

MARKETPLACE SENSITIVITY ANALYSIS

ASSESSMENT OF INDUSTRY
SENSITIVITY TO MINERAL
REGULATORY CHANGES
ACROSS CANADA

June 21, 2018

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Introduction

Objective and Approach

The Government of the Northwest Territories through the Department of Industry, Tourism and Investment (“ITI”) is considering a number of changes to the Northwest Territory’s (NWT) current mineral regulatory regime. As a part of its ongoing consultation and development of the proposed *Mineral Resources Act*, the Northwest Territories has engaged [REDACTED] [REDACTED] to conduct a marketplace sensitivity analysis to better understand the practical experience of the industry in Canadian jurisdictions which have made changes to their mineral regulatory regimes.

Our analysis involved a three-tiered approach:

1. First, we set out to understand the recent changes to, or unique features of, mineral regulatory regimes across Canada through legislative surveys and a review of materials provided by ITI;
2. Second, we approached prospectors’ and mining associations across Canada, delivering a survey to each association containing relevant questions respecting recent changes to, or unique features of, their respective jurisdiction’s mineral regulatory regimes, collecting responses in writing or by telephone and following up for additional details where necessary; and
3. Finally, we analyzed the information returned to us to develop recommendations for the Government of the Northwest Territories and ITI as they continue to develop the *Mineral Resources Act*.

This document examines twelve discrete topics in five parts. In the first part, Regulatory Authorizations, we consider the adoption of prospector training courses and the issue of obtaining front-end consent from Indigenous groups for staking on unsettled land claim areas. In the second part, Grant of Mineral Tenure, we consider the adoption of online map-staking, increased notification requirements on the staking of a claim, and requirements for obtaining mineral leases. The third part, Work Requirements, considers the requirements to maintain an interest in minerals. We specifically examine simplified reporting requirements, exploration plan circulation and filing prior to conducting work, work credits for Indigenous engagement, and payment-in-lieu provisions. In the fourth part, Dispute Resolution, we consider the various forms of dispute resolution mechanisms in Canadian jurisdictions. Finally, in the fifth part, Benefit Agreements, we consider how Canadian jurisdictions encourage the sharing of benefits from mineral development.

This Marketplace Sensitivity Analysis is not a legal opinion.

Executive Summary

Canada's thirteen mining jurisdictions have independently evolved the free-entry model to mineral tenure. There are a variety of reasons for regime evolution: jurisdictions compete with each other for mineral investment and need to create workable and attractive regimes for proponents; governments benefit from resource royalties and are incentivized to discourage speculation and the unnecessary tying up of lands; social expectations regarding responsible mining and the provision of benefits have evolved; and Section 35 of the *Constitution Act, 1982* has changed how lands are used and mines are approved.

This Marketplace Survey examines five individual attributes of mining regulations in Canada, and considers how recent changes to regulatory regimes have impacted proponents:

1. Regulatory authorizations;
2. Grants of mineral tenure;
3. Work requirements;
4. Dispute resolution; and
5. Benefits agreements.

Impacts on proponents have been mixed overall, which is often a reflection of both the objective of the regulatory change, as well as the effectiveness of the implementation of change.

Adoption of Prospector Training Courses

Two jurisdictions have adopted prospector training courses using different approaches. Ontario mandates that all proponents complete a fairly simple training program, while Newfoundland and Labrador offers an intensive training program which qualifies "designated prospectors." Both alternatives have advantages, [REDACTED]

Front-End Consent for Staking on Unsettled Land Claim Areas

Yukon's mining regime was disrupted by the 2014 decision in *Ross River Dena Council v Government of the Yukon*. The decision instructed Yukon to consult with impacted Indigenous groups prior to issuing a mineral claim. Rather than introduce a requirement for front-end consultation and/or consent, Yukon amended other elements of its mining regime in an attempt to become compliant without changing the free-entry model. We identified no Canadian jurisdiction that requires consent or consultation in advance of staking mineral claims on Crown land.


Adoption of Online Map-Staking

Online map-staking offers an alternative to the NWT's present system of physical staking on land. Adopted across a number of Canadian jurisdictions, the experience with online map-staking has generally been positive for all categories of proponents. While online map-staking can increase transparency, encourage stakeholder engagement and substantially reduce

proponent costs, if poorly developed, it can disrupt early exploration activities and encourage speculation rather than exploration.

Increased Notification Requirements

Ontario has recently implemented notice requirements for claimholders, which requires claimholders to inform surface rights owners of new claims. Notification requirements are generally perceived as a positive compliance feature which can encourage consultation.



Modification of Requirements for Obtaining Mineral Leases

Unlike mineral claims which require the ongoing performance and reporting of exploration work, most regimes do not include a requirement to work a mineral lease. To maintain a lease, typically the only requirement is the payment of an annual fee based on the size of the property. In order to encourage greater exploration activity, several jurisdictions across Canada have increased the prerequisites to obtain a lease by requiring that a proponent establish the existence of an ore body. Since these requirements are generally aligned with the arc of resource development (proponents explore a claim in hopes of identifying an ore body which justifies a lease), proponents are generally accepting of the implementation of the prerequisite condition of establishing the existence of an ore body.

