

RSNL1990 CHAPTER U - 2

UNDEVELOPED MINERAL AREAS ACT

Amended:

2006 c40 s21

CHAPTER U-2

AN ACT TO SECURE THE DEVELOPMENT OF UNDEVELOPED MINERAL AREAS

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Short title

1. This Act may be cited as the Undeveloped Mineral Areas Act.

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Definitions

2. In this Act

(a) "development" includes all things necessary to be done preparatory to the carrying on of mining operations and the actual extraction of minerals from the undeveloped mineral area and mining operations conducted in connection with the preceding;

(b) "mine" means a work or undertaking for the extraction or production of mineral ore;

(c) "mineral" includes a naturally occurring inorganic substance both metallic and non-metallic, and includes quarry materials and salt, and also includes coal, oil and natural gas;

(d) "mineral area" means land, whether surface, sub-surface, or submarine

(i) comprised in a grant, lease, or licence from the Crown in which minerals were or were not reserved to the Crown, or

(ii) title to which was obtained in a manner other than one referred to in subparagraph (i)

and includes a mine;

(e) "mineral ore" includes unprocessed minerals or mineral bearing substances;

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

(g) "operator" means a person with whom an agreement is made under section 5;

(h) "owner" includes a lessee or licensee;

(i) "quarry materials" means limestone, granite, slate, marble, gypsum, marl, clay, sand, gravel, building stone, and volcanic ash; and

(j) "undeveloped mineral area" means a mineral area that has been declared undeveloped within the meaning of this Act under section 3.

RSN1970 c383 s2; 1973 No33 Sch; 1974 No95 s2; 1987 c28 Sch C; 1989 c23 Sch B; 2006 c40 s21

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Declaration by Lieutenant-Governor in Council

3. Where the minister gives a written certificate to the Lieutenant-Governor in Council that in his or her opinion a mineral area has not been worked or that sufficient money has not been spent in its development during the 10 year period preceding the date of the certificate, the Lieutenant-Governor in Council may, by order, declare the mineral area to be undeveloped within the meaning of this Act.

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Exemption

4. (1) The Lieutenant-Governor in Council may, by order, exempt from the operation of this Act specific minerals or quarry materials on or in a mineral area declared to be undeveloped under section 3, or other rights with respect to that mineral area, and where an order is made under this section this Act shall no longer apply to the minerals, quarry materials or other rights so exempted.

(2) An order may be made under subsection (1) in respect of mineral areas that were declared undeveloped under section 3 before February 21, 1958 .

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Agreements for prospecting and development

5. (1) The minister may make an agreement with a company, partnership or person providing for the prospecting of an undeveloped mineral area or for the development of that undeveloped mineral area, including the actual extraction of minerals from the undeveloped mineral area and the conducting of mining operations or for both the prospecting and development.

(2) In an agreement made under this section, there shall be set out the consideration payable to the minister and the manner and dates of payment, and the operator may be given the rights conferred on him or her by the agreement for a term not exceeding 99 years, and in the agreement provision may be made for the renewal of those rights on the written request of the operator, his or her successors in title, assigns or sublessees, to be made before the execution of the 1st term of 99 years on similar terms and conditions, except the covenant for renewal.

(3) The minister may make an agreement under this section with respect to 2 or more undeveloped mineral areas which were held by different owners before an order declaring the mineral areas to be undeveloped was made under section 3, whether or not the undeveloped mineral areas were so declared by different orders.

(4) Where the minister makes an agreement under this section for the prospecting of an undeveloped mineral area, the minister may, in that agreement, enter into, execute and deliver a

covenant to give to the company, partnership or person with whom the agreement is made an option for a period not exceeding the prospecting period to take up an agreement for the development of that undeveloped mineral area upon the terms and conditions that are approved by the Lieutenant-Governor in Council and prescribed in the prospecting agreement.

(5) An agreement made with an operator in accordance with this section shall upon its execution and delivery be valid and binding upon persons affected by it, and it shall have the effect of law as if expressly enacted in this Act, and the parties to the agreement and the successors and assigns of each of them shall have full power and authority to do and perform or omit to do and perform the acts, matters and things that the agreement provides in the manner and with the effect and under the conditions stipulated and provided in the agreement.

(6) The minister and an operator have towards each other the same rights they would have if the minister were the owner in fee simple of the undeveloped mineral area and the operator was his or her tenant.

(7) Subject to the terms and conditions of the agreement made with an operator under this section, the operator has for the period prescribed in the agreement the exclusive right of possession of the undeveloped mineral area to which that agreement relates.

(8) An operator who has prospecting rights under an agreement made under this section may take away from the undeveloped mineral area to which the agreement relates the minerals for the purposes and for the period that may be prescribed in the agreement, and that operator has the sole ownership of the minerals.

