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SNL1999 CHAPTER M-15.1

MINING ACT

Amended:

CHAPTER M - 15.1

AN ACT RESPECTING THE OPERATION OF MINES AND MILLS IN THE PROVINCE

(Assented to December 14, 1999)

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Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title

1. This Act may be cited as the *Mining Act* .

1999 cM-15.1 s1

Definitions

2. In this Act

- (a) "abandoned" means a condition in which a project has ceased or has been suspended indefinitely without being rehabilitated;
- (b) "closed out" means a project in which all the requirements of an approved rehabilitation and closure plan have been fulfilled;
- (c) "closure" means the final termination of a project;
- (d) "development plan" means a long term plan setting out in detail the plans for the long term mode of development of a project, including any other information that the minister may require;
- (e) "financial assurance" means a form of assurance which would enable the minister to rehabilitate or close out a project;

(f) "lease" means

- (i) a mining lease issued or continued under the *Mineral Act* ,
- (ii) a quarry lease issued or continued under the *Quarry Materials Act, 1998* ,
- (iii) a mill licence issued under section 5,

and includes

- (iv) a right to minerals or quarry materials issued under an instrument other than the *Mineral Act* or the *Quarry Materials Act, 1998* , and
- (v) a grant or surface lease in relation to a site,

but does not include a right to a royalty from the sale of minerals or quarry materials;

(g) "lessee" means a person who has been granted a lease and includes a sublessee, an agent of a lessee or a person designated by a lessee as responsible for the control, management and direction of a project;

(h) "mill" means a facility in which a substance containing minerals may be concentrated by a physical or chemical process or otherwise treated, except by simple washing or crushing;

(i) "mine"

(i) when used as a noun, means an opening or excavation in, or working of the ground, for the purpose of winning any mineral or mineral bearing substance and all ways, works, machinery, plants, buildings and premises below or above the ground belonging to or used in connection with that activity and includes a mine that has been temporarily suspended, rendered inactive, closed out or abandoned as well as lands where tailings or waste rock or both or any other substances from an opening or excavation or working of the ground have been deposited within the geographic area described in a lease, and

(ii) when used as a verb, means the performance of any work in or about a mine as defined in its nominative sense;

(j) "mineral" means a mineral as defined under the *Mineral Act* and includes quarry materials as defined under the *Quarry Materials Act, 1998* ;

(k) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;

(l) "operational plan" means an annual plan filed with the minister in anticipation of the development of a project for the year following, containing the information that the minister may require;

(m) "progressive rehabilitation" means rehabilitation done continually and sequentially within a reasonable time during the entire period that a project continues;

(n) "project" means a mine or a mill, or the activity of mining or milling whether carried out separately or together, but does not include activities reasonably necessary for the purpose of exploration;

(o) "rehabilitate" means to take measures in accordance with the standards prescribed by the

regulations with respect to a site so that the use or condition of the site

(i) is restored as close as is reasonably possible to its former use or condition,

(ii) is restored to a condition that is acceptable to the minister, or

(iii) is made suitable for a use that the minister considers appropriate;

(p) "rehabilitation and closure plan" means a plan as prescribed by the regulations acceptable to the minister which describes the process of rehabilitation of a project at any stage of that project up to and including closure, and includes information required by the minister; and

(q) "site" means the land on which a project is located.

1999 cM-15.1 s2

Non-application

3. The minister may exempt from the application of this Act a small scale project fulfilling the criteria for exemption prescribed by the regulations made under section 17.

1999 cM-15.1 s3

Project operation

4. A person shall not operate a project, other than a mill, unless he or she

(a) holds a lease;

(b) has submitted all plans required under this Act to the satisfaction of the minister including

(i) a development plan, and

(ii) a rehabilitation and closure plan; and

(c) has provided financial assurance, as required by the minister, to the satisfaction of the minister.

1999 cM-15.1 s4

Mill licence

5. (1) A person shall not operate a mill unless he or she first obtains a mill licence from the minister.

