of the lands. 2017, c. 6, Sched. 2, s. 80.

Registering unpatented mining claims

(3) Where a notice has been filed under subsection (2), a recorder shall register or cause to be registered, in such manner and time as are prescribed, unpatented mining claims to be held by the owner, lessee or holder with respect to the lands or part of the lands. 2017, c. 6, Sched. 2, s. 80.

Prospecting, etc., on surrendered lands

(4) Mining lands or mining rights surrendered to the Crown under subsection (1) and with respect to which unpatented mining claims are not registered under subsection (3) shall not be open for prospecting, mining claim registration, sale or lease under this Act until a date fixed by the Deputy Minister, notice of which shall be published in *The Ontario Gazette* at least two weeks prior to the date. 2017, c. 6, Sched. 2, s. 80.

(5) REPEALED: 2017, c. 6, Sched. 2, s. 80.

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 34 - 30/01/1996; 1999, c. 12, Sched. O, s. 55 - 30/06/2000

2009, c. 21, s. 87, 101 (1, 2, 4) - 28/10/2009

2017, c. 6, Sched. 2, s. 80 - 10/04/2018

FORFEITED LANDS

Lands forfeited, etc., to Crown

184 (1) Where mining lands or mining rights,

- (a) are forfeited to the Crown under the *Corporations Act* or the *Business Corporations Act*, or any predecessor thereof or are forfeited to the Crown for any other cause; or

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, clause 184 (1) (a) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 8, s. 97)

- (a) are forfeited to the Crown under the *Corporations Act*, the *Not-for-Profit Corporations Act, 2010* or the *Business Corporations Act*, or any predecessor of any of them, or are forfeited to the Crown for any other cause; or
- (b) have become the property of the Crown by reason of the person last seised thereof or entitled thereto having died intestate and without lawful heirs,

the Minister may cause to be registered in the proper land registry office a notice stating that forfeiture has been effected as mentioned in clause (a) or that the lands or mining rights have become the property of the Crown as mentioned in clause (b), as the case may be, and that by reason thereof the lands or mining rights and every interest therein are forfeited to and vested in, or have become the property of, the Crown, absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto, whether existing, arising or accruing before or after such forfeiture or becoming the property of the Crown, and, subject to subsection (2), such lands shall be dealt with under this Act. R.S.O. 1990, c. M.14, s. 184 (1).

Opening forfeited, etc., lands for prospecting, etc.

(2) Mining lands or mining rights except unpatented mining claims so forfeited or that have become the property of the Crown are not open for prospecting, mining claim registration, sale or lease under this Act until a date fixed by the Deputy Minister, two weeks' notice of which shall be published in *The Ontario Gazette*. R.S.O. 1990, c. M.14, s. 184 (2); 1996, c. 1, Sched. O, s. 35; 2009, c. 21, s. 101 (4); 2017, c. 6, Sched. 2, s. 81 (1).

Mining lands and rights remain forfeited

(3) If a corporation's mining lands or mining rights are forfeited to the Crown under the *Business Corporations Act* or a predecessor of that Act upon the dissolution of the corporation and if a notice of forfeiture is registered under subsection (1),

- (a) the mining lands and mining rights so forfeited are not available, after the third anniversary of the corporation's dissolution, to satisfy a judgment, order or decision against the corporation, despite clause 242 (1) (c) and subsection 244 (2) of the *Business Corporations Act*; and
- (b) despite subsection 241 (5) of the *Business Corporations Act*, a revival of the corporation under that subsection after the third anniversary of its dissolution does not restore to the corporation the mining lands or mining rights that were forfeited to the Crown, and those mining lands and mining rights remain forfeited to the Crown despite the revival. 1994, c. 27, s. 134 (13).

Transfer of forfeited interest

(4) If a person co-owns mining lands or mining rights and the person's interest is forfeited to the Crown, any other co-owner of the mining lands or mining rights may apply to the Minister for a transfer of the forfeited interest, and the Minister may transfer it to the co-owner at the price and on the terms the Minister considers appropriate. 2017, c. 6, Sched. 2, s. 81 (2).

