



# **BILL NO. 149**

*Government Bill*

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*2nd Session, 62nd General Assembly  
Nova Scotia  
65 Elizabeth II, 2016*

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## **An Act Respecting Mineral Resources**

CHAPTER 3  
ACTS OF 2016

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
MAY 20, 2016**

The Honourable Lloyd Hines  
*Minister of Natural Resources*

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*Halifax, Nova Scotia  
Printed by Authority of the Speaker of the House of Assembly*

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# An Act Respecting Mineral Resources

Be it enacted by the Governor and Assembly as follows:

**1** This Act may be cited as the *Mineral Resources Act*.

**2 (1)** The purpose of this Act is to support and facilitate 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 and facilitating mineral exploration, development and production;
- (c) providing a fair royalty regime; and
- (d) improving and ensuring the retention of the knowledge of mineral resources in the Province for the future benefit of the Province.

**(2)** In administering this Act, the Minister shall consider the principles and goals referred to in the *Environmental Goals and Sustainable Prosperity Act*, which include the Mi'kmaq concept of *Netukulimk*.

## INTERPRETATION AND APPLICATION

**3** In this Act,

(a) “assessment work” means *bona fide* work that meets the prescribed requirements and is undertaken to prove the existence, extent and value of a mineral deposit and to report in an assessment work report for work credit;

(b) “assessment work report” means a report respecting assessment work, or a prospector’s statement, that meets the prescribed requirements;

(c) “bulk sampling” means the extraction of a sample of mineral-bearing material for the purpose of

- (i) assessing the resource,
- (ii) developing a suitable method of mining, or
- (iii) developing a suitable method of treatment,

and includes grade and reserve estimation, metallurgical testing, product testing and market evaluation;

(d) “claim” means a claim of 40 acres or 16.188 hectares, more or less, applied for or held in accordance with this Act;

(e) “conservation officer” means a conservation officer appointed under this Act;

(f) “Crown” means Her Majesty in right of the Province;

(g) “Crown lands” means lands that are Crown lands within the meaning of the *Crown Lands Act*;

(h) “Department” means the Department of Natural Resources acting through its duly authorized officers and employees;

(i) “excavation registration” means an excavation registration recorded under this Act;

(j) “exploration licence” means a licence granting the licence holder, under this Act, the right to search and prospect for minerals within an area designated in the licence;

(k) “exploring” means searching for minerals or non-minerals by prospecting, aerial survey, geological, geophysical or geochemical surveys, trenching, stripping, drilling or any other method, and includes bulk sampling;

(l) “former Act” means Chapter 18 of the Acts of 1990, the *Mineral Resources Act*;

(m) “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;

(n) “geothermal resource area” means an area designated by the Governor in Council under this Act as a geothermal resource area;

(o) “holiday” includes a day or portion of a day designated under the *Civil Service Act* as a holiday;

(p) “legal representative” means an executor, administrator, guardian, trustee, liquidator, receiver or other person upon whom an interest has devolved by operation of law, legal process or order of a court of competent jurisdiction;

(q) “lessee” means a holder of a mineral lease or, unless the context otherwise requires, a legal representative acting on behalf of a holder of a mineral lease;

(r) “letter of authorization” means a letter of authorization granted under this Act;

(s) “licensee” means a holder of an exploration licence;

(t) “mine” includes

(i) an opening upon, excavation in or working of the ground for the purpose of mining, opening up or proving a mineral, gypsum, limestone or a mineral-bearing substance, but not for the purpose of bulk sampling,

(ii) an ore body, mineral deposit or place where mining is being or may be carried on, and

(iii) the ways, works, machinery, plant, wash-houses and other buildings, structures and roadways below or above ground belonging to or used in connection with mining and production;

(u) “Mine Assessor” means the officer appointed by the Minister to administer the royalty provisions of this Act and the regulations;

(v) “mineral” means a natural solid inorganic or fossilized organic substance or 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, or
- (v) oil or natural gas,

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

- (w) “mineral lease” means a mineral lease issued under this Act;
- (x) “mineral right” means an exploration licence or mineral lease;
- (y) “mineral right holder” means a person whose name appears in the records of the Registrar as having a mineral right;
- (z) “mining” means performing any work in or about a mine, and includes a method of working whereby 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, except for the purpose of assaying, sampling, including bulk sampling, or metallurgical testing;
- (za) “Minister” means the Minister of Natural Resources;
- (zb) “non-mineral registration” means a non-mineral registration issued under this Act;
- (zc) “occupier” means, in respect of private property, an occupier at common law, and includes
  - (i) a person who is in physical possession of the property, and
  - (ii) a person who has responsibility for, and control over, the condition of the property, the activities conducted on the property or the persons allowed to enter upon the property,
 and, for the purpose of this Act, there may be more than one occupier of the same property;
- (zd) “officer” includes the Registrar, the Mine Assessor, an engineer or geologist in the public service and a person appointed or employed by the Minister to carry out an inspection, investigation or other function under this Act;
- (ze) “operator” means, with respect to a mine, the mineral right holder, a legal representative acting on behalf of the mineral right holder or, in the case where there is no mineral right holder or legal representative, the owner or occupier of the property or premises where the mine is situated;
- (zf) “output” means the minerals and mineral products taken, gained or derived from a mine;
- (zg) “person” includes a partnership, syndicate or company;
- (zh) “police officer” means a member of the Provincial Police, the Royal Canadian Mounted Police, a municipal police department or another police department providing policing services in the Province;
- (zi) “prescribed” means prescribed by the regulations;
- (zj) “private land” means all land other than Crown lands;

(zk) “production” means the winning, stockpiling, taking or carrying away of a mineral, a mineral-bearing substance, gypsum, limestone or tailings or any product thereof, except for the purpose of assaying, sampling, including bulk sampling, or metallurgical testing;

(zl) “prospector” means a person who is prospecting, whether or not the person is registered with the Department or is a mineral right holder under this Act;

(zm) “record” means a book, map, chart, plan, file or any information stored by micrographic, electronic or other storage means, that logs events, transactions, documents, instruments or other information;

(zn) “registrant” means a holder of a non-mineral registration;

(zo) “Registrar” means the Registrar appointed under this Act;

(zp) “registry” means the office of the Registrar, and includes the electronic registry maintained by the Registrar under this Act;

(zq) “safety” means public safety, but does not include occupational health and safety;

(zr) “security” means cash, an irrevocable letter of credit or another form of security that is acceptable to the Minister, taken for any purpose consistent with the proper administration of this Act;

(zs) “tailings” means the residue discarded, set aside or impounded during production;

(zt) “tract” means a mineral tract made up of 16 claims that conforms with the prescribed description;

(zu) “work credit” means credit given for assessment work performed with respect to an exploration licence.

**4** This Act applies to every person who explores for, mines or produces a mineral or any substance declared, under Section 6, to be a mineral, and to every person mentioned in this Act or the regulations, including a person who produces gypsum or limestone.

**5 (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, mine and produce those minerals.

**(2)** Every grant of Crown lands made on or after April 22, 1910, is, whether the same is so expressed therein or not, to 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, mine and produce those minerals.

**(3)** Every grant of Crown lands made at any time before April 22, 1910, is, whether the same is so expressed therein or not, and notwithstanding the provisions of such conveyance or of any enactment or law, to 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, mine and produce 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,

mine and produce those minerals, and no person is entitled to acquire minerals or such rights by conveyance or prescription.

**6 (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)** The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

**(3)** A copy of a regulation made under subsection (1) must be published in the Royal Gazette and in such other manner as the Governor in Council directs.

**(4)** A regulation made under subsection (1) may apply to all lands in the Province or such lands as may be prescribed.

**7** Where the Governor in Council has made a regulation under clause 6(1)(b), 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*, to have always been a mineral, notwithstanding the terms of any grant from the Crown or any conveyance, instrument, enactment or law.

**8** Where the Governor in Council has made a regulation under subsection 6(1), the person who, but for the regulation, was the owner of the substance or the deposit of the substance has the exclusive right during the six months immediately following the publication of the regulation in the Royal Gazette, in priority to all other persons, to apply for and obtain a mineral right under this Act for, or with respect to, the substance or the deposit of the substance.

**9 (1)** A person engaged in mining activities regulated under this Act and claiming an interest in a substance or a deposit of a substance declared to be a mineral under Section 6 may apply to the Nova Scotia Utility and Review Board for compensation and is subject to the provisions of the *Expropriation Act*.

**(2)** No compensation is to be paid in respect of an application under subsection (1) made more than one year after the date a regulation made under Section 6 is published in the Royal Gazette.

**10 (1)** The Governor in Council may

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

(b) determine that Section 5 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 respecting 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, under subsection (1),

(a) an area is designated as a geothermal resource area and Section 5 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 is entitled to compensation of any nature or kind whatsoever.

**(3)** The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

**(4)** A copy of a regulation made under subsection (1) must be published in the Royal Gazette and in such other manner as the Governor in Council directs.

**(5)** A regulation made under subsection (1) may apply to all lands in the area or such lands as may be prescribed.

## ADMINISTRATION

**11** The Minister has the general supervision and management of this Act and the regulations.

**12 (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 under this Act; or

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

**(2)** An extension may be made under 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.

**13 (1)** Persons required for the administration and enforcement of this Act and the regulations may 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 considers fit, the services of such professional and technical persons and experts to advise the Minister as the Minister considers necessary for the efficient carrying out of this Act and the regulations.

(3) Notwithstanding subsection (1) and 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 the regulations, and may pay any such person for such services at the rate agreed upon out of the General Revenue Fund of the Province.

14 (1) The Minister shall designate a person as the Registrar.

(2) The Minister may designate such other persons as officers as the Minister considers necessary to perform such duties as are assigned to them by the Minister, this Act or the regulations.

15 (1) The Registrar shall have an office in Halifax Regional Municipality and at any other place required by the Minister.

(2) The Registrar shall maintain an electronic registry for the purpose of this Act.

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

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

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

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

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

(8) A certificate purporting to be signed by the Registrar is *prima facie* proof of the contents of instruments and documents filed in the registry.

16 The Registrar is responsible for the transfer of an exploration licence in the manner set out in this Act and the regulations.

17 (1) All instruments and documents that are required to be filed under this Act and the regulations must be filed with the Registrar.

(2) Those instruments and documents that are of a type that can be filed in the electronic registry must be filed with the Registrar by filing them, in the prescribed manner, in the electronic registry.

(3) Subject to subsections 43(4) and 68(9), where the time limited for the filing or recording of an instrument or document or for the doing of any act or thing in the registry under this Act expires or falls on a day on which the electronic registry is unavailable and the Registrar is satisfied that the filing, recording or other act may not be possible for this reason, the time so limited extends to, and such filing, recording or other act may be done on, the next following day on which the office is open and the electronic registry is available.

**18 (1)** Upon payment of the prescribed fee, an interested person may, subject to subsection (2), inspect records of mineral rights and non-mineral registrations and records of names of mineral right holders and registrants and obtain copies of applications for mineral rights and non-mineral registrations by

(a) submitting a request in person at the office of the Registrar during office hours, with respect to records that are not filed in the electronic registry; or

(b) accessing the electronic registry.

