1980

c 268 Mining Act

Ontario
CHAPTER 268
Mining Act

1. In this Act,

1. "agent", when used in Parts IX and XI, means a person having, on behalf of the owner, the care or direction of a mine or plant or a part thereof; R.S.O. 1970, c. 274, s. 1, par. 1.

2. "Commissioner" means the Mining and Lands Commissioner appointed under the Ministry of Natural Resources Act; R.S.O. 1970, c. 274, s. 1, par. 2; 1973, c. 105, ss. 3, 4.


4. "Crown land" does not include land in the actual use or occupation of the Crown, or of a public department of the Government of Canada or of Ontario, or of an officer or servant thereof, or under lease or licence of occupation from the Crown or the Minister of Natural Resources, or set apart or appropriated by lawful authority for a public purpose or vested in The Ontario Northland Transportation Commission; R.S.O. 1970, c. 274, s. 1, pars. 3, 4.

5. "Deputy Minister" means the Deputy Minister of Natural Resources; R.S.O. 1970, c. 274, s. 1, par. 6; 1972, c. 4, s. 12.

6. "Director" means the Director of the Lands Management Branch; 1973, c. 106, s. 1 (1).

7. "holder", when referring to the holder of an unpatented mining claim, a boring permit, a quarry permit or a licence of occupation issued under this Act, means the holder of record;

8. "in place", when used in reference to mineral, means in the place or position where originally formed in the solid rock, as distinguished from being in loose, fragmentary or broken rock, boulders, float, beds or deposits of gold or platinum-bearing sand, earth, clay, or gravel, or placer; R.S.O. 1970, c. 274, s. 1, pars. 8, 9.
9. "inspector" includes "engineer" as defined in clause 160 (a), a geologist on the staff of the Ministry and any other officer or agent designated by the Minister to carry out an inspection or investigation relating to the mining industry; R.S.O. 1970, c. 274, s. 1, par. 10; 1972, c. 1, s. 1.

10. "lease" means a leasehold patent; R.S.O. 1970, c. 274, s. 1, par. 11.

11. "licensee" means a person, mining partnership or company holding a prospector's licence issued under this Act or a renewal thereof; R.S.O. 1970, c. 274, s. 1, par. 12; 1972, c. 116, s. 1 (1).

12. "machinery" includes steam and other engines, boilers, compressors, furnaces, milling and crushing apparatus, hoisting and pumping equipment, chains, trucks, tramways, tackle, blocks, ropes and tools, and all appliances used in or about or in connection with a mine or plant; R.S.O. 1970, c. 274, s. 1, par. 13.

13. "metal tag" means the metal tag supplied by the mining recorder or a substitute therefor supplied by the Ministry; R.S.O. 1970, c. 274, s. 1, par. 14; 1972, c. 1, s. 1.

14. the noun "mine", except as defined in Part IX, includes any opening or excavation in, or working of the ground for the purpose of winning, opening up or proving any mineral or mineral-bearing substance, and any ore body, mineral deposit, stratum, rock, earth, clay, sand or gravel, or place where mining is or may be carried on, and all ways, works, machinery, plant, buildings and premises below or above ground belonging to or used in connection with the mine, and also any quarry, excavation or opening of the ground made for the purpose of searching for or removal of mineral rock, stratum, earth, clay, sand or gravel and any roasting or smelting furnace, concentrator, mill, work or place used for or in connection with washing, crushing, sifting, reducing, leaching, roasting, smelting, refining, treating or research on any of such substances;

15. the verb "mine" and the word "mining", except as defined in Part IX, include any mode or method of working whereby the earth or any rock, stratum, stone or mineral-bearing substance may be disturbed, removed, washed, sifted, leached,
roasted, smelted, refined, crushed or dealt with for the purpose of obtaining any mineral therefrom, whether it has been previously disturbed or not;

16. "minerals" includes gold and silver, all rare and precious metals and coal, natural gas, oil and salt;

17. "mining lands" includes the lands and mining rights patented or leased under or by authority of a statute, regulation, or order in council, respecting mines, minerals or mining, and also lands or mining rights located, staked out, used or intended to be used for mining purposes;

18. "mining rights" means the ores, mines and minerals on or under any land where they are or have been dealt with separately from the surface; R.S.O. 1970, c. 274, s. 1, pars. 15-19.

19. "Minister" means the Minister of Natural Resources; R.S.O. 1970, c. 274, s. 1, par. 20; 1972, c. 4, s. 12.

20. "Ministry" means the Ministry of Natural Resources; R.S.O. 1970, c. 274, s. 1, par. 5; 1972, c. 4, s. 12.

21. "owner", when used in Parts IX and XI, includes every person, mining partnership and company being the immediate proprietor or lessee or occupier of a mine or plant, or a part thereof, or of any land located, patented or leased as mining land, but does not include a person or a mining partnership or company receiving merely a royalty, rent or fine from a mine, plant or mining lands, or being merely the proprietor of a mine, plant or mining lands subject to a lease, grant or other authority for the working thereof, or the owner of the surface rights and not of the ore or minerals; R.S.O. 1970, c. 274, s. 1, par. 21.

22. "patent" means a grant from the Crown in fee simple or for a less estate made under the Great Seal, and includes leasehold patents and freehold patents, but in sections 4, 28, 62, 96, 97, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 181, 182, 190, 194, 197 and 204 the meaning is limited to freehold patents; R.S.O. 1970, c. 274, s. 1, par. 22; 1972, c. 116, s. 1 (2).
23. "prescribed" means prescribed by or under the authority of this Act;

24. "recorder" means the mining recorder of the mining division in which is situate the land in respect of which an act, matter or thing is to be done;

25. "regulations" means the regulations made under this Act; R.S.O. 1970, c. 274, s. 1. pars. 23-25.

26. "Supervisor" means the Supervisor of the Mining Lands Section; 1973, c. 106, s. 1 (2).

27. "surface rights" means every right in land other than the mining rights;

28. "unpatented", when referring to land or mining rights, means land or mining rights for which a patent, lease, licence of occupation or any other form of Crown grant is not in effect;

29. "unpatented mining claim" means a mining claim that is in good standing and for which the Crown has not issued a patent, lease or licence of occupation;

30. "valuable mineral in place" means a vein, lode or deposit of mineral in place appearing at the time of discovery to be of such a nature and containing in the part thereof then exposed such kind and quantity of mineral or minerals in place, other than limestone, marble, clay, marl, peat or building stone, as to make it probable that the vein, lode or deposit is capable of being developed into a producing mine likely to be workable at a profit. R.S.O. 1970, c. 274, s. 1, pars. 27-30.

2. Nothing in this Act affects the sale, lease or location, for agricultural or other purposes, of any land opened for sale or free grant under the Public Lands Act or otherwise. R.S.O. 1970, c. 274, s. 2.

3. The Lieutenant Governor in Council may make regulations prescribing forms and providing for their use. R.S.O. 1970, c. 274, s. 3.
PART I
ADMINISTRATION

4.—(1) All public lands for mining purposes and for the purposes of the mineral industry and all regulations made with respect to mines or minerals or mining or mining lands or mining rights or the mineral industry shall be administered by the Minister.

(2) All patents, leases, licences or other instruments of title and all agreements, contracts or other writings relating to mines or minerals or mining lands or mining rights or the mineral industry shall be signed and executed by the Minister or by the Deputy Minister. R.S.O. 1970, c. 274, s. 7.

5. The Lieutenant Governor in Council may appoint such officers and agents as he considers necessary, who shall be officers of the Ministry and shall perform such duties as are assigned to them by this Act or by the regulations. R.S.O. 1970, c. 274, s. 8; 1972, c. 1, s. 1.

6.—(1) The Lieutenant Governor in Council may appoint for each mining division a mining recorder, who shall be an officer of the Ministry. R.S.O. 1970, c. 274, s. 9 (1); 1972, c. 1, s. 1.

(2) Where a mining recorder is absent because of illness or for any other reason, the Minister may appoint in writing a person to act as mining recorder pro tempore, but such person shall exercise only such of the duties of the recorder as are defined in the appointment.

(3) Where a mining recorder is absent because of illness or for any other reason and no appointment is made under subsection (2), the Supervisor is pro tempore mining recorder for that division and may exercise all of the duties of the recorder. R.S.O. 1970, c. 274, s. 9 (2, 3).

7. Every recorder shall keep such books for the recording of mining claims, applications and other entries therein as are directed by the Minister, and such books shall be open to inspection by any person on payment of a fee of 25 cents for each claim or application examined, and every recorder shall also keep displayed in his office one or more maps showing the territory included in his mining division and shall mark thereon all claims as they are
recorded, and there shall be no charge for examining such
map or maps. R.S.O. 1970, c. 274, s. 10.

8. Every document filed in the recorder's office shall,
during office hours, be open to inspection by anyone on
payment of the prescribed fee. R.S.O. 1970, c. 274, s. 11.

9. Every copy of or extract from an entry in any
of such books, and of any document filed in the recorder's
office, certified to be a true copy or extract by the recorder,
shall be received in any court as prima facie evidence
of the matter certified by him without proof of his
appointment, authority or signature. R.S.O. 1970, c. 274,
s. 12.

10. Notwithstanding anything in the Public Service Act,
the Minister may employ any professor, instructor, or other
person to investigate the mineral resources of Ontario, or
for any work in connection with this Act, and may pay
him for such services at such rate as is agreed upon,
out of the moneys that are appropriated by the Legis-
lature for that purpose. R.S.O. 1970, c. 274, s. 13.

11.—(1) An inspector may enter upon any lands for
the purpose of gathering information respecting minerals
or mineral rights and may enter any structure or works
for the purpose of gathering information respecting ore
and may take therefrom representative samples of minerals
and ore sufficient for the purpose of testing or analysis.

(2) An inspector shall be deemed to be an officer appointed
under this Act for the purposes of section 172. R.S.O. 1970,
c. 274, s. 14.

12.—(1) No officer appointed under this Act shall directly
or indirectly, by himself or by any other person, purchase
or become interested in any mining lands, mining rights
or mining claims situate in Ontario, and any such purchase
or interest is void.

(2) Any officer contravening any provision of subsection
(1) forfeits his office and is, in addition thereto, liable to a
penalty of $500 to be recovered in any court of competent
jurisdiction by any person who sues for it. R.S.O. 1970,
c. 274, s. 15.

13.—(1) The Commissioner, Director and Supervisor are ex
officio justices of the peace for every county and district in Ontario
and a recorder in his division is *ex officio* a justice of the peace for the county or district in which any part of his division lies, and it is not necessary that they possess any residential or property qualification. R.S.O. 1970, c. 274, s. 18 (1); 1972, c. 1, s. 1, revised.

(2) Every mining recorder is *ex officio* a commissioner for taking affidavits in Ontario. R.S.O. 1970, c. 274, s. 18 (2), revised.

14. The Lieutenant Governor in Council may divide the Province into mining divisions and may alter the number, limits or extent thereof. R.S.O. 1970, c. 274, s. 20.

15.—(1) Except as in this Act otherwise provided, the recorder’s office is the proper office for filing and recording all applications, documents and other instruments required or permitted to be filed or recorded under this Act, affecting any unpatented mining claim or any right, privilege or interest that may be acquired under this Act respecting an unpatented mining claim, and all such applications, documents and instruments may, before patent, be filed or recorded in such office, but, after patent, the *Land Titles Act* or the *Registry Act*, as the case may be, applies.

(2) Except as in this Act otherwise provided, the Minister’s office is the proper office for filing and recording all applications, documents and other instruments required or permitted to be filed or recorded under this Act, affecting any mining licence of occupation or any right, privilege or interest that may be acquired under this Act respecting a mining licence of occupation, or affecting any grant under this Act or the regulations that is not a grant that may be registered under the *Land Titles Act* or the *Registry Act* or affecting any right, privilege or interest that may be acquired under this Act respecting such a grant, and the Minister may authorize an officer or officers to receive, scrutinize, approve and record any such applications, documents and other instruments. R.S.O. 1970, c. 274, s. 21.

16. Where a part of Ontario is not included in a mining division or if there is no recorder for a mining division, all applications shall be made to the Ministry and all duties and powers of the recorder shall be performed and exercised by the Deputy Minister, and all acts, matters and things that in a mining division are to be done by or before a recorder shall be done by or before the Deputy Minister, and all such acts, matters and things that are to be done in the office of the recorder shall be done at the Ministry. R.S.O. 1970, c. 274, s. 22; 1972, c. 1, s. 1.
17. Upon the issue of a patent by the Crown of mining lands or mining rights, the Minister shall give notice thereof to the recorder of the mining division in which the lands included in the patent are situate, and the recorder shall keep in his office a list of all such lands. R.S.O. 1970, c. 274, s. 23.

18.—(1) No person or company not the holder of a prospector's licence shall prospect for minerals upon Crown lands or lands of which the mining rights are in the Crown, or stake out, record or acquire any unpatented mining claim, or area of land for boring permit, or acquire any right or interest therein. R.S.O. 1970, c. 274, s. 24 (1); 1972, c. 116, s. 2 (1).

(2) A clerk or employee of a licensee performing clerical, manual or other services of like nature shall not be required to be the holder of a prospector's licence. R.S.O. 1970, c. 274, s. 24 (2); 1972, c. 116, s. 2 (2).

19.—(1) Any person over eighteen years of age and, subject to subsection (8), any company, is entitled to obtain a prospector's licence upon application therefor in the prescribed form and upon payment of the prescribed fee. R.S.O. 1970, c. 274, s. 25 (1); 1972, c. 116, s. 3.

(2) The licence shall be dated on the day of the issue thereof and it expires at midnight on the 31st day of March then next ensuing.

(3) Subject to subsection (4), the licence is not valid unless it is signed by the holder thereof in the space provided on the licence.

(4) Where the licensee is a company, the licence shall be signed by the president or secretary of the company.

(5) The licence is not transferable.

(6) Licences to companies shall be issued only by the Minister or by the Deputy Minister.

(7) Licences to individuals may be issued by the Minister or the Deputy Minister or by any recorder. R.S.O. 1970, c. 274, s. 25 (2-7).

(8) Where a company,
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(a) incorporated in Ontario, satisfies the Minister that it is so incorporated; or

(b) incorporated outside Ontario, satisfies the Minister that it is so incorporated and that it is not required to be licensed under Part VIII of the Corporations Act; or

(c) other than a company coming within clause (a) or (b), files with the Ministry a copy of the licence authorizing it to transact business or hold land in Ontario verified by an affidavit of an officer of the company,

a licence shall be issued to the company. R.S.O. 1970, c. 274, s. 25 (8); 1972, c. 1, s. 1.

20. Every prospector's licence shall be numbered, and shall also be lettered with a letter of the alphabet to indicate the office from which it was issued. R.S.O. 1970, c. 274, s. 26; 1972, c. 116, s. 4.

21. A prospector's licence held by a company does not entitle any shareholder, officer or employee thereof to the rights or privileges of a licensee and shall not be used for the staking of mining claims. R.S.O. 1970, c. 274, s. 27; 1972, c. 116, s. 5.

22.—(1) A licensee is entitled to a renewal of his licence before its expiration upon making application therefor in the prescribed form and paying the prescribed fee, except as provided under subsection (5). R.S.O. 1970, c. 274, s. 28 (1); 1971, c. 102, s. 1 (1).

(2) Licences to companies may be renewed by the Minister or the Deputy Minister, and licences to individuals may be renewed by the Minister or the Deputy Minister or by any recorder. R.S.O. 1970, c. 274, s. 28 (2).

(3) The renewal shall bear date on the 1st day of April and shall be deemed to have been issued and shall take effect immediately upon the expiration of the licence of which it is a renewal, or of the last preceding renewal, as the case may be, except as provided under subsection (5). R.S.O. 1970, c. 274, s. 28 (3); 1971, c. 102, s. 1 (2).

(4) The renewal shall bear the same number and letter as the original licence and, after it comes into effect, it
shall be deemed to be the licence of the licensee. R.S.O. 1970, c. 274, s. 28 (4).

(5) The Minister shall renew the licence of a person who has held a licence continuously for twenty-five years, without fee, and the licence shall remain in good standing during the lifetime of the licensee and shall expire at 12 o’clock midnight of the day of death of the licensee. 1971, c. 102, s. 1 (3).

23.—(1) If a prospector’s licence is accidentally destroyed or lost, the holder may,

(a) upon proof by statutory declaration that the original has been destroyed or lost and setting out the circumstances thereof; and

(b) upon payment of the prescribed fee,

obtain a duplicate thereof from the office of the Minister, Deputy Minister or any recorder. R.S.O. 1970, c. 274, s. 29 (1); 1972, c. 116, s. 6.

(2) Every such duplicate shall be marked “substituted licence” and shall bear the same date and number as the original licence. R.S.O. 1970, c. 274, s. 29 (2).

24.—(1) No person or company shall apply for or hold more than one prospector’s licence. R.S.O. 1970, c. 274, s. 30 (1); 1972, c. 116, s. 7.

(2) A contravention of this section is an offence against this Act, but, where the Minister is satisfied that there was no improper intent and upon surrender of the unnecessary licence or licences, the Minister may relieve from the penalty and may direct a refund of the fee or fees paid. R.S.O. 1970, c. 274, s. 30 (2).

25. Every licensee shall upon demand produce and exhibit his licence to an inspector or a recorder. R.S.O. 1970, c. 274, s. 31.

26. Where application for a licence or a renewal of a licence is made during the absence of a recorder from his office, the applicant may leave with the person in charge of the office his application and such documents as he is required to produce in order to obtain the licence or
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renewal and the prescribed fee, and in every such case the licence or renewal when issued is as effective as if obtained at the time of the application, and the licence shall bear that date. R.S.O. 1970, c. 274, s. 32.

27.—(1) Where the Commissioner finds, after a hearing, that a licensee has been guilty of a wilful contravention of any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the Commissioner, revoke the licence of the licensee and a licence shall not thereafter be issued to such licensee without the authority of the Minister. 1971, c. 50, s. 58 (2), part.

(2) Where a licence is revoked under subsection (1), the Minister shall determine and notify the holder of the licence revoked of the period of time during which a licence shall not be issued to him. R.S.O. 1970, c. 274, s. 34 (2).

(3) Where a recorder finds, after a hearing, that a licensee has contravened any of the provisions of this Act or the regulations, the Minister may, upon the recommendation of the recorder, suspend the licence of the licensee. 1971, c. 50, s. 58 (2), part.

(4) Where a licence is suspended under subsection (3), the Minister shall determine and notify the holder of the licence suspended of the period of time during which his licence is suspended.

(5) While a licence is suspended under subsection (3), the licensee may renew his licence or transfer claims to another licensee or report work, but he may not stake out or apply for a mining claim or acquire an unpatented mining claim or interest therein through transfer or obtain an extension of time in which to perform work or in which to apply for lease on any unpatented mining claim recorded in his name. R.S.O. 1970, c. 274, s. 34 (4, 5).

(6) A finding by the Commissioner that a licensee has wilfully contravened this Act or the regulations or by a recorder that a licensee has contravened this Act or the regulations, as the case may be, may be appealed in a like manner as any decision of the Commissioner or recorder, respectively, and the Minister shall give effect to the decision on the appeal. 1971, c. 50, s. 58 (3).
28. Except where otherwise provided, the holder of a prospector’s licence may prospect for minerals and stake out a mining claim on any,

(a) Crown lands, surveyed or unsurveyed;

(b) lands, the mines, minerals or mining rights whereof have been reserved by the Crown in the location, sale, patent or lease of such lands where they have been located, sold, patented or leased after the 6th day of May, 1913, not at the time,

(c) under staking or record as a mining claim that has not lapsed or been abandoned, cancelled or forfeited; or

(d) withdrawn by any Act, order in council, or other competent authority from prospecting, location or sale, or declared by any such authority to be not open to prospecting, staking out or sale as mining claims. R.S.O. 1970, c. 274, s. 35; 1972, c. 116, s. 9.

29. A licensee may stake out a mining claim on any land open for prospecting and, subject to the other provisions of this Act, may work such claim and transfer his interest therein to another licensee; but, where the surface rights in the land have been granted, sold, leased or located by the Crown, compensation must be made as provided by section 92. R.S.O. 1970, c. 274, s. 36.

30. No mining claim shall be staked out or recorded upon any land transferred to or vested in the Ontario Northland Transportation Commission without the consent of the Commission nor, except with the consent of the Minister,

(a) upon any land reserved or set apart as a town site by the Crown;
(b) upon any land laid out into town or village lots on a registered plan by the owner thereof;

(c) upon any land forming the station grounds, switching grounds, yard or right of way of a railway; or

(d) upon any colonization or other road or road allowance. R.S.O. 1970, c. 274, s. 37.

31. No mining claim shall be staked out or recorded upon any land, that, without reservation of the minerals, has been sold, located, leased or included in a licence of occupation; or

(b) for which a bona fide application is pending in the Ministry under the Public Lands Act, or otherwise, and the applicant may acquire the minerals; or

(c) where the surface rights have been subdivided, surveyed, sold or otherwise disposed of by the Ministry for summer resort purposes, except where the Minister certifies in writing that in his opinion discovery of valuable mineral in place has been made; or

(d) where the Minister or the Minister of Transportation and Communications certifies that land is required for the development of water power or for a highway or for some other purpose in the public interest and the Minister is satisfied that a discovery of mineral in place has not been made thereon; or

(e) in an Indian reserve, except as provided by The Indian Lands Act, 1924; or

(f) while proceedings in respect thereto are pending before the Supreme Court, the Commissioner or a recorder. R.S.O. 1970, c. 274, s. 38; 1972, c. 1, ss. 1, 100 (2); 1972, c. 4, s. 12.

32. Prospecting or the staking out of mining claims or the development of mineral interests or the working of mines in provincial parks is prohibited except as provided by the regulations made under the Provincial Parks Act. R.S.O. 1970, c. 274, s. 39.

33.—(1) Notwithstanding that the mines or minerals therein have been reserved to the Crown, no person or
company shall prospect for minerals or stake out a mining claim upon the part of a lot that is used as a garden, orchard, vineyard, nursery, plantation or pleasure ground, or upon which crops that may be damaged by such prospecting are growing, or on the part of a lot upon which is situated a spring, artificial reservoir, dam or waterworks, or a dwelling house, outhouse, manufactory, public building, church or cemetery, except with the consent of the owner, lessee, purchaser or locatee of the surface rights, or by order of the recorder or the Commissioner, and upon such terms as to him seem just.

(2) If a dispute arises between the intending prospector and the owner, lessee, purchaser or locatee as to land that is exempt from prospecting or staking out under subsection (1), the recorder or the Commissioner shall determine the extent of the land that is so exempt. R.S.O. 1970, c. 274, s. 40.

34. A water power lying within the limits of a mining claim, which at low water mark in its natural condition is capable of producing 150 horsepower or upwards, shall not be deemed to be part of the claim for the use of the licensee, and a road allowance of one chain in width shall be reserved on both sides of the water together with such additional area of land as in the opinion of the recorder or the Commissioner may be necessary for the development and utilization of such water power. R.S.O. 1970, c. 274, s. 41.

35. Where a mining claim adjoins or is adjacent to a highway or road maintained by the Ministry of Transportation and Communications, no surface mining operations shall be carried on within 150 feet of the limits of the highway or road except with the consent in writing of the Minister. R.S.O. 1970, c. 274, s. 42; 1972, c. 1, s. 100 (2).

36.—(1) The Minister, or an officer appointed under this Act and designated by the Minister, may by an order signed by him,

(a) withdraw from prospecting and staking out and from sale or lease any lands, mining rights or surface rights that are the property of the Crown; and

(b) reopen for prospecting and staking out and for sale or lease any lands, mining rights or surface rights that have been withdrawn under this Act.
(2) Where the Minister or the officer makes an order under subsection (1), he shall within twenty-four hours of the date of the order mail a copy of the order to the recorder of the mining division in which the lands, mining rights or surface rights are situate.

(3) Upon receipt of the copy of the order, the recorder shall forthwith post up in his office a notice of the order and file the copy of the order in his office.

(4) Lands, mining rights or surface rights withdrawn under this section, until reopened by the Minister or the officer, shall remain withdrawn, and shall not be prospected, staked out, occupied or worked except under subsection (5).

(5) The Lieutenant Governor in Council may direct that the mines and minerals in lands, mining rights or surface rights, or in any part thereof, withdrawn under this section may be worked by or on behalf of the Crown.

(6) An order under subsection (1) shall be deemed not to be a regulation within the meaning of the Regulations Act. R.S.O. 1970, c. 274, s. 43.

37.—(1) Every officer appointed or acting under this Act and every assistant of such officer who makes a discovery of valuable mineral upon any lands or mining rights open to prospecting and staking out as a mining claim shall stake out and record a parcel thereof of the size and form of a mining claim on behalf of the Crown, and no licence is required for that purpose.