Same

(5) If all co-owners of the mining lands or mining rights waive their right to apply to the Minister for a transfer of the forfeited interest described in subsection (4), any other person with an interest in the mining lands or mining rights may apply to the Minister for a transfer of the forfeited interest, and the Minister may transfer it to that person at the price and on the terms the Minister considers appropriate. 2017, c. 6, Sched. 2, s. 81 (2).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 134 (13) - 09/12/1994; 1996, c. 1, Sched. O, s. 35 - 30/01/1996

2001, c. 9, Sched. L, s. 6 - 19/07/2001

2009, c. 21, s. 101 (4) - 28/10/2009

2017, c. 6, Sched. 2, s. 81 (1, 2) - 10/04/2018; 2017, c. 20, Sched. 8, s. 97 - not in force

ANNULMENT OF FORFEITURE OR TERMINATION OF LEASE

Annulment of forfeiture, etc.

185 (1) The Minister may by order revoke, cancel or annul the forfeiture of any mining lands or mining rights under this Act or revoke, cancel or annul the termination of any lease of mining lands under this Act or relieve from forfeiture any unpatented mining claims on such terms and conditions as the Minister considers appropriate. R.S.O. 1990, c. M.14, s. 185 (1); 1996, c. 1, Sched. O, s. 36.

Recording of order

(2) If an order under subsection (1) concerns unpatented mining claims, the order shall be noted on the abstract for the claim and recorded in the mining claims registry. 2017, c. 6, Sched. 2, s. 82 (1).

Registering order in land registry office

(3) Where an order under subsection (1) concerns leases or freehold patents, the Deputy Minister shall cause the order to be registered in the proper land registry office and thereupon the mining lands or mining rights revert in the owner or lessee of the mining lands or mining rights at the time of forfeiture or termination, the owner's or lessee's heirs, successors or assigns, subject to any lien, mortgage or charge entered or registered prior to the forfeiture or termination and still outstanding. R.S.O. 1990, c. M.14, s. 185 (3).

Withdrawal of lands from prospecting, etc.

(4) Where application is made for an order under subsection (1), the Minister may direct the mining lands or mining rights described in the application to be withdrawn from prospecting, mining claim registration, sale and lease until the disposition of the application. R.S.O. 1990, c. M.14, s. 185 (4); 2009, c. 21, s. 101 (4); 2017, c. 6, Sched. 2, s. 82 (2).

Where no relief from forfeiture

(5) Despite subsection (1), the Minister shall not relieve from forfeiture a boundary claim in any case where subsection 38.3 (2) applies. 2017, c. 6, Sched. 2, s. 82 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 185 (5) of the Act is repealed. (See: 2020, c. 34, Sched. 8, s. 9)

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 36 - 30/01/1996; 1997, c. 40, s. 7 - 18/12/1997

2009, c. 21, s. 88 - 01/01/2011; 2009, c. 21, s. 101 (4) - 28/10/2009

2017, c. 6, Sched. 2, s. 82 (1-3) - 10/04/2018

2020, c. 34, Sched. 8, s. 9 - not in force

PART XIII MINING LAND TAX

Definition

186 In this Part,

“tax” means a tax under this Part. R.S.O. 1990, c. M.14, s. 186; 2002, c. 17, Sched. F, Table.

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

Amount of tax

187 There shall be paid to the Crown in each year a tax calculated in the prescribed manner for any lands or mining rights to which this Part applies. 2009, c. 21, s. 89.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 89 - 28/10/2009

Date of payment of tax

188 The tax imposed for each year is payable no later than 60 days from the date of the notice of tax payable. 2000, c. 26, Sched. M, s. 15.