(2) Notwithstanding the *Freedom of Information and Protection of Privacy Act*,

(a) departmental notations, other than the application number and date stamp, not forming part of a document;

(b) leases and other instruments or documents of a confidential nature and filed for information purposes only under Section 15 or 17;

(c) options; and

(d) financial information,

must be held in confidence by the Registrar unless the Registrar is directed to release the information by the order of a court of competent jurisdiction or by the Minister under subsection (3).

(3) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, the Minister may direct that information that must be held in confidence under subsection (2) be released in connection with an order of a court respecting procedures under and provisions of this Act or 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 considers appropriate.

**19 (1)** The office of the Registrar is required to be open every day that is not a holiday, a Saturday or a Sunday, from ten o'clock in the morning until four o'clock in the afternoon.

(2) Notwithstanding subsection (1), the office of the Registrar is not required to be open for any period during which the Government temporarily closes Government offices in the area where the office is located.

(3) Where the time limited for the filing or recording of an instrument or document, other than an instrument or document to which subsection 17(2) applies, or for the doing of any

act or thing at the office of the Registrar under 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 next following day on which the office is open.

**20 (1)** The Minister or any other member of the Executive Council with responsibility for appointing conservation officers may appoint such conservation officers as the Minister or other member of the Executive Council considers necessary to perform such duties as are assigned to conservation officers by this Act or the regulations.

**(2)** A conservation officer, in carrying out duties under this Act and the regulations, has and may exercise in the Province all powers, authorities and immunities of a peace officer as defined in the *Criminal Code* (Canada).

**(3)** A conservation officer, before commencing duties under this Act, shall swear an oath prescribed by the regulations.

**(4)** The Government shall supply identification to conservation officers appointed under subsection (1).

**(5)** A copy of the identification supplied by the Government is *prima facie* proof in any court of law that the individual named in the identification is a conservation officer appointed under this Act without any further proof.

**(6)** A conservation officer may administer oaths or affirmations to any person making a declaration or affidavit under this Act.

**(7)** The protection afforded by this Act and any other enactment to a conservation officer extends to any other person while and to the extent that the other person is in the course of assisting a conservation officer under the conservation officer's direction.

**(8)** A police officer may exercise the powers and perform the duties of a conservation officer.

**21 (1)** An officer, person appointed by the Minister under this Act or conservation officer, and any person assisting any of them, when engaged in duties under this Act or in 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.

**(2)** No action lies against an officer, a person appointed by the Minister under this Act, a conservation officer, a person assisting any of them, the Minister or the Crown for any act done under subsection (1) except with respect to actual damage.

**22 (1)** Notwithstanding anything in this Act, the Governor in Council may, if authorized by the regulations, appoint a commissioner or establish a board, in accordance with the regulations, to hear appeals of decisions made under this Act, as set out in the regulations.

**(2)** The Minister may delegate the Minister's authority under Section 26 to a commissioner appointed or board established under subsection (1).

**23** Notwithstanding anything in this Act, the Minister may require security for any purpose consistent with the proper administration of this Act.

#### LAND ACCESS

**24** No prospector, mineral right holder or legal representative or other person acting on behalf of a mineral right holder shall enter upon and work Crown lands except with the written consent of the Minister, or of a person authorized by the Minister, and upon such terms and conditions as are specified by the Minister or the person authorized by the Minister, as the case may be.

**25 (1)** No prospector, mineral right holder or legal representative or other person acting on behalf of a mineral right holder, shall enter upon or work private land for the purpose of gaining access to a mineral right and exploring without the consent required by this Section.

**(2)** For the purpose of activities that do not involve disturbing the ground, including associated access requirements, and, without limiting the generality of the foregoing, including

- (a) walking;
- (b) panning;
- (c) prospecting;
- (d) driving on existing roads;
- (e) geological mapping;
- (f) testing and geochemical sampling by non-mechanical means;
- (g) geophysical surveying; and
- (h) any other prescribed activity,

a mineral right holder or prospector shall obtain verbal or written consent from the owner or occupier of the land before commencing the activities.

**(3)** For the purpose of activities that involve disturbing the ground, including associated access requirements, and, without limiting the generality of the foregoing, including

- (a) trenching, test-pitting or other excavating by mechanized means;
- (b) drilling;
- (c) bulk sampling;
- (d) cutting trees or survey lines;
- (e) building roads; and
- (f) any other prescribed activity,

a mineral right holder shall obtain written consent, as prescribed, from the owner or occupier of the land before commencing the activities.

(4) A mineral right holder or prospector who is not able to obtain the verbal or written consent required by this Section to enter upon private land may apply for surface access rights under Section 26.

**26** (1) Subject to subsection (3), a mineral right holder or prospector who is unable to obtain consent of the owner or occupier of private lands required under Section 25 may apply, in the prescribed manner, to the Minister, after notice to the owner or occupier, for surface access rights to pass over or enter upon and work such lands.

(2) The Minister, in accordance with the prescribed process, may grant surface access rights, in writing, on such terms and conditions as the Minister determines, and may determine the amount of any compensation to be paid to the owner or occupier of the private land and the manner and time of such payment.

(3) The Minister may order the applicant for surface access rights to post security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, further entry upon or work by the applicant or a legal representative or other person acting on behalf of the applicant.

(4) Where the Minister is satisfied that the owner or occupier of the private land cannot be identified, located or contacted, the Minister may grant surface access rights on the terms and conditions determined by the Minister.

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

(6) Subject to subsection 139(1), there is no appeal of the granting by the Minister of surface access rights, of the Minister's determination as to the amount of compensation, of any order for security or of any order, decision or ruling in respect of any of them.

(7) Where a licensee is delayed in the performance of work on land covered by the licence by refusal of the owner or occupier of the land to permit the licensee to enter upon or work the land and the Minister has granted the licensee surface access rights under this Section, the time within which the licensee is required to perform work under the licence is extended by a period equal to the delay resulting from the owner's or occupier's refusal to permit the licensee to enter upon or work the land from the date the licensee makes an application under this Section to the date the surface access rights are granted under this Section.

(8) The grant of surface access rights under this Section is a decision made by the Minister and may be filed with the Supreme Court of Nova Scotia under Section 138.

**27** (1) Where 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 of the land or the right or interest in the land, the lessee may apply to the Minister for a vesting order.

(2) An application must include

- (a) a statement that the lessee is the lessee under a certain lease;
- (b) a statement that the lessee requires certain land or some right or interest in certain land, of which a plan and description is attached, for one or more of the purposes set out above in connection with the area covered by the lease;
- (c) where the owner of the land is known,
  - (i) a statement that the lessee is willing to make an arrangement with the owner for the acquisition of the land, right or interest that the owner is unwilling to accept, and
  - (ii) information specifying the nature of the proposed arrangement and the price that the lessee is willing to pay;
- (d) where the owner of the land cannot be identified, located or contacted,
  - (i) a statement that the owner of the land cannot be identified, located or contacted despite reasonable attempts by the lessee to do so, and
  - (ii) information specifying the attempts made by the lessee to identify, locate or contact, as the case may be, the owner, which information must be sufficient to satisfy the Minister that the attempts were reasonable; and
- (e) a request by the lessee that the Minister make an order that the land or the right or interest in the land required by the lessee be vested in the lessee.

**(3)** Where required by the Minister, the application must be accompanied by a deposit in an amount as directed to cover the costs or expenses that may be ordered to be paid by the lessee to the owner.

**(4)** The Minister shall consider the application within the prescribed time and may, by order, vest in the lessee the land or the right or interest required by the lessee or such other right or interest as the Minister may determine.

**(5)** A vesting order issued by the Minister must be filed in 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 under the *Expropriation Act*.

**(6)** 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*, and the land, right or interest that is vested is deemed to be expropriated.

**28** In connection with the proceedings under Section 27,

- (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*; and

(d) the Minister is deemed to be the approving authority for the purpose of the *Expropriation Act*.

**29** Every mineral right holder who has acquired any property, right or interest under this Act or through an agreement with the owner of land, subject to the terms of any such agreement, shall, where the property, right or interest is less than fee simple, use the property

- (a) only for purposes related to mining, and for no other purposes; and
- (b) in such manner as is least injurious to the owner of the land.

#### PROSPECTING, MINERAL RIGHTS AND NON-MINERAL REGISTRATIONS

**30 (1)** No person shall explore for minerals except under a mineral right.

**(2)** Notwithstanding subsection (1) and subject to subsection (3), a person who explores for minerals in a preliminary way with the intent of acquiring a mineral right is not required to obtain an exploration licence under subsection (1) if such exploring is restricted to outcrop and float examination, line flagging, geological and topographical mapping, rock, water and overburden sampling and geophysical surveys, if that person

- (a) registers as a prospector with the Registrar and pays the prescribed fee in the prescribed manner, unless the regulations otherwise provide;
- (b) has the verbal or written consent of the owner or occupier of private lands or, in the case of Crown lands, the consent of the Minister; and
- (c) conducts the preliminary non-disturbance surface work on lands that are open for application for an exploration licence and that are not restricted under the regulations.

**(3)** An individual must be of the age of majority to register as a prospector.

**(4)** No person, including a person exploring under subsection (2), shall carry out any exploration, mining or production on a claim held under an exploration licence, mineral lease or non-mineral registration unless the person is the mineral right holder or the registrant or does so with the authority of the mineral right holder or the registrant.

**31 (1)** Subject to subsection (2), a person may apply for an exploration licence in the prescribed manner.

**(2)** An individual must be of the age of majority to apply for an exploration licence.

**(3)** An application for an exploration licence must

- (a) meet the prescribed requirements;
- (b) include the prescribed fee; and
- (c) specify one or more claims applied for as designated on the official maps of the Department.

**(4)** The Registrar shall

(a) receive any application that the Registrar is satisfied is complete and complies with this Act and the regulations; and

(b) cause the application to be inscribed with the precise time and date at which it is received at the registry.

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

**(2)** Subject to subsection 36(2), where tenders or proposals have been submitted under subsection (1), the Registrar shall, within the prescribed time, issue an exploration licence to the applicant who

(a) in the opinion of the Minister, best satisfies the requirements of the tender call or request for proposals;

(b) provides an application that the Registrar is satisfied is complete and complies with this Act and the regulations; and

(c) deposits with the Registrar, within a time fixed by the Registrar, security in an amount and form acceptable to the Minister.

**(3)** Where no tender or proposal is submitted in the prescribed manner and within the prescribed time that, in the Minister's opinion, is acceptable or that meets the requirements under subsection (2), the claim is to be made available for application at 10 o'clock in the morning on the next following day.

**(4)** Where an exploration licence is issued to an applicant under subsection (2), the amount of assessment work that the applicant undertook to perform in the successful tender or proposal is the amount of assessment work the applicant is required to perform.

**(5)** Upon the completion of all the required assessment work, within the time and in the manner acceptable to the Registrar, the security deposited under clause (2)(c) must be returned to the person who is the licensee at the time the security is returned, regardless of whether that person was the licensee at the time of the tender or proposal.

