

This Act is current to 30 November 2016.

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

MINERAL TENURE ACT
[RSBC 1996] CHAPTER 292

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Definitions

1 In this Act:

"bulk sample" means the production of a mineral or placer mineral from a claim at the times, in the quantities and on the conditions prescribed by the regulations;

"cell" means an area shown electronically on a map of British Columbia, for the purpose of the registry, in accordance with the regulations;

"cell claim" means a claim consisting of a cell or cells;

"claim" means a mineral claim or a placer claim and includes a legacy claim;

"construction purpose" includes, without limitation,

(a) the building or maintenance of a road, railway bed, runway, berm, dam, impoundment, breakwater, dike, levee, foundation, rock wall and other similar thing, and

(b) the providing of fill and riprap;

"cultural heritage resource" means an object, a site or the location of a traditional societal practice that is of historical, cultural or archaeological significance to British Columbia, a community or an aboriginal people;

"dimension stone" means a rock or stone product that is cut or split on 2 or more sides, and includes, without limitation, tiles, facing stone, crushed rock that is reconstituted into building stone, headstones, monuments, statues, ornamental furnishings and other similar components, but does not include crushed, cut or split rock that is used for a construction purpose;

"expiry date" means the day one year after the date that a claim is recorded or registered and includes an expiry date as revised under section 29 or 33.1;

"exploration and development" has the meaning in the regulations;

"former Acts" means the Mineral Act, R.S.B.C. 1979, c. 259, or the Mining (Placer) Act, R.S.B.C. 1979, c. 264, and their predecessor Acts;

"free miner" means a person who holds a valid and subsisting free miner certificate issued under this Act or any of the former Acts;

"hand pan" means to wash mineralized earth and gravel by agitation in a hand held pan so as to separate and recover those minerals or placer minerals having the greatest specific gravity;

"lease" means a mining lease or a placer lease and includes a legacy lease;

"legacy" when used in relation to a claim or lease means a claim or lease made before the coming into force of this definition;

"locate" and "location" refer to the identification on the ground, subject to section 24.1 (5), of a mineral title, whether by means of marks, posts or otherwise, that is carried out in accordance with the regulations;

"location time and date" means the time and date recorded on a tag on completion of a claim;

"locator" means an individual responsible for establishing a location and whose name appears in that capacity on the tags and documents relating to the location;

"mineral" means an ore of metal, or a natural substance that can be mined, that is in the place or position in which it was originally formed or deposited or is in talus rock, and includes

(a) rock and other materials from mine tailings, dumps and previously mined deposits of minerals,

(b) dimension stone, and

(c) rock or a natural substance prescribed under section 2 (1),

but does not include

- (d) coal, petroleum, natural gas, marl, earth, soil, peat, sand or gravel,
- (e) rock or a natural substance that is used for a construction purpose on land that is not within a mineral title or group of mineral titles from which the rock or natural substance is mined,
- (f) rock or a natural substance on private land that is used for a construction purpose, or
- (g) rock or a natural substance prescribed under section 2 (2);

"mineral claim" means a claim to the minerals within an area which has been located or acquired by a method set out in the regulations and includes a claim to minerals recorded under one of the former Acts;

"mineral lands" means lands in which minerals or placer minerals or the right to explore for, develop and produce minerals or placer minerals is vested in or reserved to the government, and includes Crown granted 2 post claims;

"mineral substance" means a substance that is a mineral under this Act, but was not a mineral under the Mineral Act, R.S.B.C. 1979, c. 259;

"mineral title" means a claim or a lease;

"mining activity" means any activity related to

- (a) the search for a mineral or placer mineral,
 - (b) the exploration and development of a mineral or placer mineral, or
 - (c) the production of a mineral or placer mineral,
- and includes the reclamation of a previously mined area and the monitoring and long term protection, control and treatment of a previously mined area;

"mining lease" means a mining lease issued under section 42 and a legacy mining lease;

"owner" means

- (a) the government for land so owned, or
 - (b) a person registered in the land title office as the owner of the land;
- "placer claim" means a claim to the placer minerals within an area which has been located or acquired by a method set out in the regulations;

"placer lease" means a placer lease issued under section 45 and a legacy placer lease;

"placer mineral" means ore of metal and every natural substance that can be mined and that is either loose, or found in fragmentary or broken rock that is not talus rock and occurs in loose earth, gravel and sand, and includes rock or other materials from placer mine tailings, dumps and previously mined deposits of placer minerals, but does not include a mineral substance or the substances described in paragraphs (d) to (g) of the definition of "mineral" in this section;

"private land" means land owned in fee simple by a person other than the government;

"protected heritage property" means land or an object that is

- (a) protected under section 13 of the Heritage Conservation Act,
- (b) designated under section 611 of the Local Government Act or section 593 of the Vancouver Charter, or
- (c) included under section 614 (3) (b) of the Local Government Act in a schedule to an official community plan;

"recorded holder" means a person whose name appears as the owner of the mineral title on the record of that title in the registry;

"register" means register in the registry;

"registry" means the mineral titles online registry established and maintained by the chief gold commissioner under section 6.2 (1);

"surface area" means surface area of land and land under water;

"talus rock" means rock that occurs in fragments or particles lying on or above or adjacent to the place or position in which it was originally formed or deposited;

"unit" means an area having prescribed dimensions that is contained in a claim, and may, subject to the regulations, include a 2 post claim.

Regulations defining a mineral

2 (1) For the purpose of paragraph (c) of the definition of "mineral" in section 1, the minister and the minister responsible for administration of the Land Act may jointly make regulations prescribing a rock or natural substance as a mineral.

(2) For the purpose of paragraph (g) of the definition of "mineral" in section 1, the minister and the minister responsible for administration of the Land Act may jointly make regulations prescribing that a rock or natural substance is not a mineral.

(3) No compensation is payable by the government to any person and no proceedings may be commenced or maintained to claim compensation from the government as a result of a regulation made under subsection (1) or (2).

Mining division

3 (1) The chief gold commissioner may, by order, designate any portion of British Columbia as a mining division and may establish a gold commissioner's office for it.

(2) If a designation is made under subsection (1), the chief gold commissioner must, without delay, publish notice of the designation in the Gazette and publication is deemed to be notice to all persons concerned.

Appointment of chief gold commissioner and gold commissioners

4 (1) A chief gold commissioner and one or more gold commissioners may be appointed under the Public Service Act.

(2) The chief gold commissioner has general supervision of the gold commissioners and persons appointed under subsection (5).

(3) The chief gold commissioner may exercise a power given to a gold commissioner by this Act.

(4) A gold commissioner may, at any reasonable time, enter and examine land covered by a mineral title.

(5) There may be appointed for the proper administration of this Act mineral title inspectors and other persons

(a) whose remuneration is either by way of salary or by commission on fees collected, and

(b) having those powers and duties of a gold commissioner that are conferred on them in writing by the chief gold commissioner.

(6) The chief gold commissioner may appoint one or more gold commissioners to be a deputy chief gold commissioner, and may delegate to any person employed in the ministry some or all of the functions of the chief gold commissioner other than powers to make regulations under sections 22 and 46.

How chief gold commissioner furnishes records

5 (1) A written copy of any record kept in the registry, certified by the chief gold commissioner to be a true copy, must be received in a court without proof of the signature of the chief gold commissioner.

(2) Any notice or information that the chief gold commissioner is required to give to a recipient under this Act may be given

(a) in paper form,

(b) by being transmitted by electronic means to the recipient, or

(c) in any prescribed manner.

Searching the registry

6 A person may search the registry in accordance with the regulations.

Part 1.1 — Mineral Titles Online Registry

Electronic Transactions Act applies

6.1 Despite section 2 (4) (d) of the Electronic Transactions Act, that Act applies to this Part.

Mineral titles online registry

6.2 (1) The chief gold commissioner must establish and maintain a mineral titles online registry for the purposes of registrations respecting claims, leases and notices.

(2) In addition to any requirements under the regulations, the chief gold commissioner may

(a) establish requirements for information that must be supplied to effect a registration and the format in which the information must be supplied, and may make those requirements known electronically to users of the registry,

(b) establish any other matter or requirement in order to ensure proper functioning of the registry, and

(c) require a registration to be made electronically in accordance with the regulations.

(3) The electronic signature of an applicant for registration must be incorporated into the electronic application in accordance with the requirements of the chief gold commissioner.

