



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 13

(2003, chapter 15)

An Act to amend the Mining Act

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EXPLANATORY NOTES

The object of this bill is to establish new rules to facilitate the management of mining titles and the implementation of the map designation system. To that end, the bill includes new measures to permit map designation of mining titles in territories up to now reserved for staking purposes. It introduces certain technical provisions to allow the amalgamation of parcels of land or their replacement with others. It facilitates the renewal of claims included within a 4.5 kilometre radius from a claim in respect of which work was performed for an amount in excess of the amount prescribed by regulation.

As regards the restoration of mine sites, the bill enables the Minister of Natural Resources, Wildlife and Parks to require the payment of the total financial guarantee ensuring the performance of the work if the financial situation of the operator is deteriorating or the duration of the operator's activities is reduced. In addition, in the case of inactive sites, the bill imposes the obligation to prepare a restoration plan on the person responsible for the tailings rather than on the Minister.

The bill provides for the granting of exclusive leases for the mining surface mineral substances to municipalities and intermunicipal boards for the construction and maintenance of their streets and road network.

Lastly, the bill enables the Minister to temporarily suspend the registration of mining titles in certain territories where required in the public interest.

Bill 13

AN ACT TO AMEND THE MINING ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 28 of the Mining Act (R.S.Q., chapter M-13.1) is amended by replacing “Map designation” in the first line of the second paragraph by “Subject to section 28.1, map designation”.

2. The said Act is amended by inserting the following section after section 28 :

“28.1. Map designation is permitted in respect of any parcel of land within the boundaries of a territory where claims may be obtained by ground staking if it is evident that the location of the perimeter of the parcel of land to which the map designation notice applies is not likely to result in a dispute between holders of mining rights.”

3. Section 30 of the said Act is amended

(1) by adding “or, to the extent provided for therein, by the effect of another Act” at the end ;

(2) by adding the following paragraph at the end :

“No person may stake or designate on a map any parcel of land that is subject to a provisional suspension notice pursuant to section 304.1.”

4. Section 38 of the said Act is amended by inserting the following paragraph after the second paragraph :

“For the purposes of the second paragraph, a natural person, the person’s representatives and their employees or, in the case of a legal person, the legal person, its subsidiaries and their directors, executives, representatives and employees are deemed to constitute a single person.”

5. Section 42 of the said Act is amended by adding the following sentence at the end of the third paragraph : “Any modification of the area and form of the parcel of land shall be recorded in a notice posted in a conspicuous place in the regional offices designated by ministerial order and in the office of the registrar, and shall take effect on the date indicated in the notice.”

6. The said Act is amended by inserting the following section after section 42.4:

“**42.5.** The excess portion of a parcel of land referred to in section 28.1 may be map designated by one or more holders of a staked claim, in the proportions agreed by the Minister, if the parcel of land or part of the parcel of land that is subject to the staked claim is contiguous to the excess portion and if no mining exploration licence held by a third person is contiguous to that excess portion.”

7. Section 48 of the said Act is amended by replacing paragraph 1 by the following paragraph:

“(1) a copy of the official map of mining titles at a scale of 1/50000 kept in the office of the registrar and referred to in the notice of staking, showing the perimeter of the staked parcel of land;”

8. Section 49 of the said Act is amended by adding the following paragraph at the end:

“A notice of map designation in respect of a parcel of land within the boundaries of a territory where claims may be obtained by ground staking must also be accompanied with the following documents:

(1) in the case described in section 28.1, a statement by the holders of staked claims situated less than 1,000 metres from the parcel of land concerned, attesting that the parcels of land subject to their claims are not situated within the boundaries of the parcel of land concerned;

(2) in the case described in section 28.1, if the parcel of land is subject to a mining exploration licence, an agreement in writing between the holder of the mining exploration licence and the holder of the staked claim, in accordance with the regulations; if the holder of a mining exploration licence is also the holder of the staked claim, an application for conversion of the staked claim complying with subdivision 5 of this division;

(3) in the case described in section 42.5, an application for conversion complying with subdivision 5 of this division.”

9. Section 52 of the said Act is amended by adding “, in particular where the conversion cannot be effected” at the end of subparagraph 4 of the first paragraph.

10. Section 58 of the said Act is amended by striking out “staked” in the second line of the first paragraph.

11. The said Act is amended by inserting the following section after section 58:

58.1. The Minister may make any decision concerning the conversion of a staked claim into a map designated claim or the amalgamation or replacement of map designated claims.”

