

# Notice of Coming into Effect

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## An Act to amend the Mining Act and other provisions (2024, chapter 36)

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The [Act to amend the Mining Act and other provisions](#) (2024, chapter 36) (“Act 36”), which makes several changes to the Québec mining regime, was adopted by Québec’s National Assembly on November 28, 2024, and received assent on November 29, 2024, the effective date of the amendments, with certain exceptions.

A summary of the main legislative amendments concerning the mining sector is presented below. To see all the amendments made to the *Mining Act*, please see Act 36 as assented.

### 1. Replacement of the term “claim” by “exclusive exploration right”

The term “claim” has been replaced by the term “exclusive exploration right.” This terminological amendment has no legal effect, in particular, no effect on the rights and obligations of the rights holders. It is strictly a terminological amendment to clarify and francize the term.

### 2. Withdrawal of urbanization perimeters from mining activity

The [Mining Act](#) (Act or MA) now stipulates that urbanization perimeters (UPs) delimited in a land use and development plan (LUDP) in accordance with the [Act respecting land use planning and development](#) (ALUPD) are withdrawn from mining activity (prospecting, mining exploration and mining operations) from the time a notice is registered in the public register of real and immovable mining rights (GESTIM) by the Ministère des Ressources naturelles et des Forêts (MRNF) (MA, s. 304.1.1). If the boundaries of a UP are modified, the withdrawal from mining activity will be updated in GESTIM. The withdrawal does not apply to existing mining rights.

### 3. Withdrawal of private lands from mining activity

The Act now stipulates that any mineral substance forming part of the domain of the State that is situated on private lands and that is not included within a UP is withdrawn from mining activity (prospecting, mining exploration and mining operations) (MA, s. 304.1.3). This withdrawal does not apply to mineral substances situated on private lands that are subject to a mining right in force or to a notice of map designation received before May 28, 2024.

At the time of the expiry, abandonment or revocation of an exclusive exploration right (formerly a “claim”) situated on private land that is not included within a UP, if exploration work has not been performed, reported and approved by the MRNF since October 24, 1988, that private land will also be withdrawn from mining activity.

At the request of the regional county municipality (RCM) where the substances are situated, the Minister of Natural Resources and Forests (the “Minister”) may in the cases and on the conditions

prescribed by regulation, withdraw from mining activities the private lands that are not withdrawn under section 304.1.3. This withdrawal takes effect upon registration of a notice in the public register of real and immovable mining rights (GESTIM) (MA, 304.1.4).

#### 4. Lifting of withdrawals from mining activity

After consulting the local municipality where the withdrawn mineral substances are situated or at that municipality's request, an RCM may, by resolution, ask the Minister for the partial or total lifting of a withdrawal of:

- UPs (MA, s. 304.1.1)
- Private lands (MA, ss. 304.1.3 and 304.1.4)

The RCM has 120 days to decide on a request from a local municipality to lift or reinstate a withdrawal, barring which the local municipality may itself, by resolution, address the request to the Minister. The RCM may require the local municipality to provide the information it needs to assess the request (MA, s. 304.1.5).

Where more than 10 years have elapsed since a partial or total lifting of a withdrawal, the RCM may, after consulting the local municipality where the mineral substances concerned are situated or at the municipality's request, apply to the Minister, by resolution, for the partial or total reinstatement of the withdrawal (MA, s. 304.1.5).

The mining rights granted while a withdrawal was lifted will be maintained, despite the reinstatement of the withdrawal (MA, s. 304.1.5).

#### 5. Revocation of private mining rights

Section 4 of the Act, which lists the cases in which the right to mineral substances does not form part of the domain of the State, is amended to allow for the revocation of the right to these mineral substances in favour of the State provided they were not the subject of mining operations on May 28, 2024. A transitional provision set out in section 165 of Act 36 determines the procedure for the revocation of private mining rights. In particular, owners or operators that wish to retain their right must submit a written notice to the Minister no later than May 29, 2025. The transitional provision also governs the Minister's decision concerning the revocation of the right, any challenge of that revocation and the publication of upheld rights in the Gazette.

#### 6. Adjustment of mining rights

To allow for the prioritization or reconciliation of uses or the protection of the land or for a public interest reason, in particular to prevent or limit impacts on local and Indigenous communities, the Minister may:

- Impose conditions and requirements, at the time deemed appropriate, on a holder of an exclusive exploration right (MA, s. 52.1).

