

Mineral Resources Act

CHAPTER 18

OF THE

ACTS OF 1990

amended 1992, c. 14, s. 61; 1992, c. 37, ss. 1, 2; 1994, c. 36;
1995-96, c. 8, s. 20; 2001, c. 6, s. 118; 1999 (2nd Sess.), c. 12

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Mineral Resources Act

Short title

1 This Act may be cited as the Mineral Resources Act. 1990, c. 18, s. 1.

Purpose of Act

1A The purpose of this Act is to support and promote responsible mineral resource management consistent with sustainable development while recognizing the following goals:

- (a) providing a framework for efficient and effective mineral rights administration;
- (b) encouraging, promoting and facilitating mineral exploration, development and production;
- (c) providing a fair royalty regime; and
- (d) improving the knowledge of mineral resources in the Province. 1999 (2nd Sess.), c. 12, s. 1.

Interpretation

2 In this Act,

- (a) "assessment work" means bona fide work that conforms to the regulations and is submitted for credit as work to prove the existence, extent and value of a mineral deposit and includes work carried out pursuant to a special licence;
- (aa) "assessment work report" means a report respecting assessment work or a prospector's statement;
- (ab) "bulk sampling" means the obtaining of a sample of mineral-bearing material for the purpose of developing a suitable method of mining or treatment and includes grade and reserve estimation, metallurgical testing, product testing and market evaluation;
- (b) "claim" means a claim of forty acres or 16.188 hectares, more or less, applied for or held in accordance with this Act;
- (c) "Crown" means Her Majesty in right of the Province;

- (d) "Crown lands" means lands that are Crown lands within the meaning of the Crown Lands Act;
- (e) "Department" means the Department of Natural Resources;
- (f) "Deputy Minister" means the Deputy Minister of Natural Resources;
- (g) "excavation registration" means a registration submitted pursuant to Section 101;
- (h) "exploration licence" means a licence by which the holder thereof is granted, pursuant to Section 28, the right to search and prospect for minerals within an area designated in the licence;
- (ha) "geothermal resource" means a substance, including steam, water and water vapour, that is found anywhere below the surface of the earth and that derives an added value from the natural heat of the earth present in, resulting from or created by the earth;
- (hb) "geothermal resource area" means an area designated by the Governor in Council pursuant to this Act;
- (i) "holiday" includes a day or portion of a day designated pursuant to the Civil Service Act as a holiday;
- (j) "lease" means a mineral lease granted pursuant to Section 56 or a special lease granted pursuant to Section 22;
- (k) "legal representative" means the executor, administrator, guardian, trustee, liquidator, receiver or other person upon whom an interest in a mineral right has devolved by operation of law, legal process or order of a court of competent jurisdiction;
- (l) "lessee" means the holder of a lease or the legal representative acting on behalf of the holder;
- (la) "letter of authorization" means an authorization granted pursuant to Section 102;
- (m) "licence" means an exploration licence or special licence;
- (n) "licensee" means the holder of an exploration licence or a special licence;
- (o) to (q) repealed 1999 (2nd Sess.), c. 12, s. 2.
- (r) "mine" does not include bulk sampling but does include
- (i) an opening upon, or excavation in, or working of, the ground for the purpose of mining, opening up or proving a mineral, gypsum, limestone or mineral-bearing substance,
- (ii) an ore body, mineral deposit, stratum, soil, rock, stone, bed or earth, clay, sand, gravel or place where mining is being or may be carried on,
- (iii) the ways, works, machinery, plant, bunkhouses, cook-houses, latrines, wash-houses and other buildings, structures and roadways below or above ground belonging to or used in connection with a mine, and
- (iv) a quarry, excavation or opening in the ground made for the purpose of searching for, or removal of, a mineral, gypsum, limestone or mineral-bearing substance that, for the purpose of this Act, is taken as such;

(s) "mineral" means a natural solid inorganic or fossilized organic substance and a substance prescribed to be a mineral, but does not include

(i) ordinary stone, building stone or construction stone,

(ii) sand, gravel, peat, peat moss or ordinary soil,

(iii) gypsum,

(iv) limestone, except that which is vested in the Crown, and

(v) oil or natural gas,

unless declared to be a mineral by the Governor in Council;

(sa) "mineral lease" means a mineral lease issued pursuant to Section 56;

(t) "mineral right" means a licence or lease;

(u) "mineral right holder" means a person whose name appears in the records of the Registrar as having a mineral right;

(v) "mining" includes a method of working whereby the soil, earth, rock, stone, mineral, gypsum, limestone or a mineral-bearing substance may be disturbed, whether previously disturbed or not, or removed, washed, sifted, roasted, smelted, refined, crushed, dissolved, precipitated, separated or dealt with for the purpose of obtaining a mineral, gypsum or limestone for sale or barter;

(va) to (x) repealed 1999 (2nd Sess.), c. 12, s. 2.

(y) "Minister" means the Minister of Natural Resources;

(ya) "non-mineral registration" means a registration pursuant to subsection (2) of Section 90;

(z) "officer" includes the Registrar, an engineer, geologist in the public service and a person designated by the Minister to carry out an inspection, investigation or other function pursuant to this Act;

(aa) "peace officer" means a peace officer as defined in the Criminal Code (Canada);

(ab) and (ac) repealed 1999 (2nd Sess.), c. 12, s. 2.

(ad) "person" includes a partnership or a company;

(ae) "prescribed" means prescribed by the regulations;

(af) "private land" means all land other than Crown land;

(ag) repealed 1999 (2nd Sess.), c. 12, s. 2.

(ah) "production" means the winning, taking or carrying away for sale or exchange of a mineral, mineral-bearing substance, gypsum, limestone, tailings or any product thereof, except for the purpose of assaying, sampling or metallurgical testing;

- (ai) "record" means a book, map, chart, plan, file and a micrographic, electronic or other storage means for recording events, transactions, documents or information;
- (aia) "registrant" means the holder of a non-mineral registration;
- (aj) "Registrar" means the Registrar appointed pursuant to this Act;
- (aja) "safe" and "safety" means public safety but does not include occupational health and safety;
- (ak) "special lease" means a special lease issued pursuant to Section 22;
- (al) "special licence" means a special licence issued pursuant to Section 22;
- (am) "surface rights permit" means a permit issued pursuant to this Act authorizing entry upon, or passage over, specified private lands;
- (an) "tailings" means the residue discarded, set aside or impounded during production;
- (ao) "tract" means mineral tract comprising sixteen claims, as prescribed;
- (ap) "work credit" means credit given for assessment work performed upon a licence. 1990, c. 18, s. 2; 1992, c. 14, s. 61; 1992, c. 37, s. 1; 1994, c. 36, s. 1; 1999 (2nd Sess.), c. 12, s. 2.

Application of Act

3 This Act applies to every person who searches and prospects for, mines or produces a mineral, or any substance declared, pursuant to Section 5, to be a mineral, and to every person specifically mentioned herein, including a person who produces gypsum or limestone. 1990, c. 18, s. 3.

Title to minerals

4 (1) All minerals are reserved to the Crown and the Crown owns all minerals in or upon land in the Province and the right to explore for, work and remove those minerals.

(2) Every grant of Crown lands made on or after the twenty-second day of April, 1910, shall, whether the same is so expressed therein or not, be construed and held to reserve to the Crown all the minerals in or upon the land so granted and the right to explore for, work and remove those minerals.

(3) Every grant of Crown lands made at any time on or before the twenty-second day of April, 1910, shall, whether the same is so expressed therein or not, and notwithstanding the provisions of such conveyance or of any enactment or law, be construed and held to have reserved to the Crown all the minerals in or upon the land so granted and the right to explore for, work and remove those minerals.

(4) Every person who has acquired Crown lands by conveyance or prescription is deemed not to have acquired the minerals in or upon the Crown lands or the right to explore for, work and remove those minerals and no person is entitled to acquire minerals or such right by conveyance or prescription. 1990, c. 18, s. 4.

Declaration as mineral

5 (1) Where it is made to appear to the Governor in Council that a non-living substance formed by the processes of nature that occurs on or under the surface of the earth

(a) has a higher economic value or use than that to which it has formerly been put;

(b) that had formerly been classified as gypsum, limestone or building material, has a higher economic value or use than has gypsum, limestone or building material; or

(c) should in the public interest be treated as a mineral,

the Governor in Council may, by regulation, declare the substance or any deposit of it to be a mineral.

(2) A copy of a declaration made pursuant to subsection (1) shall be published in the Royal Gazette and in such other manner as the Governor in Council directs.

(3) A regulation made pursuant to subsection (1) may apply to all lands or such lands as may be prescribed. 1990, c. 18, s. 5.

Consequences of declaration

6 Where the Governor in Council has made a declaration pursuant to clause (b) of subsection (1) of Section 5, the substance or the deposit of the substance referred to in the regulation is deemed, for the purposes of this Act and the Crown Lands Act, always to have been a mineral, notwithstanding the terms of any grant from the Crown or any conveyance, instrument, enactment or law. 1990, c. 18, s. 6.

Former owner's rights

7 Where the Governor in Council has made a regulation pursuant to subsection (1) of Section 5, the person who, but for the regulation was the owner of the substance, has the right during the period of six months immediately following the publication of the regulation, in priority to all other persons, to apply for and obtain a mineral right pursuant to this Act for, or with respect to, the substance. 1990, c. 18, s. 7.

Application for compensation

8 (1) A person engaged in mining activities regulated pursuant to this Act and claiming an interest in a substance declared to be a mineral pursuant to Section 5 may apply for compensation to the Expropriations Compensation Board and is subject to the provisions of the Expropriation Act.

(2) No compensation shall be paid in respect of an application pursuant to subsection (1) made one year from the date a regulation is made pursuant to Section 5. 1990, c. 18, s. 8.

Geothermal resource area

8A (1) The Governor in Council may

(a) designate areas to be known as geothermal resource areas;

(b) determine that Section 4 applies to the geothermal resources in a geothermal resource area as if the geothermal resources were a mineral and may further determine which other provisions of this Act apply to geothermal resources in those areas;

(c) modify a provision of this Act to permit its application to geothermal resources;

(d) generally adapt the provisions of this Act to existing circumstances with respect to geothermal resources in geothermal resource areas.

(2) Where, pursuant to subsection (1),

(a) an area is designated as a geothermal resource area and Section 4 is determined to apply to the geothermal resources in a geothermal resource area as if the geothermal resources were a mineral; or

(b) there is a modification or adaptation of any other provision of this Act with respect to a geothermal resource in a geothermal resource area,

no person affected by the designation, determination, modification or adaptation shall be entitled to compensation of any nature or kind whatsoever.

(3) The exercise of the authority contained in subsection (1) shall be regulations within the meaning of the Regulations Act. 1992, c. 37, s. 2.

Supervision of Act and regulations

9 The Minister has the general supervision and management of this Act and the regulations. 1990, c. 18, s. 9.

Personnel

10 (1) Such persons as are necessary for the administration of this Act and the regulations shall be appointed in accordance with the Civil Service Act.

(2) Notwithstanding subsection (1), the Minister may engage, upon such terms and conditions as the Minister deems fit, the services of such professional and technical persons and experts to advise the Minister as the Minister deems necessary for the efficient carrying out of this Act and the regulations.

(3) Notwithstanding anything in the Civil Service Act, the Minister may employ any person to investigate the mineral resources of the Province, or to perform any work in connection with this Act, and may pay any such person for such services at the rate agreed upon out of the Consolidated Fund of the Province. 1990, c. 18, s. 10.

Officers

11 The Minister may appoint such officers as the Minister considers necessary who shall perform such duties as are assigned to them by the Minister, this Act or the regulations. 1990, c. 18, s. 11.

Designated employee

12 The Minister may designate an employee in, or an officer of, the Department to perform administrative functions or powers of the Minister pursuant to this Act or the regulations. 1990, c. 18, s. 12.

Powers of Deputy Minister

13 The Deputy Minister has and may exercise any and all of the powers by this Act or by the regulations conferred upon any officer appointed pursuant to Section 11 or Section 12. 1990, c. 18, s. 13.

Powers of Minister

14 (1) The Minister may

(a) extend, upon application and for good cause shown, the time fixed or allowed for the doing of anything or the taking of any proceeding pursuant to this Act; or

(b) cancel, revoke or rescind a mineral right where money is due and owing to the Crown by the mineral right holder.

(2) An extension may be ordered pursuant to subsection (1) although the application for the same is not made until after the expiration of the time fixed or allowed and may require payment by the applicant to a person aggrieved by such extension. 1990, c. 18, s. 14.

Security

15 (1) Notwithstanding anything in this Act, the Minister may require cash, security or negotiable bonds for any purpose consistent with the proper administration of this Act.

(2) Unless otherwise prescribed, security given pursuant to this Act shall be in the form of money, cash, negotiable bonds or other security acceptable to the Minister.

(3) The Minister, upon application by a person and upon being satisfied that the condition of a bond or other security has been broken, may make an order assigning the bond to a person to be named in the order, and that person or that person's executors or administrators may sue on the bond in that person's own name as if the bond had been originally given to that person and recover thereon as trustee for all persons interested the full amount recoverable in respect of any breach of a condition of the bond. 1990, c. 18, s. 15.

Restriction on Government employees and ministers

16 (1) No person holding an office or employment with the Government shall, while holding such office or employment, directly or by any other person, acquire or hold any mineral right in the Province without the consent of the Governor in Council.

(2) Notwithstanding subsection (1), a member of the Executive Council, the Minister, the Deputy Minister or an individual holding an office or employment with the Government engaged in any activities related to this Act shall not, while holding such office or employment, directly or indirectly, by himself or by any other person, acquire or hold any mineral right in the Province.

(3) No employee of or person under contract to the Department, or person employed pursuant to subsection (3) of Section 10, and no former employee of, or person formerly under contract to, the Department shall divulge or use any confidential information including any information, the confidentiality of which is protected by enactment or information, the release or use of which creates a benefit to the person who uses or divulges the same, unless the release or use of such information

(a) has been authorized by each person to whom it pertains;

(b) is required for the enforcement and administration of this Act or the regulations; or

(c) is permitted by the expiration of the confidentiality period provided by the enactment.

(4) A person who contravenes this Section is guilty of an offence and in addition to any penalty imposed is subject to disciplinary action including loss of office or employment with the Government. 1990, c. 18, s. 16.