(2) No proceeding is necessary for such staking out except to plant posts and blaze lines as provided in respect to a mining claim, but the officer or assistant shall mark upon No. 1 post the words “Staked out for the Crown”, and within the time limited by this Act for recording the claim shall notify the recorder of the staking out, giving the date of staking out and the description of the property.

(3) The recorder, upon receiving such notice, shall enter the parcel of land upon his record book as staked out on behalf of the Crown, and shall mark it upon his map with the letter “C”, and after such staking out the parcel is not open to staking out or recording. R.S.O. 1970, c. 274, s. 44.

38. Land or mining rights staked out on behalf of the Crown, and land or mining rights reserved or withdrawn from prospecting, staking out, or sale as mining claims...
may be worked, sold, leased or granted by the Crown or worked under an agreement or arrangement with the Crown in such manner and upon such terms and conditions and for such price as is provided by the Lieutenant Governor in Council. R.S.O. 1970, c. 274, s. 45.

39. Before beginning or carrying on any work prescribed by this Act on a mining claim, the holder thereof, in addition to any other requirement, shall obtain a written permit entitling him so to do as provided in the *Forest Fires Prevention Act*. R.S.O. 1970, c. 274, s. 47.

**SIZE AND FORM OF MINING CLAIMS**

40. A mining claim in unsurveyed territory shall be laid out with boundary lines running north and south and east and west astronomically and the measurements thereof shall be horizontal, and in a township surveyed into lots or quarter sections or subdivisions, of a section, a mining claim shall be such part of a lot or quarter section or subdivision of a section as is hereinafter defined, and the boundaries of all mining claims shall extend downwards vertically on all sides. R.S.O. 1970, c. 274, s. 48.

41.—(1) Where the Minister certifies that land is suitable for disposition for agricultural purposes, a mining claim staked thereon does not give the staker any right, title or interest in or to the surface rights.

(2) Where surface rights on any such land are necessary to the carrying on of mining operations, the Minister may determine the part of the surface rights so required and, if not previously disposed of, may sell or award the surface rights or such part thereof to the claim holder as he considers essential to the efficient carrying on of mining operations, and he may require the claim holder to have such surveys made at the expense of the claim holder as he considers proper. R.S.O. 1970, c. 274, s. 49.

42.—(1) In unsurveyed territory, a mining claim shall be a square of 40 acres, being 20 chains (1,320 ft.) on each side.

(2) In a township surveyed into sections of 640 acres subdivided into quarter sections or subdivisions containing 160 acres or thereabouts, a mining claim shall consist of the
northeast quarter, the northwest quarter, the southeast quarter or the southwest quarter of a quarter section or subdivision, and shall contain 40 acres or thereabouts.

(3) In a township surveyed into lots of 320 acres, a mining claim shall consist of the northwest quarter of the north half, the northeast quarter of the north half, the southwest quarter of the north half, the southeast quarter of the north half of a lot, or any like subdivision of the south half of a lot, and shall contain 40 acres or thereabouts.

(4) In a township surveyed into lots of 200 acres, a mining claim shall consist of the northeast quarter, the southwest quarter, the northwest quarter or the southeast quarter of a lot, and shall contain 50 acres or thereabouts.

(5) In a township surveyed into lots of 150 acres, a mining claim shall consist of the northeast quarter, the southeast quarter, the northwest quarter or the southwest quarter of a lot, and shall contain 37 1/2 acres or thereabouts.

(6) In a township surveyed into lots of 100 acres, a mining claim shall consist of the north half, the south half, the east half or the west half of a lot, and shall contain 50 acres or thereabouts. R.S.O. 1970, c. 274, s. 50.

43.—(1) In unsurveyed territory, an irregular area of land lying between land not open to be staked out, or bordering on water, may be staked out with boundaries coterminous thereto, but the claim shall be made to conform as nearly as practicable to the prescribed form and area and shall not exceed the prescribed area.

(2) In a surveyed township where, by reason of land covered with water being excluded from the area of a lot, quarter section of subdivision of a section, or by reason of the lot, quarter section or subdivision being irregular in form, or from any other cause, it is impossible to stake out a mining claim of the prescribed area in accordance with the foregoing provisions of this Act, the mining claim shall as nearly as is practicable be of the prescribed form and area, and shall have such, if any, of its boundaries as can be so made coincident with boundary lines of the lot, quarter section or subdivision of a section, and shall have as many as possible of its boundaries that are not so coincident parallel to boundaries of the lot, quarter section or subdivision which are straight lines, and, where necessary to procure the prescribed area, the mining claim may extend into any part of the lot or quarter section or subdivision of a section, but not into any other lot or quarter section.
or subdivision of a section, and land lying between parcels of land not open to be staked out or between such land and a boundary or boundaries of the lot, quarter section or subdivision of a section may be staked out with boundaries coterminous thereto, but the claim shall be made to conform as nearly as practicable to the prescribed form and area and shall not exceed the prescribed area.

(3) In unsurveyed territory, land covered with water may be included in a claim in the same way as land not covered with water, and in a surveyed township, land covered with water that would, if not covered with water, have been comprised in the area of the lot, quarter section or subdivision of a section, or have constituted a lot, quarter section or subdivision of a section, may be included in a claim as if it were in fact part of such lot, quarter section or subdivision of a section.

(4) Where a claim includes land covered with or bordering on water, there may be reserved for the Crown the surface rights not exceeding 400 feet in width from the high water mark. R.S.O. 1970, c. 274, s. 51 (1-4).

(5) Where a claim is traversed by a highway or road constructed or maintained by the Ministry of Transportation and Communications, there may be reserved for the Crown the surface rights not exceeding 300 feet in width along both sides of the highway or road, such reservation to be measured from the outside limits of the right of way of the highway or road. R.S.O. 1970, c. 274, s. 51 (5); 1972, c. 1, s. 100 (2).

(6) The reservations of surface rights authorized by subsections (4) and (5) shall be deemed to apply to and to have been made on all unpatented mining claims unless such reservation or reservations are waived by the Minister. R.S.O. 1970, c. 274, s. 51 (6).

44.—(1) Notwithstanding the provisions of a licence of occupation, a minimum annual rental of $1 an acre but not less than $5 a year, payable in advance, shall be paid for the licence of occupation.

(2) Where a licence of occupation does not specify a date for the payment of the annual rental, the annual rental shall be paid on the anniversary of the effective date of the licence. 1972, c. 116, s. 11 (1), part.
(3) Where payment of the rental under any such licence is in arrears for two years or more, the licence may be terminated by an instrument in writing, and all rights and powers therein contained as well as all rights and claims of the licensee, his successors or assigns, in or to the lands covered by the licence, cease, but the lands or mining rights contained therein are not open for prospecting, staking out, sale or lease under this Act until a date fixed by the Deputy Minister, at least two weeks notice of which shall be published in The Ontario Gazette.

(4) Where there is no adverse interest, the Minister may, upon such terms as he considers just, reinstate a licence terminated under subsection (3).

(5) A licence or the term or terms thereby created is not transferable without the written consent of the Minister or an officer duly authorized by him. R.S.O. 1970, c. 274, s. 52 (4-6).

(6) The holder of a licence of occupation, upon application in writing therefor and upon the surrender of his licence of occupation, may be issued a lease under section 94 and the rental for each year of the term thereof shall be that prescribed by section 94 for years subsequent to the first year of a term under that section.

(7) This section applies only to a licence of occupation issued under section 52 of The Mining Act, being chapter 241 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, and any licence of occupation heretofore issued without a provision for an annual payment. R.S.O. 1972, c. 116, s. 11 (2).

45.—(1) Where the Minister considers it in the public interest, he may direct that mining claims in a surveyed township shall be staked and recorded in the same manner as mining claims in unsurveyed territory.

(2) Where the Minister considers it inequitable to require compliance with any of the requirements of section 42 or 43 with respect to a mining claim that has been staked and recorded in a surveyed township, he may waive any such requirements.

(3) Every survey of a mining claim coming under this section shall indicate and describe the parts of the lots or sections, according to the original survey of the township, included within the limits of such claim, together with the areas thereof. R.S.O. 1970, c. 274, s. 54.
46. A licensee is not limited as to the number of mining claims that may be staked out and applied for in a licence year. R.S.O. 1970, c. 274, s. 55 (1).

47.-(1) A licensee shall stake out a mining claim,

(a) by planting or erecting a post at each of the four corners of the claim, beginning with and marking that at the northeast corner "No. 1", that at the southeast corner "No. 2", that at the southwest corner "No. 3", and that at the northwest corner "No. 4", so that the number is on the side of the post toward the post next following it in the order named;

(b) by writing or otherwise inscribing on No. 1 post his name, the letter and number of his licence, the date and hour of the commencement of staking out, and, if the claim is situated in a township surveyed into lots, quarter-sections or subdivisions of a section, the part thereof comprised in the claim, mentioning the lot and concession or the section by number;

(c) by writing or otherwise inscribing his name and the letter and number of his licence on No. 2, No. 3 and No. 4 posts; and

(d) by plainly blazing the trees on two sides only where there are standing trees, and cutting the underbrush along the boundary lines of the claim, or where there are not standing trees, clearly indicating the outlines of the claim by planting thereon durable pickets not less than 5 feet in height at intervals of not more than 2 chains (132 feet) or by erecting at such intervals monuments of earth or rock not less than 2 feet in diameter at the base and at least 2 feet high so that the lines may be distinctly seen.

(2) Where at a corner of the claim the nature or conformation of the ground renders the planting or erecting of a post impracticable, the corner may be indicated by planting or erecting at the nearest practicable point a witness post bearing the same marking as that prescribed for the corner post at that corner together with the letters "W.P." and an indication of the direction and distance of the site of the true corner from the witness post.
(3) Every post shall stand not less than four feet above the ground, and shall be squared or faced on four sides for at least one foot from the top, and each side shall measure at least four inches across where squared or faced, but a standing stump or tree may be used as a post if cut off and squared and faced to such height and size, and when the survey is made, the centre of the tree or stump where it enters the ground shall be taken as the point to or from which the measurement shall be made.

(4) Every post shall be a post, standing stump or tree idem not before used as a post for a mining claim.

(5) The following diagrams are intended to illustrate the method of staking out a claim as mentioned in subsections (1) and (2):

Diagram illustrating s. 47 (1).

Diagram illustrating s. 47 (2).

R.S.O. 1970, c. 274, s. 56 (1-5), amended.
48.—(1) A licensee or other person who for any purpose does any staking out or plants, erects or places any stake, post, or marking upon any land open to prospecting except as authorized by this Act, or causes or procures the same to be done, or who stakes out or partially stakes out any such lands, or causes or procures the same to be done, and fails to record the staking out with the recorder within the prescribed time, is not thereafter entitled to again stake out such lands or any part thereof, or to record a mining claim thereon, unless he notifies the recorder in writing of such staking out, partial staking out, or planting, placing or marking and of his abandonment thereof and satisfies the recorder by affidavit that he acted in good faith and for no improper purpose and procures from him a certificate stating that the recorder is satisfied that he so acted.

(2) The recorder shall enter every such certificate in his books with the date of its issue. R.S.O. 1970, c. 274, s. 57.

49. Where a mining claim is in a fire region and it is staked out during the time that the fire region is closed under the Forest Fires Prevention Act, such staking out is invalid and of no effect and the recorder shall not accept an application to record the staking out of the claim unless ordered so to do by the Commissioner upon proof that the person so staking out the claim entered the fire region before it was closed or pursuant to a special authorization of the Minister. R.S.O. 1970, c. 274, s. 58.

50. Substantial compliance as nearly as circumstances will reasonably permit with the requirements of this Act as to the staking out of mining claims is sufficient. R.S.O. 1970, c. 274, s. 59.

APPLICATIONS TO RECORD

51.—(1) A licensee who has staked out a mining claim shall furnish the recorder with,

(a) a sketch or plan of the mining claim showing the corner posts and the witness posts, if any, and the distance between the posts in feet;

(b) an application in the prescribed form setting forth,

(i) in the case of unsurveyed territory, its locality by such general description and other
information as will enable the recorder to indicate the claim on his office map,

(ii) in the case of a surveyed township, the lot, quarter section or subdivision of a section and the part thereof comprising the claim,

(iii) the day and hour when the claim was staked out,

(iv) the date of the application, and

(v) where metal tags have been affixed to the corner posts under section 55, the letters and numbers on the tags so affixed; and

(c) the prescribed fee.

(2) A licensee shall comply with subsection (1) not later than thirty-one days from the date of staking.

(3) The licensee shall submit with his application and sketch or plan a certificate in the prescribed form stating,

(a) that he has staked out the claim in accordance with this Act;

(b) that the distances given in his application and sketch or plan are as accurate as they could reasonably be ascertained;

(c) that all other statements and particulars set forth in the application and shown on the sketch or plan are true and correct;

(d) that at the time of staking there was nothing upon the lands to indicate that they were not open to be staked and that he believes they were so open;

(e) that the staking is valid and should be recorded; and

(f) that there are upon the lands staked no buildings, clearings or improvements for farming or other purposes, except as set forth in the certificate.

(4) The recorder or the Commissioner may, after a hearing, cancel the recording of the claim of a licensee who knowingly makes a false statement in his application under subsection (1) or in his certificate under subsection (3).
(5) Where it appears that there has been an attempt made in good faith to comply with this Act, the inclusion of more or less than the prescribed area in a mining claim or the failure of the licensee to describe or set out in the application, sketch or plan furnished to the recorder the actual area or parcel of land staked out does not invalidate the claim. R.S.O. 1970, c. 274, s. 60.

52. A licensee at the time of making application to record a mining claim shall produce his licence to the recorder and the recorder shall endorse and sign upon the back of the licence a note in writing of the record of the claim, and no such record is complete or effective until such endorsement is made unless upon application to or in any case coming before the Commissioner he considers it just that compliance with the requirements of this section should be waived. R.S.O. 1970, c. 274, s. 61.

53. If by error a licensee records a mining claim in a division other than that in which the claim is situate, the error does not affect his title to the claim, but he shall within fifteen days from the discovery of the error record the claim in the division in which it is situate, and the new record shall bear the date of the former record, and a note shall be made thereon of the error and of the date of rectification. R.S.O. 1970, c. 274, s. 62.

54.—(1) The recorder shall forthwith enter in the proper book in his office the particulars of every application to record a mining claim that he considers to be in accordance with this Act, unless a prior application is already recorded and subsisting for the same, or for any substantial part of the same lands or mining rights, and he shall file the application, sketch or plan and affidavit with the records of his office, and every application proper to be recorded shall be deemed to be recorded when it is received in the recorder’s office, if all requirements for recording have been complied with, notwithstanding that the application may not have been immediately entered in the record book.

(2) If an application is presented that the recorder considers to be not in accordance with this Act or that is for lands or mining rights which or any substantial part of which are included in a subsisting recorded claim, he shall not record the application, but shall, if desired by the applicant, upon receiving the prescribed fee, receive and file the application, and any question involved may be adjudicated as provided in this Act, but such filing
shall not be deemed a dispute of the recorded claim nor shall it be noted or dealt with as such unless a dispute verified by affidavit is filed with the recorder by the applicant or by another licensee on his behalf as provided in section 56.

(3) An application received and filed under subsection (2) is invalid and of no effect sixty days after the receiving and filing unless in the meantime an action is commenced before the recorder or the Commissioner or unless in the meantime the recorder or the Commissioner orders a continuation of the application.

(4) As soon as an application is invalid and of no effect under subsection (3), the recorder shall mark the application cancelled and by registered letter shall notify the applicant at his last known address in the recorder’s office of his action and the reason therefor.

(5) As soon as is reasonably possible after the recording of the mining claim and not later than six months thereafter, the holder of the claim shall affix or cause to be affixed securely to each of the corresponding corner posts of the claim a metal tag plainly marked or impressed with the recorded number of the claim, and the recorder shall supply such numbered tags free of charge.

(6) Subsection (5) does not apply to mining claims on which the metal tags have been affixed to the corner posts at the time of staking under section 55.

(7) Upon receipt of a written report by an inspector or other officer appointed under this Act that the metal tags have not been affixed within the prescribed time or such further time as is authorized by the Commissioner under section 86, or the recorder under section 80, the recorder shall cancel the claim and shall by registered letter mailed not later than the next day notify the holder thereof of his action and the reason therefor.

(8) Notwithstanding subsection 90 (4), where the metal tags have not been affixed as required by subsection (5), any licensee may stake the claim but the recorder shall not record his application therefor until cancellation has been effected under subsection (7).

(9) At the time of recording, the recorder shall add to each claim number the prefix allotted to his division and such prefix shall form part of the claim number.

R.S.O. 1970, c. 274, s. 63.
55.—(1) A licensee may purchase from any mining recorder sets of metal tags for the number of mining claims that he is entitled to stake, and the purchase of such tags and the date thereof shall be endorsed by the mining recorder on the licence of the purchaser.

(2) The fee for metal tags purchased under subsection (1) is $1 per set, which shall be deducted by the mining recorder from the fee prescribed in item (4) or item (25) of the Schedule of Fees when the licensee presents an application to record a mining claim on which he has used a set of metal tags so purchased.

(3) A licensee purchasing metal tags under this section shall affix the metal tags to the corresponding corner posts at the time of staking out a mining claim and otherwise the staking out and recording shall be in the manner provided in this Act.

(4) Metal tags purchased under this section shall be used in staking out claims only by the licensee who purchased them and they shall not be used in staking out claims after the expiry of the licence year in which they were purchased and there shall be no refund of the fee paid for any unused metal tags.

(5) Metal tags purchased under this section may be used for staking out mining claims in any mining division.

(6) Where metal tags are affixed to the corner posts at the time of staking as provided in subsection (3), the licensee who stakes out the claim shall so state in his application to record the mining claim.

(7) Upon receipt of a written report by an inspector or other officer appointed under this Act that the metal tags have not been affixed at the time of staking as required by subsection (3), the recorder shall cancel the claim, and shall by registered letter mailed not later than the next day notify the holder thereof of his action and the reason therefor.

(8) Notwithstanding subsection 90 (4), where the metal tags have not been affixed as required by subsection (3), any licensee may stake the claim but the recorder shall not record his application until cancellation has been effected under subsection (7).

(9) Where metal tags purchased under this section are used in staking out mining claims and the licensee stakes
out a group of two or more contiguous claims as part of a continuous action and presents the claims to the recorder for recording at the same time, he may plant or erect and use common posts at common corners if,

(a) the metal tag and the writing pertaining to each claim are placed on that side of the common post facing the next post for that claim in a clockwise manner; and

(b) the sketch furnished under subsection 51 (1) indicates any common posts so planted or erected,

and otherwise the staking out and recording shall be in the manner provided in this Act. R.S.O. 1970, c. 274, s. 64.

DISPUTING APPLICATIONS

56.—(1) A dispute in the prescribed form, verified by affidavit in the prescribed form, may be filed with the recorder by a licensee alleging that a recorded claim is illegal or invalid in whole or in part and, if the disputant or the licensee in whose behalf he is acting claims to be entitled to be recorded for or to be entitled to any right or interest in the lands or mining rights, or in any part thereof, comprised in the disputed claim, the dispute shall so state, giving particulars, and the recorder shall, upon payment of the prescribed fee, receive and file such dispute, and shall enter a note thereof upon the record of the disputed claim.

(2) A copy of the dispute and affidavit shall be left by the disputant with the recorder who shall not later than the next day after the filing of the dispute transmit the copy by registered mail to the recorded holder or holders of the mining claim affected thereby, and, if the copy is not left, the recorder may refuse to file or note the dispute or may collect from the disputant 10 cents per folio for making the copy.

(3) The dispute shall contain or have endorsed upon it an address in Ontario at which the disputant may be served with any notice or document relating to the dispute, and any such notice or document is sufficiently served upon the disputant if it is left with a grown-up person at such address or, where no such person can there be found, if sent by registered mail addressed to the disputant at such address.
(4) If no address for service is given as required by subsection (3), any notice or document referred to therein may be served upon the disputant by posting up a copy thereof in the recorder's office.

(5) A dispute shall not be received or entered against a claim after a certificate of record thereof has been granted, nor, except by leave of the Commissioner, after the validity of the claim has been adjudicated upon by the recorder or by the Commissioner, or after it has been on record for sixty days and has already had a dispute entered against it.

(6) Where the prescribed fee has been paid for filing a dispute under subsection (1), such fee shall be deemed to include the fee for filing any order or orders settling the dispute. R.S.O. 1970, c. 274, s. 65.

**CERTIFICATE OF RECORD**

**57.**—(1) Where a claim has been on record for sixty or more days and,

(a) if no dispute is standing against the claim; and

(b) if the recorder is satisfied that the requirements of this Act have been met; and

(c) if the surface rights compensation, if any, has been paid or secured; and

(d) if the plan of survey is filed and approved where required under section 108 or 109; and

(e) upon payment of the prescribed fee,

the recorder shall issue a certificate of record in the prescribed form. R.S.O. 1970, c. 274, s. 66 (1).

(2) Notwithstanding clause (1) (d), where a plan of survey has not been filed, the recorder may issue a certificate of record if he is satisfied that clauses (1) (a), (b), (c) and (e) have been complied with and upon payment of a fee at the rate of $25 a claim. 1972, c. 116, s. 15.

(3) Where a claim forms part of a group of claims that have been included in a perimeter survey as provided in subsection 108 (3), the recorder shall not issue a
certificate of record unless application is made for patent or lease and the price or rental has been paid. R.S.O. 1970, c. 274, s. 66 (2).

58. The certificate of record, in the absence of mistake or fraud, is final and conclusive evidence of the performance of all the requirements of this Act, except working conditions, in respect of the mining claim up to the date of the certificate, and thereafter the mining claim is not, in the absence of mistake or fraud, liable to impeachment or forfeiture except as expressly provided by this Act. R.S.O. 1970, c. 274, s. 67.

59. Where the certificate of record has been issued in mistake or has been obtained by fraud, the Commissioner has power to revoke and cancel it on the application of the Crown or an officer of the Ministry, or of any person interested. R.S.O. 1970, c. 274, s. 68; 1972, c. 1, s. 1.

RIGHTS OF LICENSEE

60.—(1) The staking out or the filing of an application for or the recording of a mining claim, or all or any of such acts, does not confer upon a licensee any right, title, interest or claim in or to the mining claim other than the right to proceed as in this Act provided to obtain a certificate of record and a patent from the Crown, and prior to the issue of a certificate of record the licensee is merely a licensee of the Crown, and after the issue of the certificate and until he obtains a patent he is a tenant at will of the Crown in respect of the mining claim.

(2) The staking out or filing of an application for or the recording of a mining claim, or all or any of such acts, does not confer upon a licensee any right to take, remove, or otherwise dispose of any minerals, sand, gravel, stone or any other material found in, upon or under the mining claim. R.S.O. 1970, c. 274, s. 69 (1, 2).

(3) The Minister may reserve for the Crown the peat, sand and gravel located on an unpatented mining claim. 1980, c. 83, s. 1.

(4) The reservation authorized by subsection (3) shall be deemed to have been made on all unpatented mining claims unless such reservation is waived by the Minister.

(5) The holder of a mining claim does not have any right, title or claim to the surface rights of the claim other than the right to enter upon, use and occupy such
part or parts thereof as are necessary for the purpose of prospecting and the efficient exploration, development and operation of the mines, minerals and mining rights therein.

(6) The holder of an unpatented mining claim is not liable to assessment or taxation for municipal or school purposes in respect of such unpatented mining claim.

(7) The holder of a licence of occupation or quarry permit issued under this Act or any predecessor thereof is not liable to assessment or taxation for municipal or school purposes in respect of such licence of occupation or quarry permit except with respect to improvements for which he would be liable to assessment or taxation if the lands were held under a patent. R.S.O. 1970, c. 274, s. 69 (4-7).

61.—(1) Except as in this Act otherwise provided, the holder of an unpatented mining claim has the right prior to any subsequent right to the user of the surface rights for prospecting and the efficient exploration, development and operation of the mines, minerals and mining rights.

(2) Where the holder of an unpatented mining claim consents to the disposition of surface rights under the Public Lands Act, the recorder shall make an entry on the record of the claim respecting the consent, and thereupon the surface rights may be dealt with as provided in the Public Lands Act.

(3) Where the holder of an unpatented mining claim consents to the disposition of surface rights under subsection (2), the Minister may require a survey of such surface rights, and the survey shall be provided at the expense of the person who has acquired the surface rights.

(4) Where an application is made for disposition under the Public Lands Act of surface rights on an unpatented mining claim and the holder of the unpatented mining claim does not consent to the disposition and provision for the reservation or exclusion of the surface rights is not otherwise provided for in this Act or any other Act, the Minister may refer the application to the Commissioner.