**(6)** The security is forfeited if all the required assessment work is not completed.

**33 (1)** Every person shall, within 15 days of that person's first application for a mineral right, file in the office of the Registrar documentation, as prescribed, that contains the following information:

(a) where 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) where 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, and
  - (vi) a copy of the certificate of partnership or syndicate registration or other registration confirming registration for the Province;
- (c) where 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) any information that the Registrar may require.

**(2)** Service upon the agent referred to in subclause (1)(a)(iv), (b)(v) or (c)(vii) is deemed to be sufficient service upon the individual or proprietorship, the partnership or syndicate and the members thereof or the corporation, as the case may be.

**(3)** Every mineral right holder shall advise the Registrar in writing, within 30 days, of a material change affecting the information required by subsection (1).

**(4)** For greater certainty, where a mineral right holder fails to advise the Registrar as required by subsection (3), the mineral right holder, not the Crown, the Minister, the Registrar or the Department, is responsible if any notice under this Act fails to reach the mineral right holder.

**34 (1)** An application for a mineral right, any other application and a transfer or assignment of a claim or right or interest acquired under this Act must contain, or have endorsed thereon,

(a) the place of residence and post office address of the applicant, transferee or assignee;

(b) where the applicant, transferee or assignee does not reside in the Province, the name, residence and post office address of a person resident in the Province upon whom service may be made as agent; and

(c) such other information as may be prescribed.

(2) The address provided under 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 may 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.

**35 (1)** Except where this Act otherwise provides, the Minister shall accept an application for an exploration licence.

(2) An application for an exploration licence must be considered for acceptance within the prescribed time.

**36 (1)** No application for an exploration licence may be accepted for areas that are subject to a mineral right or non-mineral registration or an application for either of them unless the applicant holds the mineral right or non-mineral registration.

(2) Where, in the opinion of the Minister, the acceptance of an application for an exploration licence is not in the best interests of the Crown or the public, or would hinder mineral development, the Minister may reject such an application.

**37 (1)** Subject to subsection (2), where the right to issue an exploration licence for a claim is in dispute, no application may be accepted for an exploration licence for the claim until the dispute is disposed of by the decision of the Registrar.

(2) Where an appeal lies from a decision referred to in subsection (1), no application for an exploration licence for the claim may be made 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 the appeal is taken.

**38 (1)** Subject to subsection (2) and acceptance of the application by the Minister, where the Registrar is satisfied that the application for an exploration licence is complete and complies with this Act and the regulations, the Registrar shall issue the licence.

(2) With the approval of the Minister, the Registrar may issue an exploration licence for part of the lands applied for.

**39** An exploration licence

- (a) must include the prescribed information;
- (b) must specify the location to which it relates by claims and tracts as designated on the official maps of the Department;
- (c) may include any number of coterminous claims not exceeding 80; and
- (d) may not be granted for a portion or portions of claims.

**40** When the Registrar issues an exploration licence, 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 prescribed manner.

**41** When an application is refused or rejected, the Registrar shall refund the fees submitted with the application, subject to any prescribed restrictions.

**42** Subject to Sections 24, 25 and 26, the rights conferred by a licence are, and are limited to, exploring 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.

**43 (1)** An exploration licence is valid for a term of two years and expires two years from the date of its issue, unless renewed under Section 47 or extended under subsection 26(7) or Section 48.

**(2)** An exploration licence may be renewed only once every two years, and no sooner than six months before the licence expires.

**(3)** A renewal is effective for a term of two years commencing the day following the day on which the exploration licence would have expired but for the renewal.

**(4)** Where a licensee has been unable to apply or submit documents necessary for a renewal of the exploration licence because the electronic registry is unavailable, and the Registrar is satisfied that the licensee has been unable to renew the exploration licence for this reason, the Registrar may extend the time to renew until the end of the next following day on which the electronic registry is available, if the licensee contacts the Registrar in the prescribed manner.

**44 (1)** A licensee shall

- (a) prepare and implement a stakeholder engagement plan, in the prescribed manner; and
- (b) submit the plan if and as required to do so by the regulations or the Minister.

**(2)** Where the Registrar determines under Section 77 that a licensee has failed to comply with subsection (1), the Minister, or a person authorized by the Minister, may, on report from the Registrar, order the licensee to stop exploration, and the licensee shall stop exploration until the Minister, or the person authorized by the Minister, is satisfied that the licensee is in com-

pliance with subsection (1), or the Minister, or a person authorized by the Minister, issues another order under Section 77.

**(3)** For greater certainty, an order may be issued under subsection (3) notwithstanding the time periods and other requirements set out in Section 77.

**45 (1)** Subject to Section 48, a licensee shall submit a report specifying all the work done or caused to be done during the term of the licence, including assessment work and other related work, and a statement of expenditure that includes the prescribed information, prior to the expiry date of the licence.

**(2)** The licensee may, at any time, submit a report that includes the prescribed information as to the work done or caused to be done by the licensee.

**(3)** Where the licensee fails to comply with subsection (1), the assessment work may not be credited to the licence.

**46 (1)** Where there are not sufficient work credits for the renewal of an exploration licence, the licensee may make a payment in lieu of assessment work for the term if

**(a)** the payment is in the amount of the deficiency in the required assessment work for that term, and in no case is less than the assessment work requirement for one claim for that term;

**(b)** the payment is calculated on a per claim basis; and

**(c)** no payment in lieu has been made in any of the previous five terms of the licence.

**(2)** Where a payment in lieu of assessment work is made under subsection (1), it must be refunded if in the following term the licensee performs the required assessment work plus the amount of the deficiency for the previous term, and the assessment work is acceptable to the Registrar.

**(3)** The refund is the total value of that portion of assessment work performed and approved that can be applied in total satisfaction of the assessment work requirements for individual claims within the area licensed.

**(4)** A refund under this Section is to be made at the end of the term and to the person who is the licensee at the time the refund is made, without regard to whether the person was the licensee when the payment in lieu was made or the assessment work was performed.

**47** Unless otherwise provided in this Act, the Registrar shall renew an exploration licence if the licensee

**(a)** files an application for renewal that meets the prescribed requirements;

**(b)** pays the prescribed fee; and

**(c)** meets one of the following requirements:

- (i) the licensee has performed the required assessment work in a manner acceptable to the Registrar and has filed the assessment work report in a form acceptable to the Registrar,
- (ii) the licensee has sufficient work credits,
- (iii) the licensee provides the required payment in lieu of assessment work on or before the day upon which the exploration licence is due to expire.

**48 (1)** Notwithstanding Sections 45 and 47, upon meeting the prescribed conditions, the Registrar may grant a licensee a single extension for filing the assessment work report for the prescribed period and subject to any terms and conditions determined by the Registrar.

**(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 two years from the date when the licence or renewed licence was due to expire.

**(3)** Notwithstanding subsection 43(1), where the assessment work report is not filed within the extension period, the licence expires at the end of that period.

**49** An application for a claim that was contained in an exploration licence that has expired or been forfeited or surrendered may not be received by the Registrar for a period of 90 days following the date of the expiry, forfeiture or surrender unless the Registrar is satisfied that the applicant is neither the licensee who held the exploration licence immediately preceding the date of the expiry, forfeiture or surrender nor a person acting on behalf of, or having a prescribed community of interest with, that licensee.

**50 (1)** Notwithstanding Section 49, the Registrar may, within the prescribed time, renew an exploration licence that has expired if

- (a) the requirements of subsection 45(1) and Section 47 have been met; and
- (b) the claim subject to the exploration licence has not been applied for by or issued to another person.

**(2)** Payment in lieu of required assessment work under subclause 47(c)(iii) does not constitute satisfaction of assessment work under this Section.

**51 (1)** Where assessment work in excess of the required assessment work is performed during any single term of an exploration licence and proven to the satisfaction of the Registrar, the Registrar shall apply the excess work credits against the assessment work requirement for subsequent terms of the exploration licence.

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

- (a) the end of the term in which the assessment work was performed; or
- (b) the expiration of an extension period granted under Section 48 in respect of the term,

whichever is later.

**(3)** Except as prescribed, where an assessment work report that is acceptable to the Registrar is filed after the end of the period that is applicable under subsection (2), the assessment work may be credited at one half of the value of assessment work reported in compliance with subsection (2).

**(4)** Acceptable assessment work that is a ground or aerial regional survey may be credited with such percentage of the value of that assessment work as is prescribed, and subsection (3) does not apply to that assessment work.

**52** The Registrar, where satisfied that the required assessment work has been performed or the prescribed payment in lieu thereof has been made, shall grant a certificate of compliance in respect of the exploration licence, and the certificate, in the absence of fraud or mistake, is final and conclusive evidence of the renewal of the licence.

**53** Notwithstanding Section 43, 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 work credit, the exploration licence does not lapse because of any delay that may occur in the consideration of the evidence or in making an investigation that is considered necessary.

**54 (1)** Where an exploration 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)** Assessment work reports to be filed and certificates issued under Section 52 must indicate the exploration licence with respect to which the assessment work was performed.

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

- (a) the exploration licences are not first-term licences;
- (b) there is no payment in lieu of assessment work outstanding with respect to the exploration licences; and
- (c) the expiry dates are not being integrated for the purpose of extending the time for doing assessment work or making a payment in lieu of assessment work.

**56 (1)** Notwithstanding Section 101, where

- (a) any two or more coterminous exploration licences
  - (i) are held by the same licensee, and
  - (ii) have been held for one or more terms;
- (b) none of the exploration licences are in good standing by reason only of a payment in lieu of assessment work in the previous term; and
- (c) all of the exploration licences for which renewal applications have been made have been renewed,

the Registrar may

(d) upon application, accept a surrender of the coterminous exploration licences; and

(e) 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 under subsection (1)

(a) assumes the term of the oldest of the exploration licences from which it is derived; and

(b) is deemed to have been renewed through payment in lieu of assessment work during the term of any exploration licence from which it is derived,

and the Registrar shall select

(c) the date to be used to determine the expiry date of the new exploration licence; and

(d) the date to be used to determine when a payment in lieu of assessment work may be used for renewal.

**(3)** On or before the expiry date of a new exploration licence issued under subsection (1), the licensee shall file an assessment work report that is acceptable to the Registrar or apply work credits or provide the required payment in lieu of assessment work to meet the requirement for the claims included in the new exploration licence based on the term of the new exploration licence determined in accordance with subsection (2).

**(4)** The assessment work requirement per claim for the renewal of each new exploration licence issued under subsection (1) is the assessment work requirement per claim for the oldest of the exploration licences surrendered under subsection (1).

**(5)** Each exploration licence issued under subsection (1) may not itself, or combined with others, be subject to further regrouping during its term determined in accordance with subsection (2).

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

**(7)** The licensee may not re-apply, within a period of 90 days of the regrouping, for an exploration licence covering a claim surrendered for the purpose of regrouping.

**57** Every exploration licence that is issued or renewed must be executed on the part of the Crown by the Registrar and bear the date on which the licence or renewed licence was issued.

**58 (1)** The Minister may, by order, provide that lands within the Province may, from time to time, be restricted from any or all prospecting, mining-related exploration or development or mining for such period and in such a manner as may be prescribed.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

(3) A copy of a regulation made under subsection (1) must be published in the Royal Gazette and in such other manner as the Governor in Council directs.