(9) An operator who has the right to conduct the development of an undeveloped mineral area under an agreement made under this section may, subject to the provisions, terms and conditions of, and during the period prescribed by, the agreement, extract and take away minerals from that mineral area without restriction as to quantity and may conduct mining operations in the undeveloped mineral area that are necessary or desirable and that operator has the sole ownership of the minerals.

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Right of minister to enter, prospect and develop

6. Instead of making an agreement with an operator under section 5, the minister may enter upon, prospect and develop an undeveloped mineral area and where he or she does so, the minister has all the rights of an operator under section 5 during the maximum period for which the minister is empowered to confer those rights on an operator under that section.

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Payments to owner

7. (1) The minister shall, during the currency of an agreement made under section 5, pay to the owner of the undeveloped mineral area 1/2 of the balance of the money received by the

minister from the operator and remaining in his or her hands after deducting money spent by the minister or on the minister's behalf in the prospecting or development of the mineral area and making other deductions and payments to 3rd parties authorized by this Act.

(2) The Lieutenant-Governor in Council may, by order, direct that all of the balance of the money referred to in subsection (1), or a part of that balance greater than 1/2, shall be paid to the owner of the undeveloped mineral area, and an order may be made under this subsection in respect of money paid into the Consolidated Revenue Fund in accordance with subsection (3), and where an order is made under this subsection the amount prescribed by the order shall be paid to the owner in accordance with subsection (3).

(3) Where an order is not made under subsection (2), the remaining 1/2 of the balance of the money referred to in subsection (1), or where an order is made under subsection (2) a portion of that balance remaining after the payments prescribed by the order have been made, is the property of the Crown and shall be paid into the Consolidated Revenue Fund.

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Compensation to holder of surface rights

8. Where in respect of an undeveloped mineral area to which an agreement made under section 5 relates, surface rights are held by a person other than the owner of that mineral area, the minister shall pay compensation to the holder of the surface rights, to be determined, in default of agreement between the minister and the holder, by arbitration in the manner prescribed in section 12, and the minister may deduct the compensation before making a payment to the owner of the mineral area under section 7.

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Action by minister

9. (1) When an order is made under section 3 declaring a mineral area to be undeveloped within the meaning of this Act, the minister has power to make an agreement or to take an action with respect to that undeveloped mineral area without limitation of time, unless the order is cancelled under subsection (2).

(2) An order may be made by the Lieutenant-Governor in Council cancelling an order made under section 3 relating to the whole or a part of an undeveloped mineral area in respect of which there is no existing agreement made under section 5, and where an order is made under this subsection, the area to which the order of cancellation relates shall stop being an undeveloped mineral area, and the rights of the owner in that area to which the order relates shall be restored immediately, without the necessity of an assurance of title other than this subsection, but a further order may be made under section 3 with respect to that area.

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Deduction of expenses by minister

10. Where the minister enters into an agreement under section 5 for the prospecting or development of an undeveloped mineral area and the minister has spent money in prospecting or developing another mineral area belonging to the owner of the mineral area in respect of which the agreement has been made, the minister may in calculating the amount due the owner under section 7 deduct sums spent by the minister on the owner's mineral areas before making the payment provided in section 7.

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Non-liability of minister

11. The minister is not liable to a person upon the ground that he or she has not obtained the best consideration from an operator in an agreement made under section 5.

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Arbitration

12. (1) Where arbitration is called for under section 8, the minister shall appoint 1 arbitrator and the holder of the surface rights shall appoint another, and where either party fails to appoint an arbitrator after 7 clear days' notice in writing has been given to him or her by the other then the party who has given the notice may apply to a judge of the Trial Division and the judge, after notice to the party in default, shall appoint an arbitrator and the 2 arbitrators so appointed shall appoint a 3rd arbitrator or umpire, and where they fail to appoint the 3rd arbitrator or umpire after 7 clear days' notice in writing from either the owner or the holder to do so, a judge of the Trial Division shall, on the application of the owner or the holder, appoint the 3rd arbitrator or umpire, and the 3 so appointed shall proceed to hear the parties on the matter in dispute and make their decision and award.

(2) The award in an arbitration held under this section shall be made in writing and delivered promptly to the parties, and the decision and award of the arbitrators or 2 of them shall be final and binding on the parties, except that either party may appeal to the Court of Appeal on a question of law only, by giving notice of the appeal to the other party within 1 month following the receipt of the award.

(3) The Arbitration Act applies to an arbitration held under this section.

RSN1970 c383 s13; 1974 No57 Sch D; 1986 c42 Schs A&B

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