(5) Where an application under subsection (4) is referred to the Commissioner, he shall, upon giving all interested persons at least ninety days notice and after hearing such interested persons as appear, make an order based on the merits of the application.
(6) Where surface rights on an unpatented mining claim are required for the use of the Crown or other public use, this section applies with necessary modifications. R.S.O. 1970, c. 274, s. 70.

62.—(1) The Minister may permit the mining, milling and refining of ore on an unpatented mining claim for the purpose of testing mineral content and may prescribe the conditions for so doing.

(2) Permission granted under subsection (1) shall be in writing, shall be for a given period of time and shall cover a given quantity of ore.

(3) The end product of such mining, milling and refining, except as provided in subsection (4), shall not be sold or otherwise disposed of until the mining claim or mining claims from which the ore was taken are leased or patented under this Act.

(4) The Minister may, in writing, prescribe the disposition of the proceeds from the sale of any end product and may require that the proceeds be held by the Crown until title has been granted for the mining claim or claims or he may direct that the proceeds be escheated to the Crown in whole or in part. R.S.O. 1970, c. 274, s. 71.

63.—(1) Every licensee who stakes out and records a mining claim may obtain from the recorder two free assay coupons on recording it and two additional free assay coupons on recording each forty days work thereafter and on forwarding or delivering, charges prepaid, samples from the mining claim to the Chief Analyst, Geoscience Laboratories, Ministry of Natural Resources, Toronto, together with the required number of coupons, as provided in the regulations, is entitled to have the samples assayed without charge, but in no case is a licensee entitled to more than eighteen free assay coupons in a licence year. R.S.O. 1970, c. 274, s. 72 (1); 1972, c. 4, s. 12, revised.

(2) Every free assay coupon is valid only for a period of two years after the date of its issue. R.S.O. 1970, c. 274, s. 72 (2).

64.—(1) Where the holder, licensee, lessee or owner of a mining claim, mining lands or mining rights abandons or surrenders the claim, lands or rights or where the mining claim, mining lands or mining rights are cancelled or forfeited under this Act or any other Act or the regulations thereunder, he may take from the claim, lands or rights
any buildings, structures, machinery, chattels, personal property and, except in the case of an unpatented mining claim, any ore or mineral he has extracted therefrom belonging to him and any slimes or tailings not otherwise owned, within six months after the abandonment, surrender, cancellation or forfeiture or within such further time as is fixed by the Commissioner, and, in default of so doing, all such buildings, structures, machinery, chattels, personal property, ore, mineral, slimes and tailings belong to the Crown and may be sold or otherwise disposed of by the Minister upon such terms and conditions as he considers expedient.

(2) The staking or recording of a mining claim does not confer upon the licensee any right respecting buildings, structures, machinery, chattels, personal property, ore, mineral, slimes and tailings acquired by the Crown under subsection (1). R.S.O. 1970, c. 274, s. 73.

65.—(1) Where land is staked out and applied for as a mining claim and it appears that the land is being used other than as mining land or for a purpose other than that of the mineral industry, the Minister may direct the Commissioner to hold a hearing.

(2) Where, upon notice to all persons interested and after hearing such of them as appear, the Commissioner is satisfied that the land is being used other than as mining land or for a purpose other than that of the mineral industry, he may make an order cancelling the claim, and, on the filing of the order with the recorder for the mining division in which the land is situate, the claim is cancelled and annulled, and the land may be dealt with as provided in this Act. R.S.O. 1970, c. 274, s. 74.

66.—(1) Where the Minister recommends the establishment or extension of a townsite on an unpatented mining claim, the Lieutenant Governor in Council may reserve the surface rights on any such claim or parts of any such claim as may be necessary for townsite purposes.

(2) The Lieutenant Governor in Council may make such regulations as he considers necessary for the better carrying out of this section. R.S.O. 1970, c. 274, s. 75.

ADDRESS FOR SERVICE

67.—(1) Every application for a mining claim and every other application and every transfer or assignment of a mining claim or of a right or interest acquired under
this Act shall contain or have endorsed thereon the place of residence and post office address of the applicant, transferee or assignee, and also, when he is not resident in Ontario, the name, residence and post office address of a person resident in Ontario upon whom service may be made.

(2) No such application, transfer or assignment shall be filed or recorded unless it conforms with subsection (1).

(3) Another person resident in Ontario may be substituted as the person upon whom service may be made by filing, in the office in which such an application, transfer or assignment is filed or recorded, a memorandum setting forth the name, residence and post office address of such other person, and such a substitution may be made from time to time as occasion requires.

(4) Service upon the person named as the person upon whom service may be made, unless another person has been substituted for him under subsection (3) and in case of such substitution upon the person substituted, has the same effect as service upon the person whom he represents.

(5) Subsection (4) applies to every notice, demand or proceeding in any way relating to a mining claim or to mining rights or to any other right or interest that may be acquired under this Act. R.S.O. 1970, c. 274, s. 76.

TRUSTS, AGREEMENTS AND TRANSFERS

68.—(1) Notice of a trust, express, implied or constructive, relating to an unpatented mining claim shall not be entered on the record or be received by a recorder.

(2) Describing the holder of the mining claim as a trustee, whether the beneficiary or object of the trust is mentioned or not, does not impose upon any person dealing with such holder the duty of making any inquiry as to his power to deal therewith, but the holder may deal with the claim as if such description had not been inserted.

(3) Nothing in this section relieves the holder of the mining claim who is in fact a trustee thereof or of any part or share thereof or interest therein from liability as between himself and any person, mining partnership or company for whom he is a trustee, but such liability continues as if this section had not been enacted, nor shall any provision in this Act relieve the holder from any personal liability or obligation. R.S.O. 1970, c. 274, s. 77.
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69.—(1) No person is entitled to enforce any claim, right or interest, contracted for or acquired before the staking out, to or in or under any staking out or recording of a mining claim or of any mining lands or mining rights done by another person unless the fact that the first-mentioned person is so entitled is made to appear by a writing signed by the holder of the claim or by the licensee by whom the staking out or recording was done or the evidence of the first-mentioned person is corroborated by some other material evidence, and, where a right or interest is so made to appear, the Statute of Frauds does not apply.

(2) No person is entitled to enforce any contract, made after the staking out, for sale or transfer of a mining claim or any mining lands or mining rights, or any interest in or concerning the same, unless the agreement or some note or memorandum thereof is in writing signed by the person against whom it is sought to enforce the contract or by his agent, thereunto by him lawfully authorized. R.S.O. 1970, c. 274, s. 78.

70. A transfer of an unpatented mining claim or of an interest therein may be in the prescribed form and shall be signed by the transferor or by his agent authorized by instrument in writing. R.S.O. 1970, c. 274, s. 79.

RECORDING DOCUMENTS

71. Except as in this Act otherwise expressly provided, no transfer or assignment of or agreement or other instrument affecting a mining claim or a recorded right or interest acquired under this Act shall be entered on the record, or received by a recorder unless it purports to be signed by the recorded holder of the claim or right or interest affected or by his agent authorized by recorded instrument in writing, nor shall any such instrument be recorded without an affidavit in the prescribed form, attached to or endorsed thereon, made by a subscribing witness to the instrument. R.S.O. 1970, c. 274, s. 80.

72. After a mining claim or other right or interest acquired under this Act has been recorded, every instrument other than a will affecting the claim or an interest therein is void as against a subsequent purchaser or transferee for valuable consideration without actual notice unless the instrument is recorded before the recording of the instrument under which the subsequent purchaser or transferee claims. R.S.O. 1970, c. 274, s. 81.
73. The recording of an instrument under this Act constitutes notice of the instrument to all persons claiming an interest in the claim subsequent to such recording, notwithstanding any defect in the proof for recording, but nevertheless it is the duty of the recorder not to record except upon the proof required by this Act. R.S.O. 1970, c. 274, s. 82.

74.—(1) Priority of recording prevails unless before the prior recording there has been actual notice of the prior instrument by the party claiming under the prior recording.

(2) Any transfer or other instrument proper to be recorded shall, if all requirements for recording have been met, be deemed to have been recorded at the time that it was received in the office of the recorder, notwithstanding that such transfer or other instrument may not have been immediately entered in the record book.

(3) Where a document is required to be filed with or a fee is required to be paid to a recorder and the document or fee is sent by mail and is received in the office of the recorder after the prescribed time, the recorder may accept the document or fee upon evidence that it was mailed within the prescribed time and that there is no adverse interest. R.S.O. 1970, c. 274, s. 83.

75.—(1) The recorder shall enter upon the record of any unpatented mining claim or other recorded right or interest a note of any order or decision made by him affecting the same, giving its date and effect and the date of the entry, and he shall, upon receiving with the prescribed fee an order or decision of the Commissioner, or an order, judgment or certificate in an appeal from him, or a certified or sworn copy thereof, file the same and enter a note thereof upon the record of the claim or right or interest affected thereby.

(2) In a proceeding calling in question an interest in an unpatented mining claim or other recorded right or interest, the Commissioner or recorder may issue a certificate in the prescribed form and, upon receipt thereof and payment of the prescribed fee, the recorder shall file and note it as above directed.

(3) The filing of a certificate is actual notice to all persons of the proceeding.

(4) The certificate and the filing and noting thereof are of no effect for any purpose whatever after the expiration of ten days from the date of filing unless within
that time an order continuing the certificate is obtained from the Commissioner or the recorder, and any person interested may at any time apply to the Commissioner for an order vacating the certificate.

(5) On receipt by the recorder of such order, he shall forthwith transmit by registered mail a copy of the order to every recorded holder of an interest in the mining claim.

(6) A copy of a writ of execution, certified by the sheriff of the county or district or a bailiff of a small claims court therein to be a true copy of a writ in his hands, may be filed with the recorder, and the recorder, upon receiving the prescribed fee and being given the number or description of the claim, shall enter a note of such execution upon the record of each claim of which the execution debtor is the recorded holder or in which he has a recorded interest, and from and after, but not before, such entry, the execution binds all the right or interest of the execution debtor in the claim, and after such entry the sheriff or bailiff has power to sell and realize upon such right or interest in the same way as goods and chattels may be sold and realized upon under execution, and a transfer from the sheriff or bailiff to the purchaser may, upon the latter becoming, if he is not before, a licensee, be recorded in like manner and with the same effect as a transfer from the execution debtor.

(7) Such certified copy of the writ of execution may be obtained from the sheriff or bailiff on payment of a fee of $1, which fee, together with the fee paid for recording the execution, shall be added to the execution debt.

(8) After entry of such an execution upon the record of the claim, the sheriff, bailiff or the execution creditor may do anything that the execution debtor could do to keep the claim or interest in or restore it to good standing, and he is entitled to add the necessary expense thereof to the execution debt.

(9) Such an execution may be discharged by recording a certificate from the sheriff or bailiff that it has been satisfied or by recording a release from the execution creditor or by obtaining and filing an order of the Commissioner directing its removal.

(10) Where the prescribed fee has been paid for filing a certificate under subsection (2), the fee shall be deemed to include the fee for filing any order or orders made by the Commissioner in the proceeding. R.S.O. 1970, c. 274, s. 84.
WORKING CONDITIONS

76.——(1) The recorded holder of a mining claim shall, within five years immediately following the recording thereof, perform or cause to be performed thereon work consisting of stripping or opening up mines, sinking shafts or other actual mining operations to the extent of 200 days work, which work shall be performed as follows:

1. First period of at least twenty days, not later than one year immediately following the recording of the claim.
2. Second period of at least forty days, not later than two years after date of recording.
3. Third period of at least forty days, not later than three years after date of recording.
4. Fourth period of at least forty days, not later than four years after date of recording.
5. Fifth period of at least sixty days, not later than five years after date of recording.

(2) The work may be completed in a less period of time than herein specified and, if more work is performed by or on behalf of the recorded holder than is herein required during the first year or in a subsequent year, the excess, upon proof of the work having been performed, shall be credited by the recorder upon the work required to be done during a subsequent year.

(3) The recorded holder of a mining claim shall, not later than ten days after each of the periods specified, make a report in the prescribed form as to the work done or caused to be done by him during such period, verified by certificate in the prescribed form, and the report shall show in detail,

(a) the location, nature and extent of the work;

(b) the names and addresses of the men who performed the work; and

(c) the dates upon which each man worked in its performance,

and, in the case of diamond or other core drilling, the report shall be accompanied by a core log in duplicate indicating the footages of the rock types encountered, and
the angle and direction of the drill hole, and by a sketch or plan in duplicate fixing the location of the drill hole in relation to the corner posts of the claim. R.S.O. 1970, c. 274, s. 85 (1-3).

Certificate of performance

(4) The recorder, if satisfied that the prescribed work has been duly performed, may grant a certificate in the prescribed form, but he may first, if he considers it proper, inspect or order the inspection of the work or otherwise investigate the question of its sufficiency, and such certificate, in the absence of fraud or mistake, is final and conclusive evidence of the due performance of the work therein certified, but where it has been issued in mistake or obtained by fraud the Commissioner has power to revoke and cancel it upon the application of the Crown or an officer of the Ministry or any person interested. R.S.O. 1970, c. 274, s. 85 (4); 1972, c. 1, s. 1.

Decision final

(5) The decision of the Commissioner as to the due performance of work is final. R.S.O. 1970, c. 274, s. 85 (5).

Work to be performed on claims

(6) A licensee may perform or cause to be performed on one or more unpatented claims any of the work required to be performed in respect of contiguous unpatented claims recorded in his name or of which he is the optionee of record, and the reports of work and the certificates to be filed in respect of the work shall indicate the claim or claims on which the work was performed and the claim or claims upon which it is to be applied, but in no case, except for work required under subsection 94 (17), shall more than 4,000 days work be performed on a claim for application on other claims. R.S.O. 1970, c. 274, s. 85 (6); 1971, c. 102, s. 2.

Grouping of claims for filing

(7) A recorded holder or an optionee of record may vary the claims grouped under subsection (6) for successive filings of work but the grouping for each filing must meet the requirements of subsection (6).

Work applied to other claims

(8) The total amount of work performed on an unpatented claim and applied on other claims is the work assignment.

When work assignment voided

(9) The work assignment charged to a claim is voided when the claim is transferred to another licensee or when an option is filed in favour of another licensee, and the new holder or new optionee is entitled to a full work assignment of not more than 4,000 days work with respect to that claim, provided that the requirements of subsection (6) are met.
(10) If a previous recorded holder again becomes the recorded holder of a claim, the work assignment charged to the claim is the work assignment that was charged to it at the time that he disposed of the claim.

(11) If an option ceases to have effect by virtue of an entry on the record of a claim, the work assignment charged to the claim is the work assignment that was charged to it at the time that the option was filed. R.S.O. 1970, c. 274, s. 85 (7-11).

(12) Notwithstanding subsection (6), if the work is diamond drilling and the length of the drill hole is greater than 4,000 feet, the maximum number of days work permitted under that subsection to be performed on a claim for application on other claims is increased by,

(a) one and one-half days for each foot of boring that is more than 4,000 feet and not more than 5,000 feet; and

(b) two days for each foot of boring that is more than 5,000 feet. 1972, c. 116, s. 16.

(13) The construction of houses or roads or other like improvements does not constitute "actual mining operations" within the meaning of this section. R.S.O. 1970, c. 274, s. 85 (13).

77.—(1) When the plan and field notes of a survey of a mining claim made under section 108 or 109 are filed with the mining recorder within the prescribed time, the survey counts as forty days work on the surveyed claim.

(2) On receipt of an affidavit by an Ontario land surveyor that he has made a survey of a mining claim within the period during which work is required by this Act to be done on such claim and his undertaking that he will forward or cause to be forwarded to the recorder, not later than two months after the close of the period for doing the work, plans and field notes of the survey, the recorder may enter upon the record of the claim forty days work and he may cancel the entry in default of receipt of the plans and field notes within such period of two months.

(3) Where work has been recorded with the mining recorder under subsection (1) or (2) and the survey of the mining claim does not comply with section 108 or 109 or
the regulations, the Minister may direct the mining recorder to cancel the work and thereupon the mining recorder shall cancel the entry on the record.

(4) Subsection 76 (6) does not apply to work recorded under subsection (1) or (2). R.S.O. 1970, c. 274, s. 86 (1-4).

(5) Where the length of the drill hole is more than 25 feet, boring by diamond or other core drill counts as work,

(a) where the core from the drill is less than 7/8 of an inch in diameter or the length of the drill hole is 100 feet or less, at the rate of one day's work for each 4 feet of boring; and

(b) where the core from the drill is 7/8 of an inch or more in diameter and the length of the drill hole is greater than 100 feet, at the rate of one day's work for each foot of boring.

and, where it is impossible to take core with a core drill through overburden and core is subsequently taken after passage through the overburden, work may be counted as though core was taken for the full length of the drill hole, including the overburden. R.S.O. 1970, c. 274, s. 86 (5); 1972, c. 116, s. 17 (1).

(6) Where core specimens are submitted with the report and core log for the core drilling referred to in subsection (5), and the core specimens,

(a) are representative of rock types encountered for the drill hole;

(b) are not less than 3 inches in length;

(c) are taken at intervals of not less than 25 feet throughout the length of the hole and are clearly labelled as to the footage; and

(d) are taken at intervals of less than 25 feet where structural changes in the rock type occur,

each specimen counts as one day's work, but in the case of the specimens referred to in clause (d) the work credit shall not exceed in number of days the total footage of the hole drilled divided by 25. 1971, c. 102, s. 3 (1).
(7) Boring by other than core drill where the length of the bore hole is greater than 200 feet may be counted as work at the rate of one day's work for each 2 feet of boring,

(a) if the recorded holder files logs of the type and in the manner prescribed for core drilling; and

(b) if the bore hole is lengthened by core drilling which is reported to the recorder at the same time as the boring by other than core drill.

(8) Work done by mechanical equipment of a type approved by the Minister counts as work at the rate of one day's work in respect of each man necessarily employed in operating such equipment for each three hours of his employment, but credit shall not be given for more than two operators for each of such equipment without the consent of the Minister, and credit shall not be given for more than twelve hours in any day in respect of any operator.

(9) A geophysical survey, satisfactory to the Minister, surveys of a mining claim may be recorded as work on the claim, subject to,

(a) ground surveys, at the rate of one day's work in respect of each man necessarily employed in line-cutting or chaining for each eight hours of his employment, and at the rate of seven days work in respect of each man necessarily employed in work relating to the geophysical survey for each eight hours of his employment, but no credit shall be given for more than twelve hours in any day in respect of any man; and

(b) airborne geophysical surveys at the rate of forty days work in respect of each mile of continuous recordings,

but not more than a total of eighty days work may be recorded in respect of each claim, and credit for the work shall be cancelled by the recorder unless full reports and plans in duplicate, satisfactory to the Minister, are submitted to the Minister within sixty days of the recording of the work and are approved.

(10) Notwithstanding subsections (9), (11) and (12), but subject to the maximum credits permitted therein, if a ground geophysical or a geological or a geochemical survey meets

Credits for performance and coverage
the requirements of the Minister, he may authorize the approval of work credits on the basis of performance and coverage, subject to the limitations prescribed in the requirements, but credit for the work shall be cancelled by the recorder unless full reports and plans in duplicate, satisfactory to the Minister, are submitted to the Minister within sixty days of the recording of the work and are approved.

(11) A geological survey, satisfactory to the Minister, of a mining claim may be recorded as work on the claim at the rate of one day’s work in respect of each man necessarily employed in linecutting or chaining for each eight hours of his employment, and at the rate of seven days work in respect of each man necessarily employed in work relating to the geological survey for each eight hours of his employment, not exceeding a total of forty days work in respect of each claim, but no credit shall be given for more than twelve hours in any day in respect of any man, and credit for the work shall be cancelled by the recorder unless full reports and plans in duplicate, satisfactory to the Minister, are submitted to the Minister within sixty days of the recording of the work and are approved.

(12) A geochemical survey, satisfactory to the Minister, of a mining claim may be recorded as work on the claim at the rate of one day’s work in respect of each man necessarily employed in linecutting or chaining for each eight hours of his employment and at the rate of seven days work in respect of each man necessarily employed in work relating to the geochemical survey for each eight hours of his employment, not exceeding a total of forty days work in respect of each claim, but no credit shall be given for more than twelve hours in any day in respect of any man, and credit for the work shall be cancelled by the recorder unless full reports and plans in duplicate, satisfactory to the Minister, are submitted to the Minister within sixty days of the recording of the work and are approved.

(13) A radiometric survey shall be deemed to be a geophysical survey for the purposes of this section.

(14) The actual cost of stripping by other than manual labour may be recorded as work on a mining claim at the rate of one day’s work for each $10 so spent not exceeding 100 days work in respect of each claim, but credit for the work shall be cancelled unless proof of the actual cost is submitted to and accepted by the recorder within thirty days of the recording of the work. R.S.O. 1970, c. 274, s. 86 (7-14).
(15) Subsection 76 (6) does not apply to geological, geochemical and geophysical work, but for the purposes of this Act, in the application to record the work credits for such work performed on two or more claims, the recorded holder of the mining claims shall identify the claims on which the work was performed and the total number of work credits claimed and shall apply to record such number in equal parts to each of the claims and the recorder shall record the work credits accordingly and in no other way.

(16) In approving work credits applied for under subsection (15), the Minister may apply the approved work credits to the claims in such manner as he determines. 1972, c. 116, s. 17 (2).

(17) Shaft sinking, drifting or other lateral work that is at least 10 feet below the surface and the opening of which is at least 5 feet by 7 feet counts as work at the rate of four days work in respect of each man employed in the work for each six hours of the employment, but no credit shall be given for more than twelve hours in any day in respect of any man.

(18) Manual work as prescribed in section 76 and not otherwise provided for in this section counts as work at the rate of one day’s work for each six hours of each man’s employment, but no credit shall be given for more than twelve hours in any day in respect of any man. R.S.O. 1970, c. 274, s. 86 (16, 17).

(19) Beneficitation studies, analyses, assays, microscopic studies and other types of exploration or development work not otherwise provided for in this Act may be counted as work at a rate not exceeding one day’s work for each $15 expended, but not more than sixty days work may be recorded in respect of each claim, and credit for the work shall be cancelled by the recorder unless satisfactory reports, maps and proof of expenditures in duplicate, satisfactory to the Minister, are submitted to the Minister within sixty days of the recording of the work and are approved. 1972, c. 116, s. 17 (3).

(20) Where work submitted under subsection (19) has been paid for with a coupon or coupons obtained under section 63, the expenditure represented shall be calculated according to the schedule of charges of the Geoscience Laboratory of the Ministry of Natural Resources. 1971, c. 102, s. 3 (2), part; 1972, c. 4, s. 12.

(21) Where the approval of the Minister is required for work credits, approval by him of the amount of work is final. 1971, c. 102, s. 3 (2), part.
(22) Notwithstanding subsections (9), (10), (11), (12) and (19) and section 78, the Minister may allow an extension of the time required to file thereunder reports and plans with the Minister for any time not exceeding sixty days. 1972, c. 116, s. 17 (4).

78.—(1) The Minister may issue to the holder of a mining claim or mining claims an airborne geophysical certificate for the mining claim or mining claims, if,

(a) the claim or claims lie within the area covered by an airborne geophysical survey that was not previously filed with the Ministry and that was conducted prior to the staking of the claim or claims;

(b) the survey covers an area at least four times the area of the claim or claims;

(c) full reports and plans in duplicate with respect to the whole area covered by the survey are submitted to the Minister, within six months after the recording of the claim or claims, in the same form and in the same manner as though submitted under subsection 77 (9); and

(d) the flight lines are not more than one-quarter mile apart and approximately parallel. R.S.O. 1970, c. 274, s. 87 (1); 1972, c. 1, s. 1.

(2) Notwithstanding subsection 76 (1), if the claim holder files an airborne geophysical certificate issued under subsection (1) with the recorder of the mining division in which the claim or claims are situate not later than sixty days after the date of issue of the certificate, the recorder shall so indicate on his records, and the time for performing the first and all subsequent periods of work for the claim or claims listed in the certificate shall fall due one year later than the times prescribed in subsection 76 (1). R.S.O. 1970, c. 274, s. 87 (2).

79.—(1) In computing the time within which work upon a mining claim is required to be performed,

(a) all time which by an order in council or regulation is excluded;

(b) if a permit under the Forest Fires Prevention Act that is necessary for the beginning or carrying
on of the work under this Act is refused or the performance of such work is prohibited under that Act, the time during which such refusal or prohibition subsists, if the holder provides the recorder with satisfactory evidence of such prohibition; and

(c) time during which proceedings concerning the claim are pending, where the Commissioner or recorder is satisfied that any delay in settling the matter is not the fault of the holder, shall be excluded.