(4) An electronic application or electronic instrument is submitted for the purposes of this Part when the application or instrument is entered electronically into the registry using the technology established by the chief gold commissioner and in accordance with the requirements of the chief gold commissioner.

Claims

6.3 A person may register a claim in accordance with the regulations.

Claim or lease changes

6.31 (1) The following changes to a claim are not effective until registered:

(a) an amalgamation of claims under section 24.2;

(a.1) a subdivision of a claim under section 24.3;

(b) a reduction in the area of the claim under section 25;

(c) a revision of an expiry date under section 29 or section 33.1;

(d) a deletion or correction under section 6.36;

(e) any other kind of change specified in the regulations for the purposes of this subsection.

(2) The recorded holder of a lease must register the following changes to a lease, and the changes are not effective until registered:

(a) a renewal of the lease under section 42, 45 or 47;

(b) a change in the area of the lease under section 44 or 47;

(c) any other kind of change specified in the regulations for the purposes of this subsection.

(3) The chief gold commissioner may register the following against a claim or lease:

(a) notice of any order made by the chief gold commissioner;

(b) notice of a court order;

(c) notice of a complaint under section 40;

(d) any other matter specified in the regulations for the purposes of this subsection.

Conversions of leases and rights under other enactments

6.32 (1) A recorded holder of a mineral claim or a placer claim who wishes to convert the claim to a mining lease or placer lease under section 42 or 45 must register an application for the lease.

(2) A person referred to in section 53 (2) (a) who wishes to obtain a mining lease or placer lease under section 42 or 45 must register an application for the lease.

(3) When a lease is entered into under subsection (1) or (2), the chief gold commissioner must register the information required by the chief gold commissioner respecting the lease and give notice of the registration to the recorded holder.

Discharge of claims and leases

6.33 (1) To abandon a claim or surrender a lease, the recorded holder must register a discharge of the claim or lease.

(2) The abandonment or surrender does not entitle the recorded holder to a refund of fees or other money paid under this or a former Act.

(3) The chief gold commissioner may register a notice of a forfeiture of a claim under section 35 or of a lease under section 50.

Registration of transfers of ownership of claims and leases

6.34 A recorded holder of a claim or lease or a person who meets the requirements under the regulations in relation to a claim or lease may register a transfer of ownership to another person in accordance with the regulations.

Registration of documents and notices against a claim or lease

6.35 A person may register a document or notice relating to a mineral title according to the regulations.

Deletion from registry or amendment or correction of entry

6.36 (1) The chief gold commissioner may

(a) delete or correct an entry in the registry in accordance with the regulations, or

(b) delete or amend an entry in the registry if the registration does not comply with the Act or the regulations.

(2) If the chief gold commissioner deletes, corrects or amends an entry, the chief gold commissioner must give notice to any affected person.

(3) A notice under subsection (2) may be given before or after deleting, correcting or amending an entry in the registry.

Information in registry prevails

6.4 If there is a difference between electronic information in the registry and other information or another document, the information in the registry prevails, whether or not the other information or the other document contains an original signature.

Calculation of time for purposes of registry

6.5 Section 25 (2) and (3) of the Interpretation Act does not apply to a time specified under this Act for doing something in the registry.

Suspending functions of registry

6.6 Despite any other provision of this Act, the chief gold commissioner may

(a) suspend one or more of the functions of the registry if the chief gold commissioner is satisfied that circumstances are such that it is not practicable to provide those functions, and

(b) if the chief gold commissioner is satisfied that, but for a suspension under paragraph (a), an application for registration or a record submitted to the chief gold commissioner would have been received on a date within the suspension period,

(i) the chief gold commissioner may date the registration or accept the record as of that date, and

(ii) the date referred to in subparagraph (i) must be considered for all purposes to be the date on which the record was received by or filed with the chief gold commissioner.

No overlapping registrations

6.7 Only one claim or lease may be registered with respect to a cell, unless the registration is in respect of the following:

(a) an area of a cell over which the mapping of a legacy claim has been challenged;

(b) a cell only part of which is covered by a legacy claim, and the registration is in respect of the part of the cell that is not covered by the legacy claim;

(c) a claim or lease under section 53 (2);

(d) one cell covered by any of the following:

(i) a mineral claim and a placer claim;

(ii) a mineral claim and a placer lease;

(iii) a mining lease and a placer claim;

(iv) a mining lease and a placer lease.

Priority

6.8 (1) Registration is effective from the time of payment of the prescribed fee for registration, if any, or if there is no prescribed fee, the date of registration as recorded by the registry.

(2) If more than one payment is received for the same registration, the order of registration is determined by the time of payment, if any, as determined by the time confirmation of payment is received by the Minister of Finance.

Registration by other than electronic means

6.9 The chief gold commissioner may authorize a person to use a means of registration other than a means required by this Act, if satisfied that

- (a) it is necessary to avoid great hardship or great injustice, and
- (b) the integrity of the registry will be maintained.

Part 2 — Location and Claims

Free miners and certain registrations, holdings and revisions

7 A person, other than the government, must be a free miner to

- (a) be registered as a recorded holder of a claim or lease,
- (b) hold a claim under section 29, or
- (c) revise an expiry date under section 33.1.

Free miner certificate

8 (1) For the purposes of this section, "Canadian corporation" means

- (a) a company or an extraprovincial company as those terms are defined in the Business Corporations Act,
- (b) a trust company registered under the Trust Company Act, R.S.B.C. 1979, c. 412,
- (c) an insurer licensed under the Insurance Act, or
- (d) a chartered bank.

(2) On application in the prescribed form and on payment of the prescribed fee, a free miner certificate must be issued to an applicant who is

- (a) a person age 18 or over and ordinarily a resident of Canada for at least 183 days in each calendar year or authorized to work in Canada,
- (b) a Canadian corporation, or
- (c) a partnership consisting of partners who are persons that qualify under paragraph (a) or (b).

(3) A free miner certificate

- (a) must be in the prescribed form,
- (b) is not transferable,
- (c) must be issued in the name of one person,
- (d) may be renewed, on application and on compliance with this Act and the regulations,
- (e) is proof of every fact contained in it, and
- (f) is valid from the beginning of the day on which it is stated to be issued until the end of the day it expires.

(4) Despite subsection (2), the chief gold commissioner may issue a free miner certificate to an applicant who does not meet the eligibility requirements under subsection (2) if, because of legitimate circumstances acceptable to the chief gold commissioner, the applicant requires a free miner certificate to conduct business in British Columbia.

(5) Without limiting section 7, a person may hold a mineral title without holding a free miner's certificate.

(6) A free miner certificate may be issued in electronic form.

Recreational hand panning

9 (1) Subject to subsection (2), a person who is not a free miner may hand pan for recreation purposes.

(2) A person must not hand pan on a valid mineral title unless the person receives permission from the recorded holder of the mineral title.

Suspension of certificate

10 (1) If the chief gold commissioner is satisfied that a free miner has, with respect to activities related to the operation or use of a mineral title, contravened this Act, the regulations, the Criminal Code, the Heritage Conservation Act, the Mines Act, the Mining Right of Way Act or the Health, Safety and Reclamation Code for Mines in British Columbia, the chief gold commissioner must notify the free miner

- (a) of the particulars of the contravention, and
 - (b) of the chief gold commissioner's intention to cancel the free miner's certificate, and the free miner may, within 30 days after service of the notice, request a hearing.
- (2) After the hearing, if any, or the expiration of the 30 day period, whichever is applicable, the chief gold commissioner may cancel the free miner certificate and the free miner may not apply for another certificate except in accordance with conditions the chief gold commissioner may specify.
- (3) If a certificate is cancelled under subsection (2),
- (a) the chief gold commissioner must serve a notice of the cancellation on the person affected, and
 - (b) that person may, within 30 days after service of the notice under paragraph (a), appeal the cancellation to a judge of the Supreme Court.
- (4) On the request of the appellant and on payment of the prescribed fee, the chief gold commissioner must supply to the appellant certified copies of all records on which the chief gold commissioner relied before making the notification under subsection (1).
- (5) An appeal from a decision of the court lies to the Court of Appeal with leave of a Justice of the Court of Appeal.

Land on which a free miner may enter

11 (1) Subject to this Act, only a free miner or an agent of a free miner may enter mineral lands to explore for minerals or placer minerals.