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 15 - 26/12/2000

Lands liable for tax

189 (1) Except as provided in this Part,

- (a) all lands and mining rights in territory without municipal organization patented under or pursuant to any statute, regulation or law at any time in force authorizing the granting of Crown lands for mining purposes;
- (b) all land in territory without municipal organization being held or used for mining purposes howsoever patented or alienated from the Crown;
- (c) all mining rights in, upon or under lands in a municipality patented under or pursuant to any statute, regulation or law at any time in force authorizing the granting of Crown lands for mining purposes;
- (d) all mining rights in, upon or under land in a municipality and being held or used for mining purposes howsoever patented or alienated from the Crown; and
- (e) all mining rights howsoever patented or acquired which are severed from or held apart or separate from the surface rights,

are liable for, and the owner thereof shall pay, the tax. R.S.O. 1990, c. M.14, s. 189 (1); 2009, c. 21, s. 90 (1).

Same

(1.1) Where lands or mining rights described in clause (1) (a) or (c) are not used for mining purposes, and there are no existing mining claims, leases or licences of occupation for the lands, the registered owner of the lands or mining rights may apply to the Minister for an exemption from the tax under this Part and the Minister may grant an exemption taking into account the following criteria:

1. Whether there is evidence satisfactory to the Minister that the lands and mining rights currently are not being used for mining purposes, and that the applicant does not intend to permit their use in future for mining purposes.
2. Whether the lands have provincially significant mineral potential.
3. Whether there are mine hazards or other rehabilitation concerns relating to the lands.
4. The area of the lands.
5. Any other prescribed criteria. 2009, c. 21, s. 90 (2).

Change in use

(1.2) If an owner of land that has been exempted from tax under subsection (1.1) intends to use the land for mining purposes, the owner shall notify the Minister of the intended change in use of the lands in the prescribed manner and at least the prescribed number of days before the date the lands are first used for mining purposes, and the exemption from tax is revoked on that date. 2009, c. 21, s. 90 (2).

Decision of Minister final

(1.3) The decision of the Minister under subsection (1.1) or (1.2) is final. 2009, c. 21, s. 90 (2).

Exemption from tax

(2) No tax is payable in respect of mining lands or mining rights granted by the Crown by lease or renewal of lease. R.S.O. 1990, c. M.14, s. 189 (2).

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 90 (1) - 28/10/2009; 2009, c. 21, s. 90 (2) - 01/01/2011

Exemptions from tax by Minister

190 (1) The Minister may exempt lands or mining rights from the tax under this Part where,

- (a) there is no severance of the surface and mining rights and the land has been subdivided,
 - (i) by a registered plan of subdivision,
 - (ii) by a reference plan into parts for city, town, village or summer resort purposes, or
 - (iii) by a reference plan into parts for local municipality purposes;
- (b) land is being actually used for public park, educational, religious or cemetery purposes and there is no severance of the surface and mining rights;
- (c) land is being used in good faith for farming or other agricultural purposes and there is no severance of the surface and mining rights; or
- (d) the mining rights in, upon or under any land situated south of the French River, Lake Nipissing and the Mattawa River, including the Territorial District of Manitoulin, are being held, used or developed solely for the production of natural gas or petroleum. R.S.O. 1990, c. M.14, s. 190 (1); 2002, c. 17, Sched. F, Table.

Decision of Minister final

(2) The decision of the Minister as to the right of exemption under subsection (1) is final and conclusive. R.S.O. 1990, c. M.14, s. 190 (2).

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

Cases where mining rights taxable only

191 Where the Minister is satisfied that the surface rights in respect of a mining claim or mining location are being used for purposes other than that of mining or the mineral industry, this Part applies only to the mining rights. R.S.O. 1990, c. M.14, s. 191.

Tax records

192 The Deputy Minister shall maintain a current tax record of the lands and mining rights and persons liable to the tax. 2009, c. 21, s. 91.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 91 - 28/10/2009

Registration of notice of liability and forfeiture

193 The Deputy Minister may register in the proper land registry office a notice of liability to taxation and forfeiture in respect of any lands or mining rights subject to the tax. R.S.O. 1990, c. M.14, s. 193; 2009, c. 21, s. 92.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 92 - 28/10/2009

Liability for tax though not on current tax record

194 Despite sections 192 and 193, every person and property liable to the tax is liable whether entered on the current tax record or not, and the tax is, without any notice or demand, payable at the time and in the manner provided in this Part. R.S.O. 1990, c. M.14, s. 194; 2009, c. 21, s. 93.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 93 - 28/10/2009