Ministerial Discretion in the Granting of Mineral Tenure (Claims and Leases)

Jurisdictions across Canada have taken similar approaches to applying discretion in the granting of mineral tenure. In most cases, the issuance of mineral claims allows for very limited ministerial discretion, imposing minimal risk and burden on proponents. Most jurisdictions in Canada also provide limited discretion for the issuance of mineral leases, though some jurisdictions require evidence of an ore body. Finally, many jurisdictions provide increased discretion at the stage of mineral lease renewal where activity has not yet commenced, allowing their minister to exercise judgement in determining if mining is likely to proceed.

Simplified Reporting Requirements

Several jurisdictions in Canada provide an alternative method for reporting work which imposes a reduced burden on individual prospectors and smaller proponents. These alternative reporting requirements may be limited in their dollar value, the work available for credit, and the stage of the mineral claim life, but typically allow for a claim owner to sign off on a report, rather than requiring the attestation of a "qualified person." Alternative reporting offers a compromise between the quality of mineral reporting and the ability of individual prospectors to participate in exploration.

Exploration Plan Filing

A few Canadian jurisdictions have implemented requirements to prepare and share exploration and engagement plans. Most of these plans relate to applications for work authorization, which

has been excluded from this Marketplace Survey. For the most part proponents have expressed that these processes are burdensome, requiring excessive and undesirable disclosure. Some of these challenges can be addressed through greater government assistance and involvement.

Work Credits for Indigenous Engagement

The cost of community engagement and Indigenous consultation is a real and necessary cost of mineral exploration. Indigenous engagement is a necessary cost for exploring, developing and mining resources in Canada. However, while Indigenous engagement is a necessary cost for exploring, developing and mining resources in Canada, it does not generate geological data – the public benefit received from the granting of mineral interests. Both Ontario and Alberta grant work credits for the cost of Indigenous engagement, though each is limited. Alberta limits the amount of Indigenous engagement credits available in any given year, while Ontario grants credits which can be used to maintain a mineral claim but do not count towards taking a mineral claim to lease.

Payment Instead of Exploration and Development Work

Nearly every jurisdiction in Canada allows proponents to make a payment in lieu of annual claim work requirements. Such payments provide necessary flexibility where a proponent is unable to conduct work. In more flexible regimes, such payments can allow a proponent to optimize work across more than one year. Key differentiating factors in payment in lieu regimes are (1) the refundability of payments in lieu, and (2) the term of refundability.

Dispute Resolution

Approaches vary to dispute resolution across Canada. Some jurisdictions have built in dispute resolutions boards, while others allow for the ad hoc appointment of committees or decision makers. The type of dispute resolution mechanism must reflect the nature of the regime: less discretionary regimes are better suited for less formal dispute resolution mechanisms, while regimes with greater degrees of discretion require more robust mechanism. Generally speaking, proponents do not appear focused on dispute resolution, and are unlikely to take an interest until they need to use it.

Benefit Agreements

Benefit agreements are generally not mandated in mineral regimes in Canada. One notable exception is in Saskatchewan, where the government has used the existing discretionary power to issue surface leases to mandate benefit commitments for mine operations in northern Saskatchewan. Generally, a lack of benefit agreements may reflect the diverse attributes and economics of each mine, and competitiveness across Canada for mineral investment.

Consultation with Prospectors and Mining Associations

The following table demonstrates our engagement efforts with prospectors' and mining associations in each jurisdiction surveyed. Each association was initially contacted on March 7, 2018 with a copy of the cross-jurisdictional survey that was prepared for their respective jurisdiction. In instances where jurisdictions did not immediately respond, we followed-up with telephone calls and emails. Associations with a **green** tab responded to our cross-jurisdictional survey, while those with a **red** tab, did not.

British Columbia		New Brunswick	
Association of Mining Exploration in British Columbia	Green	New Brunswick Prospectors and Developers Association	Green
Mining Association of British Columbia	Red		Green
Alberta		Nova Scotia	
Alberta Chamber of Resources	Green	Mining Association of Nova Scotia	Green
		Nova Scotia Prospectors Association	Red
Saskatchewan		Newfoundland & Labrador	
Saskatchewan Mining Association	Green	Mining Industry NL	Green
		Newfoundland & Labrador Prospectors Association	Green
Manitoba		Nunavut	
Manitoba Prospectors and Developers Association	Red	Nunavut Chamber of Mines	Green
Mining Association of Manitoba	Red		
Ontario		Yukon	
Ontario Mining Association	Red	Yukon Chamber of Mines	Green
Ontario Prospectors Association	Green	Yukon Prospectors Association	Red
Northwestern Ontario Prospectors Association	Green	Anonymous Prospector	Green
Quebec			
Quebec Mining Association	Green		

Part 1: Regulatory Authorizations

Adoption of Prospector Training Courses

In order to stake a mineral claim in the Northwest Territories, a person is required to obtain a prospector's licence. A prospector's licence will be issued by the Mining Recorder upon the submission of an application and payment of the required fee (\$5 for an individual). There are no substantive requirements beyond these two items.