(4) A regulation made under subsection (1) may apply to all lands or such lands as may be prescribed.

**59 (1)** The Minister may withdraw any lands in the Province from being subject to application for a mineral right for all or certain minerals.

(2) The Minister may offer by tender call or request for proposals the right to apply for an exploration licence or mineral lease upon all or part of the lands withdrawn under subsection (1).

(3) Subject to subsection (5), where tenders or proposals have been submitted in response to an offer made under subsection (2), the Minister, within the prescribed time, shall accept the application for the exploration licence or mineral lease from the applicant who

(a) in the opinion of the Minister, best satisfies the requirements of the tender call or request for proposals; and

(b) deposits with the Registrar, within a time fixed by the Minister, security in the amount and form acceptable to the Minister.

(4) Where the Minister intends to issue a mineral lease in response to an offer under subsection (2) with respect to lands subject to an existing mineral right or a non-mineral registration, the Minister shall impose such terms and conditions on the mineral lease as are necessary, in the Minister's opinion, to minimize interference with the existing mineral right or non-mineral registration.

(5) The Minister shall not accept an application for an exploration licence or mineral lease under this Section if, in the Minister's opinion, it would not be in the best interest of the Province to do so.

(6) The Minister may reopen for application for an exploration licence for all or certain minerals any lands withdrawn under subsection (1).

**60** A person who intends to explore by aerial survey shall submit and have recorded an aerial survey notification, as prescribed, before commencing the survey.

**61 (1)** A licensee shall submit and have recorded an excavation registration, as 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 and the reopening, rehabilitation or dewatering of any such workings;

(d) bulk sampling for the removal of less than 100 tonnes of mineral-bearing material; or

(e) any other prescribed work.

(2) No person shall commence work under the excavation registration until the licensee deposits with the Department security in the amount and in the form acceptable to the Minister.

**62 (1)** A licensee shall obtain a letter of authorization, in the prescribed manner, before commencing bulk sampling for the purpose of extracting 100 tonnes or more of mineral-bearing material.

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

(3) No person shall commence work under the letter of authorization until the licensee deposits with the Minister security in the amount and in the form acceptable to the Minister.

**63 (1)** No person shall carry out mining or 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, limestone or a building material that has not been declared a mineral under Section 6.

**64 (1)** Subject to Section 59, where the holder of an exploration licence

(a) files with the Registrar an application that meets the requirements of this Act and the regulations;

(b) provides the prescribed documentation;

(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 five years of obtaining the lease;

(e) pays the first year's rent in advance; and

(f) posts reclamation security in accordance with clause 88(1)(b),

the Minister shall issue a mineral lease.

(2) A mineral lease is issued for a term of 20 years, or such other term agreed upon by the Minister and the lessee, subject to compliance with this Act.

**(3)** A mineral lease may be issued for any number of coterminous claims as approved by the Minister.

**(4)** A mineral lease is subject to the prescribed terms or conditions and such other terms or conditions as the Minister may require.

**65 (1)** Notwithstanding subsection 51(1), upon application for a mineral lease, the applicant may direct that all or any portion of the work credits accumulated on the existing exploration licence be applied to the claims that are to be included in the proposed lease area.

**(2)** Where any work credits are applied to claims in the leased area under subsection (1), the work credits

(a) retain their value until the termination of the lease or of any replacement lease; and

(b) may be applied to an exploration licence acquired under subsection 68(3) or 74(5).

**(3)** Notwithstanding subsections (1) and (2),

(a) there is no requirement to perform assessment work under a mineral lease; and

(b) no work credit will be granted for activity performed under a mineral lease.

**66** A mineral 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 compliance with this Act and the regulations.

**67 (1)** A mineral lease must include the prescribed information and be made in duplicate, with one to be issued to the lessee and the other to be filed with the Registrar who shall enter it in the Registrar's records in the prescribed manner.

**(2)** A certificate of the registration of the mineral lease, with the date of registration, must be inscribed on the duplicate delivered to the lessee.

**68 (1)** A lessee who

(a) is *bona fide* working the mineral lease;

(b) is in compliance with this Act and the regulations; and

(c) applies to the Minister no sooner than six months before the lease expires and no later than three months before the lease expires,

is entitled to a renewal of the lease for an additional 20 years, or for such other term agreed upon by the Minister and lessee, upon the terms and conditions in force at the time of the renewal.

**(2)** Where a lessee who meets the requirements of clauses (1)(a) and (b) applies for the renewal of the mineral lease sooner than six months before the lease expires, the Minister may

renew the lease for an additional 20 years, or for such other term agreed upon by the Minister and the lessee, upon the terms and conditions in force at the time of the renewal.

(3) Where a mineral lease has expired or been surrendered or forfeited, the Minister shall withdraw, under Section 59, the area formerly held under the lease and give the lessee the exclusive right to apply for and obtain an exploration licence, for 30 days from the date the mineral lease expired or was surrendered or forfeited, in the manner set out in Section 31.

(4) No other applications for an exploration licence for the area withdrawn as set out in subsection (3) may be received or accepted during the 30-day period referred to in subsection (3).

(5) Where the lessee applies for and obtains the exploration licence during the 30-day period, the exploration licence must bear the date of the next day following the expiration of the mineral lease.

(6) The assessment work required for the exploration licence referred to in subsection (3) 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 mineral lease.

(7) Where any question arises as to the assessment work required under subsection (6), the decision of the Minister on the question is final.

(8) Where the lessee does not apply for and obtain the exploration licence during the 30-day period, the Minister may reopen the area for application or offer the area by tender call or request for proposals, under Section 59.

(9) Where a lessee has been unable to apply or submit documents necessary for a renewal of the mineral lease because the electronic registry is unavailable, and the Registrar is satisfied that the lessee has been unable to renew the lease for this reason, the Registrar may extend the time to renew until the end of the next following day on which the electronic registry is available, if the lessee contacts the Registrar in the prescribed manner.

**69 (1)** Every lessee shall keep in the Province records, accounts, correspondence and documents in which are entered a clear and distinct statement of

- (a) all mineral-bearing substances processed by or for the lessee;
- (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 prescribed or required by the Minister.

**(2)** Records referred to in subsection (1) must at all reasonable times be open for inspection and be produced upon request by any person authorized by the Minister.

**70** A lessee or registrant shall submit, on or before the first day of March in each year, annual reports as prescribed.

**71** Rent at the prescribed rate must be paid annually for the ensuing year, on or before the anniversary date of a mineral lease.

**72 (1)** Subject to this Act, upon application by the holder of two or more leases and the surrender of the leases, the Minister may

(a) issue one lease for the whole or any smaller portion of the coterminous claims covered by the surrendered leases; and

(b) include in the lease any additional coterminous claim to which the lessee holds a valid mineral right.

**(2)** A mineral lease issued under subsection (1) assumes the year of the oldest of the leases from which it is derived, and the Registrar shall select the date to be used to determine the expiry date of the lease.

**73** The Minister may order a lessee to cease production or other specified activities with respect to a specified mineral lease pending the outcome of a review under Section 74 or an investigation under Section 77.

**74 (1)** The Minister may review a mineral lease if

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

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

(c) the lessee has applied to surrender the lease under Section 101;

(d) following the commencement of production, an annual report required under Section 70 indicates that no production or development work occurred during the 12-month period to which the report relates; or

(e) the security posted with respect to the lease no longer meets the prescribed level for reclamation of peak disturbance reclamation activities, based on the most recent reclamation plan filed by the lessee under the lease.

**(2)** For the purpose of the review, the lessee shall provide all relevant information required by the Minister in the manner and at the time the Minister requests.

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

(a) the mineral lease continues until its expiry date;

(b) the mineral lease continues for a period of two years from the date of the declaration;

- (c) the mineral lease is forfeited; or
- (d) the application to surrender the mineral lease is accepted.

**(4)** Where the Minister allows the lease to continue for two years under clause (3)(b), the Minister shall review the lease at the end of the two-year period and make another declaration under subsection (3).

**(5)** Where the Minister declares the mineral lease forfeited under clause (3)(c), the Minister shall provide the lessee and the Registrar with a written declaration of the forfeiture of the lease and give the lessee the exclusive right to apply for and obtain an exploration licence for the area held under the forfeited lease, for 30 days from the date of the declaration.

**(6)** The exploration licence referred to in subsection (5) must bear the date of the next day following the termination of the mineral lease.

**(7)** The assessment work required for the exploration licence referred to in subsection (5) 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 mineral lease.

**(8)** Where the lessee does not apply for and obtain an exploration licence referred to in subsection (5), the Minister may reopen the area for application or offer the area by tender call or request for proposals, under Section 59.

**75** The Minister may declare a mineral lease forfeited if the lessee

- (a) fails to perform the obligations under the lease;
- (b) is a corporation that becomes dissolved;
- (c) obtains the lease by misrepresenting any material fact;
- (d) fails to pay royalties within 30 days of the due date; or
- (e) fails to pay rent within 30 days of the due date.

**76** Where the Minister declares a mineral lease forfeited and the Registrar provides the lessee with written notice of the forfeiture, including the reason for the forfeiture, and makes the appropriate entry in the records, the lessee and all lienholders cease to have any interest in the lease or mine as of the date of the declaration.

**77 (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 may

- (a) investigate the matter and, where necessary, with or without notice, make or cause to be made an inspection of the premises and property;
- (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 as may be determined by the Registrar, to make representations to the Registrar.

(2) For the purpose of the investigation under subsection (1), the mineral right holder or registrant shall provide all relevant information required by the Registrar in the manner and at the time the Registrar requests.

(3) Where the Registrar is satisfied, after investigating under subsection (1), that this Act or a term or condition of a mineral right or non-mineral registration has not been complied with, the Registrar may require the mineral right holder or registrant to remedy the non-compliance within 30 days.

(4) Where the Registrar determines that the mineral right holder or registrant has not remedied the non-compliance within the period referred to in subsection (3), the Registrar shall

(a) refer the matter, with the Registrar's recommendations, to the Minister;  
and

(b) notify the mineral right holder or registrant of the referral.

(5) Upon referral by the Registrar, the Minister may

(a) declare a mineral right forfeited or a non-mineral registration cancelled for failure on the part of the mineral right holder or registrant to comply with this Act or a term or condition of the mineral right or non-mineral registration; or

(b) make such order or decision as the Minister considers just and equitable.

(6) Where the mineral right holder or registrant does not comply with an order or decision made under clause (5)(b), the Minister may declare the mineral right forfeited or the non-mineral registration cancelled.

(7) A mineral right holder or registrant whose mineral right has been forfeited or non-mineral registration has been cancelled under subsection (5) may, within 20 days of receiving notice of the forfeiture or cancellation, appeal the forfeiture or cancellation in the manner provided by Section 79.

(8) Subject to subsection (9), upon the forfeiture of a mineral right or cancellation of a non-mineral registration under subsection (5), the Registrar shall immediately post in the office of the Registrar or the electronic registry, as the Registrar considers appropriate, a notice of the forfeiture or cancellation and, upon the posting, claims included in such mineral right or non-mineral registration are, unless withdrawn from application, again open to application at a time set by the Registrar.