(2) The minister shall, upon application, issue a mill licence to a holder of a mining lease.

(3) A mill licence

- (a) may contain those terms and conditions and may be in the form that the minister may prescribe;
- (b) shall be for a term of 5 years or a longer term as consistent with the term of a lease held by a lessee who has applied for a mill licence; and
- (c) shall be renewed by the minister for an additional term on application for a renewal before the expiry of the current term where the licensee is in compliance with this Act.

1999 cM-15.1 s5

Development plan

6. (1) Before commencing a project, a lessee shall submit a development plan to the minister for his or her approval which

- (a) contains the information with respect to the mode of development of the project prescribed by the regulations;
- (b) includes the measures the lessee will undertake to insure the project conforms to prudent resource management; and
- (c) contains the other information and is in the form required by the minister.

(2) Where a lessee after his or her development plan has been approved proposes to make a significant alteration or addition to a project, he or she shall file with the minister an amended development plan which meets the requirements of subsection (1) and the minister may accept it with or without changes.

(3) A lessee shall operate a project in substantial conformity with the development plan approved under this section.

(4) Notwithstanding another provision of this section, a lessee shall file with the minister annually an operational plan for the project containing the information respecting the operation of the project in the coming year that the minister may require.

1999 cM-15.1 s6

Annual report

7. (1) A lessee shall, once in a calendar year, file with the minister an annual report on operations of the project for the preceding year.

(2) The annual report on operations required under subsection (1) shall be in the form required by the minister and contain the information prescribed by the regulations.

1999 cM-15.1 s7

Progressive rehabilitation

8. A lessee shall take all reasonable steps to progressively rehabilitate a site whether or not closure has commenced.

1999 cM-15.1 s8

Rehabilitation and closure plan

9. (1) A lessee shall submit to the minister a rehabilitation and closure plan setting out the measures the lessee proposes to take

(a) to progressively rehabilitate a site; and

(b) upon closure of a project,

in the rehabilitation of a project.

(2) The minister may accept a rehabilitation and closure plan with or without the changes the minister may require.

(3) A lessee shall comply with a rehabilitation and closure plan accepted by the minister under subsection (2).

(4) Where the minister determines that a lessee is not progressively rehabilitating a site in conformity with the accepted rehabilitation and closure plan, he or she may require that the lessee take the steps necessary to rehabilitate the site to the satisfaction of the minister.

(5) Where the minister has imposed requirements under subsection (4) and the lessee has not, within a reasonable time, complied with those requirements, the minister may issue a stop work order, and the project shall cease operation.

(6) Where closure commences on a site, subject to the rehabilitation and closure plan, the lessee shall

(a) notify the minister immediately that closure has begun; and

(b) comply with the requirements of the rehabilitation and closure plan.

(7) Where a lessee intends to change the method of closure of a project, the lessee shall file with the minister an amended rehabilitation and closure plan which the minister may accept with or without changes.

1999 cM-15.1 s9

Financial assurance

10. (1) The lessee shall provide financial assurance as part of a rehabilitation and closure plan.

(2) As part of a rehabilitation and closure plan, a lessee shall provide a copy of a statement of a person qualified to make it that the estimate of the cost of completing the work set out in the rehabilitation and closure plan is a reasonable one.

(3) The financial assurance required as part of a rehabilitation and closure plan shall be in a form acceptable to the minister, including

- (a) cash;
- (b) a letter of credit from a bank named in Schedule I of the *Bank Act* (Canada);
- (c) a bond;
- (d) an annual contribution to a financial assurance fund established for the project; or
- (e) another form of security acceptable to the minister

and the amount specified in the rehabilitation and closure plan, or an amendment to it, shall be acceptable to the minister.

(4) Where the minister has reasonable grounds to believe that a rehabilitative measure required by an accepted rehabilitation and closure plan in respect of which financial assurance was given has not been or is not being carried out in accordance with that rehabilitation and closure plan, the minister may order the lessee to perform the rehabilitation measures contained in the accepted rehabilitation and closure plan.