- (2) The right of entry under subsection (1) does not extend to
 - (a) land occupied by a building,
 - (b) the curtilage of a dwelling house,
 - (c) orchard land,
 - (d) land under cultivation,
 - (e) land lawfully occupied for mining purposes, except for the purposes of exploring and locating for minerals or placer minerals as permitted by this Act,
 - (f) protected heritage property, except as authorized by the local government or minister responsible for the protection of the protected heritage property, or
 - (g) land in a park, except as permitted by section 21.
 - (h) [Repealed 2004-22-9.]

Certainty of access to mineral titles

11.1 (1) In this section, "mining exploration" does not include the collection of a bulk sample of more than 1 000 tonnes of ore.

- (2) A recorded holder of a mineral title or an owner of a Crown granted 2 post claim must be issued a special use permit under the Forest Practices Code of British Columbia Act, subject to any terms and conditions set by the issuing authority, for the construction of appropriate access to the area of that mineral title or Crown granted 2 post claim for mining exploration, if the recorded holder or owner
 - (a) is the holder of a permit under the Mines Act for the mining exploration,
 - (b) applies for and receives the written approval of the Chief Inspector of Mines to the issuance under the Forest Practices Code of British Columbia Act of the special use permit, and
 - (c) applies under the Forest Practices Code of British Columbia Act for the special use permit.
- (3) For the purpose of this section, the Chief Inspector of Mines, after considering practicable alternative means of access, may grant or refuse the written approval referred to in subsection (2).

Independence of mineral titles

12 The following are individual and distinct mineral titles constituted, acquired and maintained independently:

- (a) a mineral claim;
- (b) a placer claim;
- (c) a mining lease;
- (d) a placer lease.

Disputes

13 (1) If a dispute arises between

- (a) recorded holders on the same mineral lands, or
(b) a recorded holder of a mineral title and a person having a right under another enactment to a mineral substance in the lands to which the mineral title relates,
respecting
(c) whether a substance is a mineral, a mineral substance or a placer mineral, or
(d) the exercise of rights conferred under this Act or any of the former Acts,
the issue must, on application to the chief gold commissioner by a party to the dispute and subject to subsection (2), be decided by the chief gold commissioner, and the chief gold commissioner may make any order he or she considers appropriate.
- (2) Before making an order under subsection (1) respecting a dispute about a mineral or mineral substance or the exercise of rights under another enactment, the chief gold commissioner must, in writing, consult with a public officer designated by the minister responsible for administration of the Land Act.
- (3) Each party to the dispute must be served with notice of the decision made under subsection (1).
- (4) Information received as a result of consultation under subsection (2) may be reduced to writing and shall form part of the record of the dispute between the parties, and a copy of that writing must be provided to each party.
- (5) A copy of an order made under subsection (1) may be filed at any time in a Supreme Court registry and enforced as if it were an order of the court.
- (6) If there is insufficient evidence to enable the chief gold commissioner to determine under subsection (1) or a judge to determine under subsection (7) or (8) whether a substance is a mineral, a placer mineral or a mineral substance, the chief gold commissioner or the judge must decide the issue in favour of,
(a) if the dispute is between persons referred to in subsection (1) (a), the person whose mineral title was first located or registered, and
(b) if the dispute is between persons referred to in subsection (1) (b), the person who first became entitled to the minerals or the mineral substance.
- (7) A party to a dispute who is aggrieved by the decision of the chief gold commissioner under subsection (1) may, within 30 days after service of the notice under subsection (3), appeal the decision to a judge of the Supreme Court.
- (8) An appeal lies from a decision of the court under subsection (7) to the Court of Appeal with leave of a Justice of the Court of Appeal.
- (9) [Repealed 2007-9-89.]

Surface rights

- 14 (1) Subject to this Act, a recorded holder may use, enter and occupy the surface of a claim or lease for the exploration and development or production of minerals or placer minerals, including the treatment of ore and concentrates, and all operations related to the exploration and development or production of minerals or placer minerals and the business of mining.
- (2) Despite subsection (1), no mining activity may be done by the recorded holder until the recorded holder receives the permit, if any, required under section 10 of the Mines Act.
- (3) Subject to the terms and conditions set by the issuing authority under the Forest Act, a recorded holder of a mineral title that is not in production must on request be issued either a free use permit or an occupant licence to cut under that Act at the option of the government.
- (4) The recorded holder of a mineral title that is in production or being prepared for production must on request be issued an occupant licence to cut under the Forest Act, subject to terms and conditions set by the issuing authority.
- (5) Unless the location is one of the following, a land use designation or objective does not preclude application by a recorded holder for any form of permission, or approval of that permission, required in relation to mining activity by the recorded holder:
- (a) an area in which mining is prohibited under the Environment and Land Use Act;
 - (b) a park under the Park Act or a regional park under the Local Government Act;
 - (c) a park or ecological reserve under the Protected Areas of British Columbia Act;
 - (d) an ecological reserve under the Ecological Reserve Act;
 - (d.1) an area of Crown land if
 - (i) the area is designated under section 93.1 of the Land Act, for a purpose under that section, and
 - (ii) the order under that section making the designation, or an amendment to the order, precludes the application by the recorded holder;

(e) a protected heritage property.

Disposition of surface rights

15 (1) If a person holds a mining lease that is located on land that

- (a) is unreserved land owned by the government,
- (b) is not lawfully occupied for a purpose other than for mining, and
- (c) is not protected heritage property.

and the minister certifies that the surface rights are or will be required by the recorded holder for the purposes of a mining activity, the minister having responsibility for the Land Act must, on application of the holder, dispose of the surface rights to that holder.

(2) For the purposes of subsection (1), the minister responsible for the Land Act may dispose of the surface rights to that holder

- (a) in whole or in part,
 - (b) on the terms and conditions that minister considers to be in the public interest, and
 - (c) on payment of an amount set by that minister based on the value of the unimproved land.
- (3) If the minister refuses to certify that the surface rights are or will be required, the minister must serve the recorded holder with a notice of that fact.
- (4) Failure to certify under subsection (3) within 6 months from the date of the application for certification constitutes refusal.

Priority of rights on Crown land

16 (1) If an application to acquire surveyed Crown land is received by a commissioner under the Land Act before a claim is located or registered on that land, and the application results in an acquisition under that Act, the rights with respect to the acquisition of the surface of the land have priority over the rights with respect to a claim subsequently located or registered on that land.

(2) If an application to acquire unsurveyed Crown land is received by a commissioner under the Land Act and

- (a) staking of the land under that Act for the purpose of the application is completed before a claim is located or registered on that land, or
 - (b) the application results in acquisition under that Act,
- the rights with respect to the acquisition of the surface of the land have priority over the rights with respect to a claim subsequently located or registered on that land.
- (3) If a disposition is made of surface rights to Crown land, whether surveyed or unsurveyed, and at the time of disposition there is a valid mineral title over the Crown land, the disposition of surface rights does not diminish the rights of the recorded holder except to the extent otherwise determined
- (a) by order of the chief gold commissioner under section 13,
 - (b) by order of the minister under section 17,
 - (c) by order of the Surface Rights Board in a settlement under section 19 (4), or
 - (d) by a quit claim agreement between a recorded holder and a subsequent holder of the surface rights.

Restrictions

17 (1) Despite this or any other Act, the minister may, by order, restrict the use of surface rights, or restrict the right to or interest in minerals or placer minerals, comprised in all or part of a mineral title if the minister considers that all or part of the surface area is or contains a cultural heritage resource or that the surface area, or the right to or interest in the minerals or placer minerals, should be used for purposes other than a mining activity.

(2) No compensation is payable as a result of an order under subsection (1).

(3) The chief gold commissioner must serve the order on the recorded holder and register notice of the order in the registry.

(4) A person aggrieved of an order of the minister under subsection (1) may, within 30 days after service of notice of the order, appeal the order to a judge of the Supreme Court.

(5) An appeal lies from an order of the court under subsection (4) to the Court of Appeal with leave of a Justice of the Court of Appeal.

Compensation

17.1 (1) If, after the coming into force of this section, the minister responsible for the administration of the Park Act expropriates under section 11 of the Park Act the rights of a recorded holder of a lease or claim or

of an owner of a Crown granted 2 post claim, compensation is payable to the recorded holder or owner, as the case may be, in an amount equal to the value of the rights expropriated, to be determined under the regulations.

