

Ontario's Modernized Mining Act Mineral Tenure and Private Property Rights

Timing of The Changes

In effect at royal assent:

A revised purpose clause that encourages prospecting, staking and exploration for the development of mineral resources, in a manner consistent with the recognition and affirmation of existing Aboriginal and treaty rights in section 35 of the Constitution Act, 1982, including the duty to consult, and to minimize the impact of these activities on public health and safety and the environment.

Automatic withdrawal of Crown mineral rights under privately held surface rights in Southern Ontario.

Updated provisions for offences under the Mining Act.

Updated provisions for administering diamond royalties.

In effect after regulations are developed:

Within 1 Year

Introduction of paper staking in Southern Ontario

Criteria for application to withdraw Crown mineral rights under privately held surface rights in Northern Ontario

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One objective in modernizing the Mining Act is to mitigate the conflicts that have arisen between the mineral industry and private land holders who do not hold the mineral rights on their properties.

The modernized Mining Act addresses the concerns of private landholders while supporting a vibrant mineral industry that will help many Ontario communities realize their economic and social aspirations.

The legislation passed third reading on October 21, 2009 after extensive review through hearings held by the Standing Committee on General Government. The resulting Mining Amendment Act, 2009, received royal assent on October 28, 2009.

Ontario's revised Mining Act will mitigate conflicts where private surface rights owners do not hold the mining rights on their lands. These changes will address the concerns of private property owners, provide clear rules to the exploration industry, and reduce the impact of mineral exploration on the environment.

AUTOMATIC WITHDRAWALS IN SOUTHERN ONTARIO

Lands with private surface rights and Crown mining rights that are open for staking represent only 1.4 per cent of the land in Southern Ontario and less than one per cent of Northern Ontario's landmass. However, the government recognizes that this has been a frustrating and worrisome issue for some land owners.

In Southern Ontario, where surface rights are privately held, the revised Mining Act automatically withdraws Crown-held mining rights from staking. Existing claims and leases are respected, however should those claims or leases ultimately revert back to the Crown, those mining rights will be automatically withdrawn. Private landowners will have the option of applying to the Minister of Northern Development, Mines and Forestry to have the withdrawn mineral rights re-opened for staking and exploration. These provisions for Southern Ontario are in effect as of royal assent

Over the next 12 months, we will also be introducing a paper staking system in Southern Ontario allowing claims to be staked on open Crown land without entering onto or disturbing the surface of the land.

In Northern Ontario, private land holders can apply to have Crown-held mining rights withdrawn from staking. The province will consider criteria such as mineral potential before deciding whether to grant the withdrawals. Again, existing claims and leases will be respected. These provisions for Northern Ontario will not be in effect at royal assent, as the criteria for assessing the appropriateness of the withdrawal is to be determined through the development of regulations.

The revised Mining Act also provides for an expanded list of lands not open for staking without the Minister's consent, broadening consideration for the privacy of residential and cottage properties beyond those set out as lots on a registered plan

of subdivision. Additionally, for private property that remains open for staking, surface rights owners will be notified if a claim has been recorded on their property, and there will be requirements for exploration plans and permits prior to undertaking exploration activities on these lands.

MINING LAND TAX EXEMPTION

A further amendment will allow owners of property that was originally granted by the Crown as mining land, who are not using that land for mining purposes, to apply for an exemption from the mining land tax.

NEXT STEPS

Much of the revised Mining Act enables processes that will be detailed in the regulations. The government will begin the process to consult and develop the appropriate content for these regulations. Through regulations the government will lead development of:

A Prospectors Awareness Program for new applicants and current holders of prospectors' licences. This is to ensure that prospectors are aware of the new provisions of the Mining Act, including Aboriginal engagement and consultation, reclamation of exploration sites, and rules for staking claims and exploring for minerals on private lands.

Exploration plans and permits that regulate earlier stages of exploration to ensure that exploration activities will be carried out with the appropriate considerations for Aboriginal consultation, private landowners' interests and remediation of disturbances to the land.

A map staking regime that maintains a competitive system for acquiring mining claims in Ontario, while eliminating the need for prospectors to enter onto lands in order to stake claims.

CONTINUING THE DIALOGUE

In developing a modernized Mining Act to promote balanced mineral sector development that benefits all Ontarians, we listened. We respected the input from stakeholders, and reflected that input in our amendments.

Our consultation process has not ended. As we develop regulations, the ministry will continue to provide opportunity for further input from stakeholder groups, Aboriginal organizations and the public to ensure that the balance achieved in the legislation is reflected in the regulatory framework for the minerals industry in Ontario. Different sections of the amending act will be proclaimed in force as relevant details are developed.

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A revised list of lands not open to claim staking and exploration.

Updated provisions to allow surface rights on claims to be used for other purposes such as renewable energy projects and protecting sites of Aboriginal cultural significance.

Within 2 to 3 Years

Exploration plans and permits that regulate earlier stages of exploration to ensure that exploration activities will be carried out with the appropriate considerations for Aboriginal consultation, private landowners' interests and remediation of disturbances to the land. Aboriginal consultation will be updated throughout the mining sequence.

An awareness program for holders of prospectors' licences, to inform prospectors of their obligations and best practices under the new Mining Act. This will include information on requirements regarding aboriginal engagement and consultation, reclamation of exploration sites, and rules for staking claims and exploring for minerals on private lands.

Within 3 to 5 Years

Online map staking regime that maintains a competitive system for acquiring mining claims in Ontario.

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