

Mining leases and mining concessions



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FOREWORD

The *Mining Act* deals with the management of mineral resources and the granting of mineral substances prospecting rights during the exploration phase. It also stipulates the rights of use pertaining to these substances during the mining phase. Finally, the act establishes the privileges and obligations of mining rights holders to ensure maximum development of Québec's mineral resources.

To simplify interactions between the industry and the Government, major amendments have been made to the *Mining Act*. A new version of this act, passed in 1998, will come into force this fall, 2000. The ministère des Ressources naturelles has made it its priority to publicize the content of this new legislation as well as the procedures that must be followed to comply with it.

One of the main components of this information policy involves producing four information documents dealing with:

- claim;
- mining leases and mining concessions;
- exploration and mining of surface mineral substances;
- conversion and substitution.

Each document must ensure that mining stakeholders know their rights and obligations with respect to the various topics covered.

This document deals with mining leases and mining concessions. It begins by describing the conditions for issuing and renewing a mining lease, the only mining title now granted for the mining of mineral substances other than surface minerals. It goes on to define the rights and obligations of mining lease and mining concession holders. Finally, it presents the various authorizations required for the setting up of a treatment plant or the choice of the location of tailing accumulation areas, and explains the requirements associated with the obligation of filing a mining site rehabilitation plan and the terms and conditions of subdivisions at the surface.

IMPORTANT NOTICE

Please note that this document has no legal value and that the *Mining Act* prevails at all times.

The rates presented in this document will be indexed periodically.

ISSUE OF A MINING LEASE

A mining lease can be obtained by any person who already holds a claim, a mining exploration licence or a mining concession limited to certain surface mineral substances, in the past known as low-grade minerals. The applicant must however show that the deposit contains sufficient geological reserves to become a mine.

To obtain a mining lease, the applicant must submit a written application that includes the following information:

- his identity and that of the person to whom correspondence must be addressed;
- the identification number of the applicant according to the *Act respecting the legal publicity of sole proprietorships, partnerships and legal persons*, where applicable;
- the description of the land in question: its location, surface area and the list of numbers or numbers of the mining rights concerned by the mining lease application;
- the identification of the owner or the lessee on the land referred to in the mining lease application or, when this land is subject to a lease to mine surface mineral substances, the description of the nature of these rights and, where applicable, of the agreement reached between these persons and the applicant;
- a surveying plan of the land prepared by a land surveyor, according to the instructions established by the Minister and the standards of the *Regulation respecting mineral substances other than petroleum, natural gas and brine*. This obligation does not apply if the land in question has already been surveyed;
- a report certified by a geologist or an engineer describing the nature and scope of the deposit and its likely value;
- the payment of an annual rent for the first year of issue of the lease.

The Minister may ask the applicant for any additional information making it possible to show that the deposit is mineable. He may also postpone the conclusion of a lease, if a portion of the land referred to in the mining lease application is already subject to an exclusive lease to mine surface mineral substances, until the applicant obtains the consent of the holder to have access to the land or to carry out mining work or, if there is no agreement concerning the amount of compensation to be paid, the conclusion of the lease may be postponed until the application to determine the compensation is filed before the court having jurisdiction.

This application is then presented by motion to the Court and is tried and judged on an urgent basis.

Finally, the Minister can refuse to conclude the mining lease if, six months after authorization of postponement, the applicant has not obtained the consent of the holder of the exclusive lease or has not filed his application to determine the compensation before the competent court.

Surface area: Must not exceed 100 ha, except if the applicant has applied therefor to the Minister and the circumstances warrant an exception.

Duration of the lease: 20 years.

