

## Index for Mines and Minerals Law in Canada

(All references are to paragraph numbers.)

- accreted land**, 22
- adverse proceedings**, *see* resolution of disputes (general)
- aggregates, pits and quarries**
  - aggregate, 681
  - applicability of legislation, 660, 680, 701, 702, 709, 710, 713
  - closure plan, 671
  - contracts re quarries, 661
  - contravention of legislation, 672
  - dredging, 721
  - established pit or quarry, 681
  - forfeiture/cancellation, 673, 676, 677, 707, 716, 727, 729
  - Indigenous consultation, 684
  - inspections, 659, 663
  - leases, 666, 671, 678, 679, 705, 706, 711, 712, 717–721, 723, 730, 731
  - liability of Crown, 698
  - licences, 668, 683, 685–693, 696, 714
  - lien in favour of Crown, 666
  - municipalities, 695
  - ownership of quarry, 662, 703, 707
  - permits, 658, 664, 665, 671, 675, 676, 683, 686, 696, 704, 715, 719, 720, 724, 726, 732, 733
  - primary purpose of excavation, 730
  - property damage, 699
  - quarrying disposition, 670, 674
  - rehabilitation, 694, 728
  - royalties, 667, 669, 696, 697, 708
  - transfer of rights, 672, 677, 706, 722, 725, 726, 732, 733
  - water, 700
- agreements for sale**
  - agreements in writing, 575, 577, 581
  - breach of terms, 591–595
  - conditions precedent, 585
  - fraud, 589
  - good title, 584
  - illegal or fraudulent staking, 586
  - innocent misrepresentation, 587, 588
  - interest in land, 583
  - mutual mistake, 587
  - option to purchase, 582
  - oral agreements, 578
  - part performance, 578–580
  - rescission, 588
  - Statute of Frauds, 575, 576, 580
  - time of essence, 590
- agreements made before registration of claim**
  - evidence of prior claim, right or interest, 574
  - Statute of Frauds, 574
- coal**
  - coal land reserve, 741
  - compensation for damage, 736, 754
  - Crown agreements, 751
  - leases, 739, 740, 742, 747–749, 753, 754, 755
  - licences, 737, 738, 758, 759

- coal (*cont'd*)
  - notice, 736
  - permits, 745, 746, 749, 756
  - purpose of legislation, 743, 744, 752
  - recorded holder, 734
  - rent, 750
  - right of entry, 735
  - royalties, 750, 756
  - staking of location, 752
  - suspension of operations, 757
- conservation and reclamation**, *see* liability of mining operators
- co-ownership**
  - co-ownership vs. partnership, 613, 614
  - delinquent co-owner, 621
  - proportionate contribution, 620
  - taxation, 620
  - vesting order, 621
- criminal liability**, *see* liability of mining operators
- Crown ownership**, *see also* private ownership
  - Atlantic provinces, 27
  - British Columbia, 32–34
  - Ontario, 27
  - Prairie provinces, 28–31
  - Territories, 35
- definitions**, *see also* Interpretation/construction
  - aggregate, 681
  - aggregate resources, 13
  - cell/cell claim, 101
  - closure plan, 479
  - established pit or quarry, 681
  - estates and interest, 647
  - exploration licence, 233
  - free miner, 43
  - land, 24, 56, 352, 544
  - legacy, 101, 112
  - map staked claim, 100, 118
  - metallic and industrial minerals, 15
  - mineral concerned, 647
  - mineral disposition, 309, 334
  - mineral reservations, 1, 2, 7
  - mineral right, 236, 551
  - mines/minerals, 1, 7–11, 13, 539, 710, 713
  - oil, 11
  - patent, 219
  - petroleum, 11
  - placer claim, 15, 102
  - placer mineral, 15
  - placer mining, 15
  - prospect, 14
  - prospecting, 14
  - quarry, 12, 13
  - quarry material, 13
  - recorded holder, 734
  - rehabilitate, 479, 507
  - royalty, 631
  - surface rights, 366
  - surface rights holder, 397
  - transfer, 307
  - unpatented, 130
- discretionary system**
  - lease
    - forfeiture, 244, 248, 249
    - investigation, 246, 247
    - issuance, 229, 230, 241
    - liability, 251
    - plan for development, 232