(2) Where time is excluded under subsection (1), the Commissioner may make an order prescribing the date or dates by which the next or any subsequent periods of work shall be performed and reported. R.S.O. 1970, c. 274, s. 88.

80.—(1) If by reason of pending proceedings or incapacity from illness of the holder of a mining claim the work is not performed or the metal tags have not been affixed or the money required for patent or lease is not paid within the prescribed time, the recorder may extend the time for the performance of the work or the affixing of the metal tags or the payment of the money for periods not exceeding six months.

(2) Where the work has not been performed or the metal tags have not been affixed or payment for patent or lease has not been made because of the incapacity from illness of the holder of the claim, the recorder may extend the time only upon the production and filing with him of a certificate of a legally qualified medical practitioner indicating that the holder has by reason of illness been rendered incapable of performing the work or affixing the metal tags or paying the money.

(3) Work performed within any such extended period shall be deemed to have been duly performed under section 76. R.S.O. 1970, c. 274, s. 89.

81. Where two or more persons are the holders of an unpatented mining claim, each of them shall contribute proportionately to his interest, or as they otherwise agree between themselves, to the work required to be done thereon or to a survey, patent or the first year’s rental of a lease, and, in case of default by any holder, the
Commissioner, upon the application of any other holder and upon notice to and after hearing all persons interested or such of them as appear, may make an order vesting the interest of the defaulter in the other co-owners or in any of them upon such terms and conditions and in such proportions as he considers just. R.S.O. 1970, c. 274, s. 90.

82. Where the holder of an interest in a mining claim has made default in payment for work performed thereon by a person not the holder of an interest in the mining claim, the Commissioner, upon the application of such person and upon notice to and after hearing all persons interested or such of them as appear, may make an order vesting the interest in the mining claim of the holder in default, or any part of such interest, in the applicant. R.S.O. 1970, c. 274, s. 91.

ABANDONMENT

83.—(1) A licensee may abandon a mining claim at any time by giving notice in writing in the prescribed form to the recorder of his intention so to do.

(2) The recorder shall enter a note of the abandonment upon the record of the claim with the date of the receipt of the notice and shall forthwith post up in his office a notice of the abandonment, marked with the date of the posting up thereof, and thereupon all interest of the licensee in the claim ceases and determines, and the claim is, on and after, but not before, the eleventh day after such posting up, inclusive of the day of posting up, open for prospecting and staking out. R.S.O. 1970, c. 274, s. 92.

84. Non-compliance by the licensee with any requirement of this Act as to the time or manner of the staking out and recording of a mining claim or with a direction of the recorder in regard thereto, within the time limited therefor, shall be deemed to be an abandonment, and the claim shall, without any declaration, entry or act on the part of the Crown or by any officer, unless otherwise ordered by the Commissioner, be forthwith opened to prospecting and staking out. R.S.O. 1970, c. 274, s. 93.

FORFEITURE

85.—(1) Except as provided by section 86, all the interest of the holder of a mining claim before its patent has issued ceases without any declaration, entry or act
on the part of the Crown or by any officer, and the claim is open for prospecting and staking out,

(a) if the licence of the holder has expired and has not been renewed;

(b) if, without the consent in writing of the recorder or Commissioner, or for any purpose of fraud or deception or other improper purpose the holder removes or causes or procures to be removed any stake or post forming part of the staking out of such mining claim, or for any such purpose changes or effaces or causes to be changed or effaced any writing or marking upon any such stake or post;

(c) if the prescribed work is not duly performed;

(d) if any report under subsection 76 (3) is not made and deposited with the recorder as therein required;

(e) if the application and payment for the lease required by section 94 are not made within the prescribed time. R.S.O. 1970, c. 274, s. 94 (1).

(2) No person, other than the Minister or an officer of the Ministry or a licensee interested in the property affected, is entitled to raise any question of forfeiture except by leave of the Commissioner, and proceedings raising questions of forfeiture shall not be deemed to be or be entered as disputes under section 56. R.S.O. 1970, c. 274, s. 94 (2); 1972, c. 1, s. 1.

86.—(1) Where forfeiture or loss of rights occurs under subsection 54 (7) or subsection 85 (1) and,

(a) where the licence of the claim holder has expired, the Commissioner may make an order upon such terms as he considers just relieving the claim from forfeiture and authorizing a special renewal of the licence on payment of twice the prescribed fee, except as provided under subsection 22 (5); or

(b) where the prescribed work is not performed within the time stipulated in subsection 76 (1), the Commissioner, within six months of the forfeiture, may make an order or orders upon such terms as he considers just relieving the claim from forfeiture and extending the time for performing the work; or
(c) where the report of work is not filed within the time prescribed in subsection 76 (3), the Commissioner, within six months of the forfeiture, may make an order upon such terms as he considers just relieving the claim from forfeiture and authorizing the filing of a proper report of work; or

(d) where application and payment for the lease are not made within the time prescribed in subsection 94 (2), the Commissioner, within six months of the forfeiture, may make an order, upon such terms as he considers just, relieving the claim from forfeiture and extending the time for applying and paying for the lease, but in no case shall the time for so doing be extended beyond five years of the time prescribed in subsection 94 (2); or

(e) where the metal tags have not been affixed to the corner posts of the claim within the time prescribed in subsection 54 (5), the Commissioner may make an order, upon such terms as he considers just, relieving the claim from forfeiture and granting an extension of the time for affixing the metal tags to the corner posts, but only one such extension shall be granted, and, where the Commissioner extends the time for affixing metal tags beyond the first anniversary of the date of recording of the claim, the holder of the claim shall pay to the recorder, in addition to the fee prescribed in the Schedule, a fee of $5 a claim for each year or part of a year of the extension beyond the anniversary date. R.S.O. 1970, c. 274, s. 95 (1); 1971, c. 102, s. 4 (1).

(2) If application is made to the Commissioner within thirty days before the time forfeiture or loss of rights would occur, he may make an order or orders granting an extension of time in respect of one or both of the following:

1. For affixing the metal tag to the corner posts of the claim.

2. For performing any work required to be performed.

(3) Paragraph 1 of subsection (2) does not apply to metal tags required to have been affixed under section 55.
(4) Within thirty days before forfeiture or loss of rights would occur, the Commissioner may make an order extending
the time for applying and paying for the lease, but in no case shall the time for so doing be extended beyond five years of the time prescribed in subsection 94 (2).

(5) Where the Commissioner extends the time for performing work, the report of its performance shall be filed within such extended time.

(6) Where forfeiture or loss of rights has occurred, the lands, mining rights or mining claims concerned are not open for staking until 7 o'clock in the forenoon of the day immediately following that upon which forfeiture or loss of rights occurred.

(7) No order made by the Commissioner under this section comes into effect until it is filed in the office of the mining recorder for the mining division in which the claims are situate and until the prescribed fees are paid.

(8) The recorder, upon a forfeiture or abandonment of or loss of rights in a mining claim, shall forthwith enter a note thereof, with the date of entry, upon the record of the claim and mark the record of the claim "Cancelled", and shall post up forthwith in his office a notice of cancellation.

(9) Notwithstanding subsection (7), an order made by the Commissioner under clause (1) (a) may be filed in the office of any recorder, but such order does not come into force until it is so filed and until the prescribed fees are paid. R.S.O. 1970, c. 274, s. 95 (2-9).

(10) Where the licence of the claim holder has expired and there is no adverse interest, a recorder may, within three months of the expiry, make an order relieving the claim from forfeiture and authorizing special renewal of the licence on payment of twice the prescribed fee, and such order has the same effect as though issued under clause (1) (a). R.S.O. 1970, c. 274, s. 95 (11).

87. Where the interest of a joint holder has ceased by reason of the expiration of his licence, such interest, if the Commissioner so directs, passes to and vests in the
other holders in proportion to their interests in the claim. R.S.O. 1970, c. 274, s. 96.

88. Where a licensee in whose name a mining claim has been staked out dies before the claim is recorded or where the holder of a claim dies before issue of the patent or lease for the claim, no other person is, without leave of the Commissioner, entitled to stake out or record a mining claim upon any part of the same lands or to acquire any right, privilege or interest in respect thereof within twelve months after the death of such licensee or holder, and the Commissioner may at any time make such order as he considers just for vesting the claim in the representative of such holder and extending the time for performing the work and applying for patent or lease, notwithstanding any lapse, abandonment, cancellation, forfeiture or loss of rights under any provision of this Act. R.S.O. 1970, c. 274, s. 97.

INSPECTION OF CLAIMS

89.—(1) The Commissioner or the recorder may inspect or order an inspection of, and an inspector or other officer appointed by the Minister may inspect, a mining claim at any time with or without notice to the holder for the purpose of ascertaining whether this Act has been complied with, but after the granting of the certificate of record no such inspection shall, except by order of the Commissioner, be made for the purpose of ascertaining whether the claim has been staked out in the prescribed manner.

(2) Unless notice of the inspection has been given to the holder of the claim at least seven clear days prior thereto, either personally or by registered mail addressed to him at his address appearing on record in the recorder's books, he may apply to the Commissioner or to the recorder for a reinspection and it shall be granted if it appears that the holder of the claim has been prejudiced by the want of notice and every such application for reinspection shall be made to the Commissioner or to the recorder within fifteen days of the entry of the decision on the books of the recorder or within such further period not exceeding fifteen days as the Commissioner allows.

(3) The Commissioner or recorder may in any dispute, appeal or other proceeding before him make or order, with or without notice, a view or inspection of any mining claim or of any lands or other property. R.S.O. 1970, c. 274, s. 98.
90.—(1) A report of each inspection, except when made merely for the purpose of a dispute, appeal or other proceeding, shall be made in writing by the inspecting officer and shall be filed in the office of the recorder, who shall forthwith enter upon the record of the claim a note stating the effect of the report and the date of the entry.

(2) If the recorder is of opinion that upon the report the claim should be cancelled, he shall mark the record of the claim “Cancelled” and affix his signature or initials and shall by registered letter mailed not later than the next day notify the holder of the claim and the disputant and other interested parties, if any, of the receipt and effect of the report, and where the claim is cancelled in consequence of the report, the notice shall so state. R.S.O. 1970, c. 274, s. 99 (1, 2).

(3) An appeal from the cancellation of the claim may be taken to the Commissioner by the holder of the claim or by the disputant or other interested party, within the time and in the manner provided by section 133. R.S.O. 1970, c. 274, s. 99 (3); 1971, c. 50, s. 58 (4).

(4) Upon the cancellation of a claim under this section, the recorder shall forthwith post up in his office a notice of the cancellation, and the land or mining rights comprised in such claim are thereupon, unless withdrawn from prospecting and staking out, again open to prospecting and staking out, but such staking out is subject to the result of an appeal by a licensee whose claim has been cancelled. R.S.O. 1970, c. 274, s. 99 (4).

91. The holder of a mining claim or the disputant or other person interested is entitled on payment of the prescribed fee to receive from the recorder a certified copy of any report of inspection of the claim filed with him. R.S.O. 1970, c. 274, s. 100.

SURFACE RIGHTS COMPENSATION

92.—(1) Where the surface rights of land have been granted, sold, leased or located with reservation of mines, minerals or mining rights to the Crown, or where land is occupied by a person who has made improvements thereon that in the opinion of the Minister entitles him to compensation, a licensee who prospects for mineral or stakes out a mining claim or an area of land for a boring permit or carries on mining operations upon such land shall compensate the owner, lessee, locatee or occupant
for all injury or damage that is or may be caused to the surface rights by such prospecting, staking out or operations, and in default of agreement the amount and the manner and time of payment of compensation shall be determined by the Commissioner after a hearing, and, subject to appeal to the Divisional Court where the amount awarded exceeds $1,000, his order is final. 1971, c. 50, s. 58 (5).

(2) The Commissioner may order the giving of security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, further prospecting, staking out or working by such licensee or any person claiming under him.

(3) Where an order is made prohibiting the prospecting, staking out or working of a mining claim under subsection (2), no other licensee has the right to prospect or stake out a mining claim to the prejudice of the prohibited licensee while the proceeding is pending.

(4) The compensation is a special lien upon any mining claim or other right or interest acquired by the licensee or any person claiming under him in the land so prospected, staked out or worked, and no further prospecting, staking out or working, except by leave of the Commissioner, shall be done by the licensee or any person claiming under him after the time fixed for the payment or securing of the compensation unless the compensation has been paid or secured as directed. R.S.O. 1970, c. 274, s. 101 (2-4).

93.—(1) The Commissioner or the recorder may reduce the area of a mining claim staked out where the surface rights have been granted, sold, leased or located, if in his opinion an area less than the prescribed area is sufficient for working the mines and minerals therein.

(2) The Commissioner or the recorder may exclude from any mining claim such part of the surface rights as may be necessary for the occupation and utilization of buildings or improvements erected or made thereon prior to the time the claim was staked out. R.S.O. 1970, c. 274, s. 102.

ISSUE OF PATENT OR LEASE FOR MINING CLAIM

94.—(1) Upon compliance with this Act and upon payment of the rent for the first year, the holder of a mining claim is entitled to a lease of the claim.
(2) The application and payment for a lease shall be made to the recorder within one year from the date upon which all work on a mining claim is required to be performed, and the application shall be accompanied by a certificate of record as provided in section 57 and a certificate of the complete performance of working conditions as provided in subsection 76 (4).

(3) A lease under this section shall be for a term of twenty-one years at a rental payable in advance of $1 an acre for the first year and 25 cents an acre for each subsequent year, the minimum rental being $10 for the first year and $5 for each subsequent year.

(4) The holder of a mining claim may elect to apply for a lease of the mining rights only.

(5) Where a lease under this section is for the mining rights only, the rental is $1 an acre for the first year and 10 cents an acre for each subsequent year, the minimum rental being $10 for the first year and $4 for each subsequent year.

(6) Where the surface rights on part of a claim are excluded in a lease under this section, the rental prescribed in subsection (3) applies to the part of the claim including the surface rights, and the rental prescribed in subsection (5) applies to the part of the claim excluding the surface rights, but the total rental shall not be less than the minimum rental prescribed in subsection (3).

(7) Subject to subsections (9), (10) and (11), every lease under this section may be renewed for further terms of twenty-one years, and the renewal shall be dated from the day following the expiration of the lease or the last renewal thereof, but application for renewal shall be made within ninety days of the expiry of the lease or last renewal thereof or within such further period as the Minister, in the circumstances of the case, considers proper.

(8) The annual rental for a renewal lease, payable in advance, is $1 an acre for both surface and mining rights and 50 cents an acre for mining rights only, but the minimum annual rental shall be $10.

(9) The Minister may refuse to renew a lease issued under this section or may require the applicant to show cause why a renewal should be granted.
(10) The Minister may refer an application for renewal of a lease to the Commissioner, who shall, upon notice to all interested persons and after hearing such of them as appear, report to the Minister thereon with his recommendations.

(11) Where payment of the rental under any such lease is in arrears for two years or more, the lease may be terminated by an instrument in writing.

(12) Where application for renewal of a lease is not made within the time prescribed by subsection (7) or where a renewal of a lease is refused under subsection (9) or where a lease has been terminated under subsection (11), the Minister may cause a notice of termination to be registered in the proper land registry office, and the land registrar shall, upon receipt of the notice, duly register it, and thereupon all the interests of the lessee, his heirs, executors, administrators and assigns shall be deemed to have ceased and determined, and the lands included in such lease are revested in the Crown freed and discharged from every claim.

(13) Upon registration of the notice in the proper land registry office, the Land Titles Act or the Registry Act, as the case may be, ceases to apply to the lands, and the land registrar shall note that fact in his register in red ink. R.S.O. 1970, c. 274, s. 104 (1-13).

(14) When a lease is terminated under this section, the lease and all rights and powers therein contained, as well as all rights and claims of the lessee, his heirs, executors, administrators or assigns in or to the lands covered by the lease, cease, and such lands are vested in the Crown, freed and discharged from every claim and are not open for prospecting, staking out, sale or lease under this Act until a date fixed by the Deputy Minister, two weeks notice of which shall be published in The Ontario Gazette. R.S.O. 1970, c. 274, s. 104 (14); 1972, c. 116, s. 19.

(15) A lease or renewal thereof or the term or terms thereby created is not transferable without the written consent of the Minister or an officer duly authorized by him.

(16) Any surface rights reserved in a lease or renewal thereof may be dealt with under Part VII or under the Public Lands Act or the regulations made thereunder.
(17) Where the area of the mining claim exceeds by more than five acres the area prescribed for a mining claim in section 42 and the claim is not reduced in size under section 110, the rental per acre of the area in excess of the area so prescribed is twice the rental provided for in this Act, and there shall be performed at least five days work per acre for the excess area.

(18) Where there is a group of contiguous claims held by the same licensee and their average area does not exceed by more than five acres the area prescribed for a mining claim in section 42, the Minister may direct that subsection (17) does not apply.

(19) Subsection (17) of this section and subsection 108 (6) do not apply to the rental for renewal leases.

(20) Where additional work is required under subsection (17), the Minister may prescribe the time within which such work is to be performed and recorded, and application and payment for lease shall be made within the time so prescribed. R.S.O. 1970, c. 274, s. 104 (15-20).

95.—(1) In this section, “lease” means a lease of surface and mining rights or of mining rights issued under section 47, 52 or 100 of The Mining Act, being chapter 241 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, and includes a renewal of such a lease.

(2) Subject to subsection (3), notwithstanding the provisions of a lease, the annual rental for a lease is $1 an acre, but the minimum annual rental shall be $10 and shall be payable in advance.

(3) Subsection (2) does not affect the rental payable under a lease for the balance of the term in effect on the 30th day of June, 1972.

(4) A lease is renewable in perpetuity for periods of ten years and every renewal shall date from the day following the expiry of the lease if application therefor is made within ninety days of the expiration of the lease or within such further period as the Minister, in the circumstances of the case, considers proper.

(5) Where payment of the rental under a lease is in arrears for two years or more, the lease may be terminated by an instrument in writing.
(6) Where a lease has not been renewed under subsection (4) or has been terminated under subsection (5), the Minister may cause a notice of termination to be registered in the proper land registry office, and the land registrar shall, upon receipt of the notice, duly register it, and thereupon all the interests of the lessee, his heirs, executors, administrators, successors and assigns shall be deemed to have ceased and determined, and the land included in such lease is revested in the Crown, freed and discharged from every claim.

(7) Upon registration of the notice under subsection (5) in the land registry office, the Land Titles Act or the Registry Act, as the case may be, ceases to apply to the lands, and the land registrar shall note that fact in his register in red ink.

(8) When a lease is terminated under this section, the lease and all rights and powers therein contained, as well as all rights and claims of the lessee, his heirs, executors, administrators or assigns in or to the lands covered by the lease, cease, and such lands are vested in the Crown, freed and discharged from every claim and are not open for prospecting, staking out, sale or lease under this Act until a date fixed by the Deputy Minister, two weeks notice of which shall be published in The Ontario Gazette.

(9) The holder of a lease, upon application in writing therefor and upon the surrender of his lease, may be issued a lease under section 94 for a term of twenty-one years, and the rental for each year of the term thereof shall be that prescribed by section 94 for years subsequent to the first year of a term under that section. 1972, c. 116, s. 20.

96.—(1) Subject to subsection (3), where a holder of a lease issued under section 94 produces evidence, satisfactory to the Minister, that he is producing mineral in substantial quantities and production has been continuous for more than one year, he is entitled, upon application in writing therefor and upon the surrender of his lease, to a patent of the lands or mining rights held under lease.

(2) Application for a patent shall be in the prescribed form and shall be accompanied by the purchase price at the rate of $10 an acre for both surface and mining rights or $5 an acre for the mining rights only, as the case may be.

(3) Where land consists of land under navigable water, a patent shall not be granted, but, upon application
therefor in writing and upon the surrender of his lease, the lessee is entitled to a new lease renewable in perpetuity for periods of twenty-one years, and every renewal shall date from the day following the expiration of the lease or last renewal thereof if application therefor is made within ninety days of the expiration of the lease or the last renewal thereof or within such further period as the Minister, in the circumstances of the case, considers proper.

(4) The rental for a lease or renewal lease under subsection (3) shall be as prescribed in subsection 94 (8).

(5) Subsections 94 (11), (12), (13), (14) and (15) apply with necessary modifications to leases and renewals thereof under this section. R.S.O. 1970, c. 274, s. 105.

97.—(1) Where the lessee or owner of mining rights, or the holder of a mining licence of occupation, requires the use of surface rights lying within or outside the limits of lands for which he has a lease, patent or licence of occupation for the mining rights for the disposal of tailings or waste material or for the erection of a shaft or buildings for mining or mining purposes, or for any other purpose essential to mining or mining exploration, the Minister may lease to him any available surface rights.

(2) Application for a lease of surface rights shall be made in writing to the Minister in the prescribed form, and the applicant shall furnish such particulars as the Minister requires, including,

(a) a statement of the particular purposes for which the surface rights are to be used;

(b) an adequate description and plan or sketch of the area applied for;

(c) the first year’s rental; and

(d) proof of ownership, or, in the case of a licence of occupation, proof that the applicant is the holder of the licence of occupation, of the mining lands or mining rights that are the basis of the application.

(3) The Minister may require the applicant to furnish a survey survey by an Ontario land surveyor, and the cost of the survey shall be borne by the applicant.
(4) The annual rental of a lease or renewal under this section is $1 an acre, payable in advance.

(5) A lease issued under this section shall be for a term of twenty-one years, but, where the mining lands or mining rights that are the basis of the application are held under a mining lease, the term shall be conterminous with the mining lease. R.S.O. 1970, c. 274, s. 106 (1-5).

(6) Subsections 94 (7), (9), (10), (11), (12), (13), (14) and (15) apply with necessary modifications to leases issued under this section, but, where the mining lands or mining rights that are the basis of the application are held under a mining lease, the renewal term shall be conterminous with the mining lease. R.S.O. 1970, c. 274, s. 106 (6); 1972, c. 116, s. 21.

(7) Where the mining lands or mining rights that are the basis for a lease issued under this section are revested in or are forfeited or revert to the Crown, the lease is forfeited, and subsections 94 (12), (13) and (14) apply.

(8) Where the holder of a lease issued under this section ceases to be the holder of the lands or mining rights in respect of which the lease was issued, the lease is forfeited, and subsections 94 (12), (13) and (14) apply. R.S.O. 1970, c. 274, s. 106 (7, 8).

98. The lands, surface rights or mining rights held under a lease that has been or will be issued under this Act shall be used solely for the purposes of the mining industry, and, in default thereof and on the recommendation of the Commissioner, the Lieutenant Governor in Council may declare the lease void, and subsections 94 (12), (13) and (14) apply. R.S.O. 1970, c. 274, s. 107.

99.—(1) Every lease issued under this Act shall contain the following reservations or provisions:

1. Provided that nothing whatsoever herein contained shall prevent or interfere with the free user of any public or travelled road or highway crossing the hereinbefore described premises.

2. Reserving unto Us, Our Heirs and Successors such use of the land hereby demised for all such works as may be necessary for the development of water power and the development, transmission and distribution of electrical power, natural gas, petroleum
and petroleum products, including the construction, maintenance and operation of roads, railroads, transmission lines and stations, flumes, pipelines, dams, power houses and other works and structures without any liability by Us to the Lessee.

3. Reserving the right to grant without compensation to any person or corporation the right-of-way necessary for the construction and operation of one or more railways over or across the lands herein leased without let or hindrance from the Lessee where such railway or railways shall not manifestly or materially interfere with the mining operations carried on upon the said premises.

4. Saving, Excepting and Reserving unto Us, Our Heirs and Successors the free use, passage and enjoyment of, in, over and upon all navigable waters which shall or may hereafter be found on or under or to be flowing through or upon any part of the said parcel or tract of land hereby demised as aforesaid and reserving also right of access to the shores of all rivers, streams and lakes for all vessels, boats and persons, together with the right to use so much of the banks thereof not exceeding one chain in depth from the high-water mark as may be necessary for fishery or public purposes.

Provided that, should the premises herein described or any part thereof be covered by navigable waters, this lease shall be subject to the provisions of the Navigable Waters Protection Act (Canada), the Beds of Navigable Waters Act and the Lakes and Rivers Improvement Act.

5. Provided that nothing herein contained shall in any manner restrict fishing or fishing rights in any navigable waters covering the premises hereby demised and that the said Lessee shall not do any act resulting in damage to fishing or the fishing industry in the said waters or to nets or other appliances used in fishing in such waters.

6. Provided that these presents shall not vest in the Lessee any right, claim or title to the land under navigable waters which may be included within the limits of the herein described premises, but the
Lessee shall have the exclusive right to extract the minerals therefrom during the term of these presents.