Tribunal may settle dispute

195 (1) Any person claiming an interest in any lands or mining rights entered on the current tax record or whose name has been entered on the current tax record, as being liable to the tax or who disputes the amount of the tax levied on any lands or mining rights in which that person has an interest may apply to the Tribunal to determine whether such lands and mining rights are or whether that person is liable to the tax and to be entered on the current tax record or the amount of the tax payable, and the Tribunal shall hear and determine such matter. R.S.O. 1990, c. M.14, s. 195 (1); 2009, c. 21, s. 94 (1); 2017, c. 8, Sched. 17, s. 7 (1).

Minister to be party

(2) The Minister is a party to any proceedings before the Tribunal under this section. R.S.O. 1990, c. M.14, s. 195 (2); 2017, c. 8, Sched. 17, s. 7 (1).

Omissions from current tax record

(3) The Minister may refer to the Tribunal for hearing and adjudication any question or dispute as to whether any mining rights or lands have or any person has been wrongfully omitted from the current tax record. 2009, c. 21, s. 94 (2); 2017, c. 8, Sched. 17, s. 7 (1).

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 94 (1, 2) - 28/10/2009

2017, c. 8, Sched. 17, s. 7 (1) - 01/04/2018

Procedure to enforce claim for payment of taxes by one co-owner against another

196 (1) Where lands or mining rights liable for tax are held by two or more co-owners and all such tax has been paid by one or more of them and the other or others has or have neglected or refused to pay that other's or those others' proportion of the tax for a period of four or more consecutive years, the Tribunal, upon the application of any co-owner or co-owners who has or have paid the tax for the period of four or more consecutive years immediately prior to the date of the application and upon the receipt of such other information and particulars as the Tribunal requires, may make an order requiring the delinquent co-owner or co-owners to pay, within three months of the date of the order or such further time as the Tribunal may fix, the delinquent co-owner's or co-owners' fair proportion of the tax to the co-owner or co-owners who has or have paid all the tax, together with interest at the prescribed rate, compounded annually, and such costs of the application as are allowed by the Tribunal. R.S.O. 1990, c. M.14, s. 196 (1); 2002, c. 18, Sched. M, s. 9; 2017, c. 8, Sched. 17, s. 7 (1, 30).

(2) REPEALED: 2009, c. 21, s. 95.

Service of order

(3) An order made under this section shall be served in such manner as the Tribunal may direct. R.S.O. 1990, c. M.14, s. 196 (3); 2017, c. 8, Sched. 17, s. 7 (1).

Disputes as to liability

(4) If a co-owner, upon whom an order made under subsection (1) has been served, disputes his, her or its liability to another co-owner or otherwise to make any payment under the order or the amount thereof, the co-owner may, within the time limited by the order for making the payment, apply to the Tribunal for a hearing and the Tribunal shall hear and determine the dispute and may affirm, amend or rescind the order or make such other order as it considers just, and, if the

Tribunal orders that a payment be made, it may fix the time for payment thereof. R.S.O. 1990, c. M.14, s. 196 (4); 2017, c. 8, Sched. 17, s. 7 (1, 31).

Vesting order

(5) Where the time for payment fixed by an order made under subsection (1) has expired and no application for determination of a dispute has been made, or where the time fixed by an order made under subsection (4) has expired, and where such additional time, if any, as has been granted by the Tribunal has expired, if it is proved to the satisfaction of the Tribunal that the payment has not been made, the Tribunal may make an order vesting the interest of the delinquent co-owner or co-owners in the lands or mining rights to which the payment relates in the co-owner or co-owners who has or have paid the taxes. R.S.O. 1990, c. M.14, s. 196 (5); 2017, c. 8, Sched. 17, s. 7 (1, 32).

Service of order on company

(6) Any order made against an incorporated company under this section shall be directed to the company only. R.S.O. 1990, c. M.14, s. 196 (6).