The mineral regulatory regime in the Northwest Territories is governed by multiple jurisdictions, through pieces of legislation such as the *Mackenzie Valley Resource Management Act* and the *Mining Regulations*, and through land claim agreements. Aboriginal and treaty rights are prevalent throughout the Northwest Territories and require specific consideration by both government and proponents.

During the development of a Mineral Resource Act, new processes and regulations may be put in place. In order to facilitate the introduction of these new rules and to ensure that proponents comply with all requirements under the Northwest Territories' regulatory regime, it has been suggested that the new *Mineral Resources Act* may require those acquiring or renewing a prospector's licence to complete a prospector training course. The primary questions are whether prospectors, exploration proponents, and other stakeholders would be better informed before they engage in prospecting and exploration activity as a result of completing such a prospector training course, and what the potential consequences of implementing such a course would be.

Cross-Jurisdictional Overview

In the course of our cross-jurisdictional survey, we identified two jurisdictions where some form of prospector training course was explicitly provided for within their regulatory regime: Ontario and Newfoundland & Labrador.

Ontario

Ontario is the only jurisdiction in Canada that requires the completion of a training course as a pre-condition to obtaining a prospector's licence. Effective November 1, 2012, *General Regulation 45/11* has required every person wishing to apply for or renew a prospector's licence to complete a free, on-line prospector's awareness program called the Mining Act Awareness Program (the "MAAP") within 60 days of applying for a prospector's licence. Additionally, all "qualified supervisors" on an exploration plan or permit are required to complete the MAAP. Individuals may also voluntarily complete the MAAP for educational purposes. On adoption of the MAAP requirement in Ontario, current licensees were given two years to complete the program.

The MAAP covers a wide range of topics, including:

- the purpose of the Mining Act and its regulations, including the operational policies that outline how early exploration activities are to be carried out in Ontario;
- Aboriginal and treaty rights;
- the rights of private land owners, and other users of the land when planning for staking or early exploration activities;
- the requirements for carrying out early exploration activities; and
- resources available to assist in preparing for claim staking and early exploration activities.

The program itself is free of charge, delivered online in English or French, and takes between 45 minutes and an hour to complete. The program is not meant to be a pass/fail test, but rather an educational tool. To that end, the program provides a series of short descriptions about the modernized *Mining Act* and has some multiple choice questions at the end of each section. In order to move on to the next section, all multiple choice questions must be answered correctly. Offline sessions of the MAAP have been offered at geosciences symposiums and prospector association conferences across Northern Ontario.

Newfoundland & Labrador

Newfoundland & Labrador allows for individuals to complete an optional prospector training course in order to take advantage of an optional “genuine prospector” designation. The “genuine prospector” status confers benefits to individuals who have completed the Department of Natural Resources’ recognized mineral prospecting training program or who have significant previous experience in the exploration field. The optional designation has been available since 1996. The College of the North Atlantic administers the prospector training course in conjunction with the provincial government. Over the course of two weeks, the course provides practical instruction on prospecting methods from mineral exploration professionals. The designation is only available to individuals.

As a background, persons in Newfoundland & Labrador are not required to hold a prospector’s licence, or equivalent instrument, in order to stake claims or conduct mineral exploration in the province. Rather a person must be at least 19 years of age or a corporation and have registered with the Mineral Claims Recorders Office. Newfoundland & Labrador uses online map-staking in which individuals may apply for a map staked licence made up of up to 256 claims (each claim being a 500 metre square). For each licence issued, a proponent must pay a fee of \$60/claim, consisting of a \$10/claim recording fee and a \$50/claim security deposit. The security deposit is refundable upon submission and acceptance of the first year’s assessment work report in respect of a map-staked licence. In contrast to those without the designation, “genuine prospectors” may stake up to 30 claims in no more than 5 map staked licences in a calendar year without posting a security deposit for any of the 30 claims.

Feedback from Relevant Mining Associations

Feedback from Ontario

In Ontario, we requested responses to our survey from the Northwestern Ontario Prospectors Association, the Ontario Prospector's Association, and the Ontario Mining Association. The Ontario Mining Association did not respond to our survey. The prospector's associations responded and provided fulsome responses.

The prospectors' associations found that the MAAP has been ineffective in achieving its stated objectives. No specific issue was raised with respect to the content of the MAAP – the program, they said, created awareness at a general level of the new *Mining Act* (Ontario) and the Aboriginal consultation requirements therein. However, two overriding issues were identified as significant impediments to the program's success.

First, the program was characterized as being too easy. One individual went so far as to say that the program is a "bit of a farce". The problem, as identified by another individual, is that the program is set up in such a way that a proponent cannot be unsuccessful in completing it. If a proponent wrongly answers a question on the quiz, the quiz simply asks the proponent to try again. There are no stakes to the program and potential prospectors are not required to study or prepare in order to complete the program.