(2) If the minister responsible for the administration of this Act and the recorded holder or owner, as the case may be, do not agree as to the amount of compensation that is payable under subsection (1), the minister or the recorded holder or owner may require the dispute to be settled by a single arbitrator who has the prescribed qualifications and is to be appointed by the minister.

(3) The award of the single arbitrator appointed by the minister responsible for the administration of this Act is binding on the parties to the arbitration.

(4) Despite subsection (1), no compensation is payable under this section to the recorded holder of a claim if the minister believes on reasonable grounds that the claim was acquired or is being held

(a) for other than a mining activity, or

(b) mainly in the expectation of receiving compensation or other consideration if the area, under the Park Act, is acquired or expropriated.

Suspension of operations or cancellation of claim

18 (1) If the recorded holder or other person conducting operations in respect of a mineral title does not comply with a provision of this Act or the regulations or a provision of any other enactment with respect to a mining activity, or contravenes the protection of a protected heritage property, the chief gold commissioner may

(a) notify the recorded holder or other person of the provision that the chief gold commissioner considers is not being complied with, and

(b) order the recorded holder or other person to comply with the provision within a period of time specified in the notice.

(2) If the recorded holder or other person does not comply with the order under subsection (1) (b) within the period of time specified, the chief gold commissioner may, by order,

(a) suspend any exploration and development or production of minerals or placer minerals carried out by the recorded holder or other person until the provision has been complied with, and

(b) specify conditions under which the suspension will be lifted.

(3) [Repealed 2004-22-15.]

(4) The chief gold commissioner may, by order, cancel the claim of a recorded holder who deliberately fails to comply with

(a) an order of the chief gold commissioner or other person under this section,

(b) this Act or the regulations,

(c) the Mines Act or the Health, Safety and Reclamation Code for Mines in British Columbia,

(d) the protection of a protected heritage property under the Heritage Conservation Act, or

(e) any enactment under which a mining activity has been or is required to be authorized.

(5) The chief gold commissioner must serve notice of the cancellation of a claim on the recorded holder and register the cancellation in the registry.

(6) A recorded holder aggrieved by a cancellation under subsection (4) may, within 30 days after service of notice of the cancellation of the claim, appeal the decision to a judge of the Supreme Court.

(7) An appeal lies from a decision of the court under subsection (6) to the Court of Appeal with leave of a Justice of the Court of Appeal.

Right of entry on private land and compensation

19 (1) A person must not begin a mining activity unless

(a) the person first serves notice, in the prescribed form and manner, on

(i) the owner, other than the government, of every surface area,

(ii) the holder of a lease of Crown land under section 11 of the Land Act granting the holder exclusive surface rights to the leased land, and

(iii) the holder, under Part 5 of the Land Act, of a disposition of Crown land,

on which the person intends to work or intends to utilize a right of entry for that purpose, and

(b) the prescribed period has elapsed from the date that notice was served under paragraph (a).

(1.1) The chief gold commissioner, in the prescribed circumstances, may exempt a person from the requirements of subsection (1).

- (2) A free miner or recorded holder, or any person acting under or with the authority of a free miner or recorded holder, is liable to compensate the owner of a surface area for loss or damage caused by the entry, occupation or use of that area or right of way by or on behalf of the free miner or recorded holder for location, exploration and development, or production of minerals or placer minerals.
- (3) On receipt by the chief gold commissioner of an application from a free miner, recorded holder, owner or other person who, in the opinion of the chief gold commissioner, has a material interest in the surface, the chief gold commissioner must use his or her best efforts to settle issues in dispute between them arising from rights acquired under this Act in respect of entry, taking of right of way, use or occupation, security, rent or compensation.
- (4) If the chief gold commissioner is unable to settle the dispute to the satisfaction of the parties to the dispute, the Surface Rights Board under the Petroleum and Natural Gas Act has, on application by a party to the dispute, authority to settle the issues in dispute and, for this purpose, Part 17 of the Petroleum and Natural Gas Act applies.
- (5) In an arbitration under subsection (4) involving a conflict between rights acquired under this Act and rights acquired under the Land Act, the Surface Rights Board must take into account which of the rights was applied for first and, unless injustice would result, must give the holder of those rights due priority in its consideration of the dispute between the parties.
- (6) A copy of an order made by the Surface Rights Board under subsection (4) may be filed at any time in a Supreme Court registry and enforced as if it were an order of the court.
- (7) If an owner of private land opposes entry on the land by a recorded holder on the grounds that the intended activity would obstruct or interfere with an existing operation or activity on the land or with the construction or maintenance of a building, structure, improvement or work on the land, the Surface Rights Board must determine the impact of the intended entry and must determine which parts of the land would be affected by that entry.
- (8) If, under subsection (7), the Surface Rights Board determines that it is not possible to enter the land or a part of it without obstruction or interference, in addition to any other order it makes, the board must make an order
- (a) specifying conditions of entry that will minimize the obstruction to or interference with the existing circumstances of the land, and
 - (b) specifying compensation for obstruction to or interference with enjoyment of the land.
- (9) Without limiting the factors that the board may consider in making a decision under this section, in making a determination under subsections (7) and (8) the board must take into account the extent of the obstruction or interference with respect to the following:
- (a) land occupied by a building;
 - (b) the curtilage of a dwelling house;
 - (c) orchard land;
 - (d) land under cultivation.

Repealed

20 [Repealed 2002-48-53.]

No exploration in parks without consent

21 Despite any Act, agreement, free miner certificate or mineral title, a person must not locate a mineral title, carry out exploration and development or produce minerals or placer minerals in a park created under an Act of British Columbia or of Canada or in an area of land established as a Provincial heritage property under section 23 of the Heritage Conservation Act unless authorized by the Lieutenant Governor in Council on the recommendation of the person, corporation or government that is responsible for the park or the area of land.

Mineral reserves

22 (1) Despite any other provision of this Act, the chief gold commissioner may, by regulation, establish a mineral reserve on land specified in the regulation.

(2) A regulation made under subsection (1) may do any of the following:

- (a) prohibit a free miner from registering a mineral title on land covered by the mineral reserve;
- (b) permit the registering of a mineral title under circumstances and subject to the limitations contained in it, despite any provision of this Act;

- (c) prohibit a mining activity located within and included in the mineral reserve, either absolutely or under circumstances specified in the mineral reserve, and may prescribe
- (i) specific maintenance requirements that differ from those required by section 29, and
 - (ii) the term of a claim and the conditions of forfeiture of a claim;
- (d) prohibit a free miner or recorded holder from obstructing, endangering or interfering with or allowing any other person to obstruct, endanger or interfere with the construction, operation or maintenance of a transmission line, pipeline or other work, structure or activity on all or part of the land in the mineral reserve;
- (e) be made applicable to all minerals and placer minerals or to the mineral or placer mineral specified in it;
- (f) provide that obligations imposed by this Act or the regulations on the recorded holder of a mineral title in the mineral reserve, are relieved for the period and on the conditions specified in it;
- (g) provide that a refund of all or part of a sum of money paid under this Act may be made to a recorded holder of a mineral title in the mineral reserve respecting a period either before or after the making of it.
- (3) If a regulation establishing a mineral reserve or a placer mining reserve or both under any of the former Acts is in effect on July 14, 1988,
- (a) a reference in the regulation to the locating of a mineral claim or to the staking or acquisition of a location is deemed to be a reference to the locating of a mineral claim or a placer claim as each of those terms is defined in this Act,
 - (b) if the regulation established only a mineral reserve,
 - (i) a reference to the locating or recording of a mineral claim is deemed to include in addition a reference to the locating or recording of a placer claim under this Act, and
 - (ii) a condition of the regulation that applies in respect of the locating or recording of a mineral claim applies also in respect of the locating or recording of a placer claim, and
 - (c) the reserve continues in effect until the earlier of
 - (i) the date of expiry provided for in the regulation, or
 - (ii) the date the reserve is cancelled by regulation of the chief gold commissioner.
- (4) If a regulation is made under subsection (1), no persons are entitled to compensation for any loss or damage to their interest in a mineral title located in the mineral reserve if
- (a) the loss or damage arises, other than through negligence, out of the construction or use of any work or structure by the person designated in the regulation, and
 - (b) the mineral title was located or registered after the making of a regulation under subsection (1).
- (5) If some or all of the land comprising a mineral reserve established under this or a former Act is subsequently included in one or more other mineral reserves under subsection (1), in the area of the overlap,
- (a) to the extent the terms or conditions that apply in one mineral reserve are not inconsistent with the terms or conditions that apply in the other mineral reserves, all those terms and conditions apply in the area of the overlap, and
 - (b) to the extent that the terms or conditions that apply in one mineral reserve, whether established before or after another mineral reserve, conflict or are inconsistent with the terms or conditions that apply in other mineral reserves, the terms or conditions having the highest rank under subsection (6) apply in the area of the overlap.
- (6) Terms or conditions imposed in a regulation under this section are ranked from the highest to the lowest as follows:
- (a) an absolute prohibition of a mining activity under subsection (2) (c);
 - (b) a prohibition of mining activity under specified circumstances under subsection (2) (c);
 - (c) a prohibition under subsection (2) (a);
 - (d) a prohibition under subsection (2) (d).
- (7) If a mineral reserve to which subsections (5) (b) and (6) apply is cancelled and subsection (5) (b) continues to apply in respect of reserves that overlapped with the cancelled reserve, the terms or conditions having the highest rank under subsection (6) apply in the area of the overlap.
- (8) Subsections (5) to (7) are retroactive to the extent necessary to apply to all mineral reserves that overlap with other mineral reserves on the date this section comes into force.