## INDEX

---

- discretionary system (*cont'd*)
    - renewal, 231, 242
    - rentals, 241
    - review, 245
    - surrender, 250
    - term, 231, 241
    - withdrawal of lands, 236
    - licence
      - cancellation, 224
      - contiguous claims, 239, 240
      - deferral of application, 233
      - development licence, 243
      - dispute, 234
      - general, 223 235
      - issuance, 238
      - reinstatement of disposition, 224
      - rejection of application, 223, 233
      - renewal, 240
      - surrender, 250
      - tenders, 238
      - term, 240
      - withdrawal of lands, 236, 237
    - permit
      - cancellation, 224
      - expenditures during work period, 227
      - general, 223
      - grouping of permits, 228
      - issuance, 225
      - reinstatement of disposition, 224
      - term, 226
  - issuance of licence, 258
  - reduction in size, 260
  - reinstatement, 261
  - revocation, 261
  - surrender, 260
  - suspension, 261
  - work or payment, 259
  - permits
    - application, 254
    - available lands, 252
    - cancellation by Minister, 257
    - conversion of permit to claim, 252
    - issuance, 252
    - permit rights, 253
    - prospecting permits, 268–271
    - surrender, 256
    - term, 255
  - plans
    - binding, 265
    - contraventions, 266
    - issuance, 262–264
- free entry system**
- abandonment of claim
  - holder of claim, 161–163
  - lands available for restaking, 164
  - acquisition of lease
  - compliance with legislation, 181
  - environment, 185
  - ore body, 183
  - requirements, 182, 184–188
  - right to lease, 189
  - forfeiture or cancellation of claim
  - bankruptcy, 173
  - breach of provisions of disposition, 167, 170, 171, 173
- exploration permits/plans**
- licences
    - cancellation by Minister, 257
    - conversion of licence to claim, 258
    - development licence, 267

## MINES AND MINERALS LAW IN CANADA

---

- free entry system (*cont'd*)
  - • corporate owner, 180
  - • death of holder, 176
  - • extension of time, 178
  - • failure to perform work, 165, 166, 168, 169, 174, 175, 179
  - • improper purpose, 168, 170
  - • liability, 172
  - • material misrepresentation, 168, 173, 175
  - • notice to holder, 166, 167, 169, 174, 175
  - • relief from forfeiture, 177
  - • relief from cancellation, 167, 172
  - • vesting in Crown, 165, 174
  - forfeiture or cancellation of lease
    - • bankruptcy, 211
    - • condition precedents for forfeiture, 214
    - • dispute between private parties, 218
    - • fraud, 213
    - • material misrepresentation, 211
    - • non-compliance with lease or legislation, 207–212, 216
    - • notice to holder, 207–210, 212
    - • proof, 215
    - • relief from cancellation, 208, 209
    - • void vs. voidable, 216, 217
  - general, 41
  - ground staking requirements
    - • boundaries, 68, 73
    - • claim on creek, 72
    - • elements, 66
    - • four-post system, 68, 75
    - • fractional claims, 69, 72
    - • general, 65
    - • paramountcy, 67
    - • posts previously used, 71
    - • topographical conditions, 70
    - • unconnected strips of land, 74
  - lands open for prospecting and staking
    - • generally, 56
    - • lands forfeited to Crown, 63
    - • one claim per piece of land, 57
    - • Ontario, 59, 60
    - • pipelines, 62
    - • privately owned, 56
    - • reopening of lands, 61
    - • subsisting recorded claims, 58
    - • withdrawal of lands, 61, 64
  - map staking and registration of claims
    - • acquisition of rights, 104
    - • amalgamation of claims, 105, 111
    - • application, 110, 111, 117, 119
    - • effective date, 103
    - • ground staking eliminated, 100
    - • legacy claim, 109, 112, 116
    - • online registry, 101, 106, 111, 114, 118
    - • parcels not available, 107, 111, 115, 118
    - • priorities, 108
    - • reduction of claims, 105
    - • registration of cell, 102
    - • subdivision of claims, 105
    - • trustee, 113
  - nature of interest under claim
    - • assaying, sampling and metallurgical testing, 127, 128, 132, 133
    - • chattel interest, 134
    - • exclusive right to explore, 126, 130, 133