(2) Item 2 of subsection (1) does not apply to a lease of the mining rights only.

(3) The Minister may direct the inclusion of other reservations or provisions provided for in this Act or not inconsistent with the intent of this Act.

(4) The Minister may omit reservations or provisions contained in subsection (1) from a lease issued under section 97 where such reservations or provisions are contrary to the purpose of the lease. R.S.O. 1970, c. 274, s. 108.

100.—(1) Every patent or lease issued under this Act shall contain a reservation for road purposes of 10 per cent of the surface rights of the land granted or leased, as the case may be, and the Crown or its officers or agents may lay out and construct roads where considered proper on the lands so granted or leased.

(2) Every patent or lease issued under this Act shall contain a reservation of the surface rights on and over any public or colonization road or any highway crossing the land granted or leased at the date of issue of the patent or lease.

(3) Subsections (1) and (2) do not apply to patents or leases of the mining rights only.

(4) Where a patent or lease has been issued under this Act or any predecessor thereof containing a reservation for road purposes of 5 per cent or of 10 per cent of the lands granted, and the Crown or its officers or agents did not occupy lands under such reservation, prior to the 1st day of May, 1963, for laying out and constructing roads, such reservation shall now read as a reservation of 5 per cent of the surface rights or 10 per cent of the surface rights, as the case may be. R.S.O. 1970, c. 274, s. 109.

101. Every patent of Crown lands or mining rights by which it is intended to vest in the patentee the mines and minerals therein or a part thereof or any rights in connection therewith shall state that it was issued under this Act or the former Act under which it was issued. R.S.O. 1970, c. 274, s. 110.
102.—(1) In a patent or lease of a mining claim, the Minister shall reserve all surface rights and other rights excused by or withdrawn under this Act or that have otherwise been alienated by the Crown.

(2) Any surface rights reserved under this section may be dealt with under Part VII or under the Public Lands Act or the regulations made thereunder. R.S.O. 1970, c. 274, s. 111.

103.—(1) Every patent of Crown lands that purports to be issued under this Act, unless it is otherwise expressly stated, vests in the patentee of the estate thereby granted all title of the Crown in such lands and all mines and minerals therein.

(2) Notwithstanding section 19 of the Conveyancing and Law of Property Act, where a patent or lease of a mining claim was or is issued under this Act on or after the 1st day of July, 1914, and the patent or lease reserves the surface rights, section 16 of the Conveyancing and Law of Property Act applies if the surface rights were the property of the Crown and were not applied for or occupied at the time that the mining claim was staked out and recorded. R.S.O. 1970, c. 274, s. 112.

104.—(1) All lands, claims or mining rights patented, leased or otherwise disposed of under this or any other Act or by any authority whatsoever are subject to the condition that all ores or minerals raised or removed therefrom shall be treated and refined in Canada so as to yield refined metal or other product suitable for direct use in the arts without further treatment, in default whereof the Lieutenant Governor in Council may declare the lease, patent or other form of title of such lands, claims or mining rights to be void, and the order in council so declaring shall be registered in the proper land registry office, or in the case of a licence of occupation, filed in the Minister’s office, whereupon such lands, claims or mining rights revert to and become vested in Her Majesty, Her heirs and successors, freed and discharged of any interest or claim of any other person.

(2) For the purposes of subsection (1), the Minister may determine the stage of refinement at which any mineral substance is refined metal or other product suitable for direct use in the arts without further treatment.

(3) The Lieutenant Governor in Council may exempt any lands, claims or mining rights from the operation of this section for such period of time as seems proper.
(4) Where there is any conflict between the provisions of this section and the provisions of any general or special Act, the provisions of this section prevail. R.S.O. 1970, c. 274, s. 113.

105.—(1) Every patent or lease of Crown lands issued under this Act shall contain a reservation to the Crown of all timber and trees standing, being or hereafter found growing upon the lands thereby granted or leased, and of the right to enter upon such lands to carry on forestry, to cut and remove any timber or trees thereon, and to make necessary roads for such purposes.

(2) The rights reserved in subsection (1) may be exercised by any person holding a licence or permit from the Crown when authorized to do so by the Minister.

(3) All timber and trees on Crown lands that have been staked out and recorded under this Act remain the property of the Crown, and the Crown may enter upon such lands to carry on forestry, to cut and remove any timber or trees thereon, and to make necessary roads for such purpose.

(4) Notwithstanding subsections (1) and (3) and subject to subsections (5) and (6), the recorded holder of a mining claim staked on Crown lands or the owner or lessee of lands acquired under this Act may cut such trees on the lands so staked or acquired as may be necessary for building, fencing or fuel purposes or for any other purpose necessary for the development or working of the minerals thereon.

(5) Where a licence or permit from the Crown to cut timber on the land has not been granted, the recorded holder, owner or lessee may, on application to the Minister, be granted permission to cut and use the trees for the purposes mentioned in subsection (4) either without payment or on such terms and conditions as the Minister imposes.

(6) Where a licence or permit from the Crown to cut timber on the lands has been granted, the recorded holder, owner or lessee shall compensate the timber licensee or permittee for the trees cut or used by him.

(7) Where a dispute arises between the recorded holder, owner or lessee and the timber licensee or permittee as to the value or quantity of the trees cut or used under subsection (6), the Minister shall determine the dispute and his decision is final.
(8) This section does not confer upon the recorded holder, owner or lessee of the mining rights any right to cut trees upon the lands on which he has staked or acquired only the mining rights. R.S.O. 1970, c. 274, s. 114.

106. Where letters patent, leases, licences or other instruments of title have been issued to or in the name of the wrong person through mistake, or contain any clerical error or misnomer, or a wrong description of the land intended to be granted, the Deputy Minister, if there is no adverse claim and whether or not the land has been registered under the Land Titles Act or the Registry Act, may direct the defective instrument to be cancelled and a correct one to be issued in its stead and the corrected instrument shall relate back to the date of the one so cancelled and has the same effect as if issued on the date of the cancelled instrument. R.S.O. 1970, c. 274, s. 115.

107. Where patents, leases, licences or other instruments of title have been issued under this Act for any land or mining rights affected by an annulment under subsection 7 (1) of the Public Lands Act, the Deputy Minister, whether or not the land has been registered under the Land Titles Act or the Registry Act, may cause such instrument of title to be cancelled and an instrument containing a revised description of the land or mining rights to be issued in its stead, and the corrected instrument shall relate back to the date of the one so cancelled and has the same effect as if issued on the date of the cancelled instrument. R.S.O. 1970, c. 274, s. 116.

SURVEY OF CLAIM BEFORE ISSUE OF PATENT

108.—(1) Before a patent, lease or licence of occupation of a mining claim in unsurveyed territory is applied for, the claim shall be surveyed by an Ontario land surveyor at the expense of the applicant, but no survey of a mining claim, except a perimeter survey consented to by the Minister under subsection (3), shall be made without the written consent of the recorder.

(2) The Lieutenant Governor in Council may make regulations prescribing the method and procedure to be followed in surveying mining claims.

(3) Where two or more mining claims in unsurveyed territory are contiguous and are recorded in the same name, the Minister may, in special circumstances and upon application therefor, consent to a perimeter survey being made of the circumference of the contiguous claims in lieu of a survey under subsection (1).
(4) Where the Minister consents to a perimeter survey being made under subsection (3), he shall issue written instructions prescribing its conduct and filing.

(5) Subsections 77 (1), (2), (3) and (4) apply with necessary modifications in the case of a perimeter survey except that a perimeter survey counts as ten days work on each claim in the group.

(6) Where a perimeter survey is made under subsection (3), the price or rental shall be computed on the total area of the claims within the perimeter survey, and, where the average area of the claims within the perimeter survey exceeds by more than five acres the area prescribed for a mining claim in section 42, the price or rental for the area in excess of that so prescribed is twice the price or rental provided for in this Act, and there shall be performed at least five days work per acre for the excess area.

(7) Where additional work is required under subsection (6), the Minister may prescribe the time within which such work is to be performed and recorded, and application for patent or lease shall be made within the time so prescribed. R.S.O. 1970, c. 274, s. 117 (1-7).

(8) Before a perimeter survey is made, the mining claims proposed to be included in the perimeter survey shall be inspected by an inspector or other officer of the Ministry who shall prepare and submit to the Minister a report and plan showing the claim posts, legible markings, metal tags, claim lines and any other data useful in determining whether the claims have been properly staked out on the ground, and the survey shall not be directed to be made unless the Minister is satisfied that the requirements of this Act have been complied with. R.S.O. 1970, c. 274, s. 117 (8); 1972, c. 1, s. 1.

(9) The fee for an inspection under subsection (8) is $5 per claim, payable in advance, and the Minister may require the applicant to provide the inspector with suitable transportation to the location of the claims.

(10) Where, after a perimeter survey has been made, one or more of the claims within the perimeter survey is cancelled for any reason or where the holder of a recorded interest ceases to be the holder of an undivided interest in the whole, the survey is void, and thereupon the recorder shall cancel the entry on the record and he shall also cancel the work recorded on account of the survey. R.S.O. 1970, c. 274, s. 117 (9, 10).
109.—(1) Where, upon an application for a patent, lease or licence of occupation of a mining claim in surveyed territory, the Minister is of opinion that a survey is necessary, he may direct that a survey thereof be made at the expense of the applicant, and the survey, unless otherwise ordered, shall comply with the same requirements as a survey of a mining claim in unsurveyed territory.

(2) Where a survey is required under subsection (1), the Minister may specify the time within which such work is to be performed and recorded, and the application and payment for a patent, lease or licence of occupation shall be made within the time so specified. R.S.O. 1970, c. 274, s. 118.

110.—(1) If it is found upon a survey required or authorized by this Act that the area of a mining claim exceeds the prescribed acreage, the Minister may reduce the area to the prescribed acreage or thereabouts in any way he sees fit.

(2) Where two or more mining claims in unsurveyed territory are contiguous and constitute a group recorded in the name of one licensee and it was the manifest intention of the applicant or applicants, as shown by the sketch or sketches accompanying his or their application or applications for the same, to include as part of such mining claims all lands and lands under water within the limits of such group, and a survey shows that certain of the lands or lands under water are not so included, such lands or lands under water shall nevertheless be deemed to be part and parcel of the claim or claims in which it was the manifest intention that they should be included, and where two or more mining claims are contiguous and are recorded in the name or names of more than one licensee, any fraction or gore shown or created by a survey is not open for staking out until the Minister so directs, and the Minister, on the report of the Surveyor General, may award such fraction or gore, or part thereof, to the recorded holder or holders of either or both of the contiguous claims, or may sell, lease, or otherwise dispose of the same as he sees fit without requiring such fraction or gore to be staked out as a mining claim. R.S.O. 1970, c. 274, s. 119.

PART III

PLACER MINING

111. A licensee who makes a discovery of a natural placer stratum, bed or deposit of sand, earth, clay, gravel or cement carrying gold, platinum or precious stones that is probably of such size and character as to be likely to be
workable at a profit may stake out and record a mining claim to be called a Placer Mining Claim thereon, and the provisions of this Act as to the staking out and recording of a mining claim upon the discovery of valuable mineral in place thereon, as far as practicable, apply to the staking out of a placer mining claim as if the words "a natural stratum, bed or deposit of sand, earth, clay, gravel or cement carrying gold, platinum or precious stones that is probably of such size and character as to be likely to be workable at a profit" were used instead of "valuable mineral in place", and the other provisions of this Act as to mining claims, as far as practicable, apply to a placer mining claim, and "mining claim" wherever used in this Act shall, unless repugnant to the context, be read as including placer mining claim.

**PART IV**

**PETROLEUM, GAS, COAL AND SALT**

112.—(1) A licensee may obtain from the Minister a boring permit in the prescribed form granting him the exclusive right for a period of one year to prospect for petroleum or natural gas upon an area of land open for prospecting and staking out in those parts of Ontario lying north and west of the River Mattawa, Lake Nipissing, and the French River,

(a) by staking out such area by planting or erecting a post at each corner thereof in the manner and with the numbering provided by section 47, and writing or placing upon each post,

(i) the words "Boring Permit Applied For",

(ii) his name and the letter and number of his licence,

(iii) the date of the staking out, and

(iv) a statement of the area to be included in the application;

(b) by furnishing the recorder with an application in duplicate verified by affidavit in the prescribed form not later than thirty-one days from the date of staking;

(c) by forwarding to the Minister not more than ninety days thereafter a plan or diagram showing as nearly as possible the situation of the lands, and a
written description of the lands, including, if the area is in surveyed territory, the number of the lots and concessions or sections or quarter sections or other subdivisions, together with a fee of $100; and

(d) by proving to the satisfaction of the Minister that he has paid or secured to the owner of the surface rights, if any, the compensation agreed upon or determined as provided in section 92 for any injury or damage that is or may be caused to the surface rights, or, in default of agreement, that he has paid or secured such compensation, as determined in the manner provided by section 92.

(2) One duplicate of the application shall be forthwith posted up by the recorder in his office and the other forwarded by him to the Minister.

(3) The area of land included in a boring permit, if in unsurveyed territory, shall be rectangular in form and shall not exceed 640 acres in extent, the boundary lines thereof being due north and south and due east and west astronomically, and if in surveyed territory, need not be rectangular in form but may consist of any number of contiguous lots, quarter sections or subdivisions of a section containing in all not more than 640 acres.

(4) The holder of a boring permit shall enter upon the area described therein within two months from the granting of the permit, and during the term of the permit shall expend thereon in actual boring, sinking, driving or otherwise searching for petroleum or natural gas a sum amounting to not less than $2 per acre.

(5) Upon proof being furnished to the Minister that such expenditure has been made and that all other terms and conditions of the permit have been complied with, the Minister, at the expiration of the boring permit, may grant one renewal of the permit for one year upon payment of a fee of $100, and the renewal is subject to the like conditions as to expenditure and otherwise as the original permit.

(6) The holder of a boring permit may, with the consent of the Minister endorsed thereon, transfer, in the prescribed form, all his rights in the permit or the land included therein, and, upon the consent being given, the licensee to whom the permit is transferred is entitled to the unexpired term of the permit, with any right of renewal thereof.
(7) A licensee shall not in any one licence year stake out more than three areas or apply for or obtain more than three boring permits. R.S.O. 1970, c. 274, s. 121.

113.—(1) Upon the holder of a boring permit proving to the satisfaction of the Minister that he has discovered petroleum or natural gas or any one or more of such substances in commercial quantities upon the land included therein, the Minister may direct the issue to the holder of the permit of a lease of the land or a part of it for a term of ten years at an annual rental of $1 per acre, payable in advance and subject to the expenditure of not less than $2 per acre per annum, in obtaining petroleum or natural gas or any one or more of such substances therefrom or in actual bona fide operations or works undertaken or made for the purpose of obtaining the same, and the lessee has the right of renewal of the lease at the expiration of the first term of ten years for a further term of ten years at the same rental, and at the expiration of the second term for a term of twenty years at such renewal rental as is then agreed upon or provided by statute or regulation.

(2) Every such lease shall contain such other conditions, stipulations and provisos as the Lieutenant Governor in Council prescribes, and is forfeit and void if the rental payable thereunder is not paid when due or upon failure to expend the money required by subsection (1) to be laid out or upon failure to comply with any of the terms and conditions of the lease, but relief from forfeiture for failure to pay rent when due may be had by the payment of all arrears within ninety days after the rent became payable. R.S.O. 1970, c. 274, s. 122 (1, 2).

(3) The right conferred by such a lease upon the lessee is to enter upon the land described, and to dig, bore, sink, drive or otherwise search for and obtain, raise and remove petroleum and natural gas or any one or more of such substances, and all other valuable minerals are reserved to the Crown, and a holder of a prospector’s licence may at all times go upon the land and prospect the land and stake out a mining claim thereon, but subject to compensating the lessee for any injury or damage to his interest in the land at the time and in the manner provided in section 92, and may obtain a patent therefor, but the patent shall reserve the petroleum and natural gas in, on or under the land. R.S.O. 1970, c. 274, s. 122 (3); 1972, c. 116, s. 22.

(4) No such lease shall issue for land in unsurveyed territory until a plan of survey made by an Ontario land surveyor is filed in the Ministry, and such survey shall be in conformity with this Act and to the satisfaction of the Minister. R.S.O. 1970, c. 274, s. 122 (4); 1972, c. 1, s. 1.
(5) The holder of a boring permit or of a lease for petroleum or natural gas is not entitled to the timber upon the land included in the permit or lease but, if the land is not covered by timber licence and has not been located, sold or patented under the Public Lands Act, may, with the permission of the Minister and upon payment of such rates as are fixed, cut and use such timber as is necessary for boring and working the land. R.S.O. 1970, c. 274, s. 122 (5).

114. Notwithstanding anything in sections 112 and 113, the Minister, with the approval of the Lieutenant Governor in Council, may make such regulations as he thinks fit respecting the issue of boring permits authorizing the holders thereof to prospect for petroleum or natural gas in that part of Ontario lying north of the fifty-first parallel of latitude and predominately underlain with paleozoic rock formations and for the issue of leases upon such terms as the Minister sees fit. R.S.O. 1970, c. 274, s. 123.

115. The Lieutenant Governor in Council may make regulations respecting the issue of licences to explore for and leases to dredge or work in any river, stream or lake or lands not covered by water for the purpose of recovering there-from alluvial gold, platinum, precious stones or any other valuable mineral not in place. R.S.O. 1970, c. 274, s. 124.

PART V
EXPLORATORY LICENCES AND DREDGING LEASES

116. The Lieutenant Governor in Council may make regulations respecting the issue of licences to explore and leases to dredge or work in any river, stream or lake or lands not covered by water for the purpose of recovering there-from alluvial gold, platinum, precious stones or any other valuable mineral not in place. R.S.O. 1970, c. 274, s. 125.

PART VI
EXPLORATORY LICENCES AND PRODUCTION LEASES IN PALEOZOIC ROCK FORMATIONS

117. The Minister, with the approval of the Lieutenant Governor in Council, may make regulations respecting licences to explore for and leases to mine minerals in
designated areas in that part of Ontario lying north of the fifty-first parallel of latitude and predominately underlain with paleozoic rock formations. R.S.O. 1970, c. 274, s. 126.

PART VII
QUARRY PERMITS

118.—(1) No person shall take or remove or cause to be taken or removed any stone or rock quarried for any industrial or commercial purpose, limestone, marble, granite, quartz, feldspar, fluor spar, gypsum, diatomaceous earth, clay, marl, peat, sand or gravel that is the property of the Crown unless he is the holder of a quarry permit. R.S.O. 1970, c. 274, s. 127 (1).

(2) Application for a quarry permit may be made in the prescribed form to the Minister, Deputy Minister or a recorder. 1971, c. 102, s. 5 (1).

(3) The Minister, the Deputy Minister or a recorder may issue quarry permits upon application therefor and upon payment of the prescribed fees. R.S.O. 1970, c. 274, s. 127 (3).

(4) Notwithstanding subsection (3), a quarry permit may be issued free of charge to any municipality, or to any resident of Ontario if the material to be taken or removed is for his own use and not for sale or for use for any commercial or industrial purpose, but, where more than 500 cubic yards of material is to be taken or removed, the permit shall not be issued free of charge without the approval of the Minister. R.S.O. 1970, c. 274, s. 127 (4); 1971, c. 102, s. 5 (2).

(5) A quarry permit shall expire on the first anniversary date of its issue, unless otherwise stated in the permit. 1971, c. 102, s. 5 (3).

(6) No quarry permit shall be transferred without the written consent of the Minister or the Deputy Minister. R.S.O. 1970, c. 274, s. 127 (6).

(7) The Minister may require an applicant for a quarry permit to file a plan of the area in which he desires to operate, indicating the extent and nature of the deposit and the location of any buildings or improvements adjacent to the deposit. R.S.O. 1970, c. 274, s. 127 (8).
119.—(1) The Minister may refuse to renew or may suspend or revoke a quarry permit on the grounds that,

(a) the permittee has contravened any provision of this Part;

(b) no operations have been carried on under the permit for a continuous period of more than six months;

(c) the permittee is not employing equipment that in the opinion of the Minister is proper and suitable for the operations pursuant to the permit; or

(d) the Minister considers the continuation of operations under the permit to be contrary to the public interest, but, subject to subsection (8), before so doing he shall give the permittee notice of his intention to refuse to renew or to suspend or revoke the permit, together with written reasons therefor.

(2) A notice under subsection (1) shall inform the permittee that he is entitled to a hearing by the Commissioner if he mails or delivers a notice in writing requiring such hearing to the Minister within fifteen days after the notice under subsection (1) is served on him, and the Minister, on receipt of a notice requiring a hearing, shall refer the matter to the Commissioner for a hearing.

(3) Where a permittee does not require a hearing by the Commissioner in accordance with subsection (2), the Minister may carry out the intention stated in his notice under subsection (1).

(4) Pursuant to a reference by the Minister under this section, the Commissioner shall hold a hearing as to whether the permit to which the hearing relates should be renewed or should be suspended or revoked, as the case may be, and the permittee and such other persons as the Commissioner may specify are parties to the hearing.

(5) Sections 6 to 16 and sections 21 to 23 of the Statutory Powers Procedure Act apply in respect of a hearing under this section.

(6) The Commissioner shall, at the conclusion of a hearing under this section, make a report to the Minister setting out his findings of fact and any information or knowledge
used by him in reaching his recommendations, any con-
clusions of law he has arrived at relevant to his recom-
mendations, and his recommendations as to the renewal,
suspension or revocation of the permit to which the hearing
relates, as the case may be, and shall send a copy of his
report to the permittee to whom it relates.

(7) After considering the report of the Commissioner under
this section, the Minister may thereupon renew or refuse
to renew, or suspend or revoke or refrain from suspending
or revoking the permit to which the report relates and
shall give notice of his decision to the permittee specifying
the reasons therefor.

(8) Notwithstanding anything in this section, the Minister,
by notice to a permittee and without a hearing, may
provisionally refuse renewal of or suspend the permittee's
permit, where in the Minister's opinion the continuation of
operations under the permit is in contravention of this
Act, will cause damage to property, or is an immediate
threat to the public interest, and the Minister so states
in the notice, giving his reasons therefor, and thereafter
the Minister shall refer the matter to the Commissioner
and subsections (3) to (6) apply and the provisional refusal
or suspension terminates when the Minister's decision under
subsection (6) becomes effective unless sooner terminated by
the Minister. 1971, c. 50, s. 58 (7).

120.—(1) The holder of a quarry permit, other than
the holder of a quarry permit issued free of charge, shall
pay the Crown for the material taken or removed such
amount as the Minister may determine.

(2) In determining the amount to be paid under sub-
section (1), the Minister shall have regard to the location,
type and accessibility of the deposit and the amount of
the material taken or removed.

(3) The Minister may require the holder of a quarry
permit to give security by bond or otherwise for the
payment of such amounts. R.S.O. 1970, c. 274, s. 128.

121. The holder of a quarry permit shall keep a detailed
record of his operations and shall retain copies of all
documents relating to sales and shipments, and all accounts,
records and documents relating to his operations shall be
kept available for inspection by any person authorized by
the Minister to inspect such accounts; records and docu-
ments. R.S.O. 1970, c. 274, s. 129.
122. Any person authorized by the Minister, Deputy Minister or a recorder may enter any premises covered by a quarry permit and shall have access to all accounts, records and documents kept in relation to the operation of the quarry. R.S.O. 1970, c. 274, s. 130; 1971, c. 102, s. 6.

123. The holder of a quarry permit shall make a return on the prescribed form on or before the tenth day of each month showing the quantity and destination of the material taken or removed during the next preceding month. R.S.O. 1970, c. 274, s. 131.

124. A quarry permit does not affect the right of a licensee to stake out a mining claim on the lands covered by the permit and any question of property damage shall be determined in the manner provided in section 92. R.S.O. 1970, c. 274, s. 132.

125. Every person who contravenes any of the provisions of this Part is guilty of an offence and on conviction is liable to a fine of not more than $1,000. 1971, c. 102, s. 7.

PART VIII
MINING AND LANDS COMMISSIONER

126. Except as provided by section 185, no action lies and no other proceeding shall be taken in any court as to any matter or thing concerning any right, privilege or interest conferred by or under the authority of this Act, but, except as in this Act otherwise provided, every claim, question and dispute in respect of such matter or thing shall be determined by the Commissioner, and in the exercise of the power conferred by this section the Commissioner may make such order or give such directions as he considers necessary to make effectual and enforce compliance with his decision. R.S.O. 1970, c. 274, s. 135.