Interpretation

(7) For the purpose of this section, two or more co-holders or co-lessees shall be deemed to be co-owners, and an incorporated company and a shareholder therein shall be deemed to be co-owners of the lands of the company. R.S.O. 1990, c. M.14, s. 196 (7).

Section Amendments with date in force (d/m/y)

1997, c. 40, s. 7 - 18/12/1997

2002, c. 18, Sched. M, s. 9 - 16/12/2002

2009, c. 21, s. 95 - 01/01/2011

2017, c. 8, Sched. 17, s. 7 (1, 30-32) - 01/04/2018

Defaulters list and notice of forfeitures

197 (1) The Deputy Minister shall cause to be prepared in each year a list of all lands and mining rights in respect of which any tax is two years or more in arrears, and shall cause to be sent by mail or delivered by courier service a notice to the person appearing from search or inquiry at the land registry office to be the owner of the property in default and to every person appearing from that search or inquiry to have an interest therein, at the address or last known address of such person so far as he or she can reasonably ascertain it, stating that, unless the total amount of tax and penalties due and payable under this Part are paid within six months after the date of notice, the property may be forfeited to and vested in the Crown and to the amount so due and payable there shall in every case be added and paid as costs the fee required by the Minister for each property. R.S.O. 1990, c. M.14, s. 197 (1); 2009, c. 21, s. 96 (1).

Publication of list and notice

(2) Not later than 30 days after the date a notice for a property was sent under subsection (1), the Deputy Minister shall cause a second notice to be published in the prescribed manner listing the property and stating that, unless the total amount of tax, penalties and costs indicated on the notice sent under subsection (1) are paid by the date shown on that notice, the property may be forfeited to and vested in the Crown. 2009, c. 21, s. 96 (2).

Declaration of forfeiture

(3) Where the total amount of tax, penalties and costs remain unpaid after the 31st day of December of the year of publication of the notice mentioned in subsection (2), the Minister by certificate may, on or after the 1st day of January next following, declare the lands or mining rights, and every interest therein, forfeited to and vested in the Crown, and thereupon the lands or mining rights, and every interest therein, vest in the Crown absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto whether existing, arising or accruing before or after such forfeiture is declared. R.S.O. 1990, c. M.14, s. 197 (3); 2009, c. 21, s. 96 (3).

Not open for registration

(4) Except as provided in subsection (7), lands and mining rights so forfeited are not open for prospecting, mining claim registration, sale or lease under this Act. R.S.O. 1990, c. M.14, s. 197 (4); 2009, c. 21, s. 101 (4); 2017, c. 6, Sched. 2, s. 83 (1).

Registration of certificate

(5) The land registrar of the land titles or registry division in which any land or right mentioned in a certificate of forfeiture made under subsection (3) is situate shall, upon receipt of the certificate, duly register it and it is absolute and conclusive

evidence of the forfeiture to the Crown of the land or mining rights so certified to be forfeited and is not open to attack in any court by reason of the omission of any act or thing leading up to the forfeiture. R.S.O. 1990, c. M.14, s. 197 (5).

Certain Acts not to apply to forfeited lands

(6) Upon registration of the certificate of forfeiture in the land registry office, the *Registry Act* or the *Land Titles Act*, as the case may be, ceases to apply to the land forfeited, and the land registrar shall note that fact in the register. R.S.O. 1990, c. M.14, s. 197 (6); 1999, c. 12, Sched. O, s. 56.

Where forfeited lands open

(7) Lands and mining rights forfeited to and vested in the Crown under this Part that are mentioned in a notice published in one issue of *The Ontario Gazette* during May of any year shall become open for prospecting, mining claims registration, sale and lease under this Act as of 10:00 a.m. eastern standard time or eastern daylight time, as the case may be, on the following June 1, unless the land is otherwise not open for the registration of mining claims under any other provision of this Act. 2017, c. 6, Sched. 2, s. 83 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 197 (7) of the Act is amended by striking out “or eastern daylight time, as the case may be”. (See: 2020, c. 28, s. 4 (4))

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 37 - 30/01/1996; 1999, c. 12, Sched. O, s. 56 - 30/06/2000