Repealed

23 [Repealed 2004-22-18.]

Repealed

24 [Repealed 2004-22-19.]

Validity and priority of legacy claims

24.1 (1) A legacy claim continues until forfeited, cancelled, terminated, abandoned or converted to a lease.

(2) A legacy lease continues until it expires, is surrendered or otherwise terminates.

(3) The inclusion of part of a legacy claim in an area in which the location or registration of that part is prohibited does not affect the validity of the location of the remainder of the claim, and the location of any post does not invalidate the claim.

(4) Priority of location of a legacy claim is based on the time that the location was completed so long as it was located in the prescribed manner.

(5) The identification on the ground of a legacy claim or legacy placer lease may be made by a map approved for that purpose by the chief gold commissioner, and if there is a difference between the identification of a legacy claim or a legacy placer lease as determined by that map and the identification of the legacy claim or legacy placer lease as determined by stakes, marks or posts, the identification as determined by the map prevails.

Amalgamation of cell claims

24.2 In accordance with the regulations, mineral cell claims may be amalgamated with other adjoining mineral cell claims, and placer cell claims may be amalgamated with other adjoining placer cell claims, if the amalgamated claims are held by the same recorded holder.

Subdivision of cell claims

24.3 In accordance with the regulations, the recorded holder of a cell claim comprising 2 or more cells may subdivide the claim into 2 or more cell claims that are not less than one cell in size.

Reduction of cell claim

25 The recorded holder of a cell claim who complies with the regulations may reduce the area of the claim by registration under section 6.31.

Reverted and escheated Crown granted 2 post claims

26 (1) A Crown granted 2 post claim that has reverted, escheated or been surrendered to the government, or is otherwise acquired by the government, before or after this Act comes into force, may be disposed of as a mineral claim in accordance with the regulations.

(2) [Repealed 2004-22-22.]

(3) An area covered by a Crown granted 2 post claim that escheats to the government is not available for acquisition as a mineral title until one year elapses from the date that the escheat occurs.

Repealed

27 [Repealed 2004-22-23.]

Entitlement of minerals and nature of interest

28 (1) Subject to this Act, the recorded holder of a claim is entitled to those minerals or placer minerals, as the case may be, that are held by the government and that are situated vertically downward from and inside the boundaries of the claim.

(2) The interest of a recorded holder of a claim is a chattel interest.

Continuation of claims

29 A recorded holder may hold a claim until the expiry date, and after that, in accordance with the regulations, may hold the claim from year to year by

(a) doing exploration and development and registering a statement of the exploration and development, or making payments instead of exploration and development, and

(b) registering a revised expiry date.

Repealed

30 [Repealed 2004-22-26.]

Portable assessment credits

31 If a recorded holder performs exploration and development and submits a report on that exploration and development which is acceptable to the chief gold commissioner, the recorded holder, subject to the regulations, may have the cost of that exploration and development credited to a portable assessment credit account, and the recorded holder may, to the extent authorized by the regulations, use this account

- (a) to facilitate exploration and development required as a consequence of revising an expiry date, and
- (b) for the purpose of sections 29 and 33.1 to keep any claim in good standing.

Repealed

32 [Repealed 2004-22-28.]

Reports on exploration and development work

33 (1) If a recorded holder records exploration and development under section 29 or 33.1, the recorded holder must submit reports to the chief gold commissioner respecting that exploration and development at the time and in the form and manner prescribed by the regulations.

- (2) The chief gold commissioner may order the cancellation of all or a portion of the recording of the exploration and development under section 29 or 33.1 if the recorded holder fails to comply with subsection (1).

Registration of revised expiry date of claim

33.1 The recorded holder of a claim who complies with the regulations may revise the expiry date of the claim by registration.

Forfeiture by co-recorded holder who fails to contribute

34 (1) On the failure of a co-recorded holder or that person's personal representative to contribute the co-recorded holder's portion of the exploration and development required by section 29, another co-recorded holder, who has performed and recorded the exploration and development may serve the delinquent co-recorded holder or the personal representative with a notice that the co-recorded holder's portion must be contributed within 3 months after service of the notice.

- (2) If the co-recorded holder or the personal representative fails to contribute in full, including the costs of service, during the 3 month period, the delinquent co-recorded holder's interest in the claim vests in the co-recorded holder who has performed and recorded the required exploration and development, on filing evidence satisfactory to the chief gold commissioner that the co-recorded holder or the personal representative was served and the contribution not made.

- (3) If more than one co-recorded holder is to be vested with the interest of a delinquent co-recorded holder under this section, that interest vests in proportion to the interests held by the co-recorded holders who are in good standing.

Forfeiture

35 (1) Subject to subsection (2), if a recorded holder

- (a) does not perform prescribed maintenance requirements, if any, for a mineral reserve established under section 22, or

- (b) does not perform and register the exploration and development required by section 29, the recorded holder's claim forfeits to and vests in the government at the end of the day which is the expiry date of the claim.

- (2) If a recorded holder dies and because of the death section 29 is not complied with, the mineral title of the deceased does not forfeit and vest in the government until midnight one year after the time that it would otherwise have forfeited under subsection (1).

Repealed

36-38 [Repealed 2004-22-33.]

Repealed

39 [Repealed 2004-22-35.]

Complaints as to valid title

40 (1) An interested person, or an employee of the ministry charged with the administration of this Act, may make a complaint to the chief gold commissioner that

(a) [Repealed 2004-22-37.]

(b) a person has knowingly made a false statement or report under section 29, 33 or 33.1 or in a registration or an application for a registration under section 29, 33 or 33.1, or

(c) a claim has been acquired or held for purposes other than a mining activity.

(2) A complaint under subsection (1) (b) must be made within one year after the statement or report was registered with the chief gold commissioner.

(2.1) Complaints made under this section have priority according to the earliest notice of complaint registered against a claim.

(3) If the complainant is not an employee of the ministry, the complainant must provide, at the time the complaint is made, all of the following:

(a) the nature of the complainant's interest in the claim under complaint;

(b) a statement in the prescribed form setting out the basis of the complaint;

(c) the prescribed fee.

(4) If the complaint has been received by the chief gold commissioner in accordance with the requirements of subsections (2) and (3), the chief gold commissioner must

(a) review the complaint,

(b) accept the complaint for consideration or reject the complaint, and

(c) notify the complainant of the results of the review.

(5) If the complaint is accepted for consideration under subsection (4) (b), the chief gold commissioner

(a) must promptly serve notice on the recorded holder setting out the particulars of the complaint, and

(b) may cause an investigation of the complaint and the making of a report of the investigation, or require a written submission from the complainant and recorded holder respecting the complaint, or both.

(6) If a report is made or submissions are received under subsection (5) (b), the chief gold commissioner must provide the complainant and recorded holder with a copy of the report and submissions, and the complainant and recorded holder are each entitled, within 30 days after receipt of the report and submissions, to make further written submissions concerning the report and submissions.

(7) After reviewing the report made under subsection (5) and any written submissions made under subsection

(6), the chief gold commissioner may

(a) dismiss the complaint,

(b) order the cancellation of the record of the claim effective as of the date it was recorded, or order the cancellation of the record or credit for exploration and development remaining to be performed, or both, or

(c) make any other order that he or she considers appropriate,

and must promptly notify the complainant and recorded holder of the decision.