127.—(1) The Commissioner has no power or authority to declare forfeited or void or to cancel or annul any Crown patent issued for lands, mining lands, mining claims or mining rights, but every action and every proceeding to declare forfeited or void or to cancel or annul any such Crown patent may be brought or taken in the Supreme Court.
(2) Subsection (1) does not apply to cancellations or forfeitures provided for in this Act or in the patent. R.S.O. 1970, c. 274, s. 138.

128. A party to a proceeding under this Act brought before the Commissioner and involving any right, privilege or interest or in connection with any patented lands, mining lands, mining claims or mining rights, may, at any stage of the proceeding, apply to the Supreme Court for an order transferring the proceeding to the Supreme Court. R.S.O. 1970, c. 274, s. 139.

129. Where in the opinion of the court in which an action is brought the proceeding may be more conveniently dealt with or disposed of by the Commissioner, the court may, upon the application of a party or otherwise and at any stage of the proceeding, refer the action or any question therein to the Commissioner as an official referee on such terms as to the court seems just and the Commissioner shall thereafter give directions for the continuance of the proceeding before him, and, subject to the order of reference, all costs are in his discretion. R.S.O. 1970, c. 274, s. 140.

130. Where a proceeding that should have been taken before the Commissioner is brought in a court, the court may, upon the application of a party or otherwise and at any stage of the proceeding, transfer it to the Commissioner. R.S.O. 1970, c. 274, s. 141.

131.—(1) Subject to the right of appeal provided in section 133, a recorder has power to hear and determine disputes between licensees as to unpatented mining claims situate in his mining division. R.S.O. 1970, c. 274, s. 143 (1); 1971, c. 50, s. 58 (11).

(2) Any question arising before the issue of a certificate of record of a mining claim as to whether the provisions of this Act regarding a mining claim have been complied with, unless the Commissioner otherwise orders or unless the recorder with the consent of the Commissioner transfers the question to the Commissioner for his decision, shall in the first instance be decided by the recorder.

(3) The recorder shall enter forthwith in the book of his office a full note of every decision made by him, and shall notify the persons affected thereby of the decision by registered letter mailed not later than the next day after the entry of the note.
(4) Every person affected by the decision is entitled upon payment of the prescribed fee to receive from the recorder a certificate thereof which shall contain the date of the entry of the decision in the books of the recorder. R.S.O. 1970, c. 274, s. 143 (2-4).

(5) The decision of the recorder is final and binding unless appealed from as provided in section 133. R.S.O. 1970, c. 274, s. 143 (2-4); 1971, c. 50, s. 58 (12).

(6) Where he is satisfied that there is substantial compliance with the provisions of this Act, the recorder may make an order directing a holder,

(a) to move, remove or alter corner posts and witness posts and the writing or inscribing thereon;

(b) to move or alter claim lines;

(c) to replace metal tags that have been removed or destroyed after having been affixed to the corner posts; or

(d) to replace missing corner posts and witness posts and to affix tags to such posts,

and the recorder shall set out in the order the time within which the work shall be completed and reported to him.

(7) Where the work prescribed in an order under subsection (6) has not been completed within the time set out in the order, the recorder may cancel the claim or claims on which the work was to have been done and shall, by registered letter, mailed not later than the next day after the cancellation, notify the holder of his action and the reason therefor.

(8) This section applies to the manner in which the metal tags have been affixed to the corner posts, notwithstanding that the period prescribed in subsection 54 (5) has not fully expired. R.S.O. 1970, c. 274, s. 143 (6-8).

132.—(1) The recorder may give directions for the conduct and carrying on of proceedings before him, and in so doing he shall adopt the cheapest and simplest methods of determining the questions arising before him that afford to all interested parties an adequate opportunity of knowing the issues in the proceedings and of presenting material and making representations on their behalf.
(2) The recorder shall give reasons for any decision made by him in proceedings before him.

(3) A copy of the final decision of a recorder may be filed in the office of the Registrar of the Supreme Court under section 19 of the Statutory Powers Procedure Act, which applies thereto.

(4) Except as provided in subsection (3), the Statutory Powers Procedure Act does not apply to proceedings before the recorder. 1971, c. 50, s. 58 (13), part.

133.—(1) A person affected by a decision of or by any act or thing, whether ministerial, administrative or judicial, done, or refused or neglected to be done by a recorder may appeal to the Commissioner.

(2) An appeal under subsection (1) may be taken by the Director or the Supervisor on his behalf where, in the opinion of the Minister, the public interest is affected, and no fee prescribed in the Schedule in respect of the appeal is payable by the Director or Supervisor.

(3) An appeal to the Commissioner shall be by notice in writing in the prescribed form, filed in the office of the recorder from whom the appeal is being taken and served upon all parties interested within fifteen days from the entry of the decision on the books of the recorder or the doing by the recorder of the act or thing appealed from, or within such further period of not more than fifteen days as the Commissioner may allow, but if the notice of appeal has been filed with the recorder within such time and the Commissioner is satisfied that it is a proper case for appeal and that after reasonable effort any of the parties entitled to notice could not be served within such time, the Commissioner may extend the time for appealing and make such order for substitutional or other service as he considers just, or if a person affected has not been notified as provided in sections 90 and 131, and appears to have suffered substantial injustice and has not been guilty of undue delay, the Commissioner may allow such person to appeal.

(4) The notice of appeal shall contain or have endorsed upon it an address in Ontario at which the appellant may be served with any notice or document relating to the appeal, and any such notice or document is sufficiently served upon the appellant if it is left with a grown-up person at such address or, where no such person can there be found, if sent by registered mail addressed to the appellant at such address.
(5) If no address for service is given as provided in subsection (4), any such notice or document may be served upon the appellant by posting it up in the recorder's office. 1971, c. 50, s. 58 (13), part.

134. The Commissioner shall determine,

(a) an appeal from a recorder, after a hearing by way of a hearing de novo; and

(b) a dispute referred to in section 56 or a claim, question, dispute or other matter within his jurisdiction after a hearing,

pursuant to an appointment fixing the time and place for the hearing. 1971, c. 50, s. 58 (13), part.

135.—(1) Application to the Commissioner for an appointment for a hearing may be made by any party to the proceeding and may be verbal or written or may be ex parte or upon such notice to such persons as the Commissioner may direct.

(2) The Commissioner may fix such time for a hearing as will permit the matter to be disposed of as promptly as possible, allowing adequate time to the parties to prepare their cases but, unless all parties consent thereto, the hearing shall be held not less than ten days after service of the appointment for the hearing on the parties.

(3) The Commissioner shall select as the place for a hearing such place as he considers most convenient for the parties in the county or district or one of the counties or districts in which the lands or mining rights affected are situate unless it appears to him desirable that the hearing should be in some other county or district.

(4) In any matter or proceeding, other than an appeal, the Commissioner may, if a certificate of record has been issued, require the applicant for an appointment to satisfy him that there is reasonable ground for the application or, in any such case or in any case where leave to take the proceeding is necessary, may give the appointment or leave only upon such terms as to security for costs or otherwise as he considers just. 1971, c. 50, s. 58 (13), part.

136.—(1) The Commissioner shall cause a copy of an appointment for a hearing before him to be served upon all parties, which shall, except in the case of an appeal
or a dispute under section 56, state briefly the particulars of the right or question in issue or of the dispute.

(2) The appointment shall state that if a person has been served and does not attend the hearing, the Commissioner may proceed in his absence and he is not entitled to notice of any further proceedings.

(3) Service by registered mail of the appointment and of the notice, if any, required under subsection (1) shall be a sufficient compliance with section 6 of the *Statutory Powers Procedure Act*.  1971, c. 50, s. 58 (13), part.

**137.**—(1) Sections 135 and 136 apply notwithstanding the *Statutory Powers Procedure Act* and, subject to that Act, the Commissioner may,

(a) give directions for having any matter or proceeding heard and decided without unnecessary formality;

(b) order the filing or serving of statements, particulars, objections or answers, the production of documents and things, and the making of amendments;

(c) give such other directions respecting the procedure and hearing as he considers proper;

(d) make any appointment, notice or other proceeding returnable forthwith or at such time as he considers proper; and

(e) order or allow such substituted or other service as he considers proper.

(2) The Commissioner may take or order the evidence of any witness to be taken at any place in or out of Ontario.  1971, c. 50, s. 58 (13), part.

**138.** Notwithstanding the *Statutory Powers Procedure Act*, the Commissioner may hear and dispose of any application not involving the final determination of the matter or proceeding, either *ex parte* or on notice, at any place he considers convenient, and his decision upon any such application is final and is not subject to appeal but, where the Commissioner makes his decision *ex parte*, he may subsequently reconsider and amend such decision.  1971, c. 50, s. 58 (13), part.
139. The Commissioner may obtain the assistance of engineers, surveyors or other scientific persons who may under his order view and examine the property in question, and in giving his decision he may give such weight to their opinion or report as he considers proper. R.S.O. 1970, c. 274, s. 150.

140.—(1) The Commissioner, in addition to hearing the evidence adduced by the parties, may require and receive such other evidence as he considers proper, and may view and examine the property in question and give his decision upon such evidence or view and examination, or may appoint a person to make an inspection of the property, and may receive as evidence and act upon the report of the person so appointed.

(2) Where the Commissioner proceeds partly on a view or on any special knowledge or skill possessed by himself, he shall put in writing a statement of the same sufficiently full to enable a judgment to be formed of the weight that should be given thereto.

(3) Where the parties consent in writing, the Commissioner may proceed wholly upon a view, and in such case his decision is final and is not subject to appeal. R.S.O. 1970, c. 274, s. 151.

141. Where the Commissioner receives any opinion, report or evidence under section 139 or 140 in any proceeding before him, the opinion, report or evidence shall be disclosed to the parties to the proceeding who, if they so request, shall be afforded an opportunity of cross-examining the person expressing the opinion, making the report or giving the evidence. 1971, c. 50, s. 58 (14).

142. The Commissioner shall give his decision upon the real merits and substantial justice of the case. R.S.O. 1970, c. 274, s. 152.

143. Where the Commissioner considers the matter or proceeding vexatious or where it is brought by a person residing out of Ontario, he may order that such security for costs as he considers proper be given and that in default of such security being given within the time limited or in default of speedy prosecution the matter or proceeding be dismissed. R.S.O. 1970, c. 274, s. 153.

144. Where the hearing is to be held at a place where a court house is situate, the Commissioner has the right to use the court room, and where the hearing is to take
place in a municipality in which there is a hall belonging to the municipality, but no court room, he has the right to use the hall. R.S.O. 1970, c. 274, s. 154.

145. Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Commissioner in the exercise of the powers conferred on him by this Act whenever required so to do and shall upon the certificate of the Commissioner be paid the same fees as for similar services in carrying out the orders of a judge of the Supreme Court. R.S.O. 1970, c. 274, s. 155.

146. The evidence taken before the Commissioner shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. 1971, c. 50, s. 58 (15).

147. The Commissioner may in his discretion award costs to any party, and may direct that such costs be taxed by the clerk of the county or district court or by a local taxing officer or by one of the taxing officers at Toronto, or may order that a lump sum be paid in lieu of taxed costs. R.S.O. 1970, c. 274, s. 157.

148.—(1) The costs and disbursements payable upon proceedings before the Commissioner as to any matter in which the amount or value of the property in question does not in the opinion of the Commissioner exceed $400 shall be according to the tariff of the county court and as to any matter in which the amount or value of the property in question in his opinion exceeds $400 shall be according to the tariff of the Supreme Court.

(2) The Commissioner shall in his order or award direct the tariff upon which the costs and disbursements shall be taxed.

(3) The Commissioner has the same powers as a judge of a county court or a taxing officer of the Supreme Court with respect to counsel fees. R.S.O. 1970, c. 274, s. 158.

149. The fee and conduct money to be paid to a witness before the Commissioner or recorder shall be according to the county court scale. R.S.O. 1970, c. 274, s. 159.

150.—(1) Except where inapplicable, the decision of the Commissioner shall be in the form of an order or judgment, but need not show upon its face that any proceeding or notice was had or given or that any circumstance existed necessary to give jurisdiction to make the order or judgment. R.S.O. 1970, c. 274, s. 160 (1).
(2) The order or judgment of the Commissioner, with the evidence, exhibits, the statement, if any, of view or of special knowledge or skill, and the reasons for his decision shall be filed in the office of the recorder of the division in which the property in question or part of it is situate or, where section 16 applies, with the Deputy Minister, and the recorder or Deputy Minister shall forthwith give notice in writing of the filing by registered mail or otherwise to the solicitors of the parties appearing by solicitor and to parties not represented by a solicitor. 1971, c. 50, s. 58 (16).

(3) Where the order or judgment is not filed with the recorder of the division in which the property affected is situate, the Commissioner shall transmit a duplicate thereof to such recorder. R.S.O. 1970, c. 274, s. 160 (3).

151.—(1) The Commissioner shall make in the books of his office a full note of every decision given by him.

(2) Where a decision of the Commissioner finally disposes of the matter in question so far as he is concerned, he shall give notice of the purport of his decision to the parties by registered mail addressed to them at their addresses as entered in his books. R.S.O. 1970, c. 274, s. 161.

152. Any party to a proceeding is entitled on payment of the prescribed fee to a certified copy of any order or judgment, and the copy shall show the date of the entry of the order or judgment in the books of the Commissioner. R.S.O. 1970, c. 274, s. 162.

153. Where a certified copy of a final decision of a recorder has been filed in the office of the Registrar of the Supreme Court under section 19 of the Statutory Powers Procedure Act, the Commissioner or the court or a judge thereof may stay proceedings therein if an appeal from the decision is brought until final disposition of the appeal. 1971, c. 50, s. 58 (17).

154. Where not otherwise provided, an appeal lies to the Divisional Court from any decision of the Commissioner, including an order dismissing a matter or proceeding under section 143. R.S.O. 1970, c. 274, s. 163.

155.—(1) Except in the case of a reference under section 129 or the Arbitrations Act, the order or judgment of the Commissioner is final and conclusive unless, where
an appeal lies, it is appealed from within fifteen days after the filing thereof in accordance with section 150, or within such further period of not more than fifteen days as the Commissioner or a judge of the Divisional Court may allow.

(2) The appeal shall be begun by filing a notice of appeal with the recorder with whom the order or judgment appealed from is filed under section 150 or, where section 16 applies, with the Deputy Minister, paying to him the prescribed fee and filing the notice of appeal with the Registrar of the Supreme Court and, unless the notice of appeal is filed with the Registrar of the Supreme Court and a certificate of such filing is lodged with the recorder or Deputy Minister within five days after the expiration of such fifteen days, or any further time allowed under subsection (1), the appeal shall be deemed to be abandoned.

(3) The recorder or, where section 16 applies, the Deputy Minister shall, forthwith after the filing of the notice of appeal and payment of the prescribed fee, transmit by registered mail or by express to the office of the Registrar of the Supreme Court, Toronto, the order or judgment appealed from and all the exhibits, papers and documents filed therewith.

(4) Where the time for appealing is extended under subsection (1), the appellant shall forthwith transmit the order for the extension or a duplicate thereof by registered mail to the recorder, or where section 16 applies, to the Deputy Minister.

(5) The practice and procedure on an appeal including the form of notice of appeal, service of the notice of appeal on the parties, and the disposition of costs on an appeal, shall be governed by the rules of court. 1971, c. 50, s. 58 (18).

**156.—(1) No proceedings by way of an application for judicial review under the Judicial Review Procedure Act, or, except in proceedings provided for under this Act, by way of other proceedings whatsoever, may be brought to call into question,**

\[(a) \text{any decision made or purporting to have been made by a recorder under this Act, more than thirty days after entry of the decision by the recorder in the books of his office;}\]
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(b) any order or judgment given or made or purporting to have been given or made by the Commissioner under this Act, more than thirty days after filing of the order or judgment of the Commissioner in accordance with section 150; or

(c) the validity of any act or thing done or purporting to have been done under this Act by the recorder or by any other officer appointed under this Act, more than thirty days after the time when such act or thing was done.

(2) Notwithstanding anything in the Judicial Review Procedure Act, no court may extend any limitation of time fixed in subsection (1). 1971, c. 50, s. 58 (19).

157. Where the validity of a proceeding before the Commissioner or a recorder is called into question in any court on the ground of any defect of form or substance or failure to comply with this Act or the regulations, notwithstanding that such defect or failure is established, the court shall not, if no substantial wrong or injustice has been thereby done or occasioned, invalidate the proceeding by reason thereof, but shall confirm the proceeding, and, upon such confirmation, the proceeding shall be and be deemed to have been valid and effective from the time when it would otherwise have been effective but for such defect or failure. 1971, c. 50, s. 58 (20).

158. Where power is conferred by this Act to extend the time for doing an act or taking a proceeding, unless otherwise expressly provided, the power may be exercised as well after as before the expiration of the time allowed or prescribed for doing the act or taking the proceeding. R.S.O. 1970, c. 274, s. 167.

159. Where the time limited for any proceeding or for the doing of anything in an office of a mining recorder or an office of the Commissioner or an office of the Minister or Deputy Minister expires or falls upon a Saturday, the time so limited extends to and the thing may be done on the day next following that is not a holiday. R.S.O. 1970, c. 274, s. 168.

PART IX

OPERATION OF MINES

160. In this Part,

(a) “engineer” means a member of the Association of Professional Engineers of the Province of Ontario who is
designated by the Ministry of Labour as "chief engineer" or as "district mining engineer", or as "district electrical-mechanical engineer";

(b) "manager" means the owner of a mine or plant or a part thereof or his agent, or a person designated by the owner or his agent as responsible for the control, management and direction of a mine, plant or a part thereof;

(c) the noun "mine" includes any opening or excavation in, or working of the ground for the purpose of winning, opening up or proving any mineral-bearing substance, and any ore body, mineral deposit, stratum, rock, earth, clay, sand or gravel; or place where mining is or may be carried on and also any quarry, excavation or opening in the ground made for the purpose of searching for or removal of mineral, rock, stratum, earth, clay, sand or gravel, and any premises below or above ground belonging to or used in connection with the mine not included in the definition of the noun "plant";

(d) the verb "mine" and the word "mining" mean the performance of any work in or about a mine;

(e) the noun "plant" includes any roasting or smelting furnace, concentrator, mill or place and work used for or in connection with washing, crushing, grinding, sifting, reducing, leaching, roasting, smelting, refining, treating or research on any substance included under the noun "mine" and all ways, works, machinery, buildings and premises above ground used in connection therewith. R.S.O. 1970, c. 274, s. 169 (1); 1976, c. 79, s. 12 (1).

REHABILITATION OF TAILINGS DISPOSAL AND PLANT AREAS

161.—(1) The mine manager shall plant and maintain vegetation, or otherwise stabilize the tailings areas which will not be required for future impoundment of tailings to the satisfaction of the district engineer of mines.

(2) At least one year prior to cessation of operation, the mine manager shall submit to the district engineer of mines, two copies of a plan showing,

(a) the extent of the tailings area on which planting of vegetation or stabilization must still be completed; and

(b) the rehabilitation that is to be done in the mine or plant area, together with descriptive information.
(3) The rehabilitation work mentioned in subsection (2) shall be completed to the satisfaction of the chief engineer of mines. R.S.O. 1970, c. 274, s. 176 (1-3).

(4) A bond or security deposit in an amount considered necessary by the chief engineer of mines to complete the rehabilitation mentioned in subsection (2) shall be deposited with the Ministry of Natural Resources. R.S.O. 1970, c. 274, s. 176 (4); O. Reg. 57/81.

(5) Where a mine has been abandoned or where the work in it has been discontinued, the owner or lessee or any other person interested in the mineral of the mine shall cause the top of any shaft or raise opening to the surface to be solidly bulkheaded with reinforced concrete at bedrock or on top of the concrete collar of such opening, except that where in the opinion of the district mining engineer this is impracticable, the requirements of subsection (2) apply.

(6) All other openings and pits, dangerous by reason of their depth or other conditions, shall be and shall be kept securely fenced or otherwise protected against inadvertent access to the satisfaction of the district mining engineer, but where in his opinion the mine or workings present no greater hazard than the natural topographic features of the area, this provision need not be complied with.

(7) Every such person who, after notice in writing from the district mining engineer, fails to comply with his directions as to such fencing or protection within the time specified in the notice is guilty of an offence against this Act. R.S.O. 1970, c. 274, s. 176 (5-7).

(8) Where the district mining engineer finds that any such fencing or protection is required in order to avoid danger to health or property, he may cause the work to be done and may pay the costs incurred out of any moneys provided for the purposes of this Act, and the amount of such costs with interest thereon is a lien upon the mine or mining work of which notice in such form as the Minister of Natural Resources may prescribe may be registered in the proper land registry office, and no further transfer or other dealings with the mine or mining work shall take place until such amount is paid. R.S.O. 1970, c. 274, s. 176 (8); O. Reg. 57/81.

(9) The amount of such costs with interest thereon is due from the owner or lessee to the Crown and is recoverable at the suit of the district mining engineer in any court of competent jurisdiction. R.S.O. 1970, c. 274, s. 176 (9).
(10) Notwithstanding subsections (8) and (9), the Minister of Natural Resources, either without payment or on such terms and conditions as he considers proper, may cause a cessation of charge to be registered in the proper land registry office, and thereupon the lien registered under subsection (8) is void and of no effect. R.S.O. 1970, c. 274, s. 176 (10); O. Reg. 57/81.

BRINE WELLS

Interpretation 162.—(1) In this section,

(a) "brine well" means a hole or opening in the ground for use in brining;

(b) "brining" means the extraction of salt in solution by any method.

Permit to bore or drill a brine well (2) No person shall drill or bore a brine well except under the authority of a permit in writing issued by the chief engineer upon application therefor in the prescribed form.

Permits not issued (3) A permit shall not be issued,

(a) to authorize a person to drill or bore a brine well on property in which he does not own, hold or lease, or is not otherwise entitled to, the mining rights; or

(b) where the proposed brine well is nearer the boundary of such property than 500 feet.

Location of brine well (4) The chief engineer may reduce or extend the distance referred to in clause (3)(b) where in his opinion it is advisable to do so and shall notify the applicant of any such reduction or extension within thirty days from the date upon which the application for the permit is filed.

Condition of permit (5) A permit is subject to the condition that the brine well in respect of which it is issued is bored or drilled in the location described in the permit.

Time for issuance of permit (6) A permit shall be issued or refused within thirty days from the date on which the application therefor is filed, except that, where notice has been given by the chief engineer under subsection (4), the permit shall be issued upon the receipt by the chief engineer of the applicant's consent thereto.

Log of drilling operations (7) Where a person drills or bores a brine well, he shall forward a log of the drilling or boring in the prescribed form in duplicate to the chief engineer within thirty days of
the completion of the drilling or boring operations, and, upon his request in writing, the log shall be confidential for a period of six months.

(8) A person boring or drilling a brine well shall take such reasonable measures as are necessary to control the infiltration of water from one horizon to any other horizon that may be penetrated during the drilling or boring operations.

(9) All brine wells shall be cased and equipped so as to reasonably ensure against the uncontrolled flow of oil, natural gas, brine or water.

(10) Casing and equipment shall be in good condition and of a thickness and strength adequate to withstand any fluid pressure to which they might normally be subjected.

(11) Where practicable, all brine wells shall be plugged by the person operating them, before being abandoned, in a manner that will,

(a) reasonably ensure that salt horizons and potential oil or natural gas producing horizons are protected; and

(b) retain water and brine in their original formations.

(12) Before commencing to plug a brine well, the person proposing to carry out the plugging operations shall report the particulars thereof to the chief engineer in the prescribed form.

(13) Where a person plugs a brine well, he shall forward a record of the plugging in the prescribed form in duplicate to the chief engineer within thirty days of the completion of the plugging operations. R.S.O. 1970, c. 274, s. 611.

STATISTICAL RETURNS

163.—(1) For the purpose of their tabulation, under the instruction of the Minister, the owner, agent or manager of every mine, plant, pit, quarry or other works to which this Act applies shall, on or before the 31st day of March in every year, send to the Ministry on the forms supplied a correct return for the year that ended on the 31st day of December next preceding, showing the number of persons ordinarily employed below and above ground respectively, the total amount of wages paid during the year, the quantity in standard weight of the minerals dressed and of the undressed
mineral that has been sold, treated or used during such year, and the value or estimated value thereof, and such other particulars as the Minister by regulation prescribes. R.S.O. 1970, c. 274, s. 616 (1); 1972, c. 1, s. 1.

(2) The owner, agent or manager of every metalliferous mine shall, if required, make a similar return for the month or quarter at the end of each month or quarter of the calendar year.

(3) Every owner, agent or manager of a mine, plant, pit, quarry or other works who fails to comply with this section, or makes a return that is to his knowledge false in any particular, is guilty of an offence against this Act. R.S.O. 1970, c. 274, s. 616 (2, 3).