Powers of entry

17 Every officer or person designated by the Minister and their assistants, when engaged in duties pursuant to this Act or geoscientific activities, may at any reasonable time enter upon and pass over the land of any person by any reasonable means doing as little damage as possible and no action lies against that officer or person, the assistants, the Minister or the Province for any act done pursuant to this Section except actual damage. 1990, c. 18, s. 17; 1999 (2nd Sess.), c. 12, s. 3.

Registrar

18 The Minister may designate a person to be the Registrar. 1990, c. 18, s. 18.

Registrar's office and records

19 (1) The Registrar shall have an office at the City of Halifax and at such other place as may be prescribed.

(2) The Registrar shall keep at the office, in the manner prescribed, such records as are required by this Act and the regulations.

(3) All information contained in records and copies of records that are required pursuant to this Act to be kept by the Registrar, and an accurate reproduction of such information, is admissible in evidence as proof of the contents therein if certified as correct by the Registrar.

(4) The Registrar shall maintain a record of mineral rights and non-mineral registrations that is conclusive as to the matters entered therein.

(5) The Registrar shall maintain a record of applications for mineral rights and non-mineral registrations properly filed with the Registrar in which shall be entered particulars of the disposition of each application and such other matters as may be prescribed.

(6) The Registrar shall maintain a record wherein are entered the names of mineral right holders and registrants.

(7) All instruments that are required to be filed pursuant to this Act shall be filed with the Registrar who shall enter the same in the Registrar's records in the manner prescribed.

(8) Upon payment of the prescribed fee, an interested person may, subject to the provisions of subsection (9), during office hours inspect records of mineral rights and non-mineral registrations and records of names of mineral right holders and registrants and may obtain copies of applications for mineral rights and non-mineral registrations.

(9) Notwithstanding the Freedom of Information and Protection of Privacy Act, departmental notations, other than the application number and date stamp, not forming part of a document, leases and other instruments of a confidential nature and filed for information purposes only pursuant to subsection (7), options and financial information shall be held in confidence by the Registrar unless the Registrar is directed to release the same by the order of a court of competent jurisdiction or by the Minister who may direct such information to be released in connection with procedures to and for the provisions of this Act and the regulations with respect to the information contained in the portion of the record ordered to be released and upon such notice to the parties concerned as the Minister deems appropriate.

(10) The office of the Registrar shall be open every day that is not a holiday, a Saturday or a Sunday at ten o'clock in the forenoon and close at four o'clock in the afternoon.

(11) Where the time limited for the filing or recording of a document or for the doing of any act or thing at the office of the Registrar pursuant to this Act expires or falls on a day on which the office is closed, the time so limited extends to, and such filing, recording or other act may be done on the day next following on which the office is open.

(12) A certificate purporting to be signed by the Registrar is prima facie proof of the contents of documents filed in the office of the Registrar. 1990, c. 18, s. 19; 1999 (2nd Sess.), c. 12, s. 4.

Transfer of exploration licence

20 The Registrar is responsible for the transfer of an exploration licence in the manner set out in this Act. 1990, c. 18, s. 20.

Restriction on lands and requirement for mineral right

21 (1) Lands within the Province may, from time to time, be restricted from any or all prospecting, exploration, development or mining for such periods of time and in such a manner as may be prescribed.

(2) No person shall search and prospect for minerals except pursuant to a mineral right.

(3) Notwithstanding subsection (2), a person who searches and prospects for minerals in a preliminary way with the intent of acquiring a mineral right where such searching and prospecting is restricted to outcrop and float examination, line flagging, geological and topographical mapping, rock, water, and overburden sampling and geophysical surveys is not required to obtain a licence pursuant to subsection (2) provided that person

(a) is, in the case of an individual, of the age of majority;

(b) except as otherwise prescribed, registers with the Registrar in the manner set forth in the regulations and pays the prescribed fee in the prescribed manner;

(c) has the consent of the owner, occupant who has authority to give consent, or tenant of the surface rights, or in the case of Crown lands, the consent of the Minister; and

(d) conducts the preliminary non-disturbance surface work on lands which are open for application for a licence, and which are not restricted pursuant to the regulations.

(4) No person, including a person searching or prospecting pursuant to subsection (3), shall carry out any exploration, development or production of minerals on a claim or claims held pursuant to a licence or lease unless the person is the mineral right holder or does so with the authority of the mineral right holder. 1990, c. 18, s. 21; 1994, c. 36, s. 2; 1999 (2nd Sess.), c. 12, s. 5.

Withdrawal of lands and special licences and leases

22 (1) The Minister may withdraw any lands in the Province from being subject to application for an exploration licence for all or certain minerals.

(2) Lands withdrawn from being subject to application for an exploration licence may be explored and mined pursuant to a special licence or special lease granted for all or certain minerals by the Minister with the approval of the Governor in Council.

(3) A special licence or special lease may contain such terms and conditions as are approved by the Governor in Council.

(4) Except as provided in subsection (3), a special licence or special lease is subject to this Act and the regulations.

(5) The Minister may offer by tender the right to obtain a special licence upon all or part of the lands withdrawn pursuant to subsection (1) and the provisions of Section 34 apply mutatis mutandis.

(6) No application for a special licence shall be accepted for areas upon which another application for a special licence is under consideration.

(7) Where the Minister intends to grant a special licence or special lease in respect of lands subject to an existing mineral right or a non-mineral registration, the Minister shall

(a) give the mineral right holder or registrant an opportunity to be heard;

(b) impose such terms and conditions, pursuant to subsection (3), as are necessary to minimize interference with the existing mineral right or non-mineral registration.

(8) The Minister shall not grant a special licence or special lease if, in the Minister's discretion, the Minister deems that it would not be in the best interest of the Province to do so.

(9) The Minister may reopen for application for an exploration licence any lands withdrawn pursuant to subsection (1) for all or certain minerals. 1990, c. 18, s. 22; 1999 (2nd Sess.), c. 12, s. 6.

Exception

23 Notwithstanding Section 30 but subject to subsection (6) of Section 22, the Minister may accept an application for a special licence or a special lease granted pursuant to subsection (2) of Section 22 for an area already applied for or under a mineral right or registration. 1990, c. 18, s. 23; 1999 (2nd Sess.), c. 12, s. 7.

Application for licence

24 (1) An individual of the age of majority or a corporate person may, in the manner prescribed, apply for a licence as prescribed.

(2) An application for a licence shall be in the prescribed form and shall specify the claim or claims applied for as designated on the official maps of the Department.

(3) The Registrar shall cause an application to be inscribed with the precise time and date at which the application is received at the office of the Registrar. 1990, c. 18, s. 24; 1994, c. 36, s. 3; 1999 (2nd Sess.), c. 12, s. 8.

Required information

25 (1) Every person shall, within fifteen days of that person's first application for a mineral right, file in the office of the Registrar documentation in the prescribed form that contains the following information:

(a) if an individual or sole proprietorship,

(i) the individual's name or proprietorship's name,

(ii) the individual's address in the Province,

(iii) the individual's address, if any, outside of the Province, and

(iv) the name and address of the agent resident in the Province;

(b) if a partnership or syndicate,

(i) the name of the partnership or syndicate,

(ii) the names of all partners or members of the syndicate,

(iii) the addresses of all partners or members of the syndicate in the Province,

(iv) the addresses, if any, of all partners or members of the syndicate outside the Province,

(v) the name and address of the agent resident in the Province,

(vi) a copy of the certificate of partnership or syndicate registration or other registration confirming registration for the Province;

(c) if a body corporate,

- (i) the name of the corporation,
- (ii) the names and addresses of the president, secretary and other officers and directors of the corporation,
- (iii) the mode of incorporation,
- (iv) the date of incorporation,
- (v) a copy of the certificate of incorporation or registration,
- (vi) the location of the head office,
- (vii) the name and address of the agent resident in the Province,
- (viii) the principal office of the corporation in the Province, and
- (ix) repealed 1999 (2nd Sess.), c. 12, s. 9.
- (x) any information that the Registrar may require.

(2) Service upon the agent referred to in subclause (iv) of clause (a), subclause (v) of clause (b) or subclause (vii) of clause (c) of subsection (1) shall be deemed to be sufficient service upon the individual or proprietorship, the partnership or syndicate and the members thereof and the corporation, respectively.

(3) Every mineral right holder shall advise the Registrar in writing, within thirty days, of a material change affecting the information required by subsection (1). 1990, c. 18, s. 25; 1999 (2nd Sess.), c. 12, s. 9.

Contents of application

26 (1) An application for a mineral right, any other application and a transfer or assignment of a claim or of a right or interest acquired pursuant to this Act shall contain, or have endorsed thereon,

- (a) the place of residence and post office address of the applicant, transferee or assignee;
- (b) where not a resident in the Province, the name, residence and post office address of a person resident in the Province upon whom service may be made; and
- (c) such other information as may be prescribed.

(2) The address provided pursuant to subsection (1) is the address for service and, unless otherwise provided for by this Act, service may be made by forwarding by prepaid registered mail to such address.

(3) No application, transfer or assignment shall be accepted unless it conforms with subsection (1) and the regulations.

(4) The name of the agent upon whom service may be made may be changed by filing in the office of the Registrar a memorandum setting forth the name, residence in the Province and post office address of the new agent.

(5) The last address of a person on file with the Registrar is the address for service of all notices and documents pursuant to this Act.

(6) Unless otherwise provided in this Act, a notice or document required by this Act to be given shall be given in the manner prescribed. 1990, c. 18, s. 26.

Duty to accept application

27 The Minister, where satisfied that the requirements pursuant to subsection (1) of Section 32 have been met, shall accept an application for an exploration licence. 1990, c. 18, s. 27.

Exploration licence

28 (1) Where the Registrar is satisfied that the application is complete and complies with this Act and the regulations, the Registrar shall issue an exploration licence.

(2) The Registrar may issue an exploration licence for part of the lands applied for, with the approval of the Minister, or refuse an application if it is not in accordance with Section 30, subsection (1) of Section 32 and Section 46. 1990, c. 18, s. 28.

Duties of Registrar upon issuing exploration licence

29 When the Registrar issues an exploration licence pursuant to Section 28, the Registrar shall cause appropriate entries to be made in the records maintained by the Registrar and shall forward the licence to the applicant in the manner prescribed. 1990, c. 18, s. 29.

Restriction on acceptance of application

30 No application for an exploration licence shall be accepted for areas that are subject to an exploration licence, special licence, non-mineral registration, lease, special lease or application for any of them, unless the applicant holds the mineral right or non-mineral registration. 1990, c. 18, s. 30; 1999 (2nd Sess.), c. 12, s. 10.

Refund of fees

31 Where an application is refused or rejected, the Registrar shall refund the fees submitted with the application in the amount and manner prescribed. 1990, c. 18, s. 31.

Dispute

32 (1) Subject to subsection (2), where the right to issue a licence for a claim or claims is in dispute, no application shall be accepted for a licence of the claim or claims until the dispute is disposed of by the decision of an authority that is competent to deal with the dispute.

(2) Where an appeal lies from a decision referred to in subsection (1), no application shall be accepted until after the time limited for taking the appeal expires, or where an appeal is taken, after the dispute is disposed of by the highest authority to which an appeal is taken.

(3) Notwithstanding Section 27, where, in the opinion of the Minister, the acceptance of an application for an exploration licence is not in the best interests of the Province or would hinder mineral development, the Minister may reject or defer the application. 1990, c. 18, s. 32; 1999 (2nd Sess.), c. 12, s. 11.

Investigation by Minister

33 (1) Where a person whose application is deferred pursuant to subsection (3) of Section 32 makes a request to the Minister within fifteen days of the deferral, the Minister or a person designated by the Minister shall conduct an investigation regarding that person's entitlement to an exploration licence.

(2) If, upon investigation, the Minister refuses to accept the application for an exploration licence, the Minister shall report the refusal to the Governor in Council and the Governor in Council may confirm the refusal, or direct that the application be accepted, in whole or in part, and upon such terms and conditions as the Governor in Council determines. 1990, c. 18, s. 33.

Tenders for competing applications

34 (1) Where two or more persons submit applications for an exploration licence for a common claim or claims and the Registrar is unable to determine which application was received first, the Registrar shall, after giving notice in the manner and within the time prescribed, request the applicants to submit tenders, in the manner and within the time prescribed, for the right to obtain the exploration licence.

(2) Subject to subsection (3) of Section 32, where tenders have been submitted pursuant to subsection (1), the Registrar, within the time prescribed, shall issue an exploration licence to the applicant who

(a) undertakes to perform on the claim or claims the greatest amount of assessment work in excess of the amount of assessment work required by the regulations; and

(b) deposits with the Registrar security in an amount determined by the Minister and within a time fixed by the Registrar.

(3) If no tender is submitted which, in the opinion of the Registrar, is acceptable or if the security required pursuant to subsection (2) is not deposited, the claim or claims is deemed to be available for application at the end of normal office hours of the last day fixed for the deposit of the security and applications may be submitted therefor on the next business day.

(4) In respect of an exploration licence issued pursuant to subsection (2), the amount of assessment work committed in the successful tender by the applicant shall be the amount of assessment work the applicant is required to perform.

(5) The security required pursuant to clause (b) of subsection (2) shall be returned upon the completion of all assessment work undertaken pursuant to clause (a) of subsection (2) within the time and manner acceptable to the Registrar.

(6) Failure to complete the assessment work pursuant to clause (a) of subsection (2) results in the forfeiture of the security deposited pursuant to clause (b) of subsection (2). 1990, c. 18, s. 34; 1999 (2nd Sess.), c. 12, s. 12.

Form of exploration licence

35 An exploration licence shall be in the prescribed form. 1990, c. 18, s. 35.

Location of claims

36 A licence shall specify the location by claims and tracts as designated on the official maps of the Department. 1990, c. 18, s. 36; 1994, c. 36, s. 4.

Coterminous claims

37 An exploration licence may include any number of coterminous claims not exceeding eighty but licences shall not be granted for portions of claims. 1990, c. 18, s. 37.

Rights conferred

38 Subject to Sections 39, 40 and 100, the rights conferred by a licence are, and are limited to, prospecting and searching for minerals, extracting minerals for test purposes and applying for a mineral lease for all or a part of the area held under a licence. 1990, c. 18, s. 38; 1994, c. 36, s. 5; 1999 (2nd Sess.), c. 12, s. 13.

Prohibited entry or working of private land

39 No mineral right holder, legal representative of the mineral right holder or a person acting on behalf of the mineral right holder shall enter upon, pass over or work private land for the purpose of gaining access to and working the mineral right except with the consent of the owner or tenant or pursuant to Section 100. 1990, c. 18, s. 39; 1994, c. 36, s. 6; 1999 (2nd Sess.), c. 12, s. 14.