(5) The minister shall provide written notice to the lessee of his or her intention to issue the order referred to in subsection (4) at least 45 days before the date the order is to be issued.

(6) Where the minister makes an order under subsection (4) and the minister has reasonable grounds to believe that the order has not been or is not being complied with, the minister may realize upon the security provided for financial assurance under subsection (3) and may carry out the rehabilitative measures.

(7) The minister may consider an application by a lessee for a reduction of the financial assurance to an amount consistent with the financial requirements of the rehabilitation work remaining to be completed where the balance of the work has already been completed according to the requirements of the rehabilitation and closure plan.

(8) Where the minister realizes upon the financial assurance provided by the lessee, and the amount of the financial assurance is in excess of the amount required to complete the required rehabilitation work in relation to the project, the minister shall refund the amount of the excess to the provider of that assurance.

(9) When the minister accepts the surrender of a lease in relation to a project, financial assurance from the lessee is no longer required.

1999 cM-15.1 s10

Inspectors

11. (1) The minister may designate inspectors for the purpose of this Act.

(2) An inspector shall monitor the development of a project and the progress of progressive rehabilitation or closure of a project under a rehabilitation and closure plan and may, at any reasonable time in the execution of his or her duties,

- (a) enter onto a site connected or associated with a project other than a room or place used as a dwelling;
- (b) in an inspection, examination, inquiry or test, be accompanied and assisted by a person having special, expert or professional knowledge of a matter relevant to the inspection, examination, inquiry or test;

(c) request the provision of drawings, specifications, licences, documents, records, or reports related to a project;

(d) be provided with copies of drawings, specifications, licences, documents, records, or reports requested under paragraph (c);

(e) inspect work related to rehabilitation or closure necessary to complete a report to the minister; and

(f) make reasonable inquiries of a person found on a site, orally or in writing.

(3) A lessee and a person employed by and designated for the purpose shall comply with the request of and aid an inspector or a person accompanying an inspector to carry out his or her duties under this section.

1999 cM-15.1 s11

Records required

12. (1) A holder of a lease shall maintain and keep current

(a) site boundary plans;

(b) surface plans; and

(c) where applicable, geological and geophysical logs.

(2) In addition to subsection (1),

(a) every holder of a lease for an underground project shall maintain and keep current, where applicable,

(i) underground level plans, and

(ii) vertical mine sections; and

(b) every holder of a lease for an open pit or quarry project shall maintain and keep current, where applicable,

(i) site plans,

(ii) pit development plans,

(iii) ultimate pit development plans, and

(iv) cross section maps of the pit geology.

(3) A holder of a mill licence shall maintain and keep current

(a) site boundary plans; and

(b) surface plans.

(4) The plans referred to in subsections (1), (2) and (3) shall include the information prescribed by the

regulations.

1999 cM-15.1 s12

Rehabilitation by minister

13. (1) Where, within a reasonable period of time, a lessee fails to comply with the rehabilitation and closure plan, the minister may enter onto the site to implement rehabilitative measures.

(2) The minister shall give the lessee reasonable notice of his or her intention to implement rehabilitative measures under subsection (1).

(3) Where the minister implements rehabilitative measures consistent with the rehabilitation and closure plan or otherwise, the cost incurred by the minister shall constitute a debt due to the Crown and may be satisfied by drawing on the financial assurance provided by the lessee under section 10 and any expenditure by the minister in excess of the financial assurance shall constitute a debt due to the Crown.

1999 cM-15.1 s13

Duties continue

14. (1) Where a lease expires or is cancelled, the duties of the lessee contained within the rehabilitation and closure plan continue until the project has been closed out to the satisfaction of the minister.

(2) Notwithstanding subsection (1), a lessee shall incur no further liability for a project where the lessee has, to the satisfaction of the minister, complied with the requirements of the rehabilitation and closure plan and this Act.