RENEWAL OF A MINING LEASE

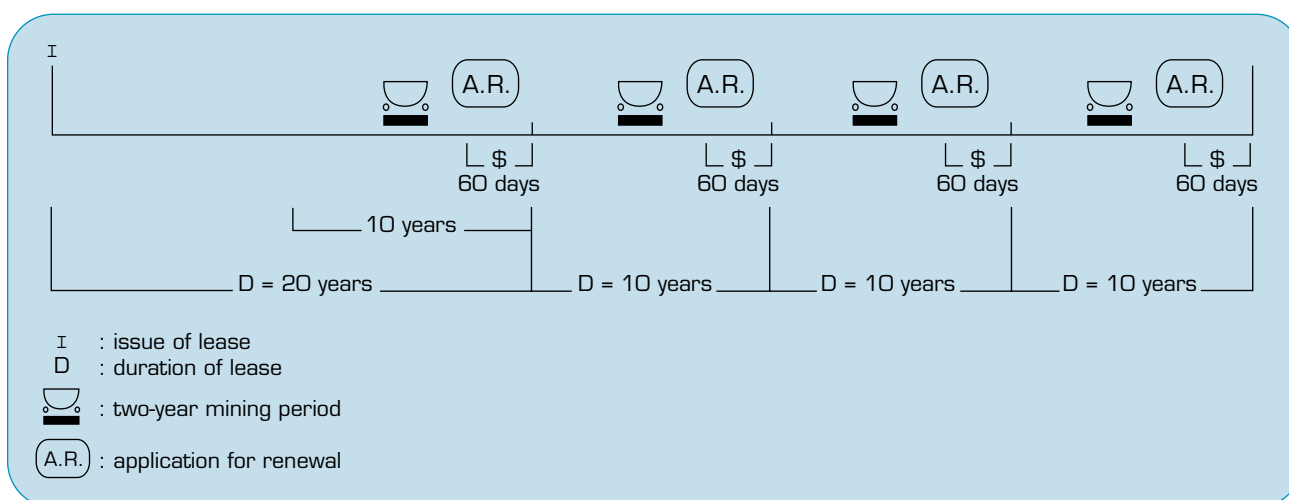
Any lessee may renew his mining lease for a 10-year period. He must file the application for renewal prior to the 60th day preceding the expiry of the mining lease. If this application is made in the 60 days preceding that date, the lessee will have to pay an additional amount of \$115.

The mining lease renewal application must include:

- the identity of the lessee;
- the number of the mining lease for which the renewal is requested;
- the order number of the land sheet entered in the land register of the land registry office or the registration number and the inscription number of the lease, as well as those of the renewals and transfers, where applicable;
- the amount corresponding to the annual rent of the first year of the renewed lease, determined according to the previously stated rules;
- a report showing that the holder has engaged in mining exploration on the land that is subject to the mining lease for at least two of the last ten years when the lease was valid.

Moreover, the lessee must also have complied with the provisions of the act and the regulation during the lease term.

These terms and conditions apply to three lease renewal periods for a total period of 50 years. Thereafter, the Minister can prolong the lease under the conditions that he determines.



RIGHTS OF THE LESSEE OF A MINING LEASE OR THE MINING CONCESSION HOLDER

Access to and use of the surface that is subject to the lease or the concession

The lessee of a mining lease and the concession holder have surface access and usage rights, except if the land is used as a cemetery.

On public lands, access rights are limited to mining purposes. Holders must then take into account the restrictions stipulated at the time that the lease or the concession is issued with respect to the use of the surface.

If the land that is subject to the lease or concession was sold by the Crown, the lessee of the lease or concession holder will have to obtain the owner's permission to have access to the land and to carry out his work there. He may acquire these access and rights of use by friendly agreement or, if necessary, by expropriation.

On a land leased to the Crown, he will have to obtain the consent of the lessee of the surface or pay him compensation. In the event of a disagreement, a court can determine this compensation.

Use of the surface that is not subject to a lease or a concession

The lessee or concession holder may use the adjacent land for his mining activities. However, he must do so in compliance with the other laws, in particular those concerning the leasing of public lands, forests and the environment.

On lands of the public domain, the lessee or concession holder may purchase or rent a land to set up a tailing confinement area or any other facility required for mining purposes. However, he must make a written application to a regional office of the Direction générale de la gestion du territoire of the ministère des Ressources naturelles (MRN) and append a map indicating the perimeter in question. He must also mention the use made of the land and the planned duration of its use. The terms of the lease vary according to these parameters.