Prohibited entry or working of Crown lands

40 No mineral right holder, legal representative of the mineral right holder or person acting on behalf of the mineral right holder shall enter upon and work Crown lands except with the consent of the Minister or of a person designated by the Minister and upon such terms and conditions as are specified by the Minister. 1990, c. 18, s. 40; 1994, c. 36, s. 7; 1999 (2nd Sess.), c. 12, s. 15.

Expiry and renewal of exploration licence

41 (1) An exploration licence expires one year from the date of its issue, unless renewed or extended pursuant to subsection (7) of Section 100.

(2) An exploration licence may be renewed only once each year.

(3) A renewal is effective for one year from the day next after which the exploration licence would have expired but for the renewal. 1990, c. 18, s. 41; 1994, c. 36, s. 8.

Statistical reports

42 A person searching, prospecting or mining and an operator of a mine as herein defined or quarry as defined in the Metalliferous Mines and Quarries Regulations Act or any replacement of that Act or amendment thereto within the Province shall be required to file with the Department during each year statistical reports containing such information as is prescribed. 1990, c. 18, s. 42; 1999 (2nd Sess.), c. 12, s. 16.

Reports of work done

43 (1) Subject to Section 45, a report detailing all the work done or caused to be done during the year of the licence, including assessment work and other related work and a statement of expenditure in the prescribed form shall be submitted on or before the anniversary date of the licence.

(2) The licensee may, at any time, submit a report in the prescribed form as to the work done or caused to be done by the licensee. 1990, c. 18, s. 43; 1994, c. 36, s. 9; 1999 (2nd Sess.), c. 12, s. 17.

Entitlement to renewal of exploration licence

44 (1) The Registrar shall renew an exploration licence where a licensee

(a) files an application for renewal in the prescribed form; and

(b) pays the prescribed fee,

and either

(c) has performed the prescribed assessment work in a manner acceptable to the Minister and has filed the prescribed assessment work report in a form acceptable to the Registrar;

(d) has sufficient work credits; or

(e) provides the required payment in lieu of assessment work on or before the day upon which the exploration licence is due to expire.

(2) repealed 1994, c. 36, s. 10.

1990, c. 18, s. 44; 1994, c. 36, s. 10.

Time extension

45 (1) Notwithstanding Sections 43 and 44 and for good cause shown, the Registrar may grant a single extension of time for filing the assessment work report for a period of time and upon the terms and conditions determined by the Registrar where

(a) the Registrar is satisfied that the licensee has performed the assessment work to the required amount; and

(b) the licensee files a statement of expenditures indicating the nature and value of the assessment work performed.

(2) Where the licensee submits an assessment work report that is acceptable to the Registrar and filed within the time provided by the extension, the Registrar shall renew the exploration licence for one year from the date next after the licence or renewal thereof was due to expire.

(3) Notwithstanding subsection (1) of Section 41, where the assessment work report is not filed within the extension period, the licence expires at the end of that period. 1990, c. 18, s. 45.

Restriction on right to apply

46 (1) An application for a claim or claims that were contained in an exploration licence that has expired or has been forfeited, abandoned or surrendered shall not be accepted by the Registrar for a period of ninety days following the date of the expiry, forfeiture, abandonment or surrender unless the Registrar is satisfied that the applicant is not the licensee who held the exploration licence immediately preceding the date of expiry, forfeiture, abandonment or surrender nor a person acting on behalf of, associated with or having a community of interest with the licensee.

(2) For the purpose of subsection (1), when an extension has been provided pursuant to Section 45, the ninety-day period shall be from the date of the expiry of the extension.

(3) For the purpose of this Section,

(a) a corporation and a person or one of several persons by whom the corporation is directly or indirectly controlled;

(b) corporations controlled directly or indirectly by the same persons;

(c) persons connected by blood relationships, marriage or adoption; or

(d) persons connected by partnership or engaged in joint ventures,

have a community of interest. 1990, c. 18, s. 46; 1999 (2nd Sess.), c. 12, s. 18.

Renewal of exploration licence

47 (1) Notwithstanding Section 46, the Registrar may renew an exploration licence that has expired when

(a) the requirements of subsection (1) of Section 44 have been met; and

(b) the claim or claims subject to the exploration licence has not been applied for by or issued to another person.

(2) Payment in lieu of assessment work required by clause (e) of subsection (1) of Section 44 does not constitute satisfaction of assessment work pursuant to this Section. 1990, c. 18, s. 47; 1999 (2nd Sess.), c. 12, s. 19.

Application of excess credits

48 (1) Where assessment work in excess of the prescribed assessment work required is performed during an exploration licence year and proved to the satisfaction of the Registrar, the Registrar shall apply the excess work credits against the assessment work requirement for subsequent terms of renewal.

(2) A report of acceptable assessment work shall be filed before

(a) the end of the licence year in which the assessment work was conducted; or

(b) the expiration of an extension pursuant to Section 45 in respect of that year,

whichever is the later.

(3) Except as prescribed, if a report of assessment work that is acceptable is filed after the period defined in subsection (2), the assessment work may be credited at one half the value of assessment work reported in compliance with subsection (2).

(4) Acceptable assessment work that is a ground or airborne regional survey may be credited with such percentage of value of that assessment work as is prescribed and subsection (3) does not apply to the assessment work. 1990, c. 18, s. 48; 1994, c. 36, s. 11.

Certificate of compliance

49 The Registrar, if satisfied that the prescribed assessment work has been performed or the prescribed payment in lieu thereof has been made, shall grant a certificate of compliance of the licence in the prescribed form and the certificate in the absence of fraud or mistake is final and conclusive evidence of the renewal of the licence. 1990, c. 18, s. 49; 1994, c. 36, s. 12.

Effect of delay

50 Notwithstanding Section 41, where evidence of assessment work performed is submitted to the Registrar within the required period or the Registrar requires the licensee to revise information submitted for assessment credit, the licence does not lapse because of any delay that may occur in the consideration of the evidence or in making an investigation that may be deemed necessary. 1990, c. 18, s. 50; 1994, c. 36, s. 13.

Work on coterminous claims and reference in report to licence

51 (1) Where a licence has two or more coterminous claims, the required amount of assessment work for all of the claims may be performed on one or more of the claims.

(2) Reports of assessment work to be filed and certificates issued pursuant to Section 49 shall indicate the licence upon which the assessment work was performed. 1990, c. 18, s. 51; 1994, c. 36, s. 14.

Payments in lieu of work

52 (1) Where the amount of acceptable assessment work performed is insufficient and there are not adequate work credits for the renewal of an exploration licence, the licensee may make a payment in lieu of assessment work where

(a) a payment in lieu is made not more than once in the first five-year period of the exploration licence and not more than once in each five-year period thereafter;

(b) the payment is in the amount of the deficiency in the prescribed assessment work for that year but in no case is less than the assessment work requirement for one claim for that year; and

(c) the payment is calculated on a per claim basis.

(2) Where a payment in lieu of assessment work is made pursuant to subsection (1), it shall be refunded if in the following year the licensee performs and submits the prescribed assessment work plus the amount of the deficiency for the previous year.

(3) The refund shall be the total value of that portion of assessment work done and approved that can be applied in total satisfaction of the assessment work requirements for individual claims within the area licensed. 1990, c. 18, s. 52.

Integration of anniversary dates

53 A licensee holding two or more exploration licences with different anniversary dates may apply to the Registrar to integrate their anniversary dates and the Registrar may assign a common anniversary date for the exploration licences and amend the exploration licences accordingly if

(a) the exploration licences whose anniversary dates are to be integrated are not first year licences;

(b) there is no payment in lieu of assessment work outstanding pertaining to the exploration licences whose anniversary dates are to be integrated; and

(c) the anniversary dates are not being integrated for the purpose of extending the time for doing assessment [assessment] work or making a payment in lieu of assessment work,

and the provisions of Section 37 apply. 1990, c. 18, s. 53.

Conversion to single licence

54 (1) Notwithstanding Section 83, where any two or more coterminous exploration licences have been held for one or more years and none of the licences is in good standing by reason only of a payment in lieu of assessment work, the Registrar may accept, upon application, a surrender of the coterminous exploration licences and may, upon payment of the prescribed fee, issue one exploration licence for the whole or any single coterminous portion of the claims that were contained in the surrendered exploration licences.

(2) An exploration licence issued pursuant to subsection (1) shall assume the year of the oldest of the exploration licences from which it is derived and the Registrar shall select the month and the day to be used to determine the anniversary date of the new exploration licence.

(3) On or before the anniversary date of a new exploration licence issued pursuant to subsection (1), the licensee shall file assessment work acceptable to the Registrar or apply work credits to meet the requirement for the claims comprising the new exploration licence based on the year of the new exploration licence determined in accordance with subsection (2).

(4) Work requirements for each new exploration licence issued pursuant to subsection (1) shall be those work requirements of the oldest of the exploration licences surrendered pursuant to subsection (1).

(5) Each exploration licence issued pursuant to subsection (1) shall not itself, or combined with others, be subject to further regrouping for a period of one year following the issue of the exploration licence.

(6) Work credits applying to any exploration licences that have been regrouped pursuant to subsection (1) may be applied to the new exploration licence.

(7) The licensee may not re-apply, within a period of ninety days of the regrouping, for an exploration licence covering a claim surrendered for the purpose of regrouping. 1990, c. 18, s. 54; 1994, c. 36, s. 15.

Execution and date of licence

55 Every exploration licence or renewal thereof shall be executed on the part of the Crown by the Registrar and shall bear the date of the day upon which the application therefor was accepted. 1990, c. 18, s. 55.

Requirement for mineral lease

55A (1) No person shall carry out production of a mineral except in accordance with a mineral lease.

(2) For greater certainty, subsection (1) does not apply to the production of gypsum or limestone that has not been declared a mineral pursuant to Section 5. 1999 (2nd Sess.), c. 12, s. 20.

Prerequisites to issue and term of lease

56 (1) Subject to Section 22, where the holder of a licence

- (a) files with the Registrar an application in the prescribed form;
- (b) provides the prescribed information in the prescribed form and manner;
- (c) satisfies the Minister that the applicant has delineated a mineral deposit within the proposed lease area;
- (d) provides a written undertaking to commence production within two years of obtaining the lease;
- (e) repealed 1999 (2nd Sess.), c. 12, s. 21.

and

(f) pays the first year's rent in advance,

the Minister shall issue a lease.

(2) A lease shall be for a term of twenty years subject to compliance with this Act.

(3) A lease may be issued for any number of coterminous claims as approved by the Minister. 1990, c. 18, s. 56; 1994, c. 36, s. 16; 1999 (2nd Sess.), c. 12, s. 21.

Rights under lease

57 A lease gives the exclusive right to all or specified minerals in or upon the leased area for the term of the lease, subject to the payment of royalties and to all other conditions contained in this Act. 1990, c. 18, s. 57.

Formalities and issue and filing of lease

58 (1) A mineral lease in the prescribed form shall be made in duplicate, one to be issued to the lessee and the other to be filed and registered in the office of the Registrar who shall enter it in the Registrar's records in the manner prescribed.

(2) A certificate of such registration, with the day and year thereof, shall be inscribed on the duplicate delivered to the lessee.

(3) A lease shall be executed by the lessee under seal and on the part of the Crown by the Minister under seal. 1990, c. 18, s. 58; 1994, c. 36, s. 17; 1999 (2nd Sess.), c. 12, s. 22.

Prohibition

59 No mineral right holder or registrant shall enter upon or conduct any surface excavation, surface mining or other surface work upon any private lands until the mineral right holder or registrant has

obtained the right to enter upon or conduct the same by agreement with the owner or pursuant to this Act. 1990, c. 18, s. 59; 1999 (2nd Sess.), c. 12, s. 23.

Renewal of lease

60 (1) A lessee who is bona fide working the lease and is in compliance with this Act and who applies to the Minister at least six months prior to the expiration of the term of the lease is entitled to a renewal thereof for an additional twenty years upon the terms and conditions in force at the time of renewal.

(2) Where a mineral lease has expired, the Minister shall withdraw, pursuant to Section 22, for thirty days from the date the mineral lease expired, the area formerly held under the lease and give the lessee the exclusive right to apply for and obtain an exploration licence in the manner set out in Section 24.

(3) No other applications for an exploration licence for the area withdrawn pursuant to subsection (2) shall be considered during the thirty-day period referred to in subsection (2).

(4) The exploration licence referred to in subsection (2) shall bear the month and day of the day following the expiration of the mineral lease.

(5) The assessment work required for the exploration licence referred to in subsection (2) shall be that prescribed for an exploration licence that had its commencement at the date of issue of the original exploration licence that was converted to the mineral lease.

(6) Where the lessee does not apply for and obtain an exploration licence pursuant to subsection (2), the Minister may

(a) accept applications by tender for the right to obtain an exploration licence, in which case the provisions of subsections (2), (3) and (4) of Section 34 apply mutatis mutandis; or

(b) reopen the area for application pursuant to Section 22.

(7) Where any question arises as to the assessment work required in subsection (5), the decision of the Minister on the question is final. 1990, c. 18, s. 60; 1994, c. 36, s. 18; 1999 (2nd Sess.), c. 12, s. 24.

Keeping and inspection of records and accounts

60A Every lessee shall keep on the premises named in the lease, records, accounts, correspondence and documents that shall at all reasonable times be open to inspection and examination and be produced upon request of any person authorized by the Minister, in which records shall be entered a clear and distinct statement of

(a) all mineral-bearing substances processed at the premises;

(b) the sources of the minerals or mineral-bearing substances processed;

(c) the quantity and analysis of the minerals or mineral-bearing substances processed;

(d) the quantity and analysis of the concentrate recovered;

(e) the quantity and analysis of tailings and waste discharges;

(f) the quantity and analysis of all products sold and the name and address of the buyer; and

(g) any other information as prescribed or required by the Minister. 1999 (2nd Sess.), c. 12, s. 25.

Work report

61 A lessee or registrant shall submit annually, on or before the first day of March in each year, reports in such a manner and form as are prescribed containing such information as is prescribed. 1994, c. 36, s. 19; 1999 (2nd Sess.), c. 12, s. 26.

Work credits

62 (1) Notwithstanding Section 48, upon application for a lease, the applicant may direct that all or any portion of the work credits accumulated on the existing exploration licence or special licence be applied to the claims that are to be included in the proposed lease area.