(7.1) On making an order under subsection (7) (b) or (c), the chief gold commissioner may

(a) delete, correct or amend an entry in the registry,

(b) discharge the registration of a claim of the recorded holder against whom a complaint has been upheld, and

(c) if the complainant is not the government, register a cell claim of the complainant over that cell.

(7.2) If the chief gold commissioner's order is overturned on appeal, the chief gold commissioner may make any changes to the register in respect of the claim that are required to implement the order of the court.

(8) The complainant or the recorded holder may, within 30 days after service of notice under subsection (7), appeal the decision of the chief gold commissioner to a judge of the Supreme Court.

(9) An appeal lies from a decision of the court under subsection (8) to the Court of Appeal with leave of a Justice of the Court of Appeal.

(10) [Repealed 2007-9-89.]

Power to compel persons to answer questions and order disclosure

40.1 (1) For the purposes of making a determination under section 13 or 40, the chief gold commissioner may make an order requiring a person to do either or both of the following:

(a) attend, in person or by electronic means, before the chief gold commissioner to answer questions on oath or affirmation, or in any other manner;

(b) produce for the chief gold commissioner a record or thing in the person's possession or control.

(2) The chief gold commissioner may apply to the Supreme Court for an order

- (a) directing a person to comply with an order made under subsection (1), or
- (b) directing any directors and officers of a person to cause the person to comply with an order made under subsection (1).

Contempt proceeding for uncooperative person

40.2 The failure or refusal of a person subject to an order under section 40.1 to do any of the following makes the person, on application to the Supreme Court by the chief gold commissioner, liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court:

- (a) attend before the chief gold commissioner;
- (b) take an oath or make an affirmation;
- (c) answer questions;
- (d) produce records or things in the person's possession or control.

Immunity protection

40.3 (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against the chief gold commissioner, or a person acting on behalf of or under the direction of the chief gold commissioner, because of anything done or omitted

- (a) in the performance or intended performance of any duty under section 13 or 40, or
 - (b) in the exercise or intended exercise of any power under section 13 or 40 to 40.2.
- (2) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.

Production on claim

41 (1) A recorded holder of a mineral claim may produce ore from a claim in accordance with the regulations.

(2) A recorded holder of a placer claim may produce pay dirt from a claim in accordance with the regulations.

Part 3 — Leases

Issue of a mining lease

42 (1) A recorded holder of a mineral claim who wishes to replace the mineral claim with a lease must do all of the following:

- (a) comply with section 6.32 and pay the prescribed fee;
 - (b) if required to do so by the chief gold commissioner, have the mineral claim over which the mining lease will be issued surveyed by a British Columbia land surveyor and have the survey approved by the Surveyor General;
 - (c) post a notice in the prescribed form in the office of the chief gold commissioner stating that the recorded holder intends to apply for a mining lease;
 - (d) publish promptly in one issue of the Gazette, and once each week for 4 consecutive weeks in a newspaper circulating in the area in which the mineral claim is situated, a copy of the notice referred to in paragraph (c).
- (2) [Repealed 2007-8-50.]
- (3) [Repealed 2004-22-39.]
- (4) If the chief gold commissioner is satisfied that the recorded holder has met all of the requirements of subsection (1), the chief gold commissioner must issue a mining lease for an initial term not longer than 30 years on conditions the chief gold commissioner considers necessary.
- (5) If the lessee complies with this Act, the regulations and any conditions of the mining lease issued under subsection (4), the lessee is entitled to a renewal of the mining lease for one or more further terms not exceeding 30 years each, subject to the approval of the chief gold commissioner that the mining lease is required for a mining activity.
- (6) The right of renewal of a mining lease under subsection (5) applies to a lease issued before December 1, 1995.

Repealed

43 [Repealed 2003-1-5.]

Amendment of mining lease

44 (1) If a lessee complies with all prescribed requirements for mapping and surveying, on application by the lessee, the chief gold commissioner may amend the area of a mining lease by deleting land from it.

(1.1) If a lease is amended under subsection (1), the rental payment is not reduced until the next year of the lease.

(2) It is the duty of the lessee to have the deleted area surveyed by a British Columbia land surveyor and to submit a copy of the survey plan to the Surveyor General for approval.

(3) After approving the plan under subsection (2), the Surveyor General must submit it to the chief gold commissioner, who must make the appropriate entry in the record of the lease under section 48.

Issue of placer lease

45 (1) A recorded holder of a placer claim or a placer lease issued under any of the former Acts who wishes to replace it with a lease issued under this Act must comply with subsection (2) after registration of an application for a lease under section 6.32.

(2) A placer lease may be issued to the holder of a placer claim, or to the holder of any lease of placer minerals issued under any of the former Acts, in respect of the placer minerals in that claim or lease not sooner than 28 days after notice of intention to apply for that placer lease is posted at the office of the chief gold commissioner.

(3) A placer lease must not be issued until the applicant for the lease delivers to the chief gold commissioner a plan of a survey of the area of the lease, prepared and carried out in accordance with the regulations.

(3.1) If the chief gold commissioner is satisfied that the recorded holder has met the requirements of subsections (2) and (3) and the regulations respecting the issuance of a placer lease, the chief gold commissioner must issue the placer lease on conditions the chief gold commissioner considers necessary.

(4) The initial term of a placer lease issued under this section must not exceed 10 years and the lessee has the right to renew the placer lease for one or more further terms not exceeding 10 years each if

(a) the lessee complies with this Act, the regulations and the conditions of the placer lease, and

(b) the chief gold commissioner is satisfied that the placer lease is required for a mining activity.

(5) [Repealed 2004-22-41.]

(6) A placer lease is subject to the terms and conditions that may be prescribed.

(7) In addition to any terms and conditions referred to in subsection (6) that apply to a placer lease, if a placer lease is issued and no legal survey of the area of the placer lease was performed by a practising land surveyor under the Land Surveyors Act, it is a term of the placer lease that the lessee must indemnify and save harmless the government against any loss or damage sustained by the government arising out of the issuance of the placer lease.

(8) If a placer lease is issued based on a technical survey and the technical survey plan is later found to be inaccurate, the chief gold commissioner may amend the plan and revise the area of the placer lease.

Designation of placer lease land

46 (1) The chief gold commissioner may, by regulation, designate mineral lands in respect of which placer leases may be issued if satisfied that the value of the placer minerals in that land warrant the designation and that the issue of placer leases over them would not be contrary to the public interest.

(2) Designated placer land under the former Acts is deemed to be designated placer lease land under subsection (1) until amended or revoked by regulation of the chief gold commissioner.

Continuation and amendments of placer leases

47 (1) If a lessee complies with all prescribed requirements for mapping and surveying, on application by the lessee the chief gold commissioner may amend the area of a placer lease by deleting land from it.

(1.1) If a placer lease is amended under subsection (1), the rental payment is not reduced until the next year of the lease.

(2) If the lessee of a placer lease issued under any of the former Acts complies with this Act, the regulations and the conditions of the placer lease, the lessee has the right to renew the placer lease for one further term not exceeding 10 years.

Effect of leases

48 (1) [Repealed 2004-22-43.]

(2) A lease is an interest in land and conveys to the lessee the minerals or placer minerals, as the case may be, within and under the leasehold, together with the same rights that the lessee held as the recorded holder of the claim or group of claims, but is subject to a valid charge registered against the record of the claim.

(3) Subject to subsection (2), if a lease is issued over a claim or group of claims, the title or titles of these claims are extinguished.

Court proceeding to establish adverse claim

49 (1) If a person claims a right of any kind, either to the minerals or placer minerals in, or possession of, all or part of a mineral title which has formed the basis of an application for a lease, that person must commence a proceeding in the Supreme Court,

(a) in the case of a claim to minerals, within 80 days after the date of posting of the notice under section 42, or

(b) in the case of a claim to placer minerals, within 21 days after the date of posting of the notice under section 45

unless the court, on being satisfied that the failure to proceed in time was not within the plaintiff's control, orders otherwise.

(2) [Repealed 2004-22-44.]

(3) After the filing of the final court order and after complying with all survey requirements, the person named in the order as the person having right to the lease is entitled to the issue of it for all or part of the claim duly specified in the order.

Rental obligations

50 (1) It is a condition of every lease that before the end of a rental year the recorded holder must pay to the government the prescribed annual rental for the next rental year.