12. Section 59 of the said Act is amended by adding the following paragraph at the end:

“Where a statement by the holder of a staked claim establishes that the parcel of land subject to the staked claim is not located within the boundaries of a parcel of land where a claim has been or may be obtained by map designation, the boundaries of the map designated parcel of land prevail.”

13. The said Act is amended by inserting the following section after section 59:

59.1. The statement provided for in subparagraph 1 of the second paragraph of section 49, the agreement referred to in subparagraph 2 of that paragraph and the agreement signed by the holder of the staked claim and provided at the time of the conversion of a mining right into a map designated claim may be set up against third persons.”

14. Section 60 of the said Act is amended by replacing “A subsequent purchaser” at the beginning of the first paragraph by the following: “Except where the parcel of land subject to the staked claim is the subject of a statement establishing that it is not located within the boundaries of a parcel of land that is or may be subject to a claim obtained by map designation, a subsequent purchaser”.

15. Section 60.1 of the said Act is amended

(1) by inserting “map designated or” after “are” in the fifth line of the first paragraph;

(2) by replacing “on the date on which the notice of modification is filed at the office of the registrar” in the first and second lines of the third paragraph by “after the filing, on the date indicated in the notice”, and by replacing “of filing of the notice” in the fourth line of that paragraph by “indicated in the notice or before the date and time of filing of a notice of map designation”.

16. Section 61 of the said Act is amended by replacing “its date of expiry or, on payment of the extra amount fixed by regulation, within the 15 days following its date of expiry” in the first, second and third lines of subparagraph 1 of the second paragraph by “the 60th day preceding its date of expiry or, on payment of the extra amount fixed by regulation, after that date but before its date of expiry”.

17. Section 76 of the said Act is amended

(1) by striking out “15 days after” in the first line of the first paragraph;

(2) by replacing “on which the work has been performed and the land that is the subject of the application for renewal are included in a 3.2 kilometre square” in the fifth, sixth and seventh lines of the first paragraph by “that is the subject of the application for renewal is included within a 4.5 kilometre radius circle measured from the geometrical centre of the parcel of land subject to the claim in respect of which work was performed in excess of the prescribed requirements”;

(3) by striking out the second paragraph.

18. Section 77 of the said Act is amended

(1) by striking out “15 days after” in the second line of the first paragraph;

(2) by replacing “in a 3.2 kilometre square” in the eighth line of the first paragraph by “within a 4.5 kilometre radius circle measured from the geometrical centre of the parcel of land that is subject to the lease or concession”;

(3) by striking out the second paragraph.

19. The said Act is amended by inserting the following section after section 83.6:

“83.6.1. The Minister may, on his or her initiative, convert a claim referred to in section 83.1 into a map designated claim; however, the conditions applicable are those applicable to a conversion under section 83.2.

The Minister may also, on his or her initiative, convert the mining rights referred to in sections 83.2 and 83.6 into map designated claims, subject to the conditions applicable to such conversions.”

20. The said Act is amended by inserting the following after section 83.13:

“§7. — Amalgamation of map designated claims

“83.14. The Minister may, on his or her initiative or at the request of the claim holder, amalgamate map designated claims that are contiguous to and within the boundaries of a parcel of land whose area and form have been determined by the Minister in accordance with the third paragraph of section 42, to constitute a new map designated claim.

The application for amalgamation must be filed by the claim holder, using the form supplied by the Minister, and must contain the information and be accompanied with the fee prescribed by regulation.

The claim obtained by amalgamation replaces the amalgamated claims as of the issue of the certificate of registration of the new map designated claim, and the date of registration of the claim is deemed to be the date of amalgamation.

The amalgamation of claims under this section is carried out in accordance with sections 83.3 to 83.5.

“§8. — *Replacement of map designated claims*

83.15. Where a map designated claim extends over a parcel of land whose area and form do not correspond to those determined by the Minister and reproduced on the maps kept in the office of the registrar, the Minister may, by virtue of office or on the application of the claim holder, replace that claim with one or more map designated claims covering parcels of land whose area and form must tend to correspond to that determined by the Minister pursuant to the third paragraph of section 42.

The rules provided in sections 42.1 to 42.4 apply, with the necessary modifications, to claims so obtained by replacement.

The application for replacement must be filed by the claim holder, using the form supplied by the Minister, and contain the information and be accompanied with the documents determined by regulation.

The claim obtained replaces the former claim as of the issue of the certificate of registration of the new claim, and its date of registration is deemed to be the date of its replacement.

The replacement of claims under this section is carried out in accordance with sections 83.3 to 83.5.”

21. Section 94 of the said Act is amended by replacing “the year” in the first line of the second paragraph by “each year of the term of the licence”.