(2) If any work credits are applied to the lease pursuant to subsection (1) they retain their value until the termination of the lease or any replacement thereof and may be applied to a licence acquired pursuant to subsection (5) of Section 65.

(3) Notwithstanding subsections (1) and (2), there shall be

(a) no requirement to conduct assessment work on a lease; and

(b) no work credits granted for activity conducted pursuant to a lease. 1990, c. 18, s. 62; 1994, c. 36, s. 20; 1999 (2nd Sess.), c. 12, s. 27.

Payment of rentals

63 Rentals at the prescribed rate shall be paid annually on or before the anniversary date of a lease for the ensuing year. 1990, c. 18, s. 63.

Conversion to single lease

64 (1) Subject to this Act and upon application by the lessee of two or more leases and the surrender thereof, the Minister may issue one lease for the whole or any smaller portion of the coterminous claims covered by the surrendered leases and may include in the lease an additional coterminous claim or claims to which the lessee holds a valid mineral right and subsection (1) of Section 79 does not apply.

(2) A lease issued pursuant to subsection (1) assumes the year of the oldest of the leases from which it is derived and the Registrar shall select the month and the day to be used to determine the anniversary date of the lease. 1990, c. 18, s. 64; 1994, c. 36, s. 21; 1999 (2nd Sess.), c. 12, s. 28.

Review of lease

65 (1) The Minister shall review a lease where

(a) the lessee fails to commence production or significant development work leading to production within two years of obtaining the lease;

(b) the lessee fails to submit the prescribed annual reports;

(c) the lessee wishes to surrender the lease; or

(d) the lessee commences production in accordance with this Act and the annual report required by Section 42 indicates that no production or development work has occurred within the previous twelve months.

(2) For the purpose of the review pursuant to subsection (1), the lessee shall provide all relevant information required by the Minister in the manner and at the times the Minister requests.

(3) Following the review, the Minister shall declare that

(a) the lease continue for a period of two years from the date of the review or until the lease expires, whichever occurs first;

(b) the lease is forfeited; or

(c) the application to surrender the lease has been accepted.

(4) Where the Minister allows the lease to continue for two years pursuant to clause (a) of subsection (3), the Minister shall review the lease at the end of that two years and make another declaration pursuant to subsection (3).

(5) Where the lease expires pursuant to clause (a) of subsection (3) or where the Minister declares the lease forfeited pursuant to clause (b) of subsection (3), the Minister shall provide the lessee and the Registrar with a written declaration of the expiration or forfeiture of the lease and the lessee has thirty days from the date of the declaration to apply for and obtain an exploration licence or, subject to Section 22, a special licence, as the case may be, for the area held pursuant to the forfeited or expired lease during which time no other applications for the area shall be accepted.

(6) The licence referred to in subsection (5) shall bear the month and day of the day following the termination of the lease.

(7) The assessment work required is that prescribed for an exploration licence that had its commencement at the date of issue of the original exploration licence that was converted to the lease or, in the case of a special licence, the amount of assessment work required is that approved by the Governor in Council or the Minister, as the case may be.

(8) The licensee shall, within twelve months of the issuance of the licence, submit assessment work for, or apply existing work credits to, the year referred to in subsection (7).

(9) Where the lessee does not apply for a licence pursuant to subsection (5), the Minister may reopen the area for application pursuant to Section 24. 1990, c. 18, s. 65; 1994, c. 36, s. 22; 1999 (2nd Sess.), c. 12, s. 29.

Order to cease operations

66 The Minister may order the lessee to cease all operations pending the outcome of a review pursuant to Section 65 or an investigation. 1990, c. 18, s. 66.

Effect of breach of lease or non-compliance

67 (1) Where an investigation shows to the satisfaction of the Minister that the lessee has breached a term or condition of the lease, the Minister may

(a) declare the lease forfeited;

(b) grant the lessee thirty days to comply with the terms or conditions of the lease; or

(c) make such order or decision as the Minister deems just and equitable.

(2) The Minister shall notify the lessee of the decision by prepaid registered mail.

(3) Where the lessee does not comply with

(a) the terms and conditions of the lease within the thirty days granted pursuant to clause (b) of subsection (1); or

(b) an order or decision of the Minister made pursuant to clause (c) of subsection (1),

the Minister may declare the lease to be forfeited and direct the Registrar to make the appropriate entry in the records. 1990, c. 18, s. 67.

Forfeiture of lease

68 The Minister shall declare a lease forfeited where a lessee

- (a) repealed 1999 (2nd Sess.), c. 12, s. 30.
- (b) fails to perform the obligations under the lease;
- (c) is a corporation that becomes dissolved;
- (d) obtains the lease by misrepresenting any material fact;
- (e) fails to pay royalties within thirty days of the due date; or
- (f) fails to pay rent within thirty days of the due date. 1990, c. 18, s. 68; 1999 (2nd Sess.), c. 12, s. 30.

Effect of forfeiture of lease

69 Where the Minister declares a lease forfeited,

- (a) the Minister shall provide the lessee with a written declaration of the forfeiture stating the reasons for the forfeiture; and
- (b) the lessee and all lienholders cease to have any interest in the lease or mine. 1990, c. 18, s. 69.

Application for right in land

70 (1) Whenever a lessee requires land, or a right or interest in land, for a mine or any purpose connected with or incidental to a mine and no agreement can be made for the acquisition thereof, or a right-of-way or easement in respect to the land, the lessee may present an application to the Minister stating that

- (a) the lessee is the lessee under a certain lease;
 - (b) the lessee requires certain land or some right or interest therein, of which a plan and description is attached, for one or more of the above purposes in connection with the area covered by the lease;
 - (c) a person named is the owner of the land, and the lessee is willing to make an arrangement with the owner for the acquisition of the land, right or interest, stating the nature of the proposed agreement and the price that the lessee is willing to pay, but the owner is unwilling to accept; and
 - (d) the lessee requests that the Minister make an order that the right or interest in the lands required by the lessee be vested in the lessee.
- (2) The application shall be accompanied by the deposit with the Minister of such sum as directed for costs or expenses that may be ordered to be paid by the lessee to the owner where the Minister requires the deposit.
- (3) Upon application, the Minister may, by a vesting order, vest in the lessee the property right claimed by the lessee or such other right as the Minister may determine.
- (4) A vesting order issued by the Minister shall be filed at the registry of deeds for the registration district in which the land to which the order relates is situate and the filing thereof is deemed to be a deposit of expropriation documents pursuant to the Expropriation Act.

(5) Upon the filing of a vesting order by the Minister, the lessee named in the order is and is deemed to be the expropriating authority within the meaning of the Expropriation Act. 1990, c. 18, s. 70; 1999 (2nd Sess.), c. 12, s. 31.

Expropriation Act

71 In connection with the proceedings pursuant to Section 70,

- (a) the Expropriation Act applies mutatis mutandis to the expropriation;
- (b) notwithstanding Section 4 of the Expropriation Act, whenever the provisions of that Act conflict with the expropriation provisions of this Act, the expropriation provisions of this Act prevail;
- (c) the lessee is deemed to be the statutory authority for the purpose of the Expropriation Act;
- (d) the Minister is deemed to be the approving authority for the purpose of the Expropriation Act. 1990, c. 18, s. 71.

Restriction on use of right

72 Every mineral right holder who has acquired any property, right or interest pursuant to this Act or through an agreement with the owner subject to the terms of the agreement shall, if the property, right or interest is less than fee simple, use the same for some purpose connected with mining and for no other purpose and shall use the same in such manner as is least injurious to the owner of the land. 1990, c. 18, s. 72.

Interpretation of Sections 74 to 81

73 In Sections 74 to 81,

- (a) "lessee" includes the lessee who held the lease immediately preceding its forfeiture, surrender, abandonment or expiry, or the legal representative of the lessee;
- (b) "property" means the real and personal property of the lessee that is associated with the mine. 1990, c. 18, s. 73.

Liability of lessee

74 Notwithstanding the surrender, abandonment, forfeiture or expiry of a lease, the lessee remains liable for any terms and conditions of the lease including, without restricting the generality of the foregoing, those related to reclamation, rentals, royalties, maintenance of buildings and structures and safety, until such terms and conditions have been fulfilled. 1990, c. 18, s. 74.

Reclamation

75 (1) The area disturbed by the former mining operations, including the area upon which waste rock and tailings were deposited, shall be reclaimed to the satisfaction of the Minister by the lessee within twelve months of the cessation of production or such greater time as may be determined by the Minister.

(2) The cash or bond provided by the lessee is forfeited to the Department if reclamation has not been completed in accordance with subsection (1).

(3) Any unforfeited cash or bond provided by the lessee shall be retained until the area described in subsection (1) is inspected by an officer and the lessee is notified in writing by the Minister that the lessee is relieved from the obligation to maintain security for the purpose of reclamation. 1990, c. 18, s. 75.

Maintenance of property

76 (1) The lessee or property owner shall maintain the property in a safe condition and shall not permit the property to become unsightly.

(2) Where the Minister determines that the condition of the property constitutes a danger to the health or safety of a person or constitutes an unsightly premise, the Minister may cause work required to make the property safe or to remove or remedy the unsightliness thereof to be performed at the expense of the Province.

(3) Where the Minister causes work to be done pursuant to subsection (2), the cost of the work is a debt due and owing to the Crown by the lessee or owner of the property and forms a charge upon the property.

(4) Nothing in this Section, nor any work done pursuant to subsection (2), relieves the lessee or owner of the property from liability for the maintenance of the property in such manner as to prevent danger to public health, safety or property. 1990, c. 18, s. 76.

Disposition of property from lease

77 In connection with the disposition of property from a lease and dating from the time of surrender, abandonment, forfeiture or expiry,

(a) the lessee

(i) shall not, without the written authorization of the Minister, alienate or remove from the Province any of the property within the first six months, and

(ii) shall, following the receipt of authorization pursuant to subclause (i), remove the property within the six months following the date of the authorization;

(b) the Minister may, at any time, subject to Section 120, acquire all or any property for the Province;

(c) compensation to the lessee

(i) shall be payable pursuant to clause (b) and the procedure set forth in the Expropriation Act, in respect of the acquisition of land applies mutatis mutandis, subject to the deduction of an amount owed to the Province by the lessee pursuant to this Act and the regulations, and

(ii) shall not be payable when the Minister has acquired property pursuant to clause (b). 1990, c. 18, s. 77; 1999 (2nd Sess.), c. 12, s. 32.

Effects of non-payment

78 Where a rental or royalty or money in respect of a lease is owed to the Province, the lessee shall not, without prior written authorization of the Minister, sell, transfer, set over, assign, sublet or otherwise dispose of the property including minerals, and the amount owed is a debt due to the Crown and forms a charge upon the property. 1990, c. 18, s. 78.

Offer of mineral right

79 (1) Where a lease is surrendered, abandoned, forfeited or expires, a mineral right to that area may be offered by the Minister for tender or sale at public auction or otherwise disposed of, upon such terms and conditions as the Minister determines.

(2) The issuance of a mineral right to the subsequent mineral right holder does not confer upon that mineral right holder any right respecting property acquired by the Province pursuant to Section 77. 1990, c. 18, s. 79.

Decision of Minister final

80 Where any question arises as to whether a lease is surrendered, abandoned, forfeited or expired, or whether the mine has been abandoned, the decision of the Minister on the question is final. 1990, c. 18, s. 80; 1999 (2nd Sess.), c. 12, s. 33.

Reversion to Crown

81 Where a lease expires or is forfeited, abandoned, surrendered or otherwise terminated and no renewal is sought pursuant to this Act,

- (a) all minerals in and upon the area formerly held under lease absolutely revert to the Crown; and
- (b) any mineral stockpiles upon which no royalty has been paid absolutely become the property of the Crown. 1990, c. 18, s. 81.

Remedies of Minister

82 Nothing contained in this Act prevents the Minister from having or using any remedy available to recover possession of the mineral rights contained in any area, claim or claims covered by a lease. 1990, c. 18, s. 82; 1999 (2nd Sess.), c. 12, s. 34.

Surrender

83 (1) Subject to the approval of the Minister pursuant to Section 65, a mineral right holder or registrant may surrender all or a specified part of the area comprised within the mineral right or non-mineral registration by notice in writing to the Registrar, together with the original mineral right or non-mineral registration.

(2) Where the original mineral right or non-mineral registration referred to in subsection (1) is lost, the Registrar may accept an affidavit verifying the fact of such loss in place of the original.

(3) Upon receipt of the notice of surrender by the Registrar, all or a specified part of the mineral right or non-mineral registration expires and the Registrar shall provide the mineral right holder or registrant with written notice of the expiry.

(4) Where there has been a partial surrender, the Registrar shall amend the mineral right or non-mineral registration in accordance with the surrender and return it to the mineral right holder or registrant. 1990, c. 18, s. 83; 1994, c. 36, s. 23; 1999 (2nd Sess.), c. 12, s. 35.

Liability of holder

84 The surrender of a mineral right or non-mineral registration does not relieve a mineral right holder or a registrant from any terms, conditions or obligations of the mineral right or non-mineral registration and the provisions of this Act that existed at the time of such surrender. 1990, c. 18, s. 84; 1999 (2nd Sess.), c. 12, s. 36.

Restriction on transfer of exploration licence

85 (1) An exploration licence shall not be transferred without the written consent of the Registrar.

(2) Where the holder of an exploration licence or the holder's legal representative

- (a) submits an application in the prescribed form;
- (b) pays the prescribed fee; and

(c) provides the information requested by the Registrar,

the Registrar may consent to the transfer.

(3) No special licence or special lease or lease or non-mineral registration, shall be transferred without the written consent of the Minister. 1990, c. 18, s. 85; 1994, c. 36, s. 24; 1999 (2nd Sess.), c. 12, s. 37.

Formalities of transfer of mineral right

86 A transfer of a mineral right or non-mineral registration shall be in the prescribed form and shall be signed by the transferor or by the legal representative of the transferor. 1990, c. 18, s. 86; 1999 (2nd Sess.), c. 12, s. 38.

Filing of transfer or assignment

87 (1) A mineral right holder shall file with the Registrar, a summary, as prescribed, of an agreement that results or may result in a transfer or assignment of a mineral right, part of a mineral right or any interest in a mineral right.

(1A) A registrant shall file with the Registrar a summary, in the prescribed form and containing such information as is prescribed, of an agreement that results or may result in a transfer or assignment of a non-mineral registration, part of a non-mineral registration or any interest in a non-mineral registration.