(9) Acceptance of an application referred to in subsection (8) is subject to the result of an appeal by a mineral right holder whose mineral right has been forfeited or a registrant whose non-mineral registration has been cancelled.

**78** 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 for the purpose of Section 77 in respect of that holder's mineral right or that registrant's non-mineral registration.

**79 (1)** Any person aggrieved by a decision of an officer or a declaration, decision or order made under Section 77 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 person appealed from, and the decision of the Minister is final.

**80 (1)** In this Section, “inefficient mining” means the extraction or recovery of a mineral by a lessee in a manner that, in the opinion of the Minister,

- (a) unduly affects the ability of the mineral deposit to be mined; or
- (b) produces less than an optimum recovery of minerals.

**(2)** Where the Minister becomes aware that a lessee is conducting inefficient mining, the Minister may order an inspection by an officer to determine if the operation of the mine should be altered or modified to facilitate the more economical and efficient prosecution of the work.

**(3)** Following the inspection, the Minister may order such modifications or alterations to the operation of the mine as the Minister considers necessary to correct the situation.

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

**(5)** The lessee has 30 days from the date of service of the notice 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 as required by subsection (5), the Minister may declare the lease forfeited.

**81 (1)** The Registrar shall, immediately upon the making of a declaration by the Minister that a mineral right is forfeited or a non-mineral registration is cancelled, mark the mineral right “Forfeited” or the non-mineral registration “Cancelled”, amend the record accordingly and send notice to the mineral right holder or registrant, by registered mail, of the forfeiture or cancellation, including the reason for the forfeiture or cancellation.

**(2)** A forfeiture or cancellation is effective upon the date of a declaration referred to in subsection (1).

**(3)** A notice of forfeiture or cancellation is deemed to have been received five days after the day on which it is mailed.

**82** A lessee or registrant shall provide the Registrar with notice in writing if the lessee or registrant intends to commence production or resume production after a suspension of production of 60 days or longer.

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

**(2)** 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 and every creditor of the lessee who has knowledge of the termination shall forthwith notify the Minister.

**(3)** Where the Minister determines it is appropriate, the Minister shall direct the lessee to, and the lessee shall, maintain access to the mine for a period of up to 30 days from the date upon which notice was given under subsection (2), as directed.

**(4)** The costs incurred in maintaining access to the mine from the date upon which operations terminate until the time referred to in subsection (3)

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

(b) may be paid by the Minister and, in that case, the amount paid is a debt due to the Crown by the lessee or the legal representative of the lessee and forms a charge upon the property.

**(5)** Not later than one month prior to the intended permanent closure of a mine, or within such period as the Minister may determine and direct, the lessee, registrant or legal representative of the lessee or registrant shall submit a summary report containing the prescribed information on the workings of the mine and

(a) the reason for the closure;

(b) the nature and amount of any mineral remaining in the mine;

(c) the reclamation completed to date;

(d) the plans for future reclamation activities; and

(e) such existing maps and plans as the Minister may request.

**84** In this Section and Sections 85 to 91,

(a) "lessee" includes the lessee who held the mineral lease immediately preceding its forfeiture or expiry and the legal representative of the lessee;

(b) "property" means the real and personal property of the lessee that is associated with the mine;

(c) "registrant" includes the registrant who held the non-mineral registration immediately preceding its cancellation or expiry and the legal representative of the registrant.

**85 (1)** Notwithstanding the surrender, forfeiture or expiry of a mineral lease, the lessee remains liable for any terms and conditions of the lease including, without limiting the generality of the foregoing, those related to reclamation, safety, rent, royalties and maintenance of the property, buildings and structures, until all of the terms and conditions have been fulfilled.

**(2)** Notwithstanding the surrender, cancellation or expiry of non-mineral registration, the registrant remains liable for any terms and conditions of the registration including, with-



out limiting the generality of the foregoing, those related to reclamation, safety and maintenance of the property, until all of the terms and conditions have been fulfilled.

**86 (1)** An application for a mineral lease or non-mineral registration must include a reclamation plan that contains the prescribed information and is acceptable to the Minister.

**(2)** A lessee or registrant who, on the coming into force of this Section, has not filed a reclamation plan, shall file a reclamation plan that contains the prescribed information and is acceptable to the Minister, as prescribed.

**(3)** When required to do so by the regulations, a lessee or registrant shall file a revised reclamation plan that contains the prescribed information and is acceptable to the Minister.

**87 (1)** When required to do so under the most recent reclamation plan filed by a lessee or registrant, the area disturbed by the mining operations, including the area upon which waste rock and tailings were deposited, must be reclaimed by the lessee or registrant, as the case may be, in accordance with the reclamation plan and to the satisfaction of the Minister.

**(2)** The security posted by the lessee or registrant is forfeited to the Crown if reclamation is not completed in accordance with subsection (1).

**(3)** Any unforfeited security posted by the lessee or registrant must be retained until the area described in subsection (1) is inspected by an officer and the lessee or registrant is notified in writing by the Minister that the lessee or registrant is relieved from the obligation to maintain security for the purpose of reclamation.

**88 (1)** A person shall post security 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 a licensee, lessee, registrant or holder of a letter of authorization or excavation registration, or an agent or assignee of such person, as follows:

(a) a licensee shall post security prior to commencing activities that involve disturbing the ground;

(b) an applicant for a lease or non-mineral registration shall post security upon application for the lease or non-mineral registration;

(c) an applicant for a letter of authorization shall post security upon application for the letter of authorization;

(d) a person who submits an excavation registration shall post security, if required to do so by the Minister, upon review of the excavation registration;

(e) a person who submits a reclamation plan under subsection 86(2) shall post security upon filing the plan;

(f) a person who files a revised reclamation plan under subsection 86(3) shall post revised security if, in the opinion of the Minister, the plan shows that the cost of reclamation has changed from that previously estimated.

**(2)** The security posted under subsection (1) is forfeited to the Crown

(a) if reclamation has not been completed to the satisfaction of the Minister within the period required by the regulations or otherwise applicable under the licence, lease, registration, letter of authorization or reclamation plan; or

(b) where the security is subject to an expiry date, if it is not renewed at least 30 days before its expiry date and reclamation is not then completed.

**(3)** Where

(a) production under a lease or non-mineral registration ceases without notice to the Minister, and the Minister gives notice to the lessee or registrant, or an agent or assignee of such person, that the security posted under subsection (1) is forfeited unless the person informs the Minister that the production will resume by the date set out in the notice; and

(b) the lessee or registrant, or an agent or assignee of such person, does not so inform the Minister by the date set out in the notice or indicates to the Minister that the production will not resume by the date set out in the notice,

the security posted under subsection (1) is forfeited to the Crown without regard to the period otherwise applicable under subsection (2).

**(4)** Where a lessee, registrant or holder of a letter of authorization or excavation registration carries out any act of bankruptcy, makes a general assignment for the benefit of the person's creditors or other acknowledgment of insolvency or makes any application under the *Bankruptcy and Insolvency Act* (Canada) or the *Companies Winding Up Act* or any similar legislation, the security posted under subsection (1) is forfeited to the Crown without regard to the period otherwise applicable under subsection (2).

**(5)** Subject to Section 131, where security is forfeited under subsection (2), (3) or (4),

(a) the resulting funds may be employed, in whole or in part, under the direction of the Minister, to reclaim the area disturbed by the activities of the lessee, registrant or holder of the letter of authorization or excavation registration, or an agent or assignee of such person; and

(b) any balance of the funds that is not expended under clause (a) must be returned to the person who posted the security.

**89** Where security is not posted as required under this Act, the amount of the outstanding security is a debt due to the Crown by the person required to post it.

**90 (1)** The lessee or property owner of the property that is subject to the lease

(a) shall maintain the property in a safe condition; and

(b) shall not permit the property to become unsightly.

**(2)** Where the Minister determines that the condition of the property constitutes

(a) a danger to public health or safety; or

- (b) an unsightly premise,

the Minister may cause work required to make the property safe, or to remove or remedy the unsightliness of the property, to be performed at the expense of the Crown.

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

**(4)** Nothing in this Section, nor any work done under subsection (2), relieves the lessee or property owner from liability for the maintenance of the property in such manner as to prevent danger to public health or safety or damage to property.

**91** In connection with the disposition of property from a mineral lease that expires or is surrendered or forfeited and dating from the time of expiry, surrender or forfeiture,

- (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 under 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 131, acquire all or any of the property for the Crown; and

- (c) compensation to the lessee

- (i) is payable with respect to any land acquired under clause (b), *mutatis mutandis* in accordance with the procedure set out in the *Expropriation Act* in respect of the acquisition of land, subject to the deduction of any amount due to the Crown by the lessee under this Act and the regulations, and

- (ii) is not payable with respect to property other than land acquired under clause (b).

**92** The issuance under subsection 68(3) 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 Crown under Section 91.

**93** Where any question arises as to whether a mineral lease is expired, surrendered or forfeited or whether a mine has been abandoned, the decision of the Minister on the question is final.

**94** Where a mineral lease expires and no renewal is being sought under 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.

**95** Nothing contained in this Act prevents the Minister from having or using any remedy available to recover possession of the minerals and the rights related to minerals contained in any area or claim covered by a mineral lease.

**96** 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 under Section 6.

**97** Where an applicant for a non-mineral registration required by Section 96

(a) files with the Registrar an application for a non-mineral registration that meets the requirements of this Act and the regulations;

(b) provides the prescribed documentation;

(c) satisfies the Minister that the applicant has delineated a deposit of gypsum or limestone that has not been declared a mineral under Section 6 within the proposed non-mineral registration area;

(d) provides a written undertaking to commence production within five years;

(e) provides evidence of the applicant's right to the gypsum or limestone, including surface rights access; and

(f) posts reclamation security in accordance with clause 88(1)(b),

the Minister shall issue a non-mineral registration within the prescribed time.

**98 (1)** Subject to this Act, a non-mineral registration gives the registrant the right to carry out the production of gypsum or limestone that has not been declared a mineral under Section 6 within the area designated in the non-mineral registration and is limited to such area as may be required for the purpose of the mine.

**(2)** Where the Minister issues a non-mineral registration, the Minister shall

(a) cause it to be forwarded to the applicant; and

(b) file a duplicate with the Registrar, who shall enter it in the Registrar's records in the prescribed manner.

**99 (1)** The Minister may review a non-mineral registration if

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

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

(c) the registrant has applied to surrender the non-mineral registration under Section 101;

(d) following the commencement of production, an annual report required under Section 70 indicates that no production or development work occurred during the 12-month period to which the report relates; or

(e) the security posted with respect to the non-mineral registration no longer meets the prescribed level for peak disturbance reclamation activities, based on the most recent reclamation plan filed by the registrant under the registration.

(2) For the purpose of the review under subsection (1), the registrant shall provide all relevant information required by the Minister in the manner and at the time the Minister requests.