PART X
REFINERY PROVISIONS

164. In this Part, "refinery" means apparatus or equipment that may be used for the refining, retorting, smelting, assaying or treating by any other method of any ore, mineral or substance for the purpose of recovering or determining the quantity of gold, platinum, silver or any other precious metal therefrom or therein. R.S.O. 1970, c. 274, s. 621.

165. No person shall own, operate, use or have a refinery in his possession, under his control or upon any property of which he is the owner, licensee, lessee or tenant unless a refinery licence has been granted in respect of such refinery, except that no refinery licence shall be required in respect of a refinery for which a certificate of exemption has been issued. R.S.O. 1970, c. 274, s. 622.

166.—(1) The Minister may,

(a) issue and renew refinery licences and certificates of exemption;

(b) refuse to issue or renew a refinery licence or certificate of exemption, or suspend, cancel or revoke a refinery licence or certificate of exemption for any reason that he considers sufficient in the public interest;

(c) prescribe the forms of refinery licences, certificates of exemption, applications therefor and renewals thereof; and
(d) prescribe the fee payable upon the issue and renewal of refinery licences and certificates of exemption.

(2) Every refinery licence and certificate of exemption expires on the 31st day of March next following the issue thereof and every renewal of a refinery licence or certificate of exemption expires on the 31st day of March next following the expiration of the refinery licence or certificate of exemption or the last renewal thereof. R.S.O. 1970, c. 274, s. 623.

167.—(1) Before refusing to renew, or suspending, cancelling or revoking a refinery licence or certificate of exemption under section 166, the Minister shall refer the matter to a person appointed by him for a hearing and report.

(2) Where a matter is referred by the Minister under subsection (1), the person appointed shall hold a hearing as to whether the refinery licence or certificate of exemption to which the hearing relates should be renewed or should be suspended, cancelled or revoked, as the case may be, and the licensee or certificate holder and such other persons as the person holding the hearing may specify are parties to the hearing.

(3) Sections 6 to 16 and sections 21, 22 and 23 of the Statutory Powers Procedure Act apply in respect of a hearing under this section.

(4) The person holding a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in reaching his recommendations, any conclusions of law he has arrived at relevant to these recommendations, and his recommendations as to the renewal, suspension, cancellation or revocation of the refinery licence or certificate of exemption, as the case may be, and shall send a copy of his report to the licensee or certificate holder to whom it relates.

(5) After considering a report made under this section, the Minister shall thereupon decide whether or not to refuse to renew or to suspend, cancel or revoke the refinery licence or certificate of exemption to which the report relates, and shall give notice of his decision to the licensee or certificate holder specifying the reasons therefor. 1971, c. 50, s. 58 (21).

168.—(1) A certificate of exemption may be issued in respect of a refinery where the Minister is satisfied that the
refinery is not maintained or used for the refining, retorting, smelting, assaying or treating of any ore, mineral or substance for the purpose of recovering or determining the quantity of gold, platinum, silver or any other precious metal therefrom or therein or is used only for educational purposes.

(2) No person who owns or has in his possession, under his control or upon any property of which he is the owner, licensee, lessee or tenant a refinery in respect of which a certificate of exemption has been issued shall permit the refinery to be operated or used nor shall he or any other person operate or use the refinery for the refining, retorting, smelting, assaying or treating of any ore, mineral or substance for the purpose of recovering or determining the quantity of gold, platinum, silver or any other precious metal therefrom or therein. R.S.O. 1970, c. 274, s. 624.

169. Every person who contravenes any of the provisions of this Part is guilty of an offence and on conviction is liable to a fine of not less than $10 and not more than $500 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1970, c. 274, s. 625.

170. This Part applies notwithstanding that the owner or operator of a refinery is the holder of a licence issued under any Act. R.S.O. 1970, c. 274, s. 626.

171. The Minister may appoint any person to conduct an inquiry into any charge or complaint that a person has contravened any of the provisions of this Part or into any matter or thing connected with or arising out of the operation of this Part, and such person, for the purposes of the inquiry, has the powers of a commission under Part II of the Public Inquiries Act, which Part applies to such inquiry as if it were an inquiry under that Act. 1971, c. 50, s. 58 (22).

PART XI

OFFENCES, PENALTIES AND PROSECUTIONS

172.—(1) Every person who,

(a) prospects, occupies or works any Crown lands or mining rights for minerals otherwise than in accordance with this Act;

(b) performs or causes to be performed on any Crown lands, or on any lands where the mining rights are in the Crown, any boring by diamond or other
core drill for the purpose of locating valuable mineral in place, except where such Crown lands or mining rights have been staked out and recorded as a mining claim in accordance with this Act;

(c) wilfully defaces, alters, removes or disturbs any post, stake, picket, boundary line, figure, writing or other mark lawfully placed, standing or made under this Act;

(d) wilfully pulls down, injures or defaces any rules or notices posted up by the owner, agent or manager of a mine or plant;

(e) wilfully obstructs the Commissioner or any officer appointed under this Act in the execution of his duty;

(f) being the owner or agent of a mine, refuses or neglects to furnish to the Commissioner or to any person appointed by him or to any officer appointed under this Act the means necessary for making an entry, inspection, examination or inquiry in relation to a mine under this Act, other than Part IX;

(g) unlawfully marks or stakes out in whole or in part a mining claim, a placer mining claim, or an area for a boring permit;

(h) wilfully acts in contravention of this Act, other than Part IX or Part X, in any particular not hereinbefore set forth;

(i) wilfully contravenes any provision of this Act or any regulation for the contravention of which no other penalty is provided;

(j) wilfully makes any material change in the wording or numbering of a prospector's licence after its issue; or

(k) attempts to do any of the acts mentioned in the foregoing clauses,

is guilty of an offence against this Act and on conviction is liable to a fine of not more than $20 for every day upon which the offence occurs or continues. R.S.O. 1970, c. 274, s. 628(1); 1972, c. 116, s. 23.
(2) Every person who knowingly makes a false statement in an application, certificate, report, statement or other document filed or made as required by or under this Act or the regulations is guilty of an offence and on conviction is liable to a fine of $500 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1970, c. 274, s. 628 (2).

173.—(1) No person shall construct or cause to be constructed a plant for the smelting, roasting, refining or other treatment of ores or minerals that may result in the escape or release into the open air of sulphur, arsenic or other fumes in quantities that may injure trees or other vegetation unless and until the site of the plant has been approved by the Lieutenant Governor in Council.

(2) Every person who constructs or causes to be constructed a plant for the smelting, roasting, refining or other treatment of ores or minerals without the approval of the Lieutenant Governor in Council and sulphur, arsenic or other fumes escape or are released therefrom into the open air and injure trees or other vegetation is guilty of an offence and on conviction is liable to a fine of not more than $1,000 for every day upon which such fumes escape or are released therefrom into the open air. R.S.O. 1970, c. 274, s. 629.

174. Every person who wilfully neglects or refuses to obey any order or award of the Commissioner, except for the payment of money, is, in addition to any other liability, liable to a fine of not more than $250 and, upon conviction thereof, is liable to imprisonment for a term of not more than six months unless the fine and costs are sooner paid. R.S.O. 1970, c. 274, s. 630.

175.—(1) No person who,

(a) carries on the business of mining or dealing in mines, mining claims, mining lands, or mining rights, or the shares, stocks, or bonds of a mining company; or

(b) acts as broker or agent in or for the disposal of mines, mining claims, mining lands, or mining rights, or of any such shares, stocks or bonds; or

(c) offers or undertakes to examine or report on a mine, mining claim, mining land or mining rights,
shall use the word "Bureau" as the name or title or part of the name or title under which he acts or carries on business.

(2) Every person who contravenes any of the provisions of this section is guilty of an offence and on conviction is liable to a fine of not more than $20 for every day upon which the offence occurs or continues. R.S.O. 1970, c. 274, s. 631.

176.—(1) In this section, the noun "mine" includes "plant" as defined in Part IX.

(2) An owner, agent or other person who contravenes any provision of Part IX is guilty of an offence and on conviction is liable to a fine of not more than $1,000. R.S.O. 1970, c. 274, s. 632 (1, 2).

(3) Where the Deputy Minister of Labour or an engineer has given written notice to an owner or agent or a person engaged or employed in or about a mine that an offence has been committed against Part IX, such owner or agent or other person is liable on conviction to a further fine of not more than $100 for every day upon which the offence continues after such notice. R.S.O. 1970, c. 274, s. 632 (3); 1976, c. 79, s. 12 (2).

(4) An owner, agent or other person is, upon conviction, liable to imprisonment for a term of not more than three months unless the fine and costs are sooner paid.

(5) Where the offence is one that might have endangered the safety of those employed in or about the mine or caused serious personal injury or a dangerous accident, and was committed wilfully by the personal act, default or negligence of the accused, every person who is guilty of an offence against Part IX is, in addition to or in substitution for any fine that may be imposed, liable on conviction to imprisonment for a term of not more than three months. R.S.O. 1970, c. 274, s. 632 (4, 5).

177.—(1) No prosecution shall be instituted for an offence against Part IX or Part X or any regulation made in pursuance thereof except,

(a) by an engineer;

(b) by direction of the county or district Crown attorney; or

(c) by the leave in writing of the Attorney General,
or for an offence against any other provision of this Act or of any regulation made in pursuance thereof except,

(d) by or by leave of the Commissioner or a recorder;

(e) by direction of the county or district Crown attorney; or

(f) by leave of the Attorney General. R.S.O. 1970, c. 274, s. 633 (1); 1972, c. 1, s. 9 (7).

When person not actual offender not liable

(2) No person not being the actual offender is liable in respect of such offence if he proves that he did not participate in the contravention of the provision for a breach of which he is charged and that he was not to blame for the breach and that according to his position and authority he took all reasonable means in his power to prevent the breach and to secure compliance with Part IX or Part X.

Procedure on prosecutions

178. Except as to offences against section 12, every prosecution for an offence against or for the recovery of a penalty imposed by or under the authority of this Act shall take place before a provincial offences court or before the Commissioner, and, save as herein otherwise provided, the Provincial Offences Act applies to every such prosecution. R.S.O. 1970, c. 274, s. 634.

PART XII

ENLISTMENT FOR ACTIVE SERVICE

179. All other provisions of this Act are subject to the provisions of this Part. R.S.O. 1970, c. 274, s. 635.

Prospector's licence of enlisted licensee

180. The prospector's licence of a person who has enlisted or enrolled for active service at home or abroad against the Queen's enemies shall be deemed to be subsisting and in force until six months after the date of his discharge from such service, or the 31st day of March following such date of discharge, whichever is the later date. R.S.O. 1970, c. 274, s. 636; 1972, c. 116, s. 24.

Effect of enlistment on forfeiture

181.—(1) Subject to subsections (2), (3) and (4), forfeiture or loss of rights under subsection 85 (1), except clauses 85 (1) (a) and (b), is avoided if the recorded holder of an interest in a mining claim has enlisted or enrolled for active service at home or abroad against the Queen's enemies.
(2) In the case of non-performance of work, the period currently to be performed at the date of enlistment shall be performed not later than one year from the date of discharge from active service, two years from such date in the case of the next succeeding period, three years from such date in the case of a second succeeding period, four years from such date in the case of a third succeeding period and five years from such date in the case of a fourth succeeding period.

(3) Where all the work required to be performed upon a claim has been performed prior to the date of enlistment, application for a patent or lease shall be applied for not later than one year from the date of discharge from active service.

(4) The report required by subsection 76 (3) shall be made not later than ten days after the expiration of the time permitted for the performance of the work by this section.

(5) Where the recorded holder has enlisted or enrolled for active service and subsequently transfers his interest, subsections (2), (3) and (4) apply with necessary modifications to the transferee, but the time for performing work and making application for patent or lease shall be computed from the date of such transfer. R.S.O. 1970, c. 274, s. 637.

182.—(1) Where the applicant for a patent or lease of a mining claim is a person who enlisted or enrolled for active service at home or abroad against the Queen's enemies, he shall not be required to pay the purchase money or the first year's rental, as the case may be, but, where he is not the sole applicant, this exemption applies only to a part of the purchase money or the first year's rental, as the case may be, that is in proportion to his interest in the claim.

(2) In the case of each person who has enlisted or enrolled for active service this section applies to not more than three claims whether or not he is the sole owner thereof, and the area of each claim shall not exceed the area prescribed in section 42.

(3) The exemptions provided by this section apply to the personal representatives or beneficiaries of a person coming under subsection (1). R.S.O. 1970, c. 274, s. 638.

183. Sections 180 to 182 apply only,
(a) where the ownership or interest in a mining claim of a person on war service was acquired prior to the time such person enlisted or enrolled for active service; and

(b) where the recorder of the mining division in which the claims are situate has notice that the holder of such claims or of an interest therein has enlisted or enrolled for active service. R.S.O. 1970, c. 274, s. 639.

184. In this Part, “active service” means active service as determined under the National Defence Act (Canada). R.S.O. 1970, c. 274, s. 640.

PART XIII

GENERAL PROVISIONS

LIEN FOR WAGES

185.—(1) Except as provided in this Act, the Mechanics' Lien Act applies to mines, mining claims, mining lands and works connected therewith.

(2) Where the lands and mining rights have not been patented, the registration provided for in the Mechanics’ Lien Act shall be in the office of the recorder.

(3) When the claim is for wages in connection with a mine, mining claim, mining lands or works connected therewith, in addition to the rights and remedies afforded by the Mechanics’ Lien Act, the claimant has a lien upon any other property of the owner in or on such mine, mining claim, mining land or works for a sum not exceeding thirty days wages, and this claim may be enforced under such Act.

(4) When the Commissioner is satisfied that a claim for lien recorded as provided in this section is not made in good faith or is made for some improper purpose or where the owner is unduly embarrassed thereby, he may make an order cancelling the lien upon such terms as to security or otherwise as he deems proper.

(5) A lien upon unpatented lands does not affect the rights of the Crown. R.S.O. 1970, c. 274, s. 641.
186. The Lieutenant Governor in Council may declare by proclamation that The Public Works Peace Preservation Act, being chapter 36 of the Revised Statutes of Ontario, 1914, to be in force in any mining division or in any defined locality therein, and upon and after the date named in the proclamation section 1 and sections 3 to 9 of that Act take effect within the mining division or locality designated in the proclamation, and that Act applies to all persons employed in any mine or in mining within the limits of such mining division or locality in the same manner and to the same extent as nearly as may be as if the persons so employed had been specially mentioned and referred to in such Act. R.S.O. 1970, c. 274, s. 642.

EXPLORATORY DRILLING

187. The Minister may, out of the moneys that are appropriated by the Legislature for the purpose, purchase such diamond drills as he considers necessary for use in prospecting for ore or minerals under regulations made by the Lieutenant Governor in Council, which may provide,

(a) for the control and working of the drills under the direction of a person employed for the purpose by the Ministry;

(b) for the payment of freight charges where the drills are used upon mines or land other than those owned by the Crown;

(c) as to applications for use of the drills and the method of dealing therewith;

(d) as to charges for use of the drills and for damages thereto, or wear and tear connected therewith,

and otherwise as the Lieutenant Governor in Council considers proper. R.S.O. 1970, c. 274, s. 643; 1972, c. 1, s. 1.

188. The Minister, out of the moneys that are appropriated by the Legislature for the purpose, may establish, maintain and operate assaying and testing laboratories for sampling, assaying, testing, analysing or determining rocks, ores, minerals and other substances. R.S.O. 1970, c. 274, s. 644.
189.—(1) Where required for or in connection with the proper working of a mine, mill for treating ore or quarry, the owner, lessee or holder of it or the person entitled to work it may, subject as hereinafter provided, obtain and have vested in him by order of the Commissioner, made after hearing such parties interested as appear or on appeal from him,

(a) the right to open, construct, put in, maintain and use ditches, tunnels, adits, pipes, conduits, flumes and other works through, over or upon any land for the drainage, conveyance or passage of water;

(b) the right to discharge water upon any land or by, through or into any existing means of drainage whether natural or artificial;

(c) the right to drain off, lower or divert the water of any lake, pond, river, stream or watercourse, or any other water, notwithstanding that the water or part thereof may be on the land of or owned by any other person or that any other person may have rights or interests in or to such water or the use thereof;

(d) the right to collect and dam back water, notwithstanding that it may overflow other land;

(e) the right to take or divert and use for or in connection with the working of his own mine or quarry and bring thereto for such use any specified water, and to construct and maintain dams and other works and do all other things necessary or convenient therefor;

(f) rights of way or passage through or over any land or water, and the right to construct, improve, maintain and use suitable roads, tramways, aerial tramways, channels, waterways, passages and other means of transit and transportation upon, through or over any land or water, together with such other rights of entry upon and use of land and water as may be necessary or convenient therefor;

(g) the right to transmit electricity or any other kind of power, or have it transmitted, through or over any land or water in any form or manner and to do everything necessary or convenient therefor;
(h) the right to enter upon and use for or in connection with the working of his own mine or quarry a specified area of other land;

(i) the right to deposit tailings, slimes or other waste products upon any land, or to discharge the same into any water, the effects of such deposit or discharge not being injurious to life or health.

(2) No such right shall be granted unless any injury or damage caused to any other person thereby can be adequately compensated for, nor unless in all the circumstances it seems reasonable and fitting to grant the right, nor until, in the case where injury or damage has already been suffered, compensation has been determined by the Commissioner, and the amount thereof paid, and in the exercise of any right so granted no unnecessary injury or damage shall be done to the land, property, rights or interests of other persons, and all injury and damage that may be caused to any person by the granting and exercise of any right obtained under this section shall be fully compensated for.

(3) The order granting the right shall fix such compensation, or shall provide for the ascertainment thereof, and shall contain any provisions that are considered proper for securing the same and for protecting the rights and interests of any person whose land, property, rights or interests are affected or endangered, and, if considered proper, may require the applicant to make grants or concessions to or construct works or do any other thing for, or for the benefit of, any such person or his land or property, and such order may in all cases be upon such terms, and may grant the right upon such conditions and for such time as are considered proper.

(4) In every application for such an order, the applicant, in addition to anything else required or directed, shall file in duplicate with the Commissioner a clear and precise statement of the right or rights being applied for, of the land or property affected and the owner or owners thereof so far as they can be ascertained, a map or plan of the locality showing the land and water involved, and definite and detailed plans and specifications of the works or things proposed to be constructed or done and, for the purpose of preparing the same, the Commissioner may authorize the applicant, his engineers and assistants to enter upon the land of any other person and make such examinations and measurements as may be necessary, and such statement, map or plan and plans and specifications may, by order,
be amended or altered or modified at any stage of the proceedings and the Commissioner may give directions as to the notice to be given to the parties interested, the time and manner of service and the particulars to be furnished to such parties respectively.

(5) This section applies to and against all patented and unpatented lands and the word "lands" in this section includes any right or interest in lands.

(6) Subject to any change therein or rescission thereof by subsequent order of the Commissioner, all rights and benefits created by any order of the Commissioner heretofore or hereafter made under this section run with and are appurtenant and incident to the lands thereby benefitted and all burdens and obligations created or imposed by any such order run with and are binding on all lands in respect of which they were created or imposed and such order continues valid and binding in respect of all lands thereby affected notwithstanding forfeiture thereof by the Crown or sale thereof because of unpaid taxes, it being expressly declared that the Crown or any municipality or any person acquiring such land is bound by such order in the same manner and to the same extent as the owner thereof at the time such order was made.

(7) Every such order shall contain proper descriptions of the lands thereby benefitted and of all other lands thereby affected sufficient for purposes of registration, and there shall be attached thereto a plan or plans showing clearly the lands thereby benefitted and all other lands thereby affected.

(8) Notice of hearing of all applications under this section shall be given to the Minister in the same manner as notice to any other interested person.

(9) A copy of every order made under this section, certified to be a true copy under the hand and seal of the Commissioner, shall be immediately filed by the applicant with the Minister and in the office of the recorder of the division in which the lands affected are situate, and, if any patented lands are thereby affected, a copy of such order so certified shall be filed in the land registry office for the district in which the lands are situate.

(10) The recorder or land registrar, as the case may be, shall enter particulars of such order against the titles of the lands thereby affected. R.S.O. 1970, c. 274, s. 645 (1-10).
sections 190 (1) (b)

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(11) Where unpatented mining claims affected by any such order are subsequently patented or leased, a copy of such order so certified shall be sent to the proper land registry office by the Ministry with the grant or lease. R.S.O. 1970, c. 274, s. 645 (11); 1972, c. 1, s. 1.

(12) Unless such order is so filed in the land registry office for the district in which the lands are situate, a purchaser for value without notice of patented lands affected by any such order is not bound thereby.

(13) The Commissioner, for good cause shown and on such terms as seem just, may by subsequent order or award at any time change, supplement, alter, vary or rescind any order made under the authority of this section.

(14) Rights granted under this section shall not be exercised until the time for appealing from the order granting the rights has expired or, where an appeal is entered, until the appeal is disposed of, but from and after such time, subject to any restriction or postponement provided for in the order, the person to whom any such right is granted may enter upon any land or property and exercise the right so granted, and any person who after such time obstructs the exercise of any such right or willfully neglects or refuses to obey any order made under this section is guilty of an offence against this Act and, in addition to any other liability, is liable on conviction to a fine of not more than $250 for each day such obstruction, neglect or refusal continues. R.S.O. 1970, c. 274, s. 645 (12-14).

REGULATIONS

190. — (1) The Lieutenant Governor in Council may make regulations for,

(a) the opening, construction, maintenance and use of roads to, through or over mining claims, mining locations or lands heretofore or hereafter sold or granted as mining lands or recorded as mining claims or locations, and for the opening, construction, maintenance and use of ditches, aqueducts or raceways through, over or upon such claims, locations or land for the conveying and passage of water for mining purposes;

(b) to meet cases that may arise for which no provision is made in this Act, or when he considers the provision made to be ambiguous or doubtful;
(c) the imposition of penalties of not more than $200 or of not more than three months imprisonment for the contravention of any such regulations. R.S.O. 1970, c. 274, s. 646 (1); 1971, c. 50, s. 58 (23).

(2) Notwithstanding anything in this Act, in special circumstances the Minister may, subject to the approval of the Lieutenant Governor in Council, issue a licence, lease or patent of any mining lands or mining rights on such terms and conditions as he considers expedient. R.S.O. 1970, c. 274, s. 646 (2).

191. With the consent of the Lieutenant Governor in Council and on such terms as the Lieutenant Governor in Council sees fit, any company authorized to supply electrical power or energy or compressed air, or both, may from time to time construct, maintain and operate transmission lines, air pipe lines, substations and other conveniences for the transmission of electrical power or energy or compressed air, or both, in and through any mining division, and for any of such purposes may enter upon, take and use any mining lands or any privilege or easement required by such company for such purposes without the consent of the owner thereof, but subject to the payment of such compensation or annual rent for the privilege or easement required and authorized as is determined by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may from time to time revoke or vary the terms upon which any right conferred under this section may be exercised. R.S.O. 1970, c. 274, s. 647.

FEES

192. Fees are payable under this Act in accordance with the tariff in the Schedule and, except as otherwise mentioned, are for the use of the Province of Ontario. R.S.O. 1970, c. 274, s. 648.

193.—(1) Notwithstanding section 192, where an order is made by the Commissioner or on appeal from his decision, and it is in the public interest that the order be recorded, and where the order would not otherwise be recorded, the Commissioner may direct the mining recorder to record the order without fee.

(2) Subsection (1) does not apply to an order made under section 86 except an order dismissing an application made under that section. R.S.O. 1970, c. 274, s. 649.
CANCELLATION OF PATENTS

194. Where a patent or lease of mining lands or mining rights is by proceedings in the Supreme Court at the instance of the Crown repealed or avoided, such lands and mining rights thereupon become and are withdrawn from exploration, discovery, staking out, lease or sale, and every discovery upon and claim to such lands or mining rights and to the mines or minerals on, in or under such lands made or existing at any time before the repeal or avoidance of the patent or lease become and are void, and such lands, mining rights, mines and minerals are thenceforth vested in the Crown freed and discharged of and from every claim. R.S.O. 1970, c. 274, s. 650.

FORFEITURE OF LEASES

195. Where lands that include surface rights revert or re vest or are surrendered or forfeited under this Act or are declared to be open for disposition under this Act, such lands may be dealt with under the Public Lands Act, R.S.O. 1980, c. 413, or any other Act administered by the Minister or the regulations made thereunder. R.S.O. 1970, c. 274, s. 651.

DEFAULT OF CO-OWNERS, ETC.

196.—(1) In this section, "co-owner" includes co-lessee and co-licensee, and a corporation with share capital and a shareholder thereof shall be deemed to be co-owners.