(2) Notwithstanding the Freedom of Information and Protection of Privacy Act, a document filed pursuant to subsection (1) or (1A) that has been marked "confidential" shall be held in confidence by the Registrar.

(3) A transfer or an assignment of a mineral right or non-mineral registration or an agreement that results or may result in the transfer or assignment of a mineral right or non-mineral registration is ineffective against a person who, for valuable consideration and without notice of the transfer, assignment or agreement, acquires an interest in the mineral right or non-mineral registration, unless a notice of the transfer, assignment or agreement is filed with the Registrar in the prescribed manner and in the prescribed form. 1990, c. 18, s. 87; 1999 (2nd Sess.), c. 12, s. 39.

Effect of instrument

88 (1) Where in an application for a mineral right or for a non-mineral registration or in a transfer of a mineral right or non-mineral registration an interest is sought to be created or to be transferred to more than one person, the instrument shall operate as if it were expressed to be conveyed to the person first named therein upon the trusts set out in subsections (2) and (3) and the Registrar shall, for the purpose of this Act, treat the person first named as the owner of the mineral right.

(2) A mineral right holder holds the mineral right in trust for the persons who own the right, including himself.

(2A) A registrant holds a non-mineral registration in trust for each person who owns the right, including the registrant.

(3) The persons whose names appear on an application for a mineral right or non-mineral registration, or in a transfer of a mineral right or non-mineral registration shall prima facie be deemed to be the owners of the mineral right or non-mineral registration held for them in trust pursuant to this Section.

(4) A trust created by this Section is ineffective against a person who, for valuable consideration and without notice of the trust, acquires an interest in a mineral right or non-mineral registration unless a caveat, in the prescribed form, which gives notice of the trust is filed with the Registrar in the prescribed manner. 1990, c. 18, s. 88; 1999 (2nd Sess.), c. 12, s. 40.

Restriction on production of gypsum or limestone

89 No person shall, except in accordance with a non-mineral registration, carry out production of gypsum or limestone that has not been declared to be a mineral pursuant to Section 5. 1999 (2nd Sess.), c. 12, s. 41.

Issue of permit by Minister

90 (1) repealed 1999 (2nd Sess.), c. 12, s. 42.

(2) Where an applicant for a non-mineral registration required by Section 89 files with the Registrar

(a) an application for a non-mineral registration in the prescribed form;

(b) the prescribed documentation;

(c) a written undertaking to commence production;

(ca) evidence that satisfies the Minister that the applicant has delineated a deposit of gypsum or limestone that has not been declared a mineral pursuant to Section 5 within the proposed non-mineral registration area; and

(d) evidence of the applicant's right to the gypsum or limestone including a right to surface access, the Minister shall issue a non-mineral registration in the prescribed form.

(3) The holder of a non-mineral registration required by Section 89 is not bound by

(a) Section 96;

(b) subsections (1), (2), (3), (4) and (5) of Section 99;

(c) Sections 108 to 152; and

(d) Section 155. 1990, c. 18, s. 90; 1994, c. 36, s. 26; 1999 (2nd Sess.), c. 12, s. 42.

Duties of holder

91 The holder of a lease or non-mineral registration shall provide the Registrar with written notification

(a) where it is anticipated that production will be suspended for a period greater than sixty days;

(b) immediately following a production suspension of sixty days; or

(c) where it is intended to resume production. 1990, c. 18, s. 91; 1999 (2nd Sess.), c. 12, s. 43.

Rights of holder and duty of Minister

92 (1) Subject to this Act, a non-mineral registration gives the registrant the right to carry on the production of gypsum or limestone that has not been declared a mineral pursuant to Section 5 within the area designated in the non-mineral registration and shall be limited to such area as may be required for the purpose of the mine.

(2) repealed 1999 (2nd Sess.), c. 12, s. 44.

(3) Where the Minister issues a non-mineral registration, the Minister shall cause it to be forwarded to the applicant and file a duplicate with the Registrar who shall enter it in the Registrar's records in the manner prescribed.

(4) repealed 1999 (2nd Sess.), c. 12, s. 44.

1990, c. 18, s. 92; 1999 (2nd Sess.), c. 12, s. 44.

93 repealed 1999 (2nd Sess.), c. 12, s. 45.

Review of permit

94 (1) The Minister shall review a non-mineral registration when the registrant

(a) fails to commence production or significant development work leading to production within two years of obtaining the non-mineral registration;

(b) fails to submit the prescribed annual information reports;

(c) wishes to surrender the non-mineral registration; or

(d) commences production in accordance with this Act and the annual report required pursuant to this Act indicates that no production has occurred within the previous twelve months.

(2) Upon reviewing the non-mineral registration, the Minister may

(a) continue the non-mineral registration for such period of time and upon such terms and conditions as the Minister deems appropriate; or

(b) cancel the non-mineral registration.

(c) repealed 1999 (2nd Sess.), c. 12, s. 46.

(3) Where the Minister continues the non-mineral registration pursuant to clause (a) of subsection (2), the Minister shall review the non-mineral registration at the end of the period during which the non-mineral registration was continued and, upon the review, the Minister may exercise any of the powers set out in subsection (2).

(4) Where, following the review, the Minister is of the opinion that the continuation of the non-mineral registration is not justified, the Minister shall declare the non-mineral registration cancelled and the Registrar, at the direction of the Minister, shall mark the record of the non-mineral registration "Cancelled", amend the record accordingly and forthwith send notification to the registrant of the cancellation and the reasons therefore. 1990, c. 18, s. 94; 1999 (2nd Sess.), c. 12, s. 46.

Notice of cancellation of non-mineral registration

95 The Minister may declare a non-mineral registration cancelled not less than thirty days after giving the registrant written notice of a failure to submit the prescribed annual information reports unless the registrant remedies the deficiency before the non-mineral registration is cancelled. 1999 (2nd Sess.), c. 12, s. 47.

Investigation of mining operation

96 (1) In this Section, "inefficient mining" means the extraction or recovery of a mineral or minerals in a manner that, in the opinion of the Minister,

(a) and (b) repealed 1999 (2nd Sess.), c. 12, s. 48;

(c) unduly affects the ability of the mineral deposit to be mined; or

(d) produces less than an optimum recovery of minerals.

(2) Whenever it is represented to or comes to the knowledge of the Minister that the lessee is conducting inefficient mining, the Minister may order an investigation to determine if the mining operation should be altered or modified to permit the more economical and efficient prosecution of the work.

(3) Following the investigation, the Minister may order such modifications or alternatives as the Minister deems necessary to correct the situation.

(4) The Minister shall serve the lessee with notice of the order.

(5) Where the Minister has served the order, the lessee shall have thirty days to comply with the order or such further time as may be provided in the order.

(6) Where the lessee does not comply with the order pursuant to subsection (5), the Minister may declare the lease forfeited. 1990, c. 18, s. 96; 1999 (2nd Sess.), c. 12, s. 48.

Security

97 (1) The applicant for a lease, non-mineral registration, an excavation registration or letter of authorization

(a) shall post cash, a negotiable bond or other security, in the case of an application for a lease, non-mineral registration or letter of authorization; or

(b) may be required by the Minister to post cash, a negotiable bond or other security in the case of an application for an excavation registration,

in a form satisfactory to the Minister and in an amount determined in accordance with the regulations to provide for the reclamation of the area that may be disturbed by the activities of the lessee, registrant or holder of an excavation registration or letter of authorization or an agent or assignee of the lessee, registrant or holder of an excavation registration or letter of authorization.

(2) The security required pursuant to subsection (1) is forfeited to the Minister if

(a) in the case of a bond, it is not renewed at least thirty days before its expiry date and reclamation is not completed; or

(b) reclamation has not been completed to the satisfaction of the Minister within the prescribed time.

(3) Subject to Section 120, the security forfeited to the Minister pursuant to subsection (2) may be employed, in whole or in part, under the direction of the Minister to reclaim the area of mining activity and the balance of unexpended funds, if any, shall be returned to the payor. 1990, c. 18, s. 97; 1994, c. 36, s. 28; 1999 (2nd Sess.), c. 12, s. 49.

98 repealed 1999 (2nd Sess.), c. 12, s. 50.

Termination of mining operations

99 (1) The lessee shall provide the Minister with six months notice in writing of the lessee's intent to permanently terminate mining operations.

(2) Failure to comply with this Section constitutes an offence and is punishable by a fine not exceeding twenty thousand dollars or by imprisonment not exceeding two years less one day.

(3) Where the lessee is required through no fault of the lessee to suddenly and permanently terminate mining operations, the lessee, the legal representative of the lessee or any creditor of the lessee shall forthwith notify the Minister.

(4) Where in the opinion of the Minister it is appropriate, the lessee shall be required to maintain access to the mine for a period of up to thirty days from the date upon which notice was given pursuant to subsection (3).

(5) The costs incurred in maintaining access to the mine from the date upon which operations terminate until the time referred to in subsection (4)

(a) shall be borne by the lessee or the legal representative of the lessee; or

(b) may be paid by the Minister and thereafter shall be recovered from the lessee or the legal representative of the lessee or any of them and form a charge upon the property.

(6) Not later than one month prior to the intended permanent closure of a mine, or within such period as the Minister may determine, the lessee or registrant or legal representative of the lessee or registrant or any of them shall furnish a summary report containing the prescribed information on the workings of the mine, including the reason for the closure, the nature and amount of any mineral remaining in the mine and such existing maps and plans as the Minister may request. 1990, c. 18, s. 99; 1999 (2nd Sess.), c. 12, s. 51.

Surface rights permit

100 (1) A licensee who is unable to obtain an agreement with the owner or tenant of private lands for the right to

(a) pass over private lands for the purpose of gaining access to the lands covered by the licence or any part thereof; or

(b) pass over, enter upon or work the lands covered by the licence or any part thereof,

may apply to the Minister, after notice to the owner or tenant, for a surface rights permit to pass over, enter upon and work such lands.

(2) The Minister, after hearing the parties, may grant a surface rights permit upon such terms and conditions as the Minister determines, and the Minister may determine the amount of any compensation to be paid to such owner or tenant and the manner and time of payment of the same.

(3) Where the owner or tenant of the private land cannot be located, the Minister may grant a surface rights permit on the terms and conditions determined by the Minister.

(4) The Minister may order the applicant for a surface rights permit to give security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, further passage over, entry upon or work by such licensee, the licensee's legal representative or any person acting on behalf of the licensee.

(5) Where there are several owners or tenants of the lands sought to be entered upon or passed over and there are, in the opinion of the Minister, special difficulties in effecting service of any notice pursuant to this Section, the Minister may order substituted service in such manner as the Minister may determine.

(6) There is no appeal from the granting by the Minister of a surface rights permit, from the Minister's determination as to the amount of compensation, from any order for security or from any order or decision or ruling in respect thereto.

(7) Where a licensee is delayed in the performance of work on the land covered by the licence by refusal of the owner or tenant of the land to permit the licensee to pass over, enter upon or work the lands and the Minister has granted the licensee a surface rights permit pursuant to this Section, the time within which the licensee is required to perform work under the licence shall be extended by a period equal to the delay resulting from the owner's or tenant's refusal to permit the licensee to pass over, enter upon and work the land.

(8) A surface rights permit granted pursuant to this Section is a decision made by the Minister and may be made a rule or order of the Supreme Court in accordance with Section 172. 1990, c. 18, s. 100; R.S., c. 240, s. 10; 1992, c. 16, s. 39; 1994, c. 36, s. 30.

Excavation registration

101 (1) A licensee shall submit and have recorded an excavation registration in the manner and form prescribed before commencing

- (a) trenching or pitting to prescribed depths;
- (b) trenching, pitting or stripping by mechanized means;
- (c) underground exploration including shaft sinking, driving of adits, declines, drifts, levels, cross cuts, raises or winzes or the reopening, rehabilitation or dewatering of any such workings;
- (d) bulk sampling for the removal of less than one hundred tonnes of mineral-bearing material; or
- (e) other prescribed work.

(2) No work shall be commenced pursuant to subsection (1) until the licensee deposits with the Department cash or a bond in the amount and in the form acceptable to the Minister. 1990, c. 18, s. 101; 1999 (2nd Sess.), c. 12, s. 52.

Bulk sampling

102 (1) A licensee shall obtain a letter of authorization in the manner and form prescribed before commencing bulk sampling for the purpose of extracting one hundred tonnes or more of mineral-bearing material.

(2) The letter of authorization shall be for such term as the Minister determines but shall not exceed the term of the licence or any renewals of the licence.

(3) No work shall be commenced pursuant to subsection (1) until the licensee deposits with the Minister cash or a bond in the amount and in the form acceptable to the Minister. 1999 (2nd Sess.), c. 12, s. 53.

103 to 106 repealed 1999 (2nd Sess.), c. 12, s. 53.

Interpretation of Sections 108 to 152

107 In Sections 108 to 152,

(a) "allowance for depreciation" means an allowance for the undepreciated value of depreciable assets not exceeding one hundred per cent at the end of each fiscal year for the first three years of a mining operation and an amount not exceeding thirty per cent of the undepreciated value at the end of each year thereafter until the undepreciated value of the assets is wholly allowed;

(b) "allowance for processing" means an allowance by way of return on capital employed in the secondary crushing, grinding, concentrating, chemical extraction, smelting, refining or packaging of

output in the Province equal to eight per cent of actual cost borne by the operator of the processing assets and added thereto a further allowance by way of return on capital employed by the operator in respect of assets that were necessary to the servicing and management of the processing activities equal to twenty-five per cent of that amount allowed by way of return on capital for processing assets, but the total to be deducted as an allowance for processing shall not be in excess of sixty-five per cent of net income before deducting the allowance for processing;

(c) "depreciable asset" means the assets in use in the Province by the operator resulting from

(i) the expenses incurred and substantiated by the operator in the exploration for an ore body to the date a lease is acquired if such expense is incurred in relation to assessment work as prescribed and has not been used as a deduction in the calculation of royalties payable by another mining operation in the Province, but where an operator has a mining operation during a fiscal year in which exploration expenses have been incurred, those expenses shall be considered an operating expense of a mine consistent with clause (i) of Section 124,

(ii) the expenses incurred by the operator in the development of a mine from the date the lease is acquired to the date production of the mine begins, if such expense is essential to the production of output from a mine, is approved by the Mine Assessor and has not been used as a deduction in the calculation of royalties,

(iii) the expenditures for the purchase and installation of mining, milling, power, plant and equipment essential to the production of the output of a mine, and all other expenditures that are, in the opinion of the Mine Assessor, essential for the purpose mentioned in this clause and are not deducted from net income or specifically prohibited pursuant to this Act,

(iv) equipment leased at its fair market value less any amount of buy out, if any, at the effective lease date;

(d) "fiscal year" means the fiscal period, not exceeding twelve months, for which the accounts of the business of an operator have been or are ordinarily prepared and accepted for purposes of assessment pursuant to this Act and, subject to Section 111, in the absence of such an established practice the fiscal period shall be that adopted by the operator;

(e) "Mine Assessor" means an officer designated by the Minister to administer the royalty provisions of this Act and the regulations;

(f) "mining operation" means the extraction of minerals from, or in any mine, and its transportation from the point of egress from the mine including primary crushing and processing to the sale of output;

(g) "operator" means, where used in relation to any mine, the mineral right holder, the mineral right holder's legal representative and, in the case where there is no mineral right holder, the owner or tenant of the property or premises where the mine is situated, and includes a lessee;

(h) "output" means the minerals and mineral products taken, gained or derived from a mining operation or a mine;

(i) "processing assets" means any depreciable asset of an operator that is a building or part of a building in which only secondary crushing, grinding, concentrating, chemical extraction, smelting, refining or packaging activities take place and all equipment that is used solely for secondary crushing, grinding, concentrating, smelting, refining and packaging and is maintained on an available for use

basis but does not include those used for primary crushing, to carry ore or output or necessary to the servicing and management of processing assets. 1990, c. 18, s. 107; 1994, c. 36, s. 31.