(3) Upon reviewing the non-mineral registration, the Minister shall declare that

- (a) the non-mineral registration continues as issued;
- (b) the non-mineral registration continues for such period and upon such terms and conditions as the Minister considers appropriate;
- (c) the non-mineral registration is cancelled; or
- (d) the application to surrender the non-mineral registration is accepted.

(4) Where the Minister allows the non-mineral registration to continue under clause (3)(b), the Minister shall review the non-mineral registration at the end of the period during which the non-mineral registration was continued and make another declaration under subsection (3).

(5) 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.

**100** The Minister may declare a non-mineral registration cancelled not less than 30 days after giving the registrant written notice of a failure to submit the prescribed annual reports, unless the registrant remedies the deficiency before the non-mineral registration is cancelled.

#### SURRENDER OF AREAS SUBJECT TO MINERAL RIGHTS OR NON-MINERAL REGISTRATIONS

**101 (1)** Subject to the acceptance by the Minister under Section 74 or 99 or subsection (3), a mineral right holder or registrant may surrender all or a specified part of the area included within the mineral right or non-mineral registration by filing an application with the Registrar, together with the original mineral right or non-mineral registration, if one was provided.

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

(3) The Minister may accept an application to surrender a mineral lease or non-mineral registration and, upon doing so under Section 74 or 99 or this subsection,

- (a) all or the specified part of the mineral lease or non-mineral registration expires; and
- (b) the Registrar shall provide the mineral right holder or registrant with written notice of the expiry.

(4) Notwithstanding subsection (1), upon receipt of an application to surrender an exploration licence, all or the specified part of the licence expires, and the Registrar shall provide the licensee with written notice of the expiry.

(5) Where there has been a partial surrender of a mineral right or non-mineral registration, 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.

**102** The surrender of a mineral right or non-mineral registration does not relieve the mineral right holder or registrant from any terms, conditions or obligations of the mineral right or non-mineral registration or from the provisions of this Act and the regulations that existed at the time of such surrender.

#### TRANSFERS AND ASSIGNMENTS OF MINERAL RIGHTS AND NON-MINERAL REGISTRATIONS

**103 (1)** An exploration licence may not be transferred without the written consent of the Registrar.

(2) A lease or non-mineral registration may not be transferred without the written consent of the Minister.

(3) A transfer of a mineral right or non-mineral registration must meet the prescribed requirements and be signed by the transferor or by the legal representative of the transferor.

**104 (1)** A mineral right holder or registrant shall file with the Registrar a summary, which must include the prescribed information, of any agreement that results or may result in a transfer or assignment of a mineral right or non-mineral registration, any part of a mineral right or non-mineral registration or any interest in a mineral right or non-mineral registration.

(2) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, a document filed under subsection (1) that has been marked “Confidential” must be held in confidence by the Registrar.

(3) A transfer or 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 any person who, for valuable consideration and without notice of the transfer or agreement, acquires an interest in the mineral right or non-mineral registration, unless a notice of the transfer, assignment or agreement containing the prescribed information is filed with the Registrar as prescribed.

**105** The sale of a controlling interest of a body corporate that holds a mineral right or non-mineral registration or the transfer of a mineral right or non-mineral registration from a parent corporation to a subsidiary or an affiliate is deemed to be a transfer of a mineral right or non-mineral registration for the purposes of Sections 103 and 104.

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

**(2)** The mineral right holder referred to in subsection (1) holds the mineral right in trust for each person who owns the mineral right, including the mineral right holder referred to in subsection (1), and the registrant referred to in subsection (1) holds the non-mineral registration in trust for each person who owns the registration, including the registrant referred to in subsection (1).

**(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 are *prima facie* deemed to be the owners of the mineral right or non-mineral registration held for them in trust under this Section.

**(4)** A trust created by this Section is ineffective against any 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 that includes the prescribed information and gives notice of the trust is filed with the Registrar in the prescribed manner.

## ROYALTIES

**107** In this Section and Sections 108 to 121,

(a) “allowance for processing” means the lesser of

(i) the sum of

(A) 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 8% of actual cost borne by the operator of the processing assets, and

(B) 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 25% of that amount allowed by way of return on capital for processing assets,

and

(ii) an amount that does not exceed 65% of net income before deducting the sum described in subclause (i);

(b) “depreciable asset” means an asset 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 mineral 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 with respect to any mine in the Province, unless the

operator has operated a mine during a fiscal year in respect of which exploration expenses have been incurred,

(ii) the expenses incurred by the operator in the development of a mine from the date the mineral 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 payable with respect to any mine in the Province, or

(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 subclause and are not deducted from net income or specifically prohibited under this Act,

and includes equipment leased at its fair market value less any amount of buyout at the effective date of the lease;

(c) “fiscal year” means the fiscal period, not exceeding 12 months, for which the accounts of the business of an operator have been or are ordinarily prepared and accepted for the purpose of assessment under this Act and, subject to Section 111, in the absence of such an established practice, is the fiscal period to be adopted by the operator.

**108 (1)** Where mining is conducted in more than one location, the locations are deemed to be one mine for the purpose of determining whether a person pays a royalty if

- (a) the mining is conducted in the locations
  - (i) by the same person,
  - (ii) under the same general management or control, or
  - (iii) under joint control by persons not dealing at arm’s length; or
- (b) the net income of the mining accrues to the same person.

**(2)** Where

- (a) mining is carried on by two or more affiliated or associated corporations under the same general control; or
- (b) the net income of mining being carried on as more than one operation accrues for the benefit of the same shareholders,

the income from the various operations must be combined and dealt with as the net income of one and the same operator.

**(3)** Where the mining of a mine 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 any of several persons by whom the corporation is directly or indirectly controlled;
- (b) corporations controlled directly or indirectly by the same persons; and



(c) persons connected by blood relationship, marriage or adoption, are deemed not to be dealing with each other at arm's length.

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

**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.

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

**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 consent is not obtained under 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.

**113** All output, whether gained under such authority as may be granted under this Act or not, is subject to such royalty to the Crown for the use of the Province as is imposed under this Act and the regulations.

**114 (1)** Every operator subject to a royalty under this Act shall, at the times required under the mineral lease or non-mineral registration, pay to the Minister the royalty, interest and penalty, if any, in respect of every fiscal year.

**(2)** All royalties are payable to the Crown and bear interest and penalty from the time when due until paid at the prescribed rate.

**(3)** A royalty payment made by an operator must be first applied to any outstanding balance of interest and penalty charged to the operator.

**115 (1)** The royalty payable by an operator is 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 royalty under this Act is deemed to hold the same in trust for the Crown and for the payment over of the same in the manner and at the time prescribed, whether or not the amount for the royalty has in fact been held separate and apart by that person, and

(a) 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

(b) 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 under the *Land Registration Act* until a certificate evidencing the lien has been recorded in the register of the parcel.

**116** Where it is 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 a royalty for the quantity of output at the value that the Mine Assessor considers reasonable, and the demand 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.

**117** The Mine Assessor shall examine all returns received by the Mine Assessor within the prescribed time.

**118 (1)** Subject to Section 119, the payment of royalties and submission of reports and returns must be made as prescribed.

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

**119** Where an operator, upon application, has provided written detail estimating that the royalties payable for a fiscal year are to be less than \$1000, the Mine Assessor may allow payment to be made 30 days after the end of the operator's fiscal year.

**120 (1)** Every operator liable to pay a royalty shall keep proper records of accounts showing the prescribed information.

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

(3) Subject to subsection (4), every operator shall keep in the Province all records of account, including financial, production and general business records, pertaining to the mining operation.

(4) Upon application, the Mine Assessor may authorize an operator to keep records of account outside the Province.

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

(6) Except as may otherwise be approved by the Mine Assessor, whoever is required under this Act to keep records of account shall retain them for seven years following termination of the lease to which the records relate.

**121 (1)** Where a notice of assessment sent to an operator 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 60 days from the date of the notice of assessment, appeal the assessment by serving the Minister with a notice of appeal, as prescribed.

(2) Sections 79, 138 and 139 apply *mutatis mutandis* to an appeal under this Section.

## ENFORCEMENT

**122** The Minister may require from any operator that the operator file, and the operator shall file, in a form or including the content acceptable to the Minister and within the prescribed period, any information required for the purpose of this Act or the regulations.

**123** The Mine Assessor or another officer authorized by the Minister may, within normal business hours,

- (a) audit or examine the records of account that, in the opinion of the Mine Assessor or officer, assist the Mine Assessor or officer in verifying the amount of royalty payable under this Act;
- (b) examine any process or methods, the examination of which may, in the opinion of the Mine Assessor or officer, assist in verifying the amount of royalty payable under this Act; and

(c) require the operator 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 and, for that purpose, require the operator to attend the premises.

**124 (1)** An officer may, at any reasonable time, enter upon an area where mining is or has taken place for the purpose of making an inspection and obtaining information as to the amount and value of the output of the mine.

**(2)** In the course of an inspection under this Section or an audit or examination under Section 123, an officer may

- (a) require the production of any documents or records for inspection and copying;
- (b) inspect the property and premises and any installation, equipment or vehicle there;
- (c) require that anything be operated, used or set in motion under conditions specified by the officer;
- (d) use any tackle, machinery, appliance, structure, material or equipment in the place the officer is inspecting in order to carry out the inspection;
- (e) conduct tests or take measurements;
- (f) use any computer system at any place to examine any data contained in or available to the computer system;
- (g) record or copy any information by any method;
- (h) reproduce any record from data in the form of a printout or other intelligible output;
- (i) take any printout or other output for examination or copying;
- (j) use any copying equipment to make copies;
- (k) take any photographs or audio-video records;
- (l) descend any pit or shaft;
- (m) take from the property any sample or specimen as the officer considers 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
- (n) inquire into any matter that relates to compliance with the requirements of this Act or the regulations.

**(3)** The operator of the mine shall allow the officer to have free access to all buildings, structures and vessels used in connection with the mine, to take from the property such samples or specimens as the officer considers necessary for the purpose of this Section and to have full and complete access to all records, accounts, correspondence and documents maintained or used for or in connection with the actual operations and business of the mine.

(4) An officer may remove any document that the officer is entitled to examine or copy or otherwise reproduce but shall give a receipt to the person from whom it was taken and shall promptly return it on completion of the examination or reproduction.

(5) An officer who exercises the power set out in clause (2)(n) may exclude from the questioning any person, except counsel for the person being questioned.

(6) Upon request, an officer who exercises a power set out in subsection (1) shall produce an identification card and explain the purpose of the inspection.

(7) Any information of a private or confidential nature acquired under this Section must not be disclosed to anyone except so far as may be necessary for the purpose of this Act.

**125** A conservation officer, officer, employee of the Department or any other person appointed by the Minister under this Act, together with any person assisting any of them, may, for the purpose of ensuring compliance with this Act and the regulations and any order made under this Act or the regulations,

(a) at any reasonable time, enter and inspect an exploration site or mine and make such examinations as the person considers necessary or advisable;

(b) require the production of any records or documents in the possession of an operator that relate to the registration and statistical returns required of an operator for inspection and copying;

(c) require that anything be operated, used or set in motion under conditions specified by the person;

(d) use any tackle, machinery, appliance, structure or materials to carry out the inspection;

(e) descend any pit or shaft;

(f) make any examination or inquiry as the person considers necessary to ascertain whether there is compliance with this Act and the regulations and any order made under this Act or the regulations;

(g) in an inspection or an examination, be accompanied and assisted by a person having special, expert or professional knowledge of any matter; and

(h) enter upon any land for the purpose of performing the person's duties and functions under this Act and the regulations.