The second issue that was raised is that the program is not targeted towards the correct individuals. Considering the content of program (information on new exploration plan and permit requirements, Aboriginal consultation, etc.), it was suggested that the program should only be targeted towards those who supervise work that causes surface disturbance. As the program is structured now, it effectively singles out the prospectors who conduct low-impact work to locate claims. Given the low impact of their work, prospectors are not required to conduct comprehensive stakeholder engagement activities, and it is unnecessary for them to learn about the entire life of a mineral tenure.

The content of the program was not identified as being unhelpful, incorrect, or useless. Rather, those we consulted stated that the MAAP is a good first step towards a better program that actively educates those who participate in the mining industry in Ontario regarding their legal rights and obligations under the *Mining Act* (Ontario). Finally, to be successful, it is important that a prospector training course contain information that is relevant for those who would be required to complete the course.

Feedback from Newfoundland & Labrador

In contrast with Ontario's MAAP, Newfoundland & Labrador's prospector training course is not focused on understanding the legal rights and obligations embedded within the mineral regulatory regime, but offers a practical instruction on prospecting methods from mineral exploration professionals. While Newfoundland & Labrador is not the only Canadian jurisdiction to offer such a training course, it is the only jurisdiction that explicitly recognizes it in its mineral regulatory regime and provides incentives for its completion.

Front-End Consent for Staking on Unsettled Land Claims Areas

As with other Canadian provinces and territories, parts of the Northwest Territories are covered by unsettled land claims. Such locations create uncertainty for mineral and mining regimes.

Cross-Jurisdictional Overview

During our review, we did not identify any Canadian regimes which required Indigenous consent prior to staking Crown lands. While the historical acceptance of the principle of free-entry accounts for much of the continued practice, jurisdictions such as Ontario have implemented map-staking as an alternative to physical staking, allowing for early entry on lands to be avoided.

The Yukon has recently limited free-entry in certain areas. We have examined the Yukon's experience with respect to staking on unsettled land claim areas.

Yukon

In the Court of Appeal for Yukon's decision in *Ross River Dena Council v. Government of Yukon*, 2012 YKCA 14 [*Ross River Dene Council*], the Court considered whether the Kaska First Nation has a right to be consulted before claims may be staked under the *Quartz Mining Act* on the lands over which they claim Aboriginal title and rights. The Kaska First Nation had not entered into a final agreement with the governments of the Yukon or Canada with respect to their claims, nor established Aboriginal title over their claimed lands. The Court found that the Kaska First Nation did have a right to be consulted with before a claim could be staked on their unsettled land. The Court's reasoning relied on the level of exploration activity that could be conducted pursuant to the *Quartz Mining Act* on such land, without any prior notice or consultation, once a claim was staked.

Since *Ross River Dena Council*, the Yukon government has instituted a moratorium on staking over the Ross River area. While this moratorium was initially for a period of one year, it has been renewed on an annual basis. Pre-existing mineral claims have been grandfathered in and continue but the new notification and waiting period requirements mentioned above apply in respect of those claims. No staking of adjoining claims is allowed. In 2017, the Yukon government instituted a moratorium on staking within Kaska territory.

As a consequence of *Ross River Dena Council*, the Yukon has implemented new processes for prospectors. Mineral claims continue to be issued to proponents without prior Indigenous consultation, but no work may occur on a claim before consultation has been conducted. These new requirements are described in greater detail in the section "Exploration Plan Filing."

Feedback from Relevant Mining Associations

We consulted both the Yukon Prospectors Association and the Yukon Chamber of Mines in relation to the *Ross River* decision and potential front-end consent for staking on unsettled land claim areas. While we received a response from the Yukon Chamber of Mines, the Yukon Prospectors Association did not respond. Through the Yukon Prospectors Association, we consulted with an [REDACTED] prospector [REDACTED]
[REDACTED]

The feedback we received reflected that prospectors were generally disappointed with how the *Ross River* decision has affected staking procedures. While the decision has not actually affected the way prospectors conduct their work, except that they may no longer stake claims over lands which are subject to a moratorium, the decision has affected the interest of junior companies willing to invest in mining claims in the Yukon. Prospectors with good claims and showings in areas which are now subject to a moratorium have experienced difficulty in marketing their staked claims since adjoining claims which share the prospective ore body may not be capable of being staked in the future.

Recommendations and Key Considerations

The following consideration may be relevant to the development of the *Mineral Resources Act*:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Part 2: Grant of Mineral Tenure

Adoption of Online Map-Staking

Mining regimes across Canada have evolved over recent years to incorporate new mapping, database, and user-facing technology, often for the purpose of facilitating online map-staking. Designing the *Mineral Resource Act* to allow for the future adoption of online map-staking would be a substantial change for the Northwest Territories, which currently has a physical staking system. For a proponent to obtain a mineral claim under the *Mining Regulations*, the claim must be physically staked. The process of physically staking a claim requires the proponent to outline the perimeter of the area to be staked. As is provided in the current *Mining Regulations*, this requires proponents to plant four corner posts on each corner of the mineral claim along with line posts along the boundary lines. In treed areas, proponents must also mark the claim boundary lines by blazing trees or cutting underbush. This is a demanding process for prospectors.