(2) If the recorded holder of a lease, other than the holder of a lease of placer minerals issued under the former Acts, does not pay the rental or fails to comply with the provisions of this Act or the regulations or conditions respecting the lease, the chief gold commissioner must serve a notice on the holder requiring the holder to comply.

(3) If the holder does not comply within 30 days after service of the notice, the lease, if ordered by the chief gold commissioner, forfeits to and vests in the government as of the date specified in the order.

(4) Nothing in subsection (2) or (3) is to be construed to prevent the holder of a lease of placer minerals under the former Acts from having that lease forfeited under its terms.

Lease may not be challenged

51 A person may not challenge the validity of a lease in any court unless that person establishes that the lease was obtained through fraud.

Repealed

52 [Repealed 2004-22-46.]

Part 4 — General

Industrial mineral rights

53 (1) Nothing in this Act is to be construed as invalidating or diminishing

(a) a right to a mineral substance that a person acquired under another enactment before August 15, 1988, or
(b) an obligation imposed on a person referred to in paragraph (a) in respect of that mineral substance.

(2) Subject to subsections (3) and (4) and despite a mineral reserve having been established under any of the former Acts, a person who, before August 15, 1988, acquired under another enactment a right to a mineral substance in mineral lands, has, for as long as his or her right under the other enactment exists, one of the following exclusive rights:

(a) if the right under the other enactment was conferred on the person by a lease, to have the lease converted into a mining lease in respect of that mineral substance on application to the chief gold commissioner in the prescribed form, on payment of the prescribed fee and on satisfying the chief gold commissioner that he or she has

(i) had the lands surveyed by a British Columbia land surveyor and had the survey approved by the Surveyor General, and

(ii) complied with section 42 (1) (c) and (d);

(b) if the right under the other enactment was conferred on the person by a permit or a licence, to register a mineral claim over those lands in respect of that mineral substance.

(3) The minister may impose terms and conditions in a mining lease referred to in subsection (2) (a), including terms and conditions that were contained in the lease under the other enactment.

(4) A person on whom a right is conferred by subsection (2) must give written notice to the minister responsible for the administration of the Land Act at least 60 days before the person exercises that right.

(5) If a person exercises a right conferred on the person by subsection (2), the right the person acquired and the obligations imposed on the person in respect of that mineral substance under the other enactment are extinguished.

(6) If a right under subsection (2) (a) to have a lease under the Land Act converted into a mining lease over mineral lands or a right under subsection (2) (b) to register a mineral claim in respect of a mineral substance in mineral lands is not exercised within the applicable period, the title of the recorded holder of a mineral claim or a mining lease over those lands includes, on the expiry of that period, that mineral substance.

(7) If, by the operation of this section, there is more than one recorded holder over the same mineral lands and the mineral title of one of the recorded holders

(a) forfeits to and vests in the government under section 35 (1) or (2) or 50 (3) or under a similar provision of any of the former Acts,

(b) is cancelled by an order under section 40 (7) (b), or

(c) is surrendered or abandoned under section 6.33,

(d) [Repealed 2004-22-47.]

then, despite the Escheat Act, the rights under that mineral title vest in the other recorded holder immediately after the forfeiture, cancellation or surrender of the title or after the expiry of the period referred to in paragraph (d), as the case may be.

(8) If

(a) by the operation of this section there is more than one recorded holder over the same mineral lands,

(b) the mineral title of one of the recorded holders referred to in paragraph (a) escheats to the government otherwise than by a forfeiture referred to in subsection (7) (a), and

(c) no assignment of the escheated mineral title is made under section 8 of the Escheat Act within one year after the date the escheat occurs,

the rights under the mineral title referred to in paragraph (b) vest on the expiry of that year in the other recorded holder and the chief gold commissioner may discharge the registration of the recorded holder whose mineral title has escheated.

(9) Where a person is, before December 1, 1995, the recorded holder of a mineral claim or a mining lease over mineral lands and no person has, before that date, acquired under another enactment a right to a mineral substance within those lands, the title of the recorded holder includes all minerals, as defined in this Act, within those lands.

Regulations amending a reserved area

54 (1) If the minister receives a request to amend or delete a portion of an area reserved by B.C. Reg. 138/94, as amended from time to time before or after this section comes into force, so that a free miner may acquire a mineral title for the purposes of conducting a mining activity within the reserved area and over land for which a Crown grant was issued on or after August 15, 1988, the minister and the minister responsible for the administration of the Land Act may, subject to the consent of the current owner of the land over which the Crown grant is issued, jointly make regulations to amend or delete a portion of the reserved area to allow the free miner to acquire a mineral title on the terms, conditions and limitations prescribed in the regulation.

(2) No compensation is payable by the government to any person and no proceedings shall be commenced or maintained to claim compensation from the government as the result of a regulation made under subsection (1).

Repealed

55 [Repealed 2004-22-48.]

Court orders affecting mineral titles

56 If a court proceeding results in a change in the original boundaries of a mineral title, the court must order that

- (a) a plan in accordance with the regulations be filed with the chief gold commissioner, and
- (b) the expense of obtaining the plan be shared among the parties to the proceeding in the manner the court considers just.

Repealed

57–58 [Repealed 2004-22-50.]

Removal of property

59 (1) If a mineral title is abandoned, cancelled or forfeited, or escheats to the government, it is the duty of the last recorded holder to remove all property within the boundaries of that title within one year after the abandonment, cancellation, forfeiture or escheat, or a longer period that may be set by the chief gold commissioner.

(2) If the last recorded holder fails to comply with subsection (1), the chief gold commissioner may make a vesting order respecting the property on the mineral title.

(3) After an order is made under subsection (2), all of that property vests in the government and may be disposed of on terms that are considered appropriate without any compensation to the last recorded holder.

Misrepresentation of sale

60 (1) A person who advertises a mineral title for disposition in any manner must not include more than the following in the advertisement:

- (a) price and terms of disposition;
- (b) person to contact, address and phone number;
- (c) name given to the property, record number, lot number or lease number;
- (d) geographic location;
- (e) geological features;
- (f) a list of mining equipment to be included in the disposition.

(2) The person who advertises must ensure that the following statement is included in an advertisement respecting the sale of a mineral title and that it is of the same size print as the general body of the advertisement:

Warning — This property is offered for mining purposes only and ownership of the title to it does not include ownership of the surface rights or the right to use the surface for residential or recreational purposes.

Change of address

61 A holder of a mineral title must notify the chief gold commissioner of a change in the holder's permanent address.

Service of notices

62 (1) If service of a notice, order or other document is required under this Act, the notice, order or document is deemed to have been served

- (a) if served on the person, or
 - (b) if sent by registered mail to the last known address of the person.
- (2) If service is by registered mail, the notice, order or other document is deemed to be served on the eighth day after posting.
- (3) This section does not apply if a court orders another mode of service.

Offence

63 (1) A person commits an offence who does any of the following:

- (a) wilfully and without lawful excuse pulls down, defaces, alters or removes a staking or legal post, a legal corner post or other survey monument;
- (b) explores for, develops or produces minerals contrary to this Act or the regulations;
- (c) knowingly makes a false statement or provides false information under this Act, or in a registration;
- (d) offers for sale, or sells, a mineral title for a non-mining usage.

(2) Sections 4 and 5 of the Offence Act do not apply to this Act.

(3) A person who is convicted of an offence is liable to a fine of not more than \$25 000 or to imprisonment for not more than 6 months, or to both.

Power of chief gold commissioner to require information for audits

63.1 For the purpose of determining the accuracy of information provided to the chief gold commissioner under this Act, the chief gold commissioner may require a person to provide verification of the information provided or additional information or documents that relate to the information provided.

Survey rules

64 (1) The Association of British Columbia Land Surveyors may make rules under section 75 of the Land Surveyors Act that the association considers necessary or advisable respecting the conduct of surveys for the purposes of mineral titles under this Act and all matters that relate to those surveys.

(2) For the purposes of this section, the Association of British Columbia Land Surveyors may make different rules for different classes of mineral titles.

(3) On completion of a survey of a mineral title, the British Columbia land surveyor must forward to the Surveyor General

(a) a copy of the original plan,

(b) a statement in the form set out in the rules under section 75 of the Land Surveyors Act made for the purposes of this section, and

(c) any fees the board of directors of the Land Title and Survey Authority of British Columbia may establish by bylaw.