- Subject a mining lease to conditions and requirements at the time of granting (MA, s. 101.0.1<sup>1</sup>).
- Adjust the granting of a lease to mine surface mineral substances (MA, s. 142.0.2<sup>2</sup>).
- Require the holder of a mining right to remove or move any property or extracted ore or any extracted surface mineral substance situated on the land subject to the mining right, at any time (MA, s. 215.1).

## 7. Mining-incompatible territories

As the Act now provides for the withdrawal of private lands and UPs from mining activity, the delimitation of mining-incompatible territories (MITs) is now limited to public lands located outside of UPs (ALUPD, s. 5). The identification of MITs and applications for temporary suspensions submitted to the MRNF can therefore no longer contain private lands or UPs.

Some transitional measures have been provided to govern MITs and temporary suspensions that were in effect before these amendments were adopted:

- MIT in effect before November 29, 2024: UPs and private lands located outside of UPs are excluded, by virtue of the Act, from these MITs. However, UPs private lands located outside of UPs are still withdrawn from mining activity by virtue of sections 304.1.1 and 304.1.4. RCMs do not have to amend their LUDP or submit an amended MIT project for these changes to take effect.
- Temporary suspension (for MIT) in effect on November 28, 2024: UPs and private lands located outside of UPs are withdrawn from mining activity by virtue of sections 304.1.1 and 304.1.4. RCMs do not have to submit an application to amend their temporary suspensions for this amendment to take effect.

Adjustments to the Government's land-use planning guideline no. 7 (entitled "*Pour assurer une cohabitation harmonieuse de l'activité minière avec les autres utilisations du territoire*" or "*OGAT-Mines*") are planned to reflect this legislative change.

Furthermore, upon request of a local municipality, the Minister may now partially lift a withdrawal covering mineral substances in the domain of the State that are located in a MIT to allow the mining of sand or gravel, on the conditions determined by the Minister (MA, s. 304.1.2).

## 8. Sectoral agreements with the Indigenous communities

The Act now allows the Government to enter into agreements with Indigenous communities to determine portions of land where any mineral substance that forms a part of the domain of the State will be reserved for the State, withdrawn from prospecting, mining exploration or mining operations, or without constraint (MA, s. 2.4). These agreements aim to reconcile mining activities with the activities pursued by Indigenous people for food, ritual or social purposes or the activities pursued in accordance with the [Act respecting hunting and fishing rights in the James Bay and](#)

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<sup>1</sup> Section 101.0.1 applies to mining lease applications pending on November 29, 2024 (Act 36, s. 171).

<sup>2</sup> Section 142.0.2 applies to applications for leases to mine surface mineral substances pending on November 29, 2024 (Act 36, s. 174).

[New Québec territories](#). They will take effect on the date fixed by the agreement and may be preceded by a temporary suspension to prevent the issue of new mining rights during negotiations. The reservation or withdrawal limits are registered in the public register of real and immovable mining rights (GESTIM).

## 9. Annual planning – Exploration work

From now on, the holder of an exclusive exploration right shall transmit an annual work planning to the representatives of every local municipality located in the region of the land subject to the right and every Indigenous nation or community concerned, at least 30 days before exploration work begins and, subsequently, each year that the work continues (MA, s. 65.1<sup>3</sup>).

The holder shall also hold an information session concerning the annual work planning with each such representative who so requests. During the information session, the representative may submit observations and present information complementary to the information presented by the holder (MA, s. 65.1).

The annual work planning and a summary of the information session, if applicable, must be posted on the holder's website or by any other means of publication authorized by the Minister (MA, s. 65.1).

## 10. Monitoring committees

The Act 36 makes a number of adjustments to the obligation of the holder of a mining lease or mining concession to establish a monitoring committee (MA, s. 101.0.3). First, the holder must now include a representative of each local municipality or RCM whose territory is included, in whole or in part, on land on which the project takes place, if requested by such local municipality or RCM, as well as one representative of each Indigenous nation or community consulted by the Government with respect to the project. The Minister may authorize a different committee composition if the lessee shows that it is impossible to find a representative of each sector. Next, the monitoring committee's mandate will be set out by regulation.<sup>4</sup> Finally, this section now specifies that the holder will not have to set up such a committee if a committee already exists for that project, and that the committee shall be maintained until all the work provided for by the rehabilitation and restoration plan has been completed.

A holder of a mining lease or mining concession in force on November 28, 2024, must establish a monitoring committee, in accordance with section 101.0.3, before November 29, 2025 (Act 36, s. 172).