All jurisdictions in Canada have had, during their history, some form of physical staking requirement. However, with the emergence of online technology, jurisdictions across Canada have shifted from physical staking to online map-staking. Map-staking allows proponents to stake claims on a map reference system without having to physically be on the land. Map-staking is a low-impact alternative to physical staking where prospectors can stake claims by selecting cells or parcels of land on a map displayed online. It is a way of modernizing claim staking so that technology can be used to manage land tenure more easily.

Both online map-staking and map staking are alternatives to traditional physical claim staking. Both allow for claims to be staked in reference to lands, rather than physically on lands. The analysis in this section is predominantly focused on online map-staking, which typically provides increased access through online portals to a map staking system, and can be integrated into a larger online resources and servicing portal.

Map-staking offers benefits beyond minimizing activities on land. Online map-staking provides transparency for all users and allows proponents to understand the location of existing claims or other non-available areas when staking a claim. Map-staking also eliminates the risk of overlapping claims, since all claims are staked in accordance with a standardized map.

Stakeholders in the Northwest Territories have expressed concerns about transitioning from a physical staking system to an online map-staking system. Certain industries that rely on physical staking may be negatively affected; the Northwest Territories does not currently possess the survey information that would be required to implement a map-staking system; and online map-staking offers large companies or those with better internet access the opportunity to conduct “land-grabs”. Parties can also more-easily stake claims and tie up land without having the actual intention of exploring the land.

Our research examined the practical experience of industry in jurisdictions where online map-staking has been adopted. We were particularly concerned with whether the transition to online map-staking has affected stakeholder engagement, whether proponents have experienced significant cost-savings due to the transition, whether online map-staking advantaged or disadvantaged smaller prospectors as compared with larger prospectors, and how implementation and the end-user experience can be best managed.

Cross-Jurisdictional Overview

Through a cross-jurisdictional survey, we identified six jurisdictions where online map-staking has been recently adopted: British Columbia, Saskatchewan, Nova Scotia, New Brunswick, Newfoundland & Labrador, and Ontario.

British Columbia

British Columbia began converting all claim maps to a computerized database in 1998. This conversion process imported the pre-existing mineral titles onto a map and corrected and updated the details for the transition to a computerized database. On January 12, 2005, Mineral Titles Online (MTO) was implemented. This electronic mineral titles administration system allows for proponents to manage all administrative requirements to acquiring or maintaining a mineral tenure.

The initial phase of the MTO implementation occurred in the spring of 2004. The MTO became fully operational in January 2005. Initially, the MTO system only allowed for internal authentication of client data online, allowing user login accounts and passwords to be managed from within the MTO. After the initial phase-in of the MTO, proponents were eventually allowed to select tenure for acquisition via electronic maps and to apply for and receive free miner certificates (FMC). A valid FMC is required to acquire a mineral or placer title in British Columbia and it allows the holder to access their title during exploration and development activity. Since the MTO has been fully operational, those who hold a FMC are able to stake claims on the MTO through an electronic map: a proponent simply selects the tract of land for which a claim is desired, pays the required fees, and the claim is staked.

In British Columbia, we solicited feedback from the Association of Mineral Exploration of British Columbia (AMEBC) and the Mining Association of British Columbia (MABC). AMEBC provided helpful responses while the MABC deferred to AMEBC.

Saskatchewan

Saskatchewan implemented its online map-staking system in 2012. *The Mineral Tenure Registry Regulations*¹ authorized the Mineral Administration Registry Saskatchewan (MARS) as an electronic registry for issuing mineral dispositions in Saskatchewan. Mineral dispositions issued using the MARS are based on two types of electronic parcels:

1. Surveyed mineral parcels maintained as part of the Province's Mineral Cadastral Parcel Mapping System, a system that shows the subdivision of mineral land in Saskatchewan, which is used for the administration of mineral titles and abstracts under *The Land Titles Act, 2000*;² and
2. Unsurveyed legal subdivision grid cells developed by Information Services Corporation for the unsurveyed portion of Saskatchewan as part of its SaskGrid Township Fabric product.

This system of mineral disposition parcels replaces physical claim staking in unsurveyed areas while tying dispositions directly to Crown titles and abstracts in the surveyed area. The Mineral Cadastral is designed to serve as the base for a range of applications including title registry, mining, oil and gas activities, mineral interests and any application which requires a current and accurate description of the survey of mineral parcels in the province as well as the ownership of these parcels.

In Saskatchewan, we solicited feedback from the Saskatchewan Mining Association. The Association referred us to numerous professionals in the industry who provided feedback.

Ontario

Ontario is currently in the process of shifting from physical staking to online map-staking. Stage 1 of the Mining Lands Administration System (MLAS) phase-in was launched on February 7, 2018. Stage 2 was fully launched on April 10, 2018. It allows online access to mining claim registration, the submission of an exploration plan or permit, the filing and distribution of assessment work, the obtaining or renewing of a prospector's licence online, and other administrative tasks.