## INDEX

---

- free entry system (*cont'd*)
  - • exploration work, 131
  - • licensee of Crown, 129
  - • mineral access rights, 127, 132, 134
  - • remedy against trespassers, 127
  - • tenant at will of Crown, 129
  - nature of interest under lease
  - interest in land, 199
  - priority of claims
    - • completing staking requirements, 122
    - • earlier claim having priority, 120
    - • estoppel, 121
    - • subsequent instruments void, 124
    - • time of entry in registry, 123, 125
    - • time of payment, 123
    - • will affecting claim, 124
  - prospector's licence
    - • actions authorized, 43–45
    - • cancellation of licence, 53–55
    - • issuance of licence, 46, 48, 50–52
    - • lapse of licence, 47
    - • object, 42
    - • renewal of licence, 46, 49
    - • transfer of licence, 46, 48, 50, 52
  - recording of ground staked claims
    - • application to record, 76, 77, 81
    - • disputes, 85
    - • duty to record, 79
    - • insufficient staking, 84
    - • priorities, 77
    - • recording date, 77
    - • review of application, 78, 83
    - • validity of claim, 80, 82
  - renewal of lease
    - • compliance with legislation, 200–202, 204
    - • non-productive lease, 201
    - • potentially economic mineral resource, 202, 203
    - • required for mining activity, 200
    - rights and duties of lessee
      - • conditions, 197, 198
      - • damage, 191
      - • environment, 192
      - • expenditure requirements, 194
      - • mineral access rights, 191
      - • mining rights, 195
      - • production of mineral, 191, 194
      - • rent obligation, 193
      - • rights of claimholder, 190
      - • surface rights, 196
    - surrender of claim
      - • holder of claim, 160–163
      - • lands available for restaking, 164
      - • liability, 160
      - • registration of surrender, 160
    - surrender of lease
      - • notice, 205, 206
    - substantial compliance
      - • attempt to comply with staking requirements, 86, 91, 93–99
      - • defects curable, 88, 89
      - • entitlement to location, 90
      - • Manitoba, 87
      - • question of fact, 92
    - working of claim
      - • allocation of excess work, 146, 154, 156, 157
      - • assessment work credits, 146
      - • certificate of acceptance, 141

- free entry system (*cont'd*)
- charges re right to hold claim, 155
  - co-holders of claims, 159
  - contiguous claims, 158
  - expiry date change, 139, 147
  - exploration and development work, 136, 140, 142–145, 148, 150, 151, 153
  - payments in lieu of work, 136, 140, 142, 143, 151, 152
  - registration of work, 137
  - relief from work or payment requirements, 151
  - statement of exploration and development, 138, 149, 150, 153, 154
- ground staking requirements**, *see* free entry system
- health and safety**, *see* liability of mining operators
- indigenous consultation (disputes)**
- hearing, 305
  - report, 306
- Indigenous interests**
- constitution, 36
  - consultation, 37–40
  - Ontario, 38–40
  - quarries, 684
- interpretation/construction**, *see also* definitions
- common understanding, 2
  - context, 8
  - ejusdem generis rule, 9
  - intention of parties, 6
  - question of fact, 2
  - statutory definitions, 5
- vernacular vs. scientific, 3–5
- joint ventures**
- area of mutual interest clauses, 630
  - fiduciary duties, 628, 629
  - interpretation, 625
  - joint liability, 626
  - rights and obligations, 627
  - tax consequences, 624
- lands open for prospecting and staking**, *see* free entry system
- leases**, *see* aggregates, pits and quarries; coal; discretionary system; free entry system; private leases; surface rights; transfer of mineral interests
- liability of mining operators**
- conservation and reclamation
    - abandoned mining property, 454
    - appeals, 467, 488
    - applicability of legislation, 455, 469, 472, 478, 512
    - closure plans, 474, 479, 482, 483
    - contaminated sites, 461, 462, 469
    - debt to Crown, 487, 504, 508, 511
    - emergencies, 514
    - enforcement orders, 470, 489
    - environmental assessments, 463, 468, 471, 476
  - feasibility study report, 494
  - historic mining sites, 462
  - indigenous consultation, 457, 480, 482
  - inspection, 509
  - jurisdiction, 453, 492
  - liability for remediation, 490, 496, 503, 510