The holder of a mining lease or the concession holder has the right to acquire a land sold or leased by the Crown to set up a tailing confinement area. He can also obtain a right-of-way to install transport lines or tracks, pipelines and water lines.

A lessee who wishes to set up an ore treatment plant on the land that is subject to his lease or outside the boundaries must first have the location approved by the Minister. However, when the setting up of this plant is subject to the environmental impact assessment and review process, in accordance with the *Environment Quality Act*, the site must be approved by the Government.

Whether it is located on private or public land, the site that will receive tailings must be approved by the Minister. The objective here is to ensure that this site will not inhibit the future mining of mineral substances. That is why the mining right holder, the owner of mineral substances, the operator or the person who runs the plant must submit a written application that meets the standards stipulated in the regulation.

Use of sand and gravel

The lessee or concession holder may use the sand and gravel that are at the surface of the land of his lease or his concession for his mining activities. This permission only applies to public lands that are not subject to an exclusive lease to mine surface mineral substances.

Cutting wood

The lessee or concession holder may cut wood on the land of his lease or his concession, provided that this wood is only used for the purposes of erecting buildings or carrying out operations required for his mining activities.

To do this, he must obtain a forest management permit from a regional office of the ministère des Ressources naturelles, Forest Sector. The terms and conditions for issuing the permit vary according to the purposes and the quantity of wood cut.

OBLIGATIONS OF THE LESSEE OF A MINING LEASE OR THE MINING CONCESSION HOLDER

Rent of the lease

Prior to the start of each year, the lessee of the lease must pay an annual rent that varies according to the use of the surface, where the lease is effective. This rent is:

- \$18.00 /ha on private lands;
- \$37.00 /ha on lands of the public domain;
- \$77 /ha for land used to store tailings. The amount of the rent per hectare is that stipulated in the *Regulation respecting the sale, rental and granting of property rights on lands of the public domain*, passed by order-in-council n° 231-89 of February 22, 1989.

Examples:

100 ha mining lease issued on April 1, 2000 on lands of the public domain, without the setting up of a tailing storage area:

Annual rent: 100 ha x \$37 /ha = \$3,700.

If a 25 ha area is used for the purposes of setting up a tailing confinement area:

Annual rent: (75 ha x \$37 /ha) + (25 ha x \$77 /ha) = \$4,700.

Mining site rehabilitation plan

Before starting mining work, the operator or the person running the treatment plant must submit to the ministère des Ressources naturelles a mining site rehabilitation plan, along with a financial guarantee for the rehabilitation of tailing accumulation areas. This plan must include, in particular, the description of all the planned mining activities and the rehabilitation measures that will be necessary to restore the mining site to a satisfactory state as well as an estimate of the costs of carrying out this work. Before giving its approval, the MRN will consult with the ministère de l'Environnement. Once the plan has been approved, the person in question must present a financial guarantee representing 70% of the cost of rehabilitating the storage areas.

For more information on rehabilitation obligations, the reader can consult the *Guide for rehabilitating mining sites* prepared jointly by the ministère des Ressources naturelles and the ministère de l'Environnement.

Start of mining

The lessee must carry out mining work in the four years following the date on which the lease is issued. However, the Minister can extend this deadline if the grounds are deemed valid.

The act provides for an exception to the obligation to undertake mining work on a land that is subject to a new mining lease. Indeed, the mining work done by the same holder on an adjacent land can be taken into consideration. The surface area of these mining leases must however be less than 2,000 ha.

In such a case, the obligation to carry out mining work on the land that is subject to a new mining lease is lifted provided that the holder makes a written application to the Minister. To renew this lease, the holder must however have done mining work during two of the last ten years during which the lease was valid. The same rule applies to adjacent mining concessions.

Mining refers to all of the work to extract mineral substances from a land with the prime goal of obtaining a commercial product.