(4) In the absence of evidence to the contrary, field notes relating to a survey or a certified copy of them must be received in a court as evidence of the facts set out in them.

Power to make regulations

65 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations to provide for the following:

(a) conveyance to the recorded holder of a Crown granted 2 post claim of minerals that did not pass from the government under the original grant;

(b) staking, and the positioning of posts for the purpose of location of claims, with power to make different provisions for mineral claims and for placer claims, and conferring on the minister the power to order the repositioning of a wrongly placed post to its correct position;

(c) [Repealed 2004-22-53.]

(d) the disposal of mineral titles that have reverted, escheated or been surrendered to or otherwise acquired by the government, with the power to dispose of different titles by different methods;

(d.1) for the purposes of section 17.1,

(i) determining value and defining the components that comprise value,

(ii) methods of evaluation for use in determining value, that may differ according to different components of value,

(iii) factors to be taken into account in an evaluation,

(iv) defining the role of evaluators in a determination of value and prescribing qualifications for evaluators that are prerequisite to their participation in the determination of value, and

(v) prescribing the qualifications for a single arbitrator referred to in section 17.1;

(e) [Repealed 2004-22-53.]

(f) the survey of the land to be covered by a placer lease and the circumstances when gores and fractions are to be included in a placer lease;

(g) specifying the survey methods for the establishment of the area of a mining lease or placer lease and its boundaries, the preparation of the lease plan and the setting of lease provisions, and providing for the resolution of any matters in dispute respecting lease applications and development activities;

(h) limiting the number of placer claims and placer leases issued under the former Acts that can be consolidated into one placer lease;

(i) revising expiry dates for mineral titles;

(j) and (k) [Repealed 2004-22-53.]

(l) prescribing the time or times that a bulk sample on a claim may be taken and specifying the quantities of and conditions under which the bulk samples may be taken, and may specify different times, quantities and conditions for minerals and placer minerals;

- (m) methods by which mineral rights are acquired;
 - (n) conditions in leases, with the power to set different conditions for mining leases and placer leases;
 - (o) establishing fees or charges for performing duties or providing services under this Act;
 - (o.1) setting the amount of a fee, charge, rent, payment or cost, authorized under this Act;
 - (p) prescribing exploration, development and assessment activities for the purposes of the definition of "exploration and development";
 - (q) specifying the method and reporting of exploration, development and assessment activities;
 - (r) specifying how and when particular exploration and development activities may be applied to a claim and the amount of credit that may be allowed for any type of exploration and development done in respect of a claim;
 - (s) respecting portable assessment credits for the purposes of section 31 and prohibiting any type of exploration and development from being applied to a portable assessment credit account;
 - (t) requiring maps, receipts, invoices and other records and evidence to be produced for the purposes of applications and reports under the Act;
 - (u) prescribing forms for the purposes of the Act;
 - (u.1) respecting notices for the purposes of section 19 (1) (a), time periods for the purposes of section 19 (1) (b), and circumstances for the purposes of section 19 (1.1);
 - (v) any other matter for which regulations are contemplated by this Act.
- (2.1) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations to provide for the following:
- (a) specifying other changes or other matters for the purposes of section 6.31;
 - (b) limiting and regulating production on a claim for the purposes of section 41;
 - (c) defining a word or expression used but not defined in this Act;
 - (d) cells and cell claims, including a reduction in the maximum size of a cell claim, a reduction in the size of a cell claim, a subdivision of a cell claim into 2 or more cell claims and the amalgamation of multiple cell claims;
 - (e) legacy claims and legacy leases;
 - (f) requirements that, under section 29, must be met in order to maintain a claim;
 - (g) who is eligible to use the registry to register a claim, charge, transfer of ownership, notice or other matter or to search the registry;
 - (h) registration of cell claims, leases, legacy claims and legacy leases and any transfers, notices of debt instruments and options, changes of name and other documents related to any of them;
 - (i) discharges;
 - (j) searches in the registry;
 - (k) the effect of registration;
 - (l) information required to effect a registration;
 - (m) documents or information for which registration is not required but which must be provided to the chief gold commissioner in support of a registration, and when they must be provided;
 - (n) the method of identifying the land that is the subject of a claim or lease, including any limitation on the area of land that may be the subject of a single registration;
 - (o) transition issues respecting deemed registrations when the underlying title terminates, including, for the purposes of transition, the granting of additional rights to existing holders of registrations;
 - (p) restrictions and prohibitions on registration;
 - (q) agents and agency;
 - (r) amalgamation of claims or leases;
 - (s) delegating a matter to a person employed by the minister;
 - (t) conferring a discretion on the chief gold commissioner;
 - (u) making different regulations for different persons, places, things or transactions.

(3) [Repealed 2004-22-55.]

Chief gold commissioner may extend time limits

66 The chief gold commissioner may, by order, extend a time or time limit referred to in this Act, whether or not the time or time limit has expired.

Restoration of leases or claims forfeited because of expiry of time for compliance

67 (1) In this section, "intervening claim" means a claim that is in respect of land that was subject to a forfeited claim or an expired lease and is registered in the period between

(a) the date the record of the forfeited claim or expired lease was deleted from the registry, and
(b) the date the chief gold commissioner makes an order in respect of the forfeiture or expiry under subsection (2).

(2) Even if a claim is forfeited or a lease expires under this Act because the recorded holder fails to comply with a requirement of this Act within a time limit, the chief gold commissioner, by order, may set aside the forfeiture or the effect of the expiry and allow a further period of time for compliance.

(3) The chief gold commissioner, under section 6.36, may delete an intervening claim from the registry.

(4) No legal proceeding lies or may be commenced or maintained, and no compensation is payable, in respect of a deletion under subsection (3).

Part 5 — Transition

Transfer of legacy claims and legacy leases to registry

68 (1) The chief gold commissioner may enter a legacy claim or legacy lease into the registry by registering information in accordance with the regulations.

(2) The law that applies to a legacy claim or legacy lease entered into the registry under subsection (1) is the law that applies to a registered claim or a lease for which a notice of lease has been registered, except for the following:

(a) the area of land covered by a legacy lease, other than a legacy placer lease, continues unchanged after its registration despite any provision to the contrary in this Act or the regulations respecting the shape or size of areas that may be registered;

(b) if a legacy claim is converted to a lease, the lease may be registered in the registry despite the area or shape of the lease being contrary to a provision of this Act or the regulations, if the area and shape is supported by a survey plan as required under section 42 or 45;

(c) sections 39, 40 (1) (a) and 40 (2) (a), as they were immediately before the coming into force of this section, continue to apply to legacy claims;

(d) a conveyance, bill of sale, assignment or transfer entered into before the coming into force of this paragraph is governed by section 57 as it was immediately before the coming into force of this paragraph, except that the right to record a document referred to in section 57 (2) is a right to register the document or a notice of the document in accordance with the regulations.

(3) Despite subsection (2), if the law that applies to a cell claim imposes obligations with respect to exploration and development, or payment instead of exploration and development, that differ from the obligations that applied to a legacy claim before the coming into force of this subsection, then, on the claim's expiry date in effect at the time this section comes into force, those new obligations apply to the legacy claim.

(4) Despite subsection (2), if the law that applies to a lease for which a notice of lease has been registered imposes obligations with respect to annual rent that differ from the obligations that applied to a legacy lease before the coming into force of this subsection, then, on the lease's expiry date in effect at the time this section comes into force those new obligations apply to the legacy lease.

(5) A person has no right of action and may not commence or maintain proceedings, as a result of the enactment of this section or section 24.1 (5) or the exercise of a function under this section or section 24.1 (5),

(a) to claim damages or compensation of any kind from the government or a person acting on behalf of the government, or

(b) to obtain a declaration that damages or compensation are payable by the government or a person acting on behalf of the government.

(6) For all purposes, including for the purposes of the Expropriation Act, no expropriation or injurious affection occurs as a result of the enactment of this section or section 24.1 (5) or the exercise of a function under this section or section 24.1 (5).

Extension of title over cell on termination of legacy title

69 (1) Subject to the regulations, on the termination of a mineral claim or mining lease that applies to only part of a cell, any other mineral cell claim over the remaining part of the cell is extended to apply to the whole cell.

(2) Subject to the regulations, on the termination of a placer claim or placer lease that applies to only part of a cell, any other placer cell claim over the remaining part of the cell is extended to apply to the whole cell.

Repealed

70 [Repealed RS1996-292-70 (3).]

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