## INDEX

---

- liability of mining operators (*cont'd*)
- • licences, 476, 515
  - • mining hazards, 480, 481, 485, 485
  - • non-compliance with reclamation program, 459
  - • permanent closure of mine, 502
  - • permits, 456, 459
  - • pollution control facilities, 473
  - • reclamation plans/programs, 495, 497, 499, 501, 505, 506, 507, 513, 694, 728
  - • remediation orders, 460–462, 477, 491
  - • reviewable projects, 465–466
  - • security, 458, 459, 475, 497, 498, 500, 501, 507
  - • surrender of mining lands, 485
  - health and safety
    - • abandonment of mine, 435
    - • code, 428
    - • dangerous conditions, 434, 440, 444
    - • employer/owner duties, 430–433, 438–441, 443, 444
    - • health and safety committee, 427
    - • inspection, 426, 442, 444
    - • insurance plans, 436, 437
    - • liability of mining operator, 435
    - • ministerial orders, 429, 434, 440, 442
    - • occupational diseases, 437
    - • permanent closure of mine, 435
    - • personal injuries, 437, 444
    - • remedial action, 426
  - mining offences
    - • criminal negligence, 446
    - • fraud, 447, 450, 452
    - • offences and penalties, 445
    - • precious metals, 447–449
    - • valuable minerals, 450, 451
- licences**, *see* aggregates, pits and quarries; coal; definitions; discretionary system; exploration permits/plans; free entry system; liability of mining operators; private leases; surface rights; transfer of mineral interests; water rights
- lien claims**
- lienable interests and claimants
    - • Crown's interest, 651
    - • direct connection, 656
    - • estates and interests in minerals, 646, 647, 654, 655
    - • owner's interest, 648, 649
    - • priorities, 653–655
    - • proceeds of mineral recovered, 648, 649
    - • wages, 652, 653, 657
    - • work done or materials furnished, 646, 649–651, 654, 655
  - registration of lien, 640–645
- map staking and registration of claims**, *see* free entry system
- mining agreements (general)**, *see also* agreements for sale; agreements made before registration of claim; co-ownership; joint ventures; option agreements; partnerships; private leases; prospecting or grubstaking agreements; royalty agreements (private)
- contract law, 573
  - conveyance of title or interest, 572
- mining patents**
- authority to cancel or annul, 220

mining patents (*cont'd*)

- authority to declare forfeited or void, 220
- reservation of rights, 219
- reversion to Crown, 221, 222
- title of Crown vests in patentee, 219

**mining taxation**

- constitutional validity
  - direct tax, 537
  - indirect tax, 536–538
- liability to taxation
  - appeals, 542, 547, 549, 567
  - exemptions, 559–562
  - gypsum mining, 569, 570
  - lien, 543, 545, 550, 552, 565
  - mineral land, 544, 545, 558–565
  - mineral production, 539–543, 549, 550, 553, 555–557, 566
  - mining claims, 554
  - objection to assessment, 542, 546, 557, 567
  - tax arrears, 548, 554, 564, 568
  - mineral rights, 546, 551, 552, 558–565, 571

**municipal land use by-laws, 782**

**navigable waters, 783**

**option agreements**

- conditions precedent, 603
- default under agreement, 606, 611
- enforcement of option, 604, 608
- equitable interest, 602
- option to purchase vs. agreement for sale, 582, 609
- right of first refusal, 602
- terms of option, 607, 610
- time of essence, 605

**ownership, see** Crown ownership, private ownership

**partnerships**

- colloquial term, 615
- co-ownership, 613, 614
- presumption of share, 617
- question of fact, 612
- Statute of Frauds, 616
- termination of partnership, 618, 619

**permits, see** aggregates, pits and quarries; coal; discretionary system; exploration permits/plans; liability of mining operators; surface rights

**precious metals marking, 781**

**private leases**

- covenants, 600
- duty of confidence, 601
- exclusive right of possession, 596
- interest in land, 597
- lay agreement, 596
- licences, 597
- re-entry by lessor, 598
- specific performance, 599

**private ownership, see also** Crown ownership

- accreted land, 22
- beneficial ownership, 20
- common law rule, 16
- defects in title, 21
- precious metals, 17
- profit à prendre, 23
- reservations, 19
- separate estates, 18