2002, c. 17, Sched. F, Table - 01/01/2003

2009, c. 21, s. 96 (1, 2) - 01/11/2012; 2009, c. 21, s. 96 (3), 101 (4) - 28/10/2009

2017, c. 6, Sched. 2, s. 83 (1, 2) - 10/04/2018

2020, c. 28, s. 4 (4) - not in force

Right to search land registry office free of charge

198 Any person duly authorized by the Minister in writing may, for the purpose of ascertaining the names and addresses of owners or lessees of land or mining rights liable to taxation under this Part, search and inspect registry books, indexes and documents in land registry offices, and no charge is to be made by and no fee is payable to a land registrar for any such search or inspection. R.S.O. 1990, c. M.14, s. 198.

Interest

199 (1) Where the tax is not paid within the time required under section 188, interest at the prescribed rate, compounded annually, shall be added to the tax forthwith and in each subsequent year that the tax remains unpaid, and the increased amounts are the tax due and payable under this Part. 1999, c. 12, Sched. O, s. 57 (1).

Record of arrears to be kept

(2) The Deputy Minister, or such other person as is directed by the Minister, shall keep a record of all arrears of taxes with the increased amounts from time to time entered thereon. R.S.O. 1990, c. M.14, s. 199 (2).

Reduction or waiver of tax or interest

(3) The Minister may reduce or waive the amount of any tax owing or interest added to taxes under subsection (1). 2009, c. 21, s. 97.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 57 (1, 2) - 30/06/2000

2009, c. 21, s. 97 - 01/01/2011

Special lien and priority of the tax

200 All taxes, penalties, costs and fees payable under this Part constitute a special lien on the lands or mining rights against which the tax under this Part is levied in priority to every claim, privilege, lien or encumbrance of any person, whether the right or title of that person has accrued before, or accrues after, the attaching of the special lien, and its priority is not lost or impaired by any neglect, omission or error of any official, officer or person, or by want of registration, and the special lien may be realized by action for sale of any or all property subject to it. R.S.O. 1990, c. M.14, s. 200; 2009, c. 21, s. 98.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 98 - 28/10/2009

Right of action

201 If an owner or lessee of lands or mining rights fails to pay the tax on the lands or mining rights when due, the Minister may bring action in any court of competent jurisdiction for the recovery of the tax together with penalties, costs and fees. R.S.O. 1990, c. M.14, s. 201; 2009, c. 21, s. 99.

Section Amendments with date in force (d/m/y)

2009, c. 21, s. 99 - 28/10/2009

Compromise of tax

202 (1) Where a doubt arises as to the liability of a person to pay a tax or any part of a tax, the Minister may,

- (a) compromise the matter by the acceptance of an amount that the Minister considers proper; and
- (b) if the tax imposed has been paid under protest, refund the tax or any part of it or give a tax credit to the person making the payment under protest. 2000, c. 26, Sched. M, s. 16.

Exemption from tax

(2) Where land that was not subject to tax under this Part becomes subject to tax because the surface rights thereof have been severed from the mining rights for a public road, highway or public utility, the Minister may exempt the mining rights so severed from the tax during such term as he or she is satisfied that the mining rights are not being used or held for mining purposes. R.S.O. 1990, c. M.14, s. 202 (2).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. M, s. 16 - 26/12/2000

Lands and easements revert to Crown

203 Where under this Part or section 91, 183 or 184 a dominant tenement reverts to and becomes vested in the Crown, any easement appurtenant thereto passes to the Crown and, where a servient tenement reverts to and becomes vested in the Crown, any easement to which the servient tenement is subject is not affected. R.S.O. 1990, c. M.14, s. 203.

PART XIV (ss. 204-207) REPEALED: 1999, c. 12, Sched. O, s. 58.

204, 205

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 58 - 30/06/2000

2009, c. 21, s. 100 - no effect - see Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2019

206

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. O, s. 58 - 30/06/2000

207

Section Amendments with date in force (d/m/y)

1996, c. 1, Sched. O, s. 38 - 30/01/1996; 1999, c. 12, Sched. O, s. 58 - 30/06/2000

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[Back to top](#)