Deemed single mine

108 (1) Where mining is conducted in more than one location by the same person or under the same general management or control or jointly controlled by persons not dealing at arm's length, or the net income of which accrues to the same person are, for the purpose of determining whether that person pays a royalty, deemed to be one mine.

(2) Where mining is carried on by two or more affiliated or associated corporations under the same general control, or the net income of which accrues for the benefit of the same shareholders, the income from the various operations shall be combined and dealt with as the net income of one and the same operator.

(3) Where mining is conducted by two or more operators, each operator is deemed not to be dealing at arm's length with the other.

(4) For the purpose of this Act,

(a) a corporation and a person or one of several persons by whom the corporation is directly or indirectly controlled;

(b) corporations controlled directly or indirectly by the same persons; or

(c) persons connected by blood relationship, marriage or adoption,

are deemed not to be dealing with each other at arm's length. 1990, c. 18, s. 108.

Allowances proportioned

109 Where the operator provides secondary crushing, grinding, concentrating, chemical extraction, smelting, refining, packaging or otherwise processes any output other than that derived from a mining operation controlled by the operator in the Province, the allowance for processing and the indirect expenses incurred shall be proportioned on the same basis as the operator's output from a mining operation controlled by the operator in the Province is to the total output processed at the facility during the fiscal year. 1990, c. 18, s. 109.

Deemed cost and deemed receipt of amount

110 (1) An expense or depreciable asset resulting from a non-arm's length transaction is deemed not to exceed the cost of the service supplied or the value of the depreciable asset as approved by the Mine Assessor.

(2) Any operator who has provided services or transferred assets not at arm's length is deemed to have received an amount not less than the cost of such service or the value of the asset at the time of the transfer as approved by the Mine Assessor. 1990, c. 18, s. 110.

Change in fiscal year

111 No operator shall change the operator's fiscal year without first notifying the Mine Assessor and receiving the approval of the Mine Assessor. 1990, c. 18, s. 111.

Removal from Province

112 (1) Except for testing, no person shall remove from the Province to any place outside of Canada for processing any output from a mine in the Province without first obtaining the consent of the Minister.

(2) Where the operator files

- (a) all smelter or sales contracts or agreements; and
- (b) such information as requested by the Mine Assessor,

the Minister may approve the removal from the Province of any ore, mineral or mineral-bearing substance.

(3) Where approval is not obtained pursuant to subsection (1), the Governor in Council may order that the amount of the royalty payable by the operator of the mine be increased to up to three times the amount of the royalty that the operator would otherwise be required to pay. 1990, c. 18, s. 112; 1995-96, c. 8, s. 20.

Royalties

113 All output, whether gained under authority as may be granted pursuant to this Act or not, is subject to such royalties to the Crown for the use of the Province as are imposed pursuant to this Act and the regulations and the operator shall pay the royalty to the Crown at the times and in the manner set out in this Act and the regulations. 1990, c. 18, s. 113.

Deemed separate fund and deemed trust

114 (1) The royalty payable by an operator shall be deemed to be held separate from and form no part of the operator's money, assets or estate, whether or not the amount of the royalty has in fact been kept separate and apart from the operator's money, assets or estate.

(2) Every person subject to pay royalties pursuant to this Act is deemed to hold the same in trust for Her Majesty in right of the Province and for the payment over of the same in the manner and at the time provided pursuant to this Act and the regulations, whether or not the amount therefor has in fact been held separate and apart by that person, and the amount, from the moment the output is severed until the royalty is paid, forms a lien and charge on all the estates and interests in the output, slimes and tailings, and all other assets of the mine, or any of the proceeds thereof, and the lien is deemed to be a mortgage or secured debenture and is payable in priority to all other liens, charges or mortgages in respect of the output, slimes, tailings and all other assets of the mine, or any of the proceeds thereof.

(3) The lien referred to in subsection (2) is not a charge against a parcel registered pursuant to the Land Registration Act until a certificate evidencing the lien has been recorded in the register of the parcel. 1990, c. 18, s. 114; 2001, c. 6, s. 118.

Circumstances requiring payment of royalty

115 Where it has been found that a mine has been in operation and the operator of the mine or owner of the property or premises where the mine is situated fails to show upon demand a mineral lease, excavation registration or letter of authorization, the Mine Assessor may demand payment of royalty for the quantity of output at the value that the Mine Assessor deems reasonable and it is prima facie evidence that the operator of the mine or owner of the property or premises where the mine is situated has mined output in the quantity and value so determined. 1990, c. 18, s. 115; 1994, c. 36, s. 32; 1999 (2nd Sess.), c. 12, s. 54.

Royalties payable to Crown and subject to interest and penalty

116 All royalties are payable to Her Majesty in right of the Province and bear interest and penalty from the time when due until paid at the rate and terms fixed by the Governor in Council or this Act. 1990, c. 18, s. 116.

First charge to Crown

117 Where any royalty, rent, tax, debt or sum of money is due and payable to the Crown by the lessee, the Crown has a first and prior charge on any mineral, mineral stockpile, slimes or tailings and, in

addition to any legal remedy available to the Minister in respect of such royalty, rent, tax, debt or sum of money, the Minister may take possession of any mineral, mineral stockpile, slimes or tailings. 1990, c. 18, s. 117.

Restriction on acquisition

118 (1) Notwithstanding any enactment, no trustee, trustee in bankruptcy, receiver, assignee, liquidator or lienholder shall acquire by any means whatsoever any mineral, mineral stockpile, slimes or tailings or any interest therein where any royalty, rent, tax, debt or sum of money is due and payable to the Crown by the lessee in respect of the lease or otherwise.

(2) Any deemed or actual transfer by the lessee, by any means whatsoever, of any mineral, mineral stockpile, slimes or tailings or any interest therein is void until such royalty, rent, tax, debt or sum of money is paid to the Crown and the Minister consents to such transfer in writing. 1990, c. 18, s. 118; 1994, c. 36, s. 33.

Priority of charge of Crown

119 The charge of the Crown for royalties has priority over every other charge against the area, claim or tract covered by the mineral right or permit under which the royalties are payable, and against all fixtures, machinery, goods and chattels used in working and operating the mine situated thereon, and continues against all such fixtures, machinery, goods and chattels, notwithstanding the forfeiture of the mineral right or permit pursuant to this Act. 1990, c. 18, s. 119.

Use of remaining security

120 Where any debt, sum of money, royalty, rent or tax is due and payable to the Crown by the lessee, the Minister may use and apply the balance of any money or security held, including that designated for the purposes of reclamation, if such reclamation has been completed to the Minister's satisfaction, to such debt, sum of money, royalty, rent or tax due and payable to the Crown. 1990, c. 18, s. 120.

Amount of royalty

121 (1) The operator is liable for and shall pay an annual royalty of

(a) two per cent of the net revenue; or

(b) fifteen per cent of all net income,

whichever is the greater.

(2) Notwithstanding subsection (1), where gross income for the fiscal year is less than an amount as may be prescribed, upon written notice from the Mine Assessor, the royalty payable by the operator shall be two per cent of net revenue.

(3) In lieu of a royalty imposed pursuant to subsection (1) or (2), upon notice in writing to the operator of a mine by the Minister, the operator shall pay the royalty determined from time to time by the Governor in Council. 1990, c. 18, s. 121.

Calculation of gross income

122 Gross income shall be calculated during a fiscal year using

(a) when output is sold, the consistent use in any fiscal year of either

(i) the market price of the output at the time of sale, or

(ii) the market price of the output at the time of shipment;

(b) when output is transferred from or consumed at a mining operation, the market price of the output at the time of the transfer or consumption. 1990, c. 18, s. 122.

Calculation of net revenue

123 Net revenue for a fiscal year is the gross income derived from output less

(a) marketing costs;

(b) shipping costs;

(c) smelting costs;

(d) refining costs;

(e) packaging costs; and

(f) associated and related costs if paid or borne by an operator. 1990, c. 18, s. 123.

Calculation of net income

124 Net income shall be calculated by taking the amount of net revenue and deducting therefrom the reasonable operating expenses of a mining operation if paid for or borne by the operator, and such reasonable operating expenses may include, without restricting the generality of the foregoing,

(a) allowance for depreciation;

(b) allowance for processing;

(c) actual costs of restoration, reclamation or rehabilitation of the mine incurred during the year and for this purpose, costs of reclamation completed after a mining operation has ceased may be considered as prior years operating expenses and applied in reverse order to prior fiscal years royalty returns to reduce royalties payable to not less than two per cent of net revenue for each fiscal year applied;

(d) primary crushing and processing costs;

(e) actual and proper working expenses of the mine both underground and above ground, including salaries and wages of all necessary employees employed at the mine and the proper salaries and office expenses for necessary office work done at the mine;

(f) head office costs that relate directly to a mining operation;

(g) cost of insuring the equipment, buildings and the stock in storage;

(h) municipal taxes paid by the operator or payments made to essential municipal or public services in lieu of municipal taxes;

(i) prescribed expenditures on assessment work conducted in the Province incurred during the fiscal year if the expenditure is paid or incurred by the operator;

(j) cost of workers' compensation and other contributions to the health and welfare of employees working at the mine;

(k) cost of utilities;

- (l) cost of food or provisions for employees;
- (m) cost of fuel and explosives and other supplies used in a mining operation;
- (n) cost of safeguarding and protecting the mine;
- (o) cost of repair and maintenance with respect to movable and immovable property used at the mine;
- (p) cost of shafts, excavation, drifts, trenches, borings or other means of development in the area under lease, including the mine; and
- (q) donations made in the Province for educational or charitable purposes which have been approved by the Mine Assessor. 1990, c. 18, s. 124; 1999 (2nd Sess.), c. 12, s. 55.

Prohibited reductions

125 No reduction of gross income shall be made in respect of

- (a) operating expenses and allowances attributable to output held in inventory;
- (b) cost of plant, machinery, equipment or buildings;
- (c) capital invested, interest or dividends upon being paid;
- (d) reduction in the value of any asset, including a mineral right, by reason of exhaustion of the minerals;
- (e) payments made with respect to the acquisition of surface rights or acquisition of a mineral title;
- (f) cost of incorporation, organization or reorganization;
- (g) expenses related to manufacturing and industrial enterprises;
- (h) royalties payable pursuant to this Act;
- (i) taxes on profit or capital;
- (j) reserves and provisions except where specifically permitted in this Act;
- (k) the portion of expenses or assets recovered by the operator;
- (l) deductions allowed in computing a previous year's profit;
- (m) lease payments;
- (n) direct costs incurred by the operator in the provision of secondary crushing, grinding, concentrating, smelting, refining, packaging or otherwise processing any output other than that derived from a mining operation in the Province controlled by the operator; or
- (o) any sum expended, except to the extent that it is expended by the operator for the purpose of realizing or producing a profit from mining. 1990, c. 18, s. 125.

Information

126 Every lessee in the Province, without any notice or demand and within three months of the expiration of its fiscal year, shall deliver to the Mine Assessor information the Mine Assessor deems

necessary to aid in the verification of royalty liability. 1990, c. 18, s. 126; 1999 (2nd Sess.), c. 12, s. 56.

Examination of information

127 The Mine Assessor shall cause all returns received by the Mine Assessor to be examined as soon as practical after receipt. 1990, c. 18, s. 127.

Filing of return

128 Every trustee, trustee in bankruptcy, assignee, liquidator and receiver and every agent or other person administering, winding up or controlling in any manner whatever the property, business, estate or income of an operator who has not filed the return for a fiscal year shall, without notice, file such a return. 1990, c. 18, s. 128.

Filing of return

129 Where production has terminated prior to the end of a fiscal year, a return shall be filed with the Mine Assessor within three months of the cessation of production. 1990, c. 18, s. 129.

Time extension

130 Where an operator has attempted to provide a return within the time provided and has requested an extension of time, the Mine Assessor may grant such a single extension not to exceed three months. 1990, c. 18, s. 130.

Notice of assessment

131 After completion of the examination of an operator's return, the Mine Assessor shall assess the amount of the royalty and give a notice of the assessment of royalties, interest and penalties, if any, to the operator and it shall be dated as of the day on which it is sent. 1990, c. 18, s. 131.

Additional royalty

132 Any additional amount of royalty assessed, and penalty or interest charged, if any, is payable on the date of the assessment or charge. 1990, c. 18, s. 132.

Liability for royalty

133 (1) Notwithstanding any prior assessments or if no assessment has been made, an operator continues to be liable for any royalty due and payable.

(2) The Mine Assessor, for reasonable cause, may reassess an operator's annual return and the operator is liable for, and shall pay any additional amount of, royalty due. 1990, c. 18, s. 133.

Formalities of notice of assessment

134 Every notice of assessment pursuant to this Act shall be in writing and shall be sufficiently given if it is delivered or mailed to the operator, and the notice of assessment is, for all purposes of this Act, deemed to be given to the operator five days after the day on which it is sent. 1990, c. 18, s. 134.

Application of over-payment

135 Where the examination of an operator's return discloses that an overpayment has been made by the operator, the Minister, on the certificate of the Mine Assessor as to the facts, may apply the overpayment to such debt, sum of money, rent or tax due the Crown, and any remaining balance of the overpayment may be returned to the operator. 1990, c. 18, s. 135.