In Ontario, we contacted the Ontario Mining Association (OMA), Northwestern Ontario Prospectors Association (NWOPA) and the Ontario Prospectors Association (OPA) to solicit feedback. We received comments from the Northwestern Ontario Prospectors Association and the Ontario Prospectors Association.

¹ *The Mineral Tenure Registry Regulations*, RRS c C-50.2 Reg 27 [*The Mineral Tenure Registry Regulations*]

² *The Land Titles Act, 2000*, SS 2000, c L-5.1

New Brunswick

New Brunswick implemented an internet-based electronic mineral claim acquisition and administration system in 2010. It established and continues to maintain an electronic mineral claims registry called NB e-CLAIMS for the purposes of maintaining all administrative information required for the mineral regulatory regime, facilitating the registration and modification of mineral claims, and displaying general claim information for the general public. Any person interested in obtaining a prospecting licence may do so through the NB e-CLAIMS application. Once so obtained, a person with a prospecting licence may then use e-CLAIMS as a client in order to register and maintain mineral claims. Mineral claims can be renewed and transferred using NB e-CLAIMS. The general public can also use NB e-CLAIMS to access maps that show the location of mineral tenures and to search databases.

In New Brunswick, we solicited feedback from the New Brunswick Prospectors and Developers Association (NBPDA). We did not receive a response.

Nova Scotia

Nova Scotia implemented its online mineral registry system, NovaROC, in 2013. NovaROC allows users to identify areas that are available for development, to stake exploration claims, and to pay fees online. NovaROC also provides online viewing and printing of maps which show the location of mineral tenure throughout the province of Nova Scotia. For registered users, NovaROC provides the same functions as it would for the general public but it also allows for the acquisition and maintenance of mineral claims in the province. NovaROC allows for claim data to be easily downloaded so that it is compatible for use in geographic information systems (GIS), allowing proponents to produce maps and other graphic displays of geographic information for analysis and presentation.

In Nova Scotia, we solicited feedback from the Mining Association of Nova Scotia (MANS) and the Nova Scotia Prospectors Association (NSPA).

Newfoundland and Labrador

Newfoundland & Labrador introduced an online map-staking process through the Mineral Rights Administration System (MIRIAD) in 1996. This system allows anyone, regardless of geographic location, to acquire mineral tenures in the province, pay required fees, and conduct the required administration to maintain a mineral claim.

In Newfoundland, we contacted the Newfoundland and Labrador Prospector's Association (N&LPA) and Mining Industry Newfoundland and Labrador (MIN&L) for feedback.

Feedback from Relevant Mining Associations

We asked prospecting and mining associations from British Columbia, Saskatchewan, Nova Scotia, New Brunswick, Newfoundland and Labrador, and Ontario for feedback on the implementation of online map-staking in their respective jurisdictions and the ease of use of their online map-staking systems.

Implementation of online map-staking

The implementation process of an online map-staking system is critical to its success and the success of proponents.

British Columbia

There were no complaints about the implementation process in British Columbia. In fact, the general feedback was positive with proponents praising the MTO for simplifying the mineral title acquisition process for prospectors and the industry at large.

Saskatchewan

The implementation of MARS in Saskatchewan was marked by challenges. Proponents complained about bugs and errors during the implementation process. One specific proponent criticized the system as having several flaws that should have been pre-considered. Specifically, proponents took issue with the minimum claim size, the option to stake and then subsequently withdraw a claim within three days, and the fragmentation of lapsed legacy claims into small claims held by numerous companies or individuals. Efforts have been made since the initial implementation of MARS to correct these problems but the corrections have taken a long time to implement and have resulted in lengthy interruptions in staking activities.

Another dissatisfied proponent in Saskatchewan expressed that the implementation of Saskatchewan's MARS was nothing short of a disaster for stakeholders and the province. While on-line staking has been effectively implemented in several provinces, the implementation of MARS in Saskatchewan was substantially delayed. Staking in the province was suspended for almost a year after the original MARS implementation to fix fundamental flaws with the system that the industry had identified years prior to the roll out. Many of the flaws still exist even though the industry and the Saskatchewan Mining Association have had extensive dialogue with the Ministry.

The proponents have also expressed concerns that there are bugs and errors in MARS that are negatively impacting the system's ease of use and functionality. For example, MARS has sometimes provided the wrong expiry date for claims. Additionally, the assessment filing and credit system continues to not work properly, and this has led to premature claim expirations. Proponents suggest that the implementation experience could have been improved if more time was taken to test the technology before MARS was launched.

Additionally, there is a problem with newly staked lands being fragmented by the fact that adjacent claims to newly staked lands are quickly staked by other parties. The extraordinary low cost to stake a claim when compared to the previous physical staking system has encouraged speculators to become involved in staking. These speculators may be able to sell unworked claims for substantial markups, with minimal financial risk in the event that they fail to sell their interest. Proponents suggest that staking fees should have been set at higher levels to increase the financial risk for speculators.

