

Significant Changes To The Québec Mining Regime Are Now In Force



Significant amendments to the Québec mining regime tabled by the Government in the spring 2024 were adopted on November 28, 2024, and several of them came into force the next day¹. These changes aim to modernize the legislation in line with current environmental and social concerns, land protection considerations and the rights of Indigenous communities and to address speculation around mining claims.

Restrictions – Mining Exploration on Private Lands

First, additional restrictions make it difficult to conduct mining exploration on private lands. Regional county municipalities already have certain powers since 2013 to designate mining-incompatible territories, but these powers were deemed insufficient by some. Notably, it is no longer possible to register a new claim (now designated “exclusive exploration right”) within any urbanization perimeter delimited in a land use and development plan adopted by a regional county municipality, although the regional county municipality may apply to the Minister for the partial or total lifting of that prohibition, after consulting the local municipality where the withdrawn mineral substances are situated or at that municipality’s request. In addition, it is no longer possible to register a new claim on a private land that is not included within an urbanization perimeter, except

if that parcel of land is subject to a mining right in force or to a notice of map designation received before 28 May 2024. In addition, if, at the time of the expiry, abandonment or revocation of a claim on a private land, exploration work has not been performed, reported, and approved by the Minister since 24 October 1988, it will not be possible to renew that claim or register a new claim on that land.

Additional Requirements – Mining Exploration

Proponents of mining exploration projects are subject to additional information and consultation requirements, but some of the costs related thereto could be, by regulation, included in the minimum work costs required from the claim holders.

Starting on November 29, 2025, to transfer a claim during its first term, its holder will have to show to the Minister that it has performed the minimum work required for that term on the land subject to the claim.

A subtle but potentially significant change is a new power granted to the government to determine, by regulation, conditions for holding a mining right. In her brief accompanying the bill that introduced the amendments, the Minister identified, as potential criteria, holding an environmental certification as well as having completed a preliminary training on mining regulations and relations with the Indigenous peoples of Quebec.

Environmental Assessment

Another key change is that all new mining projects are now subject to the provincial environmental assessment and review procedure, which typically includes an assessment by the *Bureau d'audiences publiques en environnement* (BAPE). This change was supported by the industry.

Critical and Strategic Minerals

The Mining Act now contains provisions on critical and strategic minerals. First, the Minister has the power to designate, by order, certain mineral substances as critical and strategic minerals. Further, the Minister could, in cases determined by regulations and if those tailings are economically and technically workable, require the holder of a mining lease to mine the mineral substances found in tailings or impose on them any measure to promote the mining of tailings, failure to which the Minister could order the suspension of activities for the period he determines.

Restoration Tightened

More stringent provisions around restoration are now in force. Notably, a mining lease or concession cannot be transferred before the financial guarantee covering the anticipated cost of completing the work required under the rehabilitation and restoration plan has been provided to the Minister.

Agreements between the Government and Indigenous communities

Regarding Indigenous communities, the Government can now enter into agreements with them to determine the boundaries of a parcel of land where any mineral substance forming part of the domain of the State would be reserved to the State or be withdrawn from prospecting, mining exploration and mining operations. The goal of these agreements would be to reconcile mining activities with the activities pursued by the communities 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 New Québec territories*. The counterparty to the agreement can be an Indigenous nation represented by all the band councils of the communities forming the Indigenous nation, the Makivik Corporation, the Kativik Regional Government, the Cree Nation Government, or any Indigenous community represented by its band council, northern village council, Cree village council or Naskapi village council.

New No-fault Civil Liability Regime

Finally, a no-fault civil liability regime for any harm or injury caused through or during a person's activities in the exercise of a mining right or in the implementation of a rehabilitation and restoration plan was introduced. Since the liability cap will be provided for in future regulations, the scope of these new provisions, and their intersection with the rules of the *Civil Code of Québec*, is difficult to assess at this stage.

The reform of Québec's mining regime is a significant development. It was adopted in a context where some key aspects of the provincial mining regime are challenged in front of the courts in Ontario, British Columbia and Québec, by the Mitchikanibikok Inik First Nation (Algonquins of Barriere Lake) in the latter case.

McMillan is well-equipped to assist the mining industry in navigating these changes and will closely monitor the publication of draft regulations and guidance.

Footnote

1 An Act to amend the Mining Act and other provisions, SQ, c. 36.

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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