Due date of royalties under s. 121(1)(a)

136 (1) Subject to Section 138, payment of royalties imposed by clause (a) of subsection (1) of Section 121 shall be made not later than thirty days after the end of each applicable quarter of the operator's fiscal year in respect of which the royalty is payable, in an amount equal to two per cent of net revenue for the quarter of which the royalty is payable.

(2) The payment of the balance due pursuant to subsection (1) is payable upon filing of the annual return or within three months after the fiscal year, whichever is earlier.

(3) Subject to Section 138, payments of royalties imposed pursuant to subsection (2) of Section 121 shall be made not later than thirty days after the end of each applicable four quarters of the fiscal year in respect of which the royalty is payable. 1990, c. 18, s. 136.

Due date of royalties under s. 121(3)

137 All royalties imposed by subsection (3) of Section 121 are due and payable quarterly on the twentieth day in each of the months of January, April, July and October in each year. 1990, c. 18, s. 137.

Variation of payment date

138 Where an operator, upon application, has provided written detail estimating that the royalties payable for a fiscal year are to be less than one thousand dollars, the Mine Assessor may allow payment to be made thirty days after the end of the operator's fiscal year. 1990, c. 18, s. 138.

Liability for and application of royalties

139 (1) Every operator subject to royalty shall pay to the Minister royalty, interest and penalty, if any, in respect of every fiscal year.

(2) A royalty payment made by an operator shall be first applied to any outstanding balance of interest and penalty charged to the operator. 1990, c. 18, s. 139.

Interest on balance of annual royalties owing

140 Where the amount paid by an operator for a fiscal year is less than the amount assessed as royalties and penalty, if any, for that year, the operator shall pay interest at the Crown's long term borrowing rate in effect at the time the annual return was due on the balance payable to the Crown until payment in full had been made. 1990, c. 18, s. 140.

Interest on balance for quarter

141 Where the amount paid by an operator for royalties and penalty, if any, for a quarter is less than the amount required to be paid, the operator shall pay interest at the Crown's long term borrowing rate in effect at the time the quarterly payment is due on the balance payable to the Crown to the day of payment or the day the annual return is due, whichever is earlier. 1990, c. 18, s. 141.

Penalties

142 (1) Every operator who

(a) makes or participates in the making of a false statement in any return filed or made pursuant to this Act or the regulations;

(b) evades payment of a royalty imposed pursuant to this Act or the regulations;

(c) destroys, alters, mutilates or otherwise disposes of any record required to be kept pursuant to this Act or the regulations; or

(d) fails to keep records or accounts required to be kept pursuant to this Act or the regulations,

is liable to a penalty of fifty per cent of the amount of the royalty evaded or sought to be evaded.

(2) Every operator required to pay royalties pursuant to this Act who fails to pay royalties within the time provided is liable to a penalty of one per cent of the outstanding amount due or twenty-five dollars per month, whichever is greater.

(3) Every operator who fails to deliver to the Minister an annual return within the time provided is liable to a penalty of five per cent of the royalty due. 1990, c. 18, s. 142.

Records of account of operator

143 (1) Every operator shall keep at or near the mine all records of account, including financial, production and general business records, pertaining to the mining operation.

(2) Notwithstanding subsection (1), upon application the Mine Assessor may authorize an operator to keep records of account in an area other than the mine. 1990, c. 18, s. 143; 1999 (2nd Sess.), c. 12, s. 57.

Additional records of account

144 (1) Every operator liable to pay a royalty shall also keep proper records of accounts showing

(a) each of the deductions and allowances used in the determination of net revenue and net income;

(b) the return from the smelter, refinery or mill;

(c) the return of the amount derived from the sale of mineral output; and

(d) any information required by the Mine Assessor.

(2) If a doubt arises as to where any record of account is required to be kept, how it is to be kept or what records of account shall be kept, the Minister shall, by written order, determine the matter.

(3) Where the operator has been granted permission to maintain records of account and reports elsewhere than in the Province, the operator is required to recompense the Province for expenditures including travel of persons authorized by the Minister to examine the records of account at the location where they are maintained.

(4) Except as may otherwise be approved by the Mine Assessor, whoever is required pursuant to this Act to keep records of account shall retain them for seven years following termination of the lease to which the records apply. 1990, c. 18, s. 144; 1994, c. 36, s. 34.

Entry, search and seizure

145 With the approval of a judge or justice of the peace which may be granted on demand ex parte following on information made under oath, the Minister may, for all purposes respecting the application of this Act and the regulations, authorize any officer of the Department or any other person whom the Minister designates and any peace officer whom such officer or person calls to his aid, to enter into or upon any premises used in connection with a mining operation and seek therein for documents, records, registers, papers or other things that may be used as evidence of an offence against this Act or a regulation, to seize and remove such documents, records, registers, papers or other things and keep them until they have been produced in judicial proceedings. 1990, c. 18, s. 145.

Restriction on time of search

146 The search contemplated by Section 145 shall not be made before seven o'clock in the forenoon or after eight o'clock in the afternoon or on a holiday except under express written authorization of the judge who approved it. 1990, c. 18, s. 146; 1999 (2nd Sess.), c. 12, s. 58.

Operator's right to examine things seized

147 The Minister shall allow, upon request, the operator in whose hands it was at the time of the seizure, the examination of any document, record, register, paper or other thing seized. 1990, c. 18, s. 147.

Demand for information and documents

148 The Minister may, by a formal demand delivered by registered mail or personal service, require from any operator that the operator file, by registered mail or personal service within a reasonable delay fixed by the Minister,

(a) information or additional information including a return, report or supplementary return or report required pursuant to this Act; or

(b) records, letters, accounts, invoices, financial statements or other documents. 1990, c. 18, s. 148.

Time for compliance with demand under s. 148

149 The operator to whom the demand is referred pursuant to Section 148 must, within the time provided, comply with that demand whether or not the operator has previously filed such information or documents. 1990, c. 18, s. 149.

Information privileged

150 (1) Notwithstanding the Freedom of Information and Protection of Privacy Act but subject to this Section, information or documentation provided for the purpose of this Act or any regulation made pursuant to this Act, whether or not such information or documentation is required to be provided pursuant to this Act or any regulation made thereunder, is privileged and shall not knowingly be disclosed without the consent in writing of the person who provided it or as otherwise provided in this Act except for the purposes of the administration or enforcement of this Act for the purposes of legal proceedings relating to such administration or enforcement.

(2) No person shall be required to produce or give evidence relating to any information or documentation that is privileged pursuant to subsection (1) in connection with any legal proceedings, other than proceedings relating to the administration or enforcement of this Act. 1990, c. 18, s. 150; 1999 (2nd Sess.), c. 12, s. 59.

Agreements

151 (1) The Minister may, for the purpose of aiding in an investigation for purposes under this or any other Act, enter into an agreement with the Government of Canada or government of any other province under which officers of such government will be allowed access to information obtained, or any written statement furnished pursuant to this Act and officers of the Government of the Province will be allowed access to information obtained or any written statement furnished, under any act of such government.

(2) Such information shall not be disclosed to the government of any province or the Government of Canada other than those to which there is an agreement to exchange such information.

(3) The provinces and Canada under such agreement shall keep the information and documents obtained in the same manner as if such information or documents were obtained directly from the operator pursuant to each party's relevant mining royalty legislation. 1990, c. 18, s. 151.

Powers of Mine Assessor

152 The Mine Assessor, or any other officer designated by the Minister, within normal business hours may

(a) audit or examine the records of account which, in the opinion of the Mine Assessor or officer, assist the Mine Assessor or officer in verifying the amount of royalty payable pursuant to this Act;

(b) examine any process or methods, an examination of which may, in the opinion of the Mine Assessor or officer, assist in verifying the amount of royalty payable pursuant to this Act;

(c) require the owner or manager of the property or business or any other person on the premises to give all reasonable assistance to the Mine Assessor or officer in respect of the audit or examination, either orally or, should the said authorized person so require, in writing, on oath or by solemn affirmation, and for that purpose, require the owner or manager to attend the premises; and

(d) where during the course of an audit or examination, the Mine Assessor has reasonable and probable grounds to believe that there has been a violation of this Act or the regulations,

(i) with the consent of the operator, remove any records, accounts, vouchers, letters, telegrams and other documents,

(ii) otherwise, subject to Section 145, with a search warrant enter upon the premises where the records are kept and remove any records, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any judicial proceeding. 1990, c. 18, s. 152.

Appeal of assessment

153 (1) Where a notice of assessment shows that

(a) a royalty has been assessed in an amount greater than that paid to the Minister;

(b) a penalty has been assessed; or

(c) interest has been charged,

the operator so notified may, within sixty days from the date of the notice of assessment, serve the Minister with the notice of appeal and Sections 169, 172 and 173 apply *mutatis mutandis*.

(2) The notice shall state

(a) the name and address of the appellant;

(b) that the appellant thereby appeals against an assessment for royalty or penalty or interest made against him in respect of the period stated in the notice;

(c) the grounds for the appeal or the particulars of the objection to the assessment. 1990, c. 18, s. 153.

Offence and penalty for contravention

154 (1) Any person who fails to comply with or otherwise contravenes any of the provisions of this Act or any order made thereunder or who interferes with any officer who is carrying out any duties pursuant to this Act or any order made thereunder is guilty of an offence and is, where no penalty is specifically provided in this Act, liable on summary conviction to a fine not exceeding two thousand dollars, and in default of payment to imprisonment for a term not exceeding six months.

(2) The conviction of any person pursuant to this Act for failure to comply with any requirement or obligation referred to in subsection (1) does not operate as a bar to further prosecution for the continued failure of that person to comply. 1990, c. 18, s. 154.

Entry and inspection by officer

155 Subject to Section 145, an officer may at any reasonable time enter upon an area where mining is or has taken place for the purpose of making an investigation and obtaining information as to the amount and value of the output of the mine and, for this purpose, the officer may descend all pits and shafts and use all such tackle, machinery and appliances belonging to the mine as deemed necessary or expedient, and shall have free access to all buildings, erections and vessels used in connection with the

mine, and shall be allowed to take from the property such samples or specimens as the officer deems necessary for the purpose of determining, by assay or otherwise, the mineral content or value of ore, minerals or mineral-bearing substances being taken therefrom, or any product thereof, and the officer shall have full and complete access and may require the production of all records, accounts, correspondence and documents maintained or used for or in connection with the actual operations and business of such mine, and may examine the same and take copies thereof or extracts therefrom, but any information of a private or confidential nature acquired shall not be disclosed to anyone except so far as may be necessary for the purpose of this Act. 1990, c. 18, s. 155; 1999 (2nd Sess.), c. 12, s. 60.

Entry or working on private land without consent or permit

156 (1) Any person who passes over, enters upon or performs surface work on private land without the consent of the owner or tenant of the land, or without having obtained a surface rights permit pursuant to Sections 40 or 100, is guilty of an offence and liable upon summary conviction to a fine not exceeding ten thousand dollars.

(2) Where a person is convicted of an offence pursuant to this Act and another person has, as a result of the commission of the offence, suffered damage caused by the person convicted, the court may, on the application of the person who suffered the damage, determine the amount of the damage and order restitution by the person convicted.

(3) repealed 1999 (2nd Sess.), c. 12, s. 61.

1990, c. 18, s. 156; 1994, c. 36, s. 35; 1999 (2nd Sess.), c. 12, s. 61.

Mining without lease or registration

157 Any person who mines without the appropriate lease or non-mineral registration is guilty of an offence and is liable upon summary conviction to a fine not exceeding ten thousand dollars per day for each day that the offence occurs or continues. 1999 (2nd Sess.), c. 12, s. 62.

Entry and search by officer

158 (1) An officer may enter upon any property or premises where the officer has reasonable and probable grounds to believe that any person is mining without the appropriate lease or non-mineral registration and may search such property and premises.

(2) Where any property or premises referred to in subsection (1) is a dwelling-house, an officer shall not enter that dwelling-house without the consent of the occupant except under the authority of a warrant issued pursuant to subsection (3).

(3) Where on ex parte application a justice of the peace is satisfied by information on oath that entry to a dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act and

(a) that entry to the dwelling-house has been refused; or

(b) entry has not been sought on the ground that there are reasonable and probable grounds to believe that evidence contained in the dwelling-house would be destroyed or otherwise disposed of if a request for entry were made,

the justice of the peace may issue a warrant authorizing the officer named therein to enter that dwelling-house subject to the conditions specified in the warrant.

(4) In executing a warrant issued pursuant to subsection (3), the officer named therein shall not use force unless the officer is accompanied by a peace officer and the use of force has been specifically authorized in the warrant.

(5) Where it is found that mining has been carried on and the person who has carried on the mining fails to show, upon demand, the appropriate lease or non-mineral registration, an officer may order that person to cease mining and

(a) order that person to reclaim any works, pits, shafts or slopes in or from which mining has been carried out; or

(b) direct the reclamation of such works, pits, shafts or slopes and charge the cost of doing so to that person.

(6) Where the Province performs or causes to be performed, at its own cost, reclamation pursuant to clause (b) of subsection (5), the Minister may certify the amount of the cost of such reclamation to be a debt due to the Crown and the amount thereof forms a lien on the property or premises which may be registered in the registry of deeds for the registration district in which the property or premises are situated.

(7) The lien referred to in subsection (6) is not a charge against a parcel registered pursuant to the Land Registration Act until a certificate evidencing the lien has been recorded in the register of the parcel. 1990, c. 18, s. 158; 1994, c. 36, s. 36; 2001, c. 6, s. 118; 1999 (2nd Sess.), c. 12, s. 63.

Seizure by peace officer

159 (1) Where a peace officer has reasonable and probable grounds to believe that a person is or has been mining without the appropriate lease or non-mineral registration, any mineral produced and any installation, equipment or vehicle used in connection with the operation may be seized.

(2) Where a peace officer has seized anything pursuant to subsection (1), the peace officer shall

(a) without delay report particulars of the seizure to the Department; and

(b) where the peace officer has knowledge of the person who was in apparent possession of the mineral, installation, equipment or vehicle at the time of seizure, give notice to that person of the seizure either by personal service or by registered mail.

(3) Where a person is convicted of an offence pursuant to this Act or the regulations, the court or judge may, in addition to any other penalty imposed, order that the mineral, installation, equipment or vehicle seized pursuant to subsection (1) be

(a) forfeited to Her Majesty in right of the Province; or

(b) returned to the owner thereof, or make such other order as the court sees fit.