Speculators have also taken advantage of the fact that the MARS does not ensure one log-in per user. The same user can use algorithms to log-in multiple times and stake claims automatically, effectively usurping the rules of the system and putting those who use one log-in at a disadvantage. These unfair advantages have ultimately led to extreme fragmentation of newly staked lands. Throughout Saskatchewan, there are now small and practically unexplorable land packages that have little value to companies, stakeholders, and the Saskatchewan government.

Ontario

Ontario has only recently implemented an online map-staking system. As such, the Northwestern Ontario Prospectors Association opted to not comment on their members' experience with the implementation of the MLAS.

Though full implementation has not occurred yet, the Ontario Prospectors Association responded that MLAS has taken a very long time to become operational. The identified challenge for the government of Ontario largely rests around keeping the public informed about implementation. The complexity of the moving pieces have been poorly communicated to future users. Users have been presented with snippets of what certain components will look like but no systematic presentation of how all the components fit together. There is a concern that the MLAS is streamlined and efficient from the Ministry side but that the user interfaces are less user friendly. This concern is primarily driven by the fact that the design has been driven by the Ministry with little industry participation.

Nova Scotia

The Mining Association of Nova Scotia (MANS) in Nova Scotia has supported the transition from paper map-staking to online map-staking. In MANS' view, it does not make sense to still require companies to visit the Department of Natural Resource's (DNR) office in Halifax to stake claims using paper map-staking. Switching to an online system makes it possible to stake claims from anywhere, anytime, and is an obvious modernization that all jurisdictions should be engaged in.

Despite MANS' enthusiasm for the modernization of claim staking, the association expressed criticism of NovaRoc's implementation. The Province had pushed for the system be launched before the 2013 election. This led to many technical problems with the system that took several years to fix. MANS expressed that it is important to take more time to design the system properly. A testing period with industry users before a full launch would have eliminated many of the problems.

MANS also cautioned that claim holders who use the system are able to develop familiarity and comfort with the system, while others who use it once or twice a year can get frustrated when trying to navigate through the online system. It is vital that every effort be made to get the system fully functional before helping users transition and adopt the technology. Transitioning to an online system is going to be challenging for many claimholders, particularly for those who are less comfortable with the technology.

Newfoundland & Labrador

The Newfoundland & Labrador Prospector's Association did not have any specific comment about the implementation of the MIRIAD.

The effect on stakeholder engagement activities

Online map-staking will eliminate the need for prospectors to physically visit the land. Surface right owners are concerned that the lack of physical presence of prospectors will result in them not being notified when there are claims staked on their land. We sought out feedback from mining associations across jurisdictions to see whether online map-staking has affected the way they conduct their stakeholder engagement activities.

British Columbia

Association of Mineral Exploration of British Columbia (AMEBC) is of the view that online map-staking can positively affect stakeholder engagement. In British Columbia, online map-staking reportedly enables mineral tenure holders to have a better understanding of what other forms of tenure exist that may encroach or overlay mineral claims. This assists claim holders in identifying other stakeholders or interests prior to conducting field activities. This is helpful but does not always provide a full picture of the possible issues or competing interests in a given mineral tenure area.

Feedback from British Columbia also suggested that online map-staking has allowed stakeholders to be informed about the existence of a mineral claim in real time, providing contact information for each claim-owner. The system has also helped proponents to better understand the nature of their rights, since the online map system presents other forms of title such as private lands, treaty and reserve lands, and parks.

Saskatchewan

Several Saskatchewan proponents expressed that online map-staking has not affected their stakeholder engagement activities at all. Engagement at the permitting stage for exploration activities remains the same as it was before the transition to online map-staking. Online map-staking has impacted northern prospectors in that there has become less work and consequently there are fewer companies who conduct activities such as line-cutting. This has reduced the supply of contractors and depressed contractor prices.

Ontario

In Ontario, concerns were raised that the existing system lacks transparency and as a result does not encourage transparency and stakeholder engagement. At present, Ontario's online map-staking system does not allow stakeholders to search for and identify the owners of minerals claims, or provide contact details with regards to a mineral claim. This portion of the system is currently being developed, and full transparency should eventually be offered.

Nova Scotia

In Nova Scotia, the feedback we've received indicates that there has been little impact on stakeholder engagement. The online system theoretically makes it easier for members of the public to find out what ground is staked in their community and the identity of claims holders.

Cost-savings for proponents

An attractive aspect of online map-staking is that it may reduce costs for prospectors. Online map-staking will remove the need for prospectors to incur expensive transportation costs to remote areas and avoid risk to personal health and safety due to weather conditions, wildlife in their natural habitat and lack of services in the region. This is especially the case in the NWT where remote areas and challenging weather conditions may deter prospectors from staking on NWT land.

British Columbia

In British Columbia, AMEBC reports that online map-staking has reduced costs for its members generally.

Saskatchewan

In Saskatchewan, proponents claim that costs to acquire a claim have increased as a result of the increased costs to competitively stake enough claims in one area to support exploration and the cost to purchase essential claims from speculators. The cost of staking a claim group with physical stakers and a helicopter was approximately \$30,000 before but now it only costs \$2,000 to \$3,000 to stake online. However, as the cost of staking is so low, speculators with no intention of exploring for minerals are staking ground and then trying to sell the claims before they expire within two years. Exploration companies now have much greater competition for staking prospective ground and may ultimately pay more for the claims if they purchase the claims from speculators.