22. Section 141 of the said Act is amended by adding the following at the end of the first paragraph : “ ; however, the lease may be exclusive if granted to a municipality or an intermunicipal board for the construction or maintenance of its streets and road network”.

23. Section 142.1 of the said Act is amended by inserting the following paragraph after the second paragraph :

“For the purposes of the second paragraph, a natural person, the person’s representatives and their employees or, in the case of a legal person, the legal person, its subsidiaries and their directors, executives, representatives and employees are deemed to constitute a single person.”

24. Section 207 of the said Act is amended by inserting “or map designated” after “staked” in the third and sixth lines of the second paragraph.

25. Section 221 of the said Act is amended by replacing “1 October” in the third line of the first paragraph by “31 October”.

26. Section 222 of the said Act is amended

(1) by inserting “and every contractor engaged in mining operations” after “substances” in the second line of the first paragraph, and by replacing “in January” in the second and third lines of that paragraph by “not later than 31 March”;

(2) by replacing the second paragraph by the following paragraph :

“At the request of the Minister, they shall transmit a monthly or quarterly report of activities before the fifteenth day of the following month.”

27. Section 232.7 of the said Act is amended by adding the following paragraph at the end :

“The Minister may also require the payment of the total guarantee if, in the Minister’s opinion, the financial situation of the person described in section 232.1 or a reduction in the anticipated duration of the person’s activities may prevent the payment of all or part of the guarantee.”

28. Section 232.11 of the said Act is amended

(1) by replacing “to perform the rehabilitation and restoration work required by the presence of tailings on land affected by his mining activities to the extent that the tailings result from those activities” in the fourth, fifth, sixth and seventh lines of the first paragraph by “to submit, within the time indicated by the Minister, a rehabilitation and restoration plan for the land affected by tailings, in accordance with the requirements of section 232.3, to the extent that the tailings result from the person’s activities, and to perform the rehabilitation and restoration work required by the presence of the tailings”;

(2) by inserting “the plan to be prepared or” after “cause” in the second line of the second paragraph ;

(3) by replacing “Sections” in the first line of the third paragraph by “The second paragraph of section 232.5 and sections”.

29. Section 291 of the said Act is amended by inserting “58.1,” after “58,” in the first line.**30.** The heading of Chapter X of the said Act is replaced by the following heading :

“SPECIAL POWERS”.

31. The said Act is amended by inserting the following section after section 304 :

304.1. Prior to the making of an order under subparagraph 1 or 1.1 of the first paragraph of section 304, the Minister may temporarily suspend, for a maximum period of six months, the right to stake and designate on a map a parcel of land whose boundaries are shown on the maps kept in the office of the registrar.

The suspension takes effect on the date of filing of a notice in the office of the registrar.”

32. Section 306 of the said Act is amended

(1) by replacing paragraph 8 by the following paragraph :

“(8) determine the documents and information that must accompany notices of staking, notices of map designation, applications for amalgamation and applications for replacement of claims, and fix the amount of the applicable fees;”;

(2) by replacing paragraphs 12.3 to 12.6 by the following paragraphs :

“(12.3) prescribe, for the purposes of applications for conversion under sections 83.2 and 83.6, or for amalgamation or replacement of claims, the manner of calculating the average unexpired portion of the terms of all the claims to be converted, amalgamated or replaced or of the exploration licences for surface mineral substances to be converted, in order to determine the date of expiry of the converted, amalgamated or replaced claims ;

“(12.4) prescribe, for the purposes of applications for conversion under sections 83.2 and 83.6, or for amalgamation or replacement of claims, the manner in which and the conditions according to which the excess amounts disbursed for work performed on all the parcels of land subject to the claims to be converted, amalgamated or replaced or to the exploration licences for surface mineral substances to be converted, are to be distributed ;

“(12.5) prescribe, for the purposes of applications for conversion under sections 83.2 and 83.6, or for amalgamation or replacement of claims, the manner of determining the number of terms of the converted, amalgamated or replaced claims in order to establish the minimum cost of the work to be performed for further renewals of claims after the first renewal following conversion, amalgamation or replacement ;

“(12.6) determine the cases in which and the conditions according to which a mining right may be converted into map designated claims and claims may be amalgamated or replaced pursuant to subdivisions 5, 7 and 8 of Division III of Chapter III, and the effects of such conversion, amalgamation or replacement on rights granted to third persons and evidenced in an instrument relating to the converted, amalgamated or replaced mining right recorded in the public register of real and immovable mining rights;”.

33. This Act comes into force on 18 December 2003.