(4) Where a person is acquitted of an offence, the court or judge shall order that the mineral, if any, installation, equipment or vehicle seized be returned to the owner thereof.

(5) Where a charge is not laid within three months of the date of seizure, and the owner of the mineral, if any, installation, equipment or vehicle seized is known, the Minister shall order that the seized goods be returned to the owner. 1990, c. 18, s. 159; 1999 (2nd Sess.), c. 12, s. 64.

160 repealed 1999 (2nd Sess.), c. 12, s. 65.

Mining after forfeiture of lease or registration

161 Any person who continues to operate a mine after the forfeiture of a lease or non-mineral registration is guilty of an offence and is liable, upon summary conviction, to a fine not exceeding ten thousand dollars per day for each day that the offence occurs or continues. 1990, c. 18, s. 161; 1999 (2nd Sess.), c. 12, s. 66.

162 and 163 repealed 1999 (2nd Sess.), c. 12, s. 67.

Contravention of Section 25

164 A person who contravenes Section 25 is guilty of an offence and is liable to a penalty not exceeding one hundred dollars for every day during which the offence occurs and continues. 1990, c. 18, s. 164.

Consequence of offence by corporation

165 Where a corporation has committed an offence pursuant to this Act, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on summary conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted. 1990, c. 18, s. 165.

166 repealed 1999 (2nd Sess.), c. 12, s. 68.

Duties of Registrar where failure to comply

167 (1) Where the Registrar has reason to believe that this Act or a term or condition of a mineral right or non-mineral registration has not been complied with, the Registrar shall

(a) investigate the matter and shall, where necessary, with or without notice, make an investigation of the premises;

(b) notify the mineral right holder or registrant of the non-compliance; and

(c) provide the mineral right holder or registrant with an opportunity, exercisable within such reasonable period of time as may be determined by the Registrar, to make representations to the Registrar.

(2) Where the Registrar is satisfied that this Act or a term or condition of a mineral right or non-mineral registration has not been complied with, the Registrar may grant the mineral right holder or registrant thirty days to remedy the non-compliance.

(3) Where the Registrar determines that the mineral right holder or registrant has not complied within the time referred to in subsection (2), the Registrar shall

(a) refer the matter, with his recommendations, to the Minister; and

(b) notify the mineral right holder or registrant of the referral described in clause (a).

(4) Failure on the part of a mineral right holder or registrant to comply with this Section may result in forfeiture of the mineral right or non-mineral registration.

(5) The Registrar, at the direction of the Minister, shall mark the mineral right or lease "Forfeited" or non-mineral registration "Cancelled", amend the record accordingly and forthwith send notification to the mineral right holder or registrant of the forfeiture or cancellation and the reasons therefor that are deemed to have been received five days after being so sent.

(6) A mineral right holder or registrant whose mineral right or non-mineral registration has been forfeited or cancelled pursuant to subsection (3) may, within twenty days of receiving notice of the forfeiture or cancellation, appeal the forfeiture or cancellation to the Minister in the manner provided by Section 169.

(7) Upon the forfeiture of a mineral right or cancellation of a non-mineral registration pursuant to subsection (4), the Registrar shall forthwith post in the office a notice of the forfeiture or cancellation and land or claims comprised in such mineral right or non-mineral registration shall thereupon, unless withdrawn from application, be again open to application at a time set by the Registrar, but such application shall be subject to the result of an appeal by a mineral right holder whose claim has been forfeited or registrant whose non-mineral registration has been cancelled. 1990, c. 18, s. 167; 1994, c. 36, s. 38; 1999 (2nd Sess.), c. 12, s. 69.

Entitlement to document

168 The mineral right holder or registrant is entitled, upon payment of the prescribed fee, to a certified copy of any report of inspection filed with the Registrar in respect of that holder's mineral right or non-mineral registration. 1990, c. 18, s. 168; 1999 (2nd Sess.), c. 12, s. 70.

Appeal to Minister

169 (1) Any person aggrieved by a decision of an officer may appeal to the Minister in the manner prescribed.

(2) On appeal the Minister shall examine the matter de novo and give the appellant and any other persons the Minister considers may be interested an opportunity to be heard.

(3) On appeal the Minister has all the powers of the officer appealed from and the decision of the Minister is final. 1990, c. 18, s. 169.

Investigation by Minister or substitute

170 The Minister or a person appointed, employed or designated by the Minister may make an investigation into any matter to which this Act applies and, for the purpose of the investigation, the Minister or the person making it has all the powers, privileges and immunities of a commissioner appointed pursuant to the Public Inquiries Act. 1990, c. 18, s. 170.

Powers on investigation

171 Upon an investigation, the Minister or person designated by the Minister has any one or all of the following powers:

- (a) to accept, either in whole or in part, any application previously refused;
- (b) to amend and adjust the mineral rights of the mineral right holders in dispute;
- (c) to adjust the rights of various persons in dispute;
- (d) to order any mineral right holder to cease any or all operations pending the outcome of the investigation;
- (e) to make such further order for the disposal of the case as appears to be just; and
- (f) to refer any question or issue to the Supreme Court for hearing and consideration. 1990, c. 18, s. 171.

Conversion of decision or order of Minister to Court order

172 (1) Any decision or order made by the Minister or officer pursuant to this Act may be made a rule or order of the Supreme Court and may be enforced in a like manner as a rule, order, decree or judgment of such Court.

(2) To make a decision or order referred to in subsection (1) a rule or order of the Supreme Court, the Minister may make a certified copy of the decision or order upon which shall be made the following endorsement signed by the Minister:

Make the within a rule or order of the Supreme Court of Nova Scotia.

Dated this day of, 19.

.....

Minister of Natural Resources

and the Minister may forward the certified copy, so endorsed, to the prothonotary of the Supreme Court who shall, on receipt thereof, enter it as a record and it is thereupon a rule or order of the Supreme Court and is enforceable as any rule, order, decree or judgment thereof. 1990, c. 18, s. 172; 1992, c. 14, s. 61.

Appeals to Court

173 (1) Notwithstanding subsection (6) of Section 100, any person aggrieved by any decision of the Minister or a person appointed by the Minister, except as in this Act otherwise provided, may within thirty days from the date of such decision appeal to a judge of the Supreme Court.

(2) A decision of the judge of the Supreme Court is final.

(3) An appeal lies to the Court of Appeal upon a question of law. 1990, c. 18, s. 173; R.S., c. 240, ss. 9, 10; 1992, c. 16, ss. 38, 39.

Regulations

174 (1) The Governor in Council, on the recommendation of the Minister, may make regulations

(a) repealed 1999 (2nd Sess.), c. 12, s. 71;

(b) respecting the restoration, reclamation and rehabilitation of land affected by exploration or mining activities;

(c) governing the mining and recovery of any minerals, mineral-bearing substance, gypsum or limestone;

(d) respecting the use of mineral resources;

(e) respecting returns, reports, records and statements to be submitted or maintained by a mineral right holder, registrant or prospector;

(f) defining the kind and quantity of assessment work required for a renewal of an exploration licence or special licence and the manner and form in which evidence of such work shall be submitted;

(g) defining categories of acceptable work and specifying credit which a licensee may receive for work in each category;

(ga) respecting safety and unsightliness of property to which Section 76 applies;

(h) respecting conditions for opening, closing, reopening and abandoning mines and for rendering a mine inaccessible;

(i) respecting requirements relating to reclamation and rehabilitation of mines;

- (j) respecting the establishment of boundaries of mineral lands;
- (k) governing the survey of a mineral right;
- (l) prescribing forms and providing for their use;
- (m) prescribing fees and rentals payable pursuant to this Act;
- (ma) prescribing the contents of reports made pursuant to this Act and the manner in which such reports shall be made;
- (n) prescribing interest rates and establishing, from time to time, a formula by which interest rates may be calculated;
- (o) respecting securities and determining their form and terms;
- (p) respecting payments in lieu of assessment work and refunds of such payments;
- (q) respecting confidentiality of any information filed with the Department;
- (r) respecting the method of application, content, form, terms and conditions of mineral rights licences, notices, non-mineral registrations, letters of authorization and leases;
- (s) respecting the definition of minerals for the purpose of this Act;
- (t) prescribing the administration, rate and terms of royalties;
- (u) repealed 1999 (2nd Sess.), c. 12, s. 71;
- (v) requiring from the mineral right holder, persons searching, prospecting or mining or the operator of a mine, statistical information respecting work or operations;
- (w) respecting the form and content of records and the manner in which they are to be kept and maintained by the Registrar;
- (x) respecting the form and content of notices;
- (y) prescribing that certain words and phrases shall be deemed to be contained in licences, leases, excavation registrations, non-mineral registrations and letters of authorization and that certain words therein have an extended meaning;
- (z) prescribing the manner of service and defining what is sufficient service of any document or notice referred to or required by this Act or the regulations;
- (aa) prescribing the content of a summary required pursuant to subsection (1) of Section 87;
- (aaa) respecting the assignment of work and responsibilities, rights and duties under this Act to officers and employees of the Department;
- (aab) respecting the submission of excess assessment work as credit for a later application to renew a licence and the allowable time period for such submissions;
- (aac) respecting the method of submission and recording, content, form, terms and conditions of excavation registrations as well as the circumstances under which an excavation registration may be refused;

(aad) respecting the circumstances under which a letter of authorization may be refused and the prohibiting of certain activities without a lease or letter of authorization;

(aae) respecting exploration drilling;

(aaf) respecting access to municipal water supply watershed lands;

(aag) respecting uranium encounters.

(ab) defining any word or expression used in this Act and the regulations and not defined in this Act;

(ac) for the better carrying out of the provisions of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) shall be regulations within the meaning of the Regulations Act, 1990, c. 18, s. 174; 1994, c. 36, s. 39; 1999 (2nd Sess.), c. 12, s. 71.

Confidentiality

175 (1) Notwithstanding the Freedom of Information and Protection of Privacy Act and except as otherwise provided in this Act and the regulations, all feasibility studies, financial data, mine and mill design studies and plans and equipment specifications in respect of a mine, and information submitted pursuant to Section 61 shall remain confidential for the life of the relevant mineral lease or non-mineral registration.

(2) Notwithstanding subsection (1), the Minister may release information referred to in subsection (1)

(a) notwithstanding any enactment, if there is a grave environmental danger involving the mine to which the information pertains; or

(b) for the purpose of providing statistics regarding mineral production, employment, municipal taxes or economic impacts on the Province, if the statistics are general in nature and do not disclose financial or technical data that would result in undue financial gain or loss to the mineral right holder, registrant or another person.

(3) Notwithstanding Section 47, the assessment work report is confidential for two years from the date of submission but if the licence expires before the two-year period expires, the report submitted and held in confidence shall be released.

(4) Notwithstanding subsections (1) and (3),

(a) the mineral right holder or registrant may, upon application to the Registrar in writing showing reasonable cause, apply for an extension of the period of confidentiality granted pursuant to this Section and the Registrar may grant such extension;

(b) the period of confidentiality may be terminated

(i) where the mineral right holder or the registrant, as the case may be, agrees to a release of the information, or

(ii) where a mineral right or non-mineral registration is surrendered, cancelled, forfeited, abandoned or has expired;

(c) the Minister may use confidential information with the consent of the owner of the information. 1990, c. 18, s. 175; 1994, c. 36, s. 40; 1999 (2nd Sess.), c. 12, s. 72.

Existing exploration licence

176 (1) An exploration licence in good standing at the coming into force of this Act continues to be subject to the terms and conditions of Chapter 286 of the Revised Statutes, 1989, until the next anniversary date of the licence.

(2) At any time on or before the anniversary date referred to in subsection (1), a licensee shall file two hundred dollars of assessment work per claim.

(3) Where the work required pursuant to subsection (2) is filed and the requirements for renewal pursuant to this Act are met on or before the anniversary date referred to in subsection (1), the exploration licence referred to in subsection (1) shall, on such anniversary date, be replaced by an exploration licence issued pursuant to this Act.

(4) The assessment work required for the renewal of the replacement licence issued pursuant to this Act is that prescribed for the year dating from the time when the original licence was first issued. 1990, c. 18, s. 176.

Existing development licence

177 (1) Any development licence in good standing at the coming into force of this Act continues to be subject to Chapter 286 of the Revised Statutes, 1989, until the next anniversary date of the development licence.

(2) Upon the anniversary date referred to in subsection (1), the development licence expires and upon application and payment of fees shall be substituted by an exploration licence issued pursuant to this Act and the amount of assessment work thereafter required is that prescribed for the year dating from the time when the original exploration licence, which was subsequently converted to the development licence, was issued. 1990, c. 18, s. 177.

Special licence

178 A special licence in good standing at the coming into force of this Act is subject to this Act for the remainder of its term. 1990, c. 18, s. 178.

Excess assessment work

179 (1) Any excess assessment work that was recorded by the Department to the credit of an exploration licence or development licence which is valid at the coming into force of this Act may be applied to the assessment work requirements of the mineral rights granted pursuant to this Act.

(2) Notwithstanding subsection (2) of Section 48, work conducted pursuant to a development licence which is valid at the coming into force of this Act, if acceptable to the Registrar and adequately documented, may be applied to the assessment work requirements of the exploration licence issued pursuant to subsection (2) of Section 177. 1990, c. 18, s. 179.

Existing lease

180 A lease in good standing at the coming into force of this Act is and is deemed to be a lease issued pursuant to this Act for the remainder of its term upon the coming into force of this Act. 1990, c. 18, s. 180.

181 and 182 repealed 1999 (2nd Sess.), c. 12, s. 73.

Existing declaration

183 A declaration made pursuant to Section 5 of Chapter 286 of the Revised Statutes, 1989, continues in force and has the same force and effect as if made pursuant to Section 5 of this Act. 1990, c. 18, s. 183.

Advisory committee

183A The Minister shall appoint an advisory committee to initiate a comprehensive review of this Act and the regulations within five years of the coming into force of this Section and the committee shall submit to the Minister, within six months of initiating the review, a report that includes amendments, if any, recommended by the committee. 1999 (2nd Sess.), c. 12, s. 74.

Repeal

184 Chapter 286 of the Revised Statutes, 1989, the Mineral Resources Act, is repealed. 1990, c. 18, s. 184.

Proclamation

185 This Act comes into force on and not before such day as the Governor in Council orders and declares by proclamation. 1990, c. 18, s. 185.

Proclaimed - March 5, 1991

In force - March 6, 1991