Every mining concession holder can obtain letters patent if he has met the condition pertaining to the date on which mining must begin. He must ask the Minister for letters patent by demonstrating to the Minister that he has reached the mining phase.

Work on a mining concession

The holder of a mining concession whose letters patent have not been issued or were issued after July 1st, 1911 must carry out each year exploration or mining work having a minimum value of \$37/hectare. He must submit the report on his work before February 1st of each year. The work may also be done on an adjacent mining concession belonging to the same concession holder.

If he fails to carry out this work, the dealer can, before February 1st of each year, pay a sum equivalent to the minimum amount required for the work, namely \$37/hectare.

The type of exploration work that is accepted is the same as for claims. The report on the work must be presented in accordance with the same standards. This information is found in the *Regulation respecting mineral substances other than petroleum, natural gas and brine*.

The report on the mining activities of the previous year transmitted annually to the Ministry takes the place of the report on mining work.

Note: All reports on work remitted to the Ministry will remain confidential until the abandonment or revocation of the mining concession.

Remittance of documents

Every operator must give the Ministry information of an economic, geological or technical nature on his mining activities, whatever the nature of the mining rights that he holds. Some information must be transmitted at the start or the resumption of mining, when mining has been interrupted for a period of more than six months or at the end of mining. Other information must be remitted annually.

On certain occasions, the Minister can request additional information from the operator. The latter must also inform the Minister of any change made to his identity, his business name or his address in the 15 days following the change.

Documents to be remitted at the start or resumption of mining

The operator must give the Minister a notice informing him of the date of the start or resumption of work and specify, where applicable, any change pertaining to the name of the mine, its operator or its manager, or concerning the nature of the operations.

Documents to be remitted when mining is interrupted or at the end of mining

In the case where mining operations are interrupted for more than six months, the operator must send a written notice informing the Minister at least ten days before the interruption of work. Moreover, in the four months following the stoppage of operations, he must remit a copy certified by a geologist or an engineer:

- of the plans of underground works and open-pit mines;
- of the plans of surface installations including, where applicable, extraction sites;
- of the tailing storage location plans;
- of the geological plans;
- of the register of all the boreholes made;
- of a report describing ore reserves.

Note: All these plans and registers must be kept up-to-date when the mine is in operation.

Documents to be remitted annually

The operator must remit at set dates certain questionnaires submitted by the Service de recherche en économie minérale of the ministère des Ressources naturelles:

- Before October 1st, he must transmit the questionnaire on the preliminary data for the current year and on the forecasts for the following year, on the data concerning research expenses, sums devoted to capital assets and repairs, the quantity and value of the production as well as the nature and cost of rehabilitation work;
- In January, he must transmit a report on the activities of the previous year concerning the nature of the work (exploration and mining), expenses for research, capital assets and repairs, current ore reserves, the quantity and value of the production, the number of employees as well as any other information that the Minister may require.

In January, the operator must also transmit to the Minister the plans of the surface and those of the underground works and open-pit mines as of December 31st of the previous year. These plans must be signed by an engineer.

The exact content of these plans and registers is described in the *Regulation respecting mineral substances other than petroleum, natural gas and brine*.

Note: All these reports, plans and registers will remain confidential until the end of the lease or the concession, unless the lessee or concession holder agrees in writing to lift this confidentiality rule.

Protection measures

In the event of a temporary or permanent interruption of mining activities, the operator must:

- take protection measures to avoid any damage that may result from this interruption;
- comply with the regulatory safety measures concerning the blocking of surface openings and mine shafts. However, the holder is not obliged to undertake this work if he assures the presence of a security guard at the mining site and the weekly inspection of underground works. This condition does not apply in the case of a strike, a lock-out or an interruption of less than 6 months.

In the case where there is a permanent interruption and where the mining site was subject to the tabling of a rehabilitation plan, the restoration measures must be implemented in accordance with what was described in the rehabilitation plan.

If the operator fails to comply with the guidelines of the Minister or the regulation, the Minister can have the corrective work carried out at the operator's expense.