(2) Where lands or mining rights that are subject to rents or expenditures for development work are held by two or more co-owners and all such rents or expenditures have been paid by one or more of them and the other or others has or have neglected or refused to pay his or their proportion of the rents or expenditures for a period of four or more consecutive years, the Commissioner, upon the application of any co-owner or co-owners who has or have paid the rents or met the expenditures for the period of four or more consecutive years immediately prior to the date of the application and upon the receipt of such other information and particulars as he requires, may make an order requiring the delinquent co-owner or co-owners to pay, within three months of the date of the order or such further time as the Commissioner may fix, his or their fair proportion of the rents or expenditures to the co-owner or co-owners who has or have paid all the rents or expenditures, together with interest at the rate of 6 per cent per annum compounded yearly, and such costs of the
application as are allowed by the Commissioner. R.S.O. 1970, c. 274, s. 652 (1, 2).

(3) An order made under this section shall be served in such manner as the Commissioner directs.

(4) If a co-owner, upon whom an order made under subsection (1) has been served, disputes his liability to his co-owner or otherwise to make any payment under the order or the amount thereof, he may, within the time limited by the order for making the payment, apply to the Commissioner for a hearing and the Commissioner shall, after a hearing, determine the dispute and may affirm, amend or rescind the order or make such other order as he considers just, and, if the Commissioner orders that a payment be made, he may fix the time for payment thereof.

(5) Where the time for payment fixed by an order made under subsection (1) has expired and no application for determination of a dispute has been made, or where the time fixed by an order made under subsection (4) has expired, and where such additional time, if any, as has been granted by the Commissioner has expired, if it is proved to the satisfaction of the Commissioner that the payment has not been made, he may make an order vesting the interest of the delinquent co-owner or co-owners in the lands or mining rights to which the payment relates in the co-owner or co-owners who has or have paid the rents or made the expenditure. 1971, c. 50, s. 58 (24).

(6) Where a delinquent co-owner has died either before or after default in respect of his portion and no person has taken out administration of his estate or has obtained probate of his will, any order made under this section may be directed to and served upon his heirs.

(7) An order made under this section against a corporation shall be directed to the corporation only.

(8) An application under subsection (2) shall be accompanied by a fee of $25. R.S.O. 1970, c. 274, s. 652 (4-6).

MINERAL RIGHTS UNDER ROADS

197.——(1) The corporation of any county or township in that part of Ontario lying south of the French River, Lake Nipissing and the River Mattawa, wherever minerals are found, may sell or lease, by public auction or other-
wise, the right to take minerals found upon or under any roads over which the township or county has jurisdiction, if considered expedient so to do.

(2) No such sale or lease shall take place until after due notice of the intended by-law has been posted up in six of the most public places in the immediate neighbourhood of such road for at least one month previous to the time fixed for considering the by-law.

(3) The deed conveyance or lease to the purchaser or lessee under the by-law shall contain a proviso protecting the road for public travel and preventing any user of the granted rights that would interfere with public travel.

(4) In the remaining parts of Ontario, the mines, minerals, and mining rights in, on or under all common and public highways and road allowances are vested in the Crown, and may be sold, leased or otherwise disposed of under this Act.

(5) Where a mining location or any mining lands adjoin a common and public highway or road allowance and the mineral vein or deposit thereon extends into or under the highway or road allowance, its owner has the right to purchase or lease the mines, minerals and mining rights in, on or under the same, subject to this Act, or where there are mining locations or mining lands on both sides of such highway or road allowance, such rights accrue to the owner or owners on both sides thereof as respects the half of such highway or road allowance adjoining his or their lands.

(6) Subsections (4) and (5) do not apply to highways on lands granted before the 1st day of May, 1904 by the Crown under a predecessor of this Act, or in the grant whereof the mines and minerals were not reserved to the Crown.

(7) The patent or lease of such mines, minerals and mining rights shall contain a proviso protecting the road for public travel and preventing any user of the granted rights that would interfere with public travel unless a road in lieu thereof has been provided and accepted by the municipal corporation having control of the road.

(8) Subsections (4) to (7) do not affect any rights acquired from or any agreement made or entered into with any municipal corporation under this section prior to the 1st day of May, 1904. R.S.O. 1970, c. 274, s. 653.
SURRENDER OF LANDS

198.—(1) The owner, lessee or licensee of any mining lands or mining rights granted under this Act or any other Act, may voluntarily surrender such lands or mining rights to the Crown and thereupon the Minister may cause a notice of determination to be filed in the proper land registry office.

(2) Lands or mining rights surrendered to the Crown under subsection (1) shall not be open for prospecting, staking out, sale or lease under this Act until a date fixed by the Deputy Minister, notice of which shall be published in The Ontario Gazette at least two weeks prior thereto. 1971, c. 102, s. 8.

FORFEITED LANDS

199.—(1) Where mining lands or mining rights are forfeited to the Crown under the Corporations Act, the Business Corporations Act or the Mortmain and Charitable Uses Act, or any predecessor thereof, the Minister may cause to be registered in the proper land registry office a notice stating that forfeiture has been effected under that Act and that by reason of such forfeiture the lands or mining rights and every interest therein are forfeited to and vested in the Crown absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto, whether existing, arising or accruing before or after such forfeiture, and, subject to subsection (2), such lands shall be dealt with under this Act.

(2) Mining lands or mining rights so forfeited are not open for prospecting, staking out, sale or lease under this Act until a date fixed by the Deputy Minister, two weeks notice of which shall be published in The Ontario Gazette. R.S.O. 1970, c. 274, s. 655.

TECHNICAL PROSPECTING

200.—(1) Where the Minister is satisfied that any terrain, due to the paucity of rock outcrops or for any other reason, cannot be prospected or explored for its mineral possibilities by other than geophysical or other technical methods, he may, notwithstanding anything in this Act but subject to the approval of the Lieutenant Governor in Council, issue a licence to prospect and explore any such area that he designates for base metals and minerals, other than petroleum oil and natural gas, subject to the following:
1. The licence shall be for a term of three years and may contain such conditions as the Minister considers proper.

2. The fee for the licence shall be $1,000 payable annually during the term of the licence.

3. The area for which a licence may be issued shall be in one parcel and shall not be greater than 64,000 acres.

4. A licensee may surrender his licence at any time upon giving written notice thereof to the Minister at least thirty days before the surrender is to take effect.

5. The Minister may terminate a licence at any time if he is satisfied that the licensee has not complied with this section and the conditions of the licence.

6. Before the issue of a licence the applicant therefor shall furnish to the Minister a deposit of $25,000 which shall be in cash or in,

   (a) bearer bonds of,

   (i) the Province of Ontario,

   (ii) Ontario Hydro, or

   (iii) the Government of Canada; or

   (b) the form of a promissory note guaranteed by a chartered bank of Canada,

which shall be retained by the Minister until the licence expires or is surrendered when it shall be returned to the licensee, except that where the licensee has not complied with this section and with the conditions of the licence to the satisfaction of the Minister, the deposit is forfeited to and becomes the property of the Crown.

7. A licensee shall expend annually in geophysical, geological or other exploratory work of a similar nature, or drilling, a sum equal to $1 per acre, but in no case shall such annual expenditure be less than $25,000 and,

   i. where the licensee has expended an amount in excess of the required annual expenditure, the
excess amount so expended may be credited towards the amount required to be expended in the second or following years of the licence,

ii. where the Minister is satisfied that a *bona fide* attempt has been made by the licensee to meet the required annual expenditure, and where due to weather or other conditions beyond his control, the licensee is prevented from carrying out the work requirements, the Minister, by written order issued prior to the anniversary date of the licence, may extend the time for a period of not more than one year, provided bearer bonds acceptable to the Minister or a promissory note guaranteed by a Canadian chartered bank is deposited with the Minister equal in amount to the amount required to be expended,

iii. upon the required expenditure being made within the time so extended, the bearer bonds or promissory note so deposited shall be returned to the licensee,

iv. where the licensee fails to comply with the required expenditure within the extended time, the deposit is forfeited to and becomes the property of the Crown.

8. A plan detailing the nature of a proposed annual expenditure shall be submitted to the Minister for approval within ninety days of the date of issue or anniversary date of the licence, as the case may be, and if the plan is approved, the exploratory work shall be commenced within six months thereafter.

9. The licensee shall,

i. within thirty days after each anniversary date of the licence, prove to the satisfaction of the Minister that he has expended the amount required in the manner provided in paragraph 7,

ii. within sixty days of completion submit to the Minister full reports and plans of all geological or geophysical examinations, drillings or other exploratory work, including detailed logs of all holes drilled,
iii. correctly label all drill cores and cuttings, and

iv. permit the Minister or his authorized agent to examine all drill cores and cuttings at any time not later than six months after the completion of the drilling. R.S.O. 1970, c. 274, s. 656 (1); 1971, c. 102, s. 9 (1, 2); 1973, c. 57, s. 19.

(2) The licensee may make application to the Minister within thirty days prior to the anniversary date of the licence for a reduction in the acreage included in the licence and the annual expenditure for the year of the term in which the surrender is made shall be based on the area of the licence at the commencement of that year of the term but the expenditure for ensuing years shall be based on the area being retained, but in no case shall such annual expenditure be less than $25,000 and the area surrendered shall be in one block.

(3) Where the required expenditure has been made and a deposit of economic importance has been found to the satisfaction of the Minister, and the area included in the licence is reduced as provided in subsection (2), the licensee shall be entitled to apply for a lease of 10 per cent of the reduced area and not 10 per cent of the area for which the licence was originally issued and the lease issued shall be in one block. 1971, c. 102, s. 9 (3).

(4) If a deposit of mineral is found by a licensee that in the opinion of the Minister is of economic importance, the licensee is entitled to apply for a lease comprising not more than 10 per cent of the area for which the licence was issued.

(5) The lease shall be for a term of ten years and shall contain such conditions as the Minister considers proper.

(6) The annual rental shall be at the rate of not less than 50 cents and not more than $5 per acre.

(7) The lease may be renewed for terms of ten years at such rental and subject to such conditions as the Minister considers proper.

(8) The Lieutenant Governor in Council may make such regulations as the Lieutenant Governor in Council considers expedient for the better carrying out of this section. R.S.O. 1970, c. 274, s. 656 (2-6).
PART XIV

ACREAGE TAX

201. In this Part, “municipality” means a city, town, village, township or improvement district. R.S.O. 1970, c. 274, s. 657.

Amount of tax

202.—(1) There shall be paid to the Crown in right of Ontario in each year an acreage tax of 50 cents an acre on any lands or mining rights to which this Part applies.

(2) The minimum acreage tax is $1 a year in a municipality and $4 a year in territory without municipal organization. R.S.O. 1970, c. 274, s. 658.

Date of payment of tax

203. The acreage tax shall be imposed for each calendar year and is payable on or before the 1st day of October in the year for which it is imposed. R.S.O. 1970, c. 274, s. 659.

Lands liable for tax

204.—(1) Except as provided in this Part,

(a) all lands and mining rights in territory without municipal organization patented under or pursuant to any statute, regulation or law at any time in force authorizing the granting of Crown lands for mining purposes;

(b) all land in territory without municipal organization being held or used for mining purposes howsoever patented or alienated from the Crown;

(c) all mining rights in, upon or under lands in a municipality patented under or pursuant to any statute, regulation or law at any time in force authorizing the granting of Crown lands for mining purposes;

(d) all mining rights in, upon or under land in a municipality and being held or used for mining purposes howsoever patented or alienated from the Crown; and

(e) all mining rights howsoever patented or acquired which are severed from or held apart or separate from the surface rights,

are liable for, and the owner or lessee thereof shall pay the acreage tax.
(2) No acreage tax is payable in respect of mining lands or mining rights granted by the Crown by lease or renewal of lease. R.S.O. 1970, c. 274, s. 660.

**205.**—(1) The Minister may exempt lands or mining rights from the tax under this Part where,

(a) land has been subdivided by a registered plan into lots or parcels for city, town, village or summer resort purposes and there is no severance of the surface and mining rights;

(b) land is being actually used for public park, educational, religious or cemetery purposes and there is no severance of the surface and mining rights;

(c) land is in *bona fide* use for farming or other agricultural purposes and there is no severance of the surface and mining rights; or

(d) the mining rights in, upon or under any land situated south of the French River, Lake Nipissing and the Mattawa River, including the Territorial District of Manitoulin, are being held, used or developed solely for the production of natural gas or petroleum.

(2) The decision of the Minister as to the right of exemption under subsection (1) is final and conclusive. R.S.O. 1970, c. 274, s. 661.

**206.** Where the Minister is satisfied that the surface rights in respect of a mining claim or mining location are being used for purposes other than that of mining or the mineral industry, this Part applies only to the mining rights. R.S.O. 1970, c. 274, s. 662.

**207.** The Deputy Minister shall cause to be prepared each year a tax roll of the lands and mining rights and persons liable to the acreage tax. R.S.O. 1970, c. 274, s. 663.

**208.** The Deputy Minister may register in the proper land registry office a notice of liability to taxation and forfeiture, in the prescribed form, in respect of any lands or mining rights subject to the acreage tax. R.S.O. 1970, c. 274, s. 664.

**209.** Notwithstanding sections 207 and 208, every person and property liable to the acreage tax is liable whether entered in the tax roll or not, and the tax is, without any
notice or demand, payable at the time and in the manner provided in this Part. R.S.O. 1970, c. 274, s. 665.

210.—(1) Any person claiming an interest in any lands or mining rights entered on the tax roll or whose name has been entered on the tax roll, as being liable to the acreage tax or who disputes the amount of the tax levied on any lands or mining rights in which he has an interest may apply to the Commissioner to determine whether such lands and mining rights are or whether he is liable to the acreage tax and to be entered on the tax roll or the amount of the tax payable, and the Commissioner shall hear and determine such matter.

(2) The Minister is a party to any proceedings before the Commissioner under this section.

(3) The Minister may refer to the Commissioner for hearing and adjudication any question or dispute as to whether any mining rights or lands have or any person has been wrongfully omitted from the tax roll. 1971, c. 50, s. 58 (25).

211.—(1) Where lands or mining rights liable for acreage tax are held by two or more co-owners and all such tax has been paid by one or more of them and the other or others has or have neglected or refused to pay his or their proportion of the tax for a period of four or more consecutive years, the Commissioner, upon the application of any co-owner or co-owners who has or have paid the tax for the period of four or more consecutive years immediately prior to the date of the application and upon the receipt of such other information and particulars as he requires, may make an order requiring the delinquent co-owner or co-owners to pay, within three months of the date of the order or such further time as the Commissioner may fix, his or their fair proportion of the tax to the co-owner or co-owners who has or have paid all the tax, together with interest at the rate of 6 per cent per annum compounded yearly, and such costs of the application as are allowed by the Commissioner.

(2) An application under subsection (1) shall be accompanied by a fee of $25. R.S.O. 1970, c. 274, s. 667 (1, 2).

(3) An order made under this section shall be served in such manner as the Commissioner may direct.

(4) If a co-owner, upon whom an order made under subsection (1) has been served, disputes his liability to his co-owner or otherwise to make any payment under the order
or the amount thereof, he may, within the time limited by the order for making the payment, apply to the Commissioner for a hearing and the Commissioner shall hear and determine the dispute and may affirm, amend or rescind the order or make such other order as he considers just, and, if the Commissioner orders that a payment be made, he may fix the time for payment thereof.

(5) Where the time for payment fixed by an order made under subsection (1) has expired and no application for determination of a dispute has been made, or where the time fixed by an order made under subsection (4) has expired, and where such additional time, if any, as has been granted by the Commissioner has expired, if it is proved to the satisfaction of the Commissioner that the payment has not been made, he may make an order vesting the interest of the delinquent co-owner or co-owners in the lands or mining rights to which the payment relates in the co-owner or co-owners who has or have paid the taxes. 1971, c. 50, s. 58 (26).

(6) Any order made against an incorporated company under this section shall be directed to the company only.

(7) For the purpose of this section, two or more co-holders or co-lessees shall be deemed to be co-owners, and an incorporated company and a shareholder therein shall be deemed to be co-owners of the lands of the company. R.S.O. 1970, c. 274, s. 667 (4, 5).

212.—(1) The Deputy Minister shall cause to be prepared between the 1st day of January and the 31st day of March in each year a list of all lands and mining rights in respect of which any acreage tax is two years or more in arrear, and, not later than the 30th day of June next following, shall cause to be sent by registered mail a notice to the person appearing from search or inquiry at the land registry office to be the owner of the property in default and to every person appearing from that search or inquiry to have an interest therein, at the address or last known address of such person so far as he can reasonably ascertain it, stating that, unless the total amount of tax and penalties due and payable under this Part are paid on or before the 31st day of December next following, the property will be forfeited to and vested in the Crown on the 1st day of January next following, and to the amount so due and payable there shall in every case be added and paid as costs the sum of $10 for each property.
(2) Not later than the 15th day of July in each year, the Deputy Minister shall cause the list prepared under subsection (1) to be published in one issue of The Ontario Gazette and in one issue of a newspaper published in the district or county in which the property is situate, giving notice that, unless the total amount of acreage tax, penalties and costs shown therein are paid on or before the 31st day of December next following, the property will be forfeited to and vested in the Crown on the 1st day of January next following.

(3) Where the total amount of acreage tax, penalties and costs remain unpaid after the 31st day of December of the year of publication of the notice mentioned in subsection (2), the Minister by certificate, in the prescribed form, may, on or after the 1st day of January next following, declare the lands or mining rights, and every interest therein, forfeited to and vested in the Crown, and thereupon the lands or mining rights, and every interest therein, vest in the Crown absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto whether existing, arising or accruing before or after such forfeiture is declared.

(4) Except as provided in subsection (7), lands and mining rights so forfeited are not open for prospecting, staking out, sale or lease under this Act.

(5) The land registrar of the land titles or registry division in which any land or right mentioned in a certificate of forfeiture made under subsection (3) is situate shall, upon receipt of the certificate, duly register it and it is absolute and conclusive evidence of the forfeiture to the Crown of the land or mining rights so certified to be forfeited and is not open to attack in any court by reason of the omission of any act or thing leading up to the forfeiture.

(6) Upon registration of the certificate of forfeiture in the land registry office, the Registry Act or the Land Titles Act, as the case may be, ceases to apply to the land forfeited, and the land registrar shall note that fact in his register in red ink.

(7) The lands and mining rights forfeited to and vested in the Crown under this Part that are mentioned in a notice published in one issue of The Ontario Gazette during May of any year are open for prospecting, staking out, sale or lease under this Act at and after 7 o'clock standard time in the forenoon of the 1st day of June next following. R.S.O. 1970, c. 274, s. 668.
213. Any person duly authorized by the Minister in writing may, for the purpose of ascertaining the names and addresses of owners or lessees of land or mining rights liable to taxation under this Part, search and inspect registry books, indexes and documents in land registry offices, and no charge is to be made by and no fee is payable to a land registrar for any such search or inspection. R.S.O. 1970, c. 274, s. 669.

214.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may by order revoke, cancel or annul the forfeiture of any lands or mining rights under this Part, and the Deputy Minister shall cause the order to be registered in the proper land registry office and thereupon the lands or mining rights revest in the owner or lessee of the lands or mining rights at the time of forfeiture, his heirs, successors or assigns, subject to any lien, mortgage or charge entered or registered prior to the forfeiture and still outstanding.

(2) Where application is made for an order under subsection (1), the Minister may direct the lands or mining rights described in the application to be withdrawn from prospecting, staking out, sale or lease until the disposition of the application.

(3) The Minister may direct an application for an order under subsection (1) to be accompanied by a fee of $25. R.S.O. 1970, c. 274, s. 670.

215.—(1) Where the acreage tax is not paid within the time prescribed, a penalty of 6 per cent compounded yearly shall be added thereto forthwith and in each year thereafter that the tax remains unpaid, and for all purposes the increased amounts become and are the tax due and payable under this Part.

(2) The Deputy Minister, or such other person as is directed by the Minister, shall keep a record of all arrears of acreage taxes with the increased amounts from time to time entered thereon. R.S.O. 1970, c. 274, s. 671.

216. All taxes, penalties and costs payable under this Part constitute a special lien on the lands or mining rights against which the tax under this Part is levied in priority to every claim, privilege, lien or encumbrance of any person, whether the right or title of that person has accrued before, or accrues after, the attaching of the special lien, and its priority is not lost or impaired by any neglect, omission or error of any official, officer or person, or by want of registration, and the special lien may be realized by action for sale of any or all property subject to it. R.S.O. 1970, c. 274, s. 672.
Right of action

217. If an owner or lessee of lands or mining rights fails to pay the acreage tax on his lands or mining rights when due, the Minister may bring action in any court of competent jurisdiction for the recovery of the tax together with penalties and costs. R.S.O. 1970, c. 274, s. 673.

Compromise of acreage taxes

218.—(1) Where a doubt arises as to the liability of a person to pay a tax or any part of a tax imposed under this Part, the Minister may, subject to the approval of the Lieutenant Governor in Council, compromise the matter by the acceptance of such amount as he considers proper and, where the tax imposed has been paid under protest, he may refund the tax or any part thereof to the person making the payment under protest.

Exemption from acreage tax

(2) Where land that was not subject to tax under this Part becomes subject to tax because the surface rights thereof have been severed from the mining rights for a public road, highway or public utility, the Minister may exempt the mining rights so severed from the tax during such term as he is satisfied that the mining rights are not being used or held for mining purposes. R.S.O. 1970, c. 274, s. 674.

Lands and easements revert to Crown

219. Where under this Part or section 104, 198 or 199 a dominant tenement reverts to and becomes vested in the Crown, any easement appurtenant thereto passes to the Crown and, where a servient tenement reverts to and becomes vested in the Crown, any easement to which the servient tenement is subject is not affected. R.S.O. 1970, c. 274, s. 675.
1. For a prospector’s licence or renewal thereof for an individual. (See sections 19, 22) $ 5.00

2. The fee for a prospector’s licence or renewal thereof for a company shall be based on its authorized capital as follows:
   1. Where the authorized capital does not exceed $50,000 or 50,000 shares of no par value $25.00
   2. Where the authorized capital exceeds $50,000 or 50,000 shares of no par value but does not exceed $1,000,000 or 1,000,000 shares of no par value $50.00
   3. Where the authorized capital exceeds $1,000,000 or 1,000,000 shares of no par value $100.00

3. For recording each boring permit staked out by a licensee $10.00

4. For recording each mining claim staked out by a licensee $10.00

5. For examining claim record book, per claim $0.25

6. For inspecting any document filed with a mining recorder $0.25

7. For recording a dispute, per claim. (See section 56) $10.00

8. For certificate of record of claim. (See section 57) $1.00

9. For certificate of performance of working conditions. (See section 76) $1.00

10. On filing appeal from recorder’s decision. (See section 135) $10.00

11. On filing appeal from Mining and Lands Commissioner’s decision. (See section 155) $20.00

12. For filing a transfer of the whole of or any interest in a mining claim $5.00

13. For filing an agreement, power of attorney or revocation thereof, copy of writ of execution, discharge of execution or any other instrument affecting a recorded claim, right or interest, per claim $2.00

14. For a substituted prospector’s licence. (See section 23) $1.00

15. For special renewal licence under section 86 to save forfeiture, twice the prescribed licence fee

16. For recording an order of the Mining and Lands Commissioner extending the time for performing working conditions, affixing metal tags or making application and payment for patent or lease, per claim $5.00
17. For recording an order of the Mining and Lands Commissioner relieving against forfeiture or loss of rights and extending the time for performing working conditions, affixing metal tags, making application for patent or lease or authorizing the filing of a belated report of work, per claim........... $10.00

18. For recording an order of the Mining and Lands Commissioner, or made on appeal from him, per claim. (See section 75) 1.00

19. For recording a certificate that interest in claim or other recorded right or interest is called in question, per claim. (See section 75) .......................................................... 10.00

20. For copies or certified copies of any document, paper or record obtained from any officer, per folio......................... .10

21. For a copy or certified copy of an application to record a mining claim or of a report of work, each........... 1.00

22. For every affidavit sworn before a recorder......................... .25

23. For abstract or copy of entries in record book respecting a mining claim.................................................. .50

24. For making additional entries on an abstract of a mining claim .25

25. For filing an application for a mining claim under subsection 54 (2) .......................................................... 10.00

26. For a quarry permit covering an area of 40 acres or less...... 10.00

and for each additional acre over 40 or part thereof........... .25

27. For consenting to the transfer of a mining lease or licence of occupation or any interest in a mining lease or licence of occupation......................................................... 5.00

28. For consenting to or for filing any acceptable document relating to a mining lease or licence of occupation other than a transfer ......................................................... 2.00