## 11. Environmental impact assessment and review procedure

All new mining projects are now subject to the environmental impact assessment and review procedure ([Regulation respecting the environmental impact assessment and review of certain projects](#), section 22 of Part II of Schedule 1), under the responsibility of the Ministère de l'Environnement, de la Lutte contre les changements climatiques, de la Faune et des Parcs. In

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<sup>3</sup> Section 65.1 will come into effect on May 30, 2025 (Act 36, s. 181(2)).

<sup>4</sup> The part of section 101.0.3 about the mandate of the monitoring committee will not come into effect until the Mining Regulation is adjusted accordingly (Act 36, s. 181 (8)).

particular, this procedure establishes the parameters that allow a public hearing mandate to be entrusted to the Bureau d'audiences publique sur l'environnement (BAPE).

## 12. Anti-speculation measures

Several provisions have been introduced by the Act 36 to reduce speculation and better control access to mineral resources. The Act now states that any person who wishes to apply for and hold a mining right must comply with the qualification criteria determined by regulation (MA, s. 18.1<sup>5</sup>). Furthermore, for the renewal of exclusive exploration rights, the Act now limits to 10% the possibility of paying double the minimum cost of the work rather than performing it (MA, s. 73). In other words, to renew their rights, holders of exclusive exploration rights must perform work worth at least 90% of the minimum cost of the work required. Moreover, an exclusive exploration right can no longer be transferred during its first term unless exploration work has been performed on the land (MA, s. 80.1<sup>6</sup>).

## 13. Grouping of exclusive exploration rights

The Act now allows a person who holds several exclusive exploration rights whose parcels of land are contiguous to each other and to the land that is subject to a mining lease or mining concession also held by that holder, to ask for these rights to be grouped together into a single exclusive exploration right (MA, s. 83.16<sup>7</sup>). As a result, the holders will only have to apply for a single renewal for a group of exclusive exploration rights. However, the minimum cost of the exploration work to be performed after the grouping and the fees payable for the renewal of the exclusive exploration right will be the same as if the exclusive exploration rights had not been grouped together, with the adaptations required. The *Mining Regulation* may prescribe special terms and conditions in respect of the period of validity and renewal of the exclusive exploration right.

## 14. Notice of commencement of mining exploration or operations work

The holder of a mining right or an operator shall transmit to the Minister, at least 30 days before beginning mining exploration or mining operation work determined by regulation or resuming it after a suspension of six months or more, a notice that complies with the standards established by regulation (MA, s. 224<sup>8</sup>).

## 15. Mining of tailings

The Act allows the Minister to grant a mining lease specifically for the mining of tailings (MA, s. 101). The term of such a lease is determined by the Minister and is up to 10 years. To renew

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<sup>5</sup> Section 18.1 will only come into effect when the *Mining Regulation* has been adjusted accordingly (Act 36, s. 181(2)).

<sup>6</sup> Section 80.1 comes into effect on November 29, 2025 (Act 36, s. 181(6)).

<sup>7</sup> Section 83.16 will only come into effect when the *Mining Regulation* has been adjusted accordingly (Act 36, s. 181(7)).

<sup>8</sup> The replacement of section 224 will only come into effect when the *Mining Regulation* has been adjusted accordingly (Act 36, s. 181(14)).

the lease, the lessee must submit a report establishing that he has conducted mining operations for at least 2 years during the lease's period of validity (MA, s. 104).

In keeping with circular economy principles and to promote the mining of tailings, the Minister may, in the cases prescribed by regulation and if those tailings are economically and technically workable, require the lessee or grantee to mine the mineral substances found in the tailings or impose on the lessee or grantee any measure to promote the mining of tailings (MA, s. 234.1<sup>9</sup>).

The Act states that the annual reports of holders of mining leases and mining concessions shall now include a characterization of the mineral substances found in the tailings derived from the mining project during the previous year (MA, s. 120<sup>10</sup>).

Any person who, on private land, explores, extracts or recovers the tailings referred to in the second paragraph of section 7 of the Act must, in the cases provided for by regulation, and at least 30 days before beginning exploration, extraction or mining operation work, transmit to the Minister a notice that complies with the standards established by regulation. This person must also prepare and submit an annual report in the manner prescribed by regulation (MA, s. 224<sup>11</sup>).

## 16. Mining concessions

The Act 36 sets out new requirements for mining concessions holders.

The grantee shall pay annual duties that will be set by regulation (MA, s. 116.1).

From November 29, 2024, the grantee shall perform mining operation work for at least 2 years for each 10-year period following that date (MA, s. 118).

The grantee is now subject to the requirement to set up a monitoring committee, as mentioned above.