Optimum recovery

Every operator must recover in an optimum manner economically viable mineral substances. The Minister has a power of intervention to guarantee compliance with this requirement.

The Minister can examine the choice of a mining technique by requiring that the operator justify his technique and, where applicable, by making an assessment of this technique. To do this, he can call on the assistance of a technical committee outside the Ministry made up of three persons, two of whom are specialists from the mining field. If after these studies, the Minister remains convinced that the mining technique is inappropriate, he can require that the operator take the necessary corrective measures within a given time period. If the operator fails to comply, the Minister can order the suspension of the mine's operations.

SUBDIVISION OF A LAND THAT IS SUBJECT OF TO MINING LEASE OR A MINING CONCESSION

The regional offices of the Ministry's Service du développement et de l'intégrité du territoire are responsible for the sale and rental for none mining purposes of public lands that are subject to a mining lease. A sale or a rental to a person other than the holder of the mining lease is only made by the Ministry if the mining lessee does not use the surface for mining purposes. A sale or rental may also be made by the ministère des Ressources naturelles to the lessee of the mining lease who wants to use the surface for purposes other than mining ones. The latter must then obtain a lease from the regional office of the Ministry's Service du développement et de l'intégrité du territoire.

Since June 17, 1998, the Ministry's regional offices have taken care of transactions pertaining to property rights on lands of the public domain that are part of a mining concession, but that are no longer required for mining purposes, as well as on alienated lots for which no alienation certificate was concluded.

Moreover, the lots forming a mining concession that were alienated under the *Mining Act* or the transfer of which was made before January 1st, 1971 and which cannot be invalidated, are henceforth part of the private domain effective from the date of alienation or transfer.

END OF A MINING LEASE OR A MINING CONCESSION

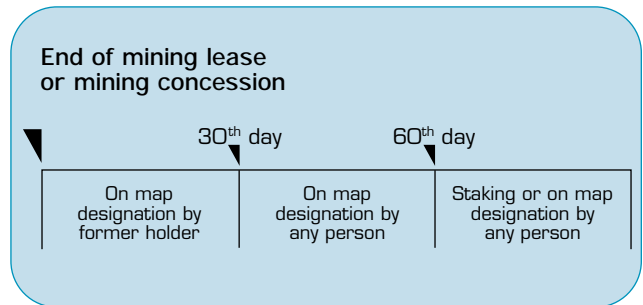
Application for abandonment

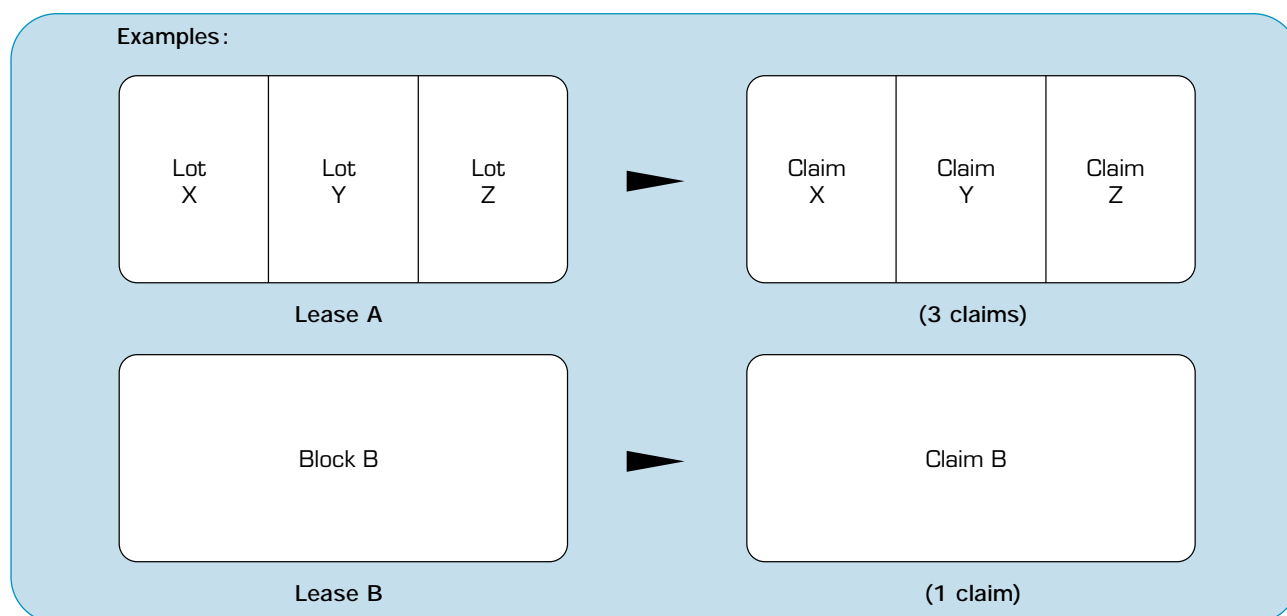
A lessee or concession holder can abandon his right on any land or on a portion thereof. He must then make a written application to the Minister, after having sent him all the documents required at the end of operations and after having paid the duties required under the *Mining Duties Act* (R.S.Q., chapter D-15).