**126 (1)** Where it is found that mining has been carried out and the person who has carried out the mining fails to show, upon demand, the appropriate lease or non-mineral registration, a conservation officer may order that person to cease mining.

(2) Where a conservation officer orders a person to cease mining under subsection (1), the conservation officer shall without delay report particulars of the situation to the Department.

(3) Upon receiving the report under subsection (2), the Department shall assign an officer to

- (a) order the 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.

(4) Where the Crown performs or causes to be performed, at its own cost, reclamation pursuant to clause (3)(b), the Minister may certify the amount of the cost of such reclamation, and the amount certified is a debt due to the Crown by the person and forms a lien on the property that may be registered in the registry of deeds for the registration district in which the property is situated.

(5) The lien referred to in subsection (4) 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.

**127 (1)** Where a conservation 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 conservation officer has seized anything under subsection (1), the conservation officer shall

- (a) report particulars of the seizure to the Department as soon as is practicable; and
- (b) where the conservation 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.

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

- (a) forfeited to the Crown; 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 shall order that any mineral, installation, equipment or vehicle seized under subsection (1) be returned to the owner thereof.

(5) Where a charge is not laid within the time allowed under this Act, and the owner of any mineral, installation, equipment or vehicle seized is known, the Minister shall order that the seized goods be returned to the owner.

**128 (1)** Notwithstanding anything contained in this Act, where a justice is satisfied on evidence under oath by an officer or conservation officer that

(a) there are reasonable grounds to believe that it is appropriate for the administration of this Act for the officer or conservation officer, as the case may be, to do anything set out in Section 123, 124, 125, 126 or 127; and

(b) the officer or conservation officer may not be able to carry out duties under this Act effectively without an order under this Section because

(i) no person is present to grant access to premises that are locked or otherwise inaccessible,

(ii) a person has denied the officer or conservation officer access to the property or premises or there are reasonable grounds for believing that a person may deny the officer or conservation officer access to the property or premises,

(iii) a person has prevented the officer or conservation officer from doing anything set out in Section 123, 124, 125, 126 or 127, or denied the officer or conservation officer access to anything, as a result of which the officer or conservation officer is unable to do anything set out in Section 123, 124, 125, 126 or 127, as the case may be,

(iv) there are reasonable grounds to believe that a person may prevent the officer or conservation officer from doing anything set out in Section 123, 124, 125, 126 or 127, or may deny the officer or conservation officer access to anything, as a result of which the officer or conservation officer may be unable to do anything set out in Section 123, 124, 125, 126 or 127, as the case may be,

(v) it is unpractical, because of the remoteness of the property or premises to be inspected or because of any other reason, for the officer or conservation officer to obtain an order under this Section without delay if access is denied,

(vi) entry has not been sought on the ground that there are reasonable grounds to believe that evidence contained in the property or premises would be destroyed or otherwise disposed of if a request for entry were made, or

(vii) there are reasonable grounds to believe that an attempt by the officer or conservation officer to do anything set out in Section 123, 124, 125, 126 or 127 without the order might defeat the purpose of that Section or cause an adverse effect,

the justice may issue an order to enter and inspect authorizing the officer or conservation officer to do anything set out in Section 123, 124, 125, 126 or 127 that is specified in the order for the period set out in the order, subject to any conditions specified in the order.

(2) The period referred to in subsection (1) may not extend beyond 30 days after the date on which the order is made, but the order may be renewed for any reason set out in subsection (1) for one or more periods, each of which may not be more than 30 days.

(3) An application under subsection (2) may be made before or after the expiry of the period.

(4) An order under this Section may be issued or renewed on application without notice.

**129 (1)** A conservation officer may arrest a person for any offence under this Act and detain that person in custody after arrest if on reasonable and probable grounds the officer believes that the arrest and detention is necessary

- (a) to prevent the continuation or repetition of the offence; or
- (b) to establish the identity of the person.

**(2)** Where a conservation officer arrests or detains a person under subsection (1), the conservation officer shall comply with the *Summary Proceedings Act*.

#### DEBTS TO THE CROWN

**130** Where any royalty, rent, tax, debt or other sum of money with respect to a mineral lease is due to the Province,

- (a) 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
- (b) the amount due is a debt due to the Crown and forms
  - (i) a charge upon the property, and
  - (ii) a first charge on the proceeds of the sale, transfer, set-over, assignment, sublease or other disposition of the property.

**131 (1)** Where any royalty, rent, tax, debt or sum of money is due to the Crown by a lessee, the Crown has a first and prior charge on any mineral, mineral stockpile, slimes or tailings of the lessee for the amount due 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 such mineral, mineral stockpile, slimes or tailings.

**(2)** The charge of the Crown for royalties has priority over every other charge against the area, claim or tract covered by the mineral right 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 under this Act.

**132 (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 of a lessee where any royalty, rent, tax, debt or sum of money is due 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 such 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.

**133** Where any royalty, rent, tax, debt or sum of money is due to the Crown by a lessee, the Minister may use and apply the balance of any money or security of the lessee held, including



that designated for the purpose of reclamation, if such reclamation has been completed to the Minister's satisfaction, to such royalty, rent, tax, debt or sum of money due to the Crown.

#### GENERAL

**134** Any operator or any other person who is exploring or mining shall file statistical reports with the Department during each year as prescribed.

**135 (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 the regulations, whether or not such information or documentation is required to be provided under this Act or the regulations, is privileged and must 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 purpose of the administration or enforcement of this Act or 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 under subsection (1) in connection with any legal proceedings, other than proceedings relating to the administration or enforcement of this Act.

**136 (1)** The Minister may, for the purpose of aiding in an investigation under this or any other Act, enter into an agreement with the Government of Canada or the government of any other province of Canada, under which any information obtained or written statement furnished under this Act may be disclosed to an officer of that government, and any information obtained or written statement furnished under an enactment of Canada or the province of Canada, as the case may be, may be disclosed to an officer of the Government of the Province.

**(2)** Any information obtained or written statement furnished under this Act may be disclosed to the Government of Canada or the government of any province of Canada in accordance with an agreement authorized by subsection (1), but may not otherwise be disclosed to the Government of Canada or the government of any province of Canada.

**(3)** An agreement authorized by subsection (1) must require each government that is a party to the agreement to keep any information or written statement disclosed to it in accordance with the agreement in the same manner as if it were obtained directly from the operator under the mining royalty legislation applicable in that government's jurisdiction.

**137 (1)** The Minister, or a person authorized by the Minister, may make an investigation into any administrative 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 under the *Public Inquiries Act*.

**(2)** Upon completion of an investigation, the Minister, or the person authorized by the Minister, may

- (a) accept, either in whole or in part, any application previously refused or rejected;

- (b) amend and adjust the mineral rights of the mineral right holders in dispute;
- (c) adjust the rights of any persons in dispute;
- (d) order any mineral right holder to cease any or all operations;
- (e) make such further order for the disposal of the matter as appears to be just; and
- (f) refer any question or issue to the Supreme Court of Nova Scotia for hearing and consideration.

**138** Any decision or order made by the Minister, an officer or a conservation officer under this Act may be filed with the Supreme Court of Nova Scotia in accordance with the *Nova Scotia Civil Procedure Rules* and, upon being filed, is enforceable in the same manner as a judgment of that Court.

**139 (1)** Unless otherwise provided by this Act, any person aggrieved by a decision of the Minister or a person appointed by the Minister, may, within 30 days from the date of the decision, appeal to a judge of the Supreme Court of Nova Scotia.

**(2)** Subject to subsection (3), a decision of the judge of the Supreme Court of Nova Scotia is final.

**(3)** An appeal of the decision of the judge of the Supreme Court of Nova Scotia lies to the Nova Scotia Court of Appeal upon a question of law.

**140 (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, plans and equipment specifications in respect of a mine and information submitted under Section 70 are to 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) if, notwithstanding any enactment, 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, the registrant or another person.

**(3)** An assessment work report is confidential for two years from the date of submission, unless the exploration licence expires and is not renewed before the two-year period expires, in which case the report submitted and held in confidence may be released upon the expiry of the licence.

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

- (a) the mineral right holder or registrant may, upon application to the Registrar in writing, request an extension of the period of confidentiality granted under this Section, and the Registrar may grant such extension if satisfied that the application shows reasonable cause for the extension;
- (b) the period of confidentiality may be terminated if
  - (i) the mineral right holder or registrant agrees to a release of the information, or
  - (ii) the mineral right or non-mineral registration is surrendered, cancelled or forfeited or has expired; and
- (c) the Minister may use confidential information with the consent of the owner of the information.

### OFFENCES AND PENALTIES

**141 (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 or an individual holding an office or employment with the Government and engaged in any activities related to this Act shall not, while holding such office or employment, directly 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 under subsection 13(3), 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 an 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 or 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.

**142 (1)** A person who enters upon and works Crown lands without the consent required under Section 24, or fails to meet any terms or conditions of such consent, is guilty of an offence.

**(2)** Where a person is convicted of an offence under this Section and the Crown 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 Crown, determine the amount of the damage and order restitution by the person convicted.

**143 (1)** A person who enters upon or performs surface work on private land without the consent of the owner or occupier of the land if required under Section 25, or surface access rights under Section 26, is guilty of an offence.

**(2)** Where a person is convicted of an offence under 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.

**144** A person who mines without the appropriate mineral lease or non-mineral registration is guilty of an offence.

**145** A person who continues to operate a mine after the forfeiture of the mineral lease or the cancellation of the non-mineral registration is guilty of an offence.

**146 (1)** No person shall hinder, obstruct, molest or interfere with a conservation officer, officer, employee of the Department or person appointed by the Minister under this Act, or a person assisting any of them, in the exercise of a power or the performance of a duty under this Act or the regulations, or incite another to do so.

**(2)** No person shall knowingly furnish the Minister, a conservation officer, officer, employee of the Department or person appointed by the Minister under this Act, or a person assisting any of them, with false information or neglect or refuse to furnish information required by any of them in the exercise of a power or the performance of a duty under this Act or the regulations.

**(3)** A person who

(a) wilfully delays the Minister, a conservation officer, officer, employee of the Department or person appointed by the Minister under this Act, or a person assisting any of them, in the exercise of a power or the performance of a duty under this Act or the regulations;

(b) fails to comply with a direction or summons of any of the persons referred to in clause (a) given under this Act or the regulations; or

(c) fails to produce any certificate or document that the person is required by this Act or the regulations to produce,

is guilty on summary conviction of obstructing the Minister, conservation officer, officer, employee of the Department or person appointed by the Minister under this Act, or a person assisting any of them, as the case may be, in the exercise of the person's power or the performance of the person's duty under this Act.