1999 cM-15.1 s14

Confidentiality

15. Any information provided to the minister or an inspector acting under the authority of section 7, 9, 10, 11 or 12 shall be kept confidential unless an agreement for disclosure is made between the minister and the lessee.

1999 cM-15.1 s15

Effect of private statute

16. Notwithstanding another provision of this Act, where a lessee has been granted mining rights under

(a) *The Labrador Mining and Exploration Company Limited Act* ; and

(b) *The Nalco-Javelin (Mineral Lands) Act, 1957* ,

this Act shall apply except in the event of an inconsistency or conflict between this Act and those acts referred to in paragraphs (a) and (b) and in that case, those Acts shall apply to the extent of the inconsistency or

conflict.

1999 cM-15.1 s16

Regulations

17. The Lieutenant-Governor in Council may make regulations prescribing the criteria under which an operation may be considered a small scale operation.

1999 cM-15.1 s17

Regulations

18. The minister may make regulations

- (a) prescribing the form and content of maps, plans, reports and other required information;
- (b) prescribing the information to be included in a development plan;
- (c) prescribing the information required with respect to the maintenance of plans;
- (d) prescribing the information to be included in an annual report;
- (e) setting standards for rehabilitation and closure plans;
- (f) prescribing the time periods within which duties under this Act shall be performed; and
- (g) generally, to give effect to the purpose of this Act.

1999 cM-15.1 s18

Health and safety of workers

19. (1) Notwithstanding a provision of this Act, the *Occupational Health and Safety Act* and regulations made under that Act applies to all matters affecting the health and safety of workers at a project to which this Act applies.

(2) Where there is a conflict between this Act or a requirement of this Act and the *Occupational Health and Safety Act* related to the health and safety of workers employed on a project the *Occupational Health and Safety Act* applies.

1999 cM-15.1 s19

Appeal

20. A question, dispute or matter arising out of the application of this Act may be appealed by a person affected to the Mineral Rights Adjudication Board established under the *Mineral Act* , and the board has the

jurisdiction to hear and determine that question, dispute or matter under section 38 of that Act.

1999 cM-15.1 s20

Offence

21. A person who operates a mill without a mill licence or in a manner that is not in compliance with a mill licence is guilty of an offence and is liable on summary conviction to a fine not exceeding \$10,000 for each day the offence continues.

1999 cM-15.1 s21

Offence

22. (1) A lessee who contravenes a provision of this Act or the regulations for which a specific penalty is not provided is guilty of an offence and is liable on summary conviction to a fine of not more than \$10,000 and in the case of a continuing offence to a fine of not more than \$10,000 for each day or part of a day on which the offence continues.

(2) A lessee who is subject to an order of the minister under this Act and who fails to take all reasonable steps to obey the conditions of the order is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 and in the case of a continuing offence to a fine of not more than \$10,000 for each day or part of a day on which the offence occurs or continues.

1999 cM-15.1 s22

Transitional

23. A lessee operating a project at the time this Act comes into force shall, within 18 months of the commencement of this Act, comply with the requirements of this Act.

1999 cM-15.1 s23

Regulations preserved

24. A regulation made under the authority of the *Mines Act* which is in force upon the coming into force of this Act shall be considered to have been made under the authority of the *Occupational Health and Safety Act* and may be amended, revised or repealed under the authority of that Act.

1999 cM-15.1 s24

RSN1990 cM-12 Amdt.

25. Section 38 of the *Mineral Act* is amended by adding immediately after subsection (2) the following:

(3) It is the function of the board and the board has exclusive jurisdiction to hear and determine a question, dispute or matter arising out of the application of the *Mining Act* and the regulations under that Act.

1999 cM-15.1 s25

RSN1990 cM-15 Rep.

26. The *Mines Act* is repealed.

1999 cM-15.1 s26

Commencement

27. This Act shall come into force on a day to be proclaimed by the Lieutenant-Governor in Council. (In force - Jun. 30/00)

1999 cM-15.1 s27