**prospector's licence, see** free entry system



## INDEX

---

- prospecting or grubstaking agreements**
  - financing in exchange for interest, 622
  - good faith, 623
  - termination of agreement, 622
- refined metal for use in arts**, 780
- registration**
  - land titles system, 24, 25
  - registry system, 26
- resolution of disputes (general)**
  - adverse proceeding, 274–276, 298
  - appeals, 272, 278, 285–287, 295, 297
  - board, 278, 279, 297, 301, 302
  - chief gold commissioner, 272, 301
  - fraud, 273
  - judicial review, 288, 294
  - legacy disposition, 280
  - liability of Crown, 289
  - mining commissioner, 291, 292, 301, 302
  - minister, 295, 296
  - principles, 277, 303, 304
  - recorder, 281, 285, 290, 299, 300
  - registrar, 295
  - review of complaint, 272
  - timing for complaint, 272, 279, 281, 293
  - tribunal, 282–284, 286
- royalties (Crown)**, *see also* royalty agreements (private)
  - aggregate, 696, 697
  - appeals, 521
  - arrears for royalties, 522
  - calculation, 516, 520, 531
  - coal, 519, 750, 751, 756
  - commingling of royalty share, 517, 525
  - deliverable in kind, 516, 523
  - diamond mines, 528
  - exemptions, 524, 526, 529, 530
  - gold, 534
  - priorities, 533
  - quarriable substances, 667, 669, 708
  - reduction in royalty share, 518
  - reserved to Crown, 516, 520, 523, 529, 531, 532, 535
  - transfer of royalty share, 517
  - unit area, 527
- royalty agreements (private)**, *see also* royalties (Crown)
  - contractual right, 633, 634, 637
  - fixed proportion of value of production, 631
  - interpretation, 631, 633
  - oil and gas examples, 634
  - reservation out of grant, 632, 636
  - right of first refusal, 639
  - termination, 638
- surface rights**
  - acquisition of surface rights
    - access road, 358, 359
    - application, 361, 368
    - authority, 352, 360, 364, 366, 372, 373, 376, 386, 387
    - consent, 360, 363, 370, 377–382, 389
    - disposition, 355
    - dispute, 367, 385, 388
    - exploration permit, 375
    - licence, 381
    - mineral access rights, 366

- surface rights (*cont'd*)
- • mineral development surface lease, 365
  - • necessity for mining operations, 369, 371, 386
  - • notice, 354
  - • order, 360, 370, 389
  - • priority, 374
  - • restriction of use, 353, 371
  - • right of way, 356, 357, 384
  - • rights/duties of former lessee, 362
  - • Saskatchewan, 364, 365
  - instrument of severance
  - • private ownership, 342
  - • rights, 340
  - • true intent, 341
  - measure of compensation
  - • amount payable, 395, 398–401, 419, 421, 423
  - • appeals, 413–416, 418, 421
  - • disputes, 402
  - • documentation, 410
  - • expropriation principles, 404, 412
  - • factors, 403, 420, 425
  - • reduction in size of mining claim, 422
  - • review process, 417
  - • time for award, 411
  - • value of land, 405–408
  - • voluntary agreements, 409, 424
  - right of working
  - • artificial structures, 350
  - • customary methods, 346
  - • destruction of surface, 348, 349
  - • express powers of working, 343, 344
  - • implied powers of working, 344
  - • modern methods, 345
  - • reasonable manner of working, 346
  - • right of support, 347
  - • trespass, 351
  - right to compensation
  - • appeal, 398, 399
  - • dispute, 401
  - • double compensation, 393
  - • entry fee, 392
  - • hearing, 391
  - • loss or damages, 383, 390, 394
  - • occupant of land, 397
  - • transfer of mining interest, 396
- tailings**
- chattels, 774
  - deposit or discharge, 776
  - injunction, 762
  - instrument of severance, 775
  - output of mine, 777
- trespass, 778, 779**
- transfer of mineral interests**
- consent of minister or registrar
  - • lease, 314–317, 319, 321, 322
  - • licence, 318–320
  - • mining claim, 314, 317, 322
  - • withholding consent, 320
  - effect of recording
  - • failure to record, 339
  - • notice of prior unrecorded instrument, 335–338
  - • priority, 333, 334, 336
  - • will affecting claim, 336
  - general
  - • court-ordered transfer, 308
  - • enforcement, 311

## INDEX

---

### transfer of mineral interests (*cont'd*)

- record of lease or disposition, 310
- registrar, 312
- registration, 307
- restriction on transfer, 309
- transfer of interest, 313
- unconditional, 307
- recording of transfer
  - cancellation, 324
  - form, 326–331
  - satisfying directives, 325
  - traceable, 332
  - western provinces, 323, 324

**uranium**, 772, 773

### **water rights**

- drainage, 766, 767, 769
- licence, 764
- reservation for Crown, 765
- right to take water, 760, 761, 763
- seepage water, 767
- tailings, 762
- water grant, 768, 770, 771