**(4)** A person shall furnish all necessary means in that person's power to facilitate any entry, inspection, examination, testing or inquiry by a conservation officer, officer, employee

of the Department or person appointed by the Minister under this Act, or a person assisting any of them, in the exercise of a power or the performance of a duty under this Act or the regulations.

**147** A person who, without legal justification, removes a sign or notice posted by the Department is guilty of an offence.

**148 (1)** An operator who

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

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

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

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

is guilty of an offence.

**(2)** An operator required to pay royalties under this Act who fails to pay royalties within the time required is guilty of an offence.

**(3)** An operator who fails to deliver to the Minister an annual return within the time required is guilty of an offence.

**149** Where the Minister, a person authorized to act on behalf of the Minister or a conservation officer is satisfied that a person has committed or is committing an offence under this Act, the Minister, authorized person or conservation officer may issue a verbal or written order to refrain from or cease committing the offence.

**150** A person who fails to comply with this Act or the regulations or with an order made under this Act or the regulations is guilty of an offence.

**151 (1)** A person who is guilty of an offence under this Act is liable on summary conviction

(a) in the case of a corporation, to a fine not exceeding the prescribed penalty or, where no penalty is prescribed, \$100,000; or

(b) in the case of an individual, to a fine not exceeding the prescribed penalty or, where no penalty is prescribed, \$50,000, or to imprisonment for a term of not more than six months, or to both.

**(2)** Where an offence under this Act or the regulations is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

**(3)** Where a person has been convicted of an offence under this Act or the regulations and the court is satisfied that monetary benefits accrued to the person as a result of the commission of the offence,

(a) the court may order the person to pay an additional fine in an amount equal to the court's estimation of the amount of the monetary benefits; and

(b) for greater certainty, the additional fine may exceed the maximum amount of any fine that may otherwise be imposed under this Act.

**152 (1)** In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

**(2)** Where a corporation has committed an offence under 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.

**153** Where a person is convicted of an offence, the court may, in addition to any punishment imposed and having regard to the nature of the offence and the circumstances surrounding its commission, make an order containing one or more of the following prohibitions, directions or requirements:

(a) prohibiting the person from doing any act or engaging in any activity that could, in the opinion of the court, result in the continuation or repetition of the offence;

(b) directing the person to take any action that the court considers appropriate to remedy or to prevent any adverse effect that resulted or may result from the commission of the offence;

(c) directing the person to post a bond or to pay into court an amount of money that the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement under this Section;

(d) requiring the person to undertake remedial action to control, reduce or mitigate the contravention.

**154 (1)** Proceedings by way of summary conviction in respect of an offence under this Act may not be commenced more than two years after the later of

(a) the date on which the offence was committed; or

(b) the date on which evidence of the offence first came to the attention of the Minister.

**(2)** A document purporting to have been issued by the Minister certifying the date on which the Minister became aware of evidence of the offence is admissible without proof of the signature or the official character of the individual appearing to have signed the document and, in the absence of evidence to the contrary, is proof of the matter certified.

**155** In addition to any penalty imposed under this Act, the court may impose the full cost or any portion of the cost or expense incurred by the Crown with respect to remedying any situation that resulted from the contravention.

## REGULATIONS

**156 (1)** The Governor in Council may make regulations

- (a) respecting the assignment of work, responsibilities, rights and duties to officers, employees and other persons appointed under this Act and to conservation officers;
- (b) respecting the registry and records that are filed or kept in the registry, and the manner in which they are to be filed, kept and maintained;
- (c) respecting confidentiality of any information filed with the Department;
- (d) respecting the appointment or establishment, and authority, of a commissioner appointed or board established under Section 22;
- (e) respecting security, including its form and terms, and determining its amount, including a method of calculating its amount;
- (f) governing the mining and production of any minerals, mineral-bearing substance, gypsum or limestone;
- (g) respecting exploration drilling;
- (h) respecting the use of mineral resources;
- (i) respecting the method of applying for exploration licences, mineral leases, non-mineral registrations, letters of authorization and consents to surrenders, transfers and assignments;
- (j) respecting the content, terms and conditions of exploration licences, mineral leases, non-mineral registrations and letters of authorization;
- (k) respecting returns, plans, records and statements to be submitted, revised or maintained by a mineral right holder, registrant or prospector, including prescribing the contents of such returns, plans, records and statements and the manner in which such returns, plans, records and statements must be made;
- (l) respecting the kind and quantity of assessment work required for a renewal of an exploration licence, the evidence of such work and the manner in which the evidence must be submitted;
- (m) defining categories of acceptable assessment work and specifying work credit that a licensee may receive for work in each category;
- (n) respecting the submission of excess assessment work as work credit for a later application to renew an exploration licence and the period allowed for the submission;
- (o) respecting payments in lieu of assessment work and refunds of such payments;

(p) respecting service, including 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;

(q) respecting the method of submission and the recording, content, terms and conditions of excavation registrations, and the circumstances under which an excavation registration may be refused;

(r) respecting the circumstances under which a letter of authorization may be refused;

(s) prohibiting certain activities without a mineral lease or letter of authorization;

(t) prescribing that certain words and phrases are deemed to be contained in exploration licences, mineral leases, excavation registrations, non-mineral registrations and letters of authorization and that certain words therein have an extended meaning;

(u) respecting conditions for opening, closing, reopening and abandoning mines and for rendering mines inaccessible;

(v) respecting reports that must be made under this Act, including prescribing the contents of such reports and the manner in which such reports must be made;

(w) prescribing fees and rents payable under this Act;

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

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

(z) respecting safety and unsightliness of property to which Section 90 applies;

(za) respecting the establishment of boundaries of mineral lands;

(zb) governing the survey of a mineral right;

(zc) respecting appeals to the Minister under this Act;

(zd) respecting the administration, payment, rate and terms of royalties, including a method of calculating royalties;

(ze) prescribing interest rates, including establishing, from time to time, a formula by which interest rates may be calculated;

(zf) requiring from the mineral right holder, a person who is exploring or mining or the operator of a mine, statistical information respecting work or operations;

(zg) respecting the content of instruments, documents or notices referred to or required by this Act or the regulations;

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

(zi) respecting penalties for offences;

(zj) prescribing anything that by this Act is to be prescribed;

(zk) defining any word or expression used but not defined in this Act;



(zl) respecting any matter or thing that the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

#### MISCELLANEOUS AND TRANSITIONAL MATTERS

**157** Nothing in this Act limits or interferes with the right of any person to bring and maintain a civil action for damages occasioned by exploration or mining.

**158 (1)** Subject to subsections (2) and (3) and Sections 159 and 160, an application made under the former Act and not conclusively dealt with at the coming into force of this subsection, including an application for a renewal, is to be dealt with as if made under this Act.

(2) An application for a special lease made under the former Act and not conclusively dealt with at the coming into force of this subsection, including such an application for a renewal of a special lease, is deemed to be an application for a mineral lease or for the renewal of a mineral lease, as the case may be, made under this Act.

(3) An application for a special licence made under the former Act and not conclusively dealt with at the coming into force of this subsection, including such an application for a renewal of a special licence, is deemed to be refused.

**159 (1)** An exploration licence issued under the former Act and in good standing immediately before the coming into force of this Section continues to be subject to the terms and conditions of the former Act until its expiry date.

(2) On or before the expiry date of an exploration licence referred to in subsection (1), subject to the submission of an application and the payment of the prescribed fees, the licensee may renew the exploration licence by submission of an assessment work report, by application of work credits or, if eligible, by payment in lieu of assessment work, in accordance with the requirements under the former Act.

(3) Where the requirements for renewal under the former Act and this Section are met on or before the expiry date referred to in subsection (1), the exploration licence is, on the next day following the expiry date, to be renewed as an exploration licence issued under this Act.

(4) The assessment work required for the renewal of the replacement licence issued under this Section is that prescribed for a two-year term determined by the Registrar based on the date when the original licence was first issued.

**160 (1)** Where a special licence issued under the former Act and in good standing immediately before the coming into force of this Section includes a specified expiry date, the licence continues in force as if the former Act were not repealed, and continues to be subject to the terms and conditions of the former Act for the remainder of its fixed term.

(2) The holder of a special licence referred to in subsection (1) may, at any time after the completion of the assessment work requirement for the special licence during the fifth year of the licence, apply to renew the licence as an exploration licence.

(3) Where a special licence issued under the former Act and in good standing immediately before the coming into force of this Section does not include a specified expiry date, the licence is, on the day of the coming into force of this Section, to be replaced by an exploration licence issued under this Act that contains all the terms and conditions of the special licence.

(4) Where a special licence is renewed under subsection (2) or replaced under subsection (3), the assessment work required for the renewal of the exploration licence issued under this Section is that prescribed for a two-year term determined by the Registrar based on the date the original licence was first issued.

**161** Any excess assessment work that was recorded by the Department to the credit of an exploration licence, including a special licence, issued under the former Act, that is in good standing immediately before the coming into force of this Section, may be applied to the assessment work requirements of an exploration licence issued or renewed under this Act.

**162 (1)** A mineral lease issued under the former Act and in good standing immediately before the coming into force of this Section is deemed to be a mineral lease issued under this Act for the remainder of its term.

(2) For greater certainty, a special lease granted under the former Act and in good standing immediately before the coming into force of this Section is deemed to be a mineral lease issued under this Act for the remainder of its term, subject to any terms or conditions in the lease.

**163** A non-mineral registration issued under the former Act and in good standing immediately before the coming into force of this Section is deemed to be a non-mineral registration issued under this Act.

**164** A letter of authorization granted under the former Act and in good standing immediately before the coming into force of this Section is deemed to be a letter of authorization granted under this Act.

**165** An excavation registration submitted and recorded under the former Act and in good standing immediately before the coming into force of this Section is deemed to be an excavation registration submitted and recorded under this Act.

**166** A drilling notification filed under the regulations made under the former Act and in good standing immediately before the coming into force of this Section is deemed to be a drilling notification filed under the regulations made under this Act.

**167** A declaration made under Section 5 of the former Act or under Section 5 of Chapter 286 of the Revised Statutes, 1989, the *Mineral Resources Act*, continues in force and has the same force and effect as if made under Section 6 of this Act.

**168** A designation made under Section 8A of the former Act continues in force and has the same force and effect as if made under Section 10 of this Act.

**169** Lands restricted from prospecting, exploration, development or mining under Section 21 of the former Act at the coming into force of the Section are deemed to be restricted from prospecting, exploration, development or mining under Section 58 of this Act.

**170** Lands withdrawn under Section 22 of the former Act at the coming into force of this Section are deemed to be withdrawn under Section 59 of this Act.

**171** Schedule B of Chapter 450 of the Revised Statutes, 1989, the *Summary Proceedings Act*, as enacted by Chapter 30 of the Acts of 2002 and amended by Chapter 4 of the Acts of 2004 and Chapter 32 of the Acts of 2007, Chapter 9 of the Acts of 2010, Chapters 2, 44 and 45 of the Acts of 2011 and Chapter 17 of the Acts of 2015, is further amended by adding the following in alphabetical order:

Mineral Resources Act

**172** The former Act is repealed.

**173** This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

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