The grantee shall also provide a scoping and market study concerning the integration of the mining operations in a circular economy and the processing in Québec of the mineral substances extracted for the mining of mineral substances determined by regulation and according to the standards prescribed in the regulation. A revised scoping and market study shall be transmitted every 10 years (MA, s. 118.1).

At the request of the grantee, the Minister may convert a mining concession into a mining lease (MA, s. 118.2<sup>12</sup>).

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<sup>9</sup> Section 234.1 will only come into effect when the *Mining Regulation* has been adjusted accordingly (Act 36, s. 181(17)).

<sup>10</sup> The amendments to section 120 will only come into effect when the *Mining Regulation* has been adjusted accordingly (Act 36, s. 181(10)).

<sup>11</sup> *Supra*, note 8.

<sup>12</sup> Section 118.2 will only come into effect when the *Mining Regulation* has been adjusted accordingly (Act 36, s. 181(9)).

## 17. Surface mineral substances

The Act now states that the ministerial authorization or declaration of compliance required under the terms of the [Environment Quality Act](#) is required before a lease to mine surface mineral substances (SMS lease) may be granted, except for peat leases (MA, s. 142).

The Minister may refuse an application for a non-exclusive SMS lease if the loose deposit in question has never been mined, if it has been the subject of rehabilitation and restoration measures or if it contains an insufficient quantity of substances (MA, s. 142.0.1).

To enable prioritization or reconciliation of land uses, in particular for agricultural purposes, and of land preservation, or for a public interest reason, in particular to prevent or limit impacts on local and Indigenous communities, the Minister may now:

- Refuse an application for a SMS lease or its renewal;
- Make the granting or the renewal of a SMS lease subject to conditions and obligations;
- Grant a SMS lease for a smaller area than the one applied for; or
- Terminate a SMS lease or reduce the area subject to it (MA, s. 142.0.2<sup>13</sup>).

The Act states that the SMS listed in section 5 are surrendered to all owners of private lands. This surrender used to be limited to owners whose land had been granted or alienated before 1966 and those whose right to other substances had been revoked since that date. A transitional measure is provided in section 166 of Act 36.

## 18. Financial compensation

Act 36 introduces a financial compensation mechanism when a mining right, a parcel of land used for mining activities or a concentration or processing plant is transferred (MA, s. 232.0.1). This compensation for the harm caused to the environment by the mining activities will support rehabilitation and restoration work. The Minister may waive this compensation if another measure more effectively supports the rehabilitation and restoration of the land. For example, if the new right holder or new owner of the land agrees to take on the rehabilitation and restoration of the land to carry on the activities of the previous holder or owner. This section will not apply in the case of a transfer carried out in accordance with the new section 123.1, which states that the lessee or grantee may not transfer their mining right before the financial guarantee payable has been provided.

The Act now also contains a provision regarding financial compensation for follow-up work on public lands. The Minister may require the payment of financial compensation for the follow-up to the rehabilitation and restoration work that must be carried out on lands in the domain of the State at the end of the rehabilitation and restoration plan (MA, s. 232.10.3).

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<sup>13</sup> Supra, Note 2.



## 19. Civil liability

The Act now provides for a presumption of civil liability for harm or injury caused by a person in the exercise of a mining right or the implementation of a rehabilitation and restoration plan (MA, s. 233.2<sup>14</sup>). In other words, every person is required, irrespective of anyone's fault, for each event determined by regulation and up to the amount prescribed by the regulation, to make reparation for any harm or injury caused through or in the course of his activities in the exercise of a mining right or in the implementation of a rehabilitation and restoration plan. No person may be relieved of liability by proving that the harm or injury resulted from superior force. Only the Government may bring a legal action under this section. The presumption does not apply to harm caused to the environment for which reparation must be made in accordance with a rehabilitation and restoration plan.

The Act now requires holders of mining leases or mining concessions to hold insurance for harm and injury caused by the exercise of their right or in the implementation of the rehabilitation and restoration plan (MA, s. 233.3<sup>15</sup>). The coverage and term of the insurance will be set out in the regulation. The term shall not exceed 15 years from the date on which the holder is released from their rehabilitation and restoration obligations.

For further information, you can contact the Centre de services des mines at [services.mines@mrnf.gouv.qc.ca](mailto:services.mines@mrnf.gouv.qc.ca).

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<sup>14</sup> Section 233.2 will only come into effect when the *Mining Regulation* has been adjusted accordingly (Act 36, s. 181(15)).

<sup>15</sup> Section 233.3 will only come into effect when the *Mining Regulation* has been adjusted accordingly (Act 36, s. 181(16)).