The Minister then consults with the Minister of the Environment in this regard. He also informs all the creditors who registered a deed pertaining to this lease in the Public register of real and immovable mining rights, of the intention of the holder to abandon his right. This public register is kept at the ministère des Ressources naturelles.

Mining right granted at the end of the lease or concession

The lessee or concession holder who does not mine his property, but who wishes to retain a prospecting right thereon can register on a priority basis a claim by map designation notice on any land that is subject to this abandoned or expired mining right, or a portion thereof. This priority is valid during the 30 days following the abandonment or expiry of the lease.





Thereafter, any person interested can register a claim by map designation notice.

This rule does not apply if the lease or concession is revoked by the government or cancelled by the Minister. In this case, any person, except the old lessee or concession holder, can obtain a claim by map designation notice on the land that was subject to the lease or concession in the 30 days following the date of revocation or cancellation. After that period, any person can obtain a claim by map designation notice, including the former holder.

The limits of the claim(s) correspond to those of the lot if the land was subdivided before the issue of the mining rights, or to those of the mining block if the land was not subdivided at the time of the issue.

Carrying out of rehabilitation work

The lessee and the concession holder must carry out the rehabilitation work stipulated in the plan that he submitted for the lands affected by his mining activities before applying to abandon his mining right. The financial guarantee filed with the Ministry is released progressively, according to the progress made on the rehabilitation work. The ministère des Ressources naturelles approves the content of the work after having consulted with the ministère de l'Environnement.

Disposal of assets on the surface of the land

Any lessee or concession holder must remove all movable or immovable property as well as all ore extracted in the year following the end of the lease or the concession. However, he may ask that this deadline be extended for valid reasons. However, this obligation does not apply to a lessee or concession holder who obtains claims on a land already subject to a mining lease or a concession.

Once the deadline has expired, the assets become the property of the Crown. They can also be removed by the Minister at the expense of the former lease holder or concession holder.

Certificate of release

The lessee or the concession holder may ask to be released from his responsibility vis-à-vis the *Mining Act* when the rehabilitation work has been carried out in accordance with the plan approved by the Minister, when no risk of acid drainage remains, and when no sum of money is due to the ministère des Ressources naturelles. The Ministry consults with the ministère de l'Environnement before agreeing to the release.

The lessee or concession holder may also be released from his environmental responsibility if a third party agrees to assume the obligations.

GENERAL NOTES

The various applications, notices, plans, registers and reports may be filed at the office of the registrar or at the regional offices of the Mines Sector of the Ministry. Statistical reports must be sent to the Ministry's Service de recherche en économie minérale.

All documents are considered transmitted on the day of their receipt at the office, except for lease applications, which are considered transmitted on the day they are sent, when they are sent by registered or certified mail.

Payments must be made in cash, by cheque or postal money order made out to the Minister of Finance of Québec, or by credit or debit card.

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