This feedback was consistent among Saskatchewan proponents. Reportedly, staking a claim now also costs more because there is more time required to monitor the faulty MARS. Ministry officials are unable to fix errors on their end as they cannot override the system. There have been reports of lost mineral claims where MARS prevents a proponent from applying assessment credits from adjacent claims even though the spreading of work credit across claims is permitted by regulation. Officials are unable to prevent the expiry from happening because of the hardwiring of the process and their inability to respond to requests in a timely fashion. It also costs more time in terms of manpower to stake a claim, as four to five people are

needed to acquire mineral claims under competitive situations whereas only one prospector would have been sufficient in the past.

One Saskatchewan proponent gave a contrary view to the others and said that the cost to stake ground is cheaper and there are efficiencies around land management with the digital system.

Ontario

In Ontario, as a result of the online map-staking system, the Northwestern Ontario Prospectors Association reports that most fees will increase. The cost to stake a claim will rise exponentially for prospectors. The Northwestern Ontario Prospectors Association expressed the view that prospectors in Ontario feel betrayed and upset about the price to stake ground in Ontario, which will rise to a crippling level compared to the cost for staking prior to the implementation of online map-staking. In the new online map-staking system, registering a mining claim will be completed by paying a single registration fee of \$50 per cell. Previously, registering a mining claim in Ontario included paying a recording fee, costs for acquiring claim tags, as well as costs to the individual or company to stake the claim on the ground. In addition, 19 existing fees have been eliminated, including the fee to transfer a mining claim from one owner to another. Fees for ground staking were \$20.40 for one unit, \$40.82 for two to six units, \$61.20 for seven to sixteen units, and \$30 per unit for map-staked claims in Southern Ontario.

Nova Scotia

Conversion of staking into an online map-staking has had little impact on the cost of acquiring claims in Nova Scotia, although in some cases companies from outside Nova Scotia no longer need to have a local agent to conduct their map-staking in person. The Mining Association of Nova Scotia believes that the reasons for switching to online map-staking are more related to convenience and fairness.

Sensitivity to the size and capacity of a proponent

Online map-staking systems do not impact all proponents identically. We asked prospecting and mining associations to comment on how map-staking systems in their regions impacted individual prospectors in relation to the impact on well financed mining and exploration companies.

British Columbia

Proponent representatives in British Columbia did not raise any specific concerns relating to disparate impacts of the online map-staking system on individual prospectors and larger mining and exploration companies. It was noted that larger companies have the resources to conduct large-scale mineral title acquisition, but that prospectors and juniors are still very active in holding mineral tenure.

Saskatchewan

Proponent representatives in Saskatchewan noted that in a competitive staking environment, individual prospectors and juniors may not have the personnel to complete a “strategic staking” necessary to stake a workable-sized claim. However, in other instances, online map staking benefits all proponents who can avoid the cost of field based staking.

Ontario

Individual prospectors and juniors in Ontario have struggled with the amount of work required to initially enrol in and engage with the online map-staking process. Administrative elements of the new system impact proponents equally, resulting in a burden on individual prospectors and juniors that may not reflect their resources. The cost of the online map-staking system has also impacted parties differently. Individual prospectors have found the new system to be very expensive as compared to previously. In contrast, the system offers savings for junior and major mining companies.

Nova Scotia

As noted earlier, Nova Scotia noted that individual prospectors with limited familiarity of MANS were at a disadvantage due to the challenges with navigating the complicated system. Better-resourced proponents were able to develop familiarity with the system through repeated use.

Newfoundland and Labrador

Proponent representatives in Newfoundland and Labrador noted that larger proponents with greater resources experienced the greatest advantage of an online map-staking system. It was emphasized, however, that these parties have always held an advantage, suggesting that the *transition* to online map-staking did not disproportionately impact any particular type of proponent.

General concerns relating to online map-staking

British Columbia

No specific comments were provided by AMEBC regarding concerns about the online map-staking system. However, there have been some members in British Columbia who expressed frustration regarding missing an expiration anniversary date of a given cell and having that claim acquired by a different party before the previous owner could react.

Saskatchewan

In Saskatchewan, substantial concerns were raised with regard to the staking process. While claims of all size can be staked, proponent representatives noted that larger claims took longer to be processed. During the processing time, if a smaller claim is staked and processed, an overlapping larger not-yet processed claim will be rejected, forcing the staking party to re-stake. Proponents engage teams of people to stake smaller claims, as small as 16 ha. Staking can include strategically staking small claims to block overlapping larger claims from being

registered. One proponent expressed that the primary concern with MARS is that prospective claim areas that become available for staking are being divided into very small “cells” that are held in a fractional manner by numerous different claimholders.

A single claim that would have been covered with a small survey grid to conduct ground geophysics is now held by up to 10 or 15 individuals or companies, making the ground impossible to explore. This concern was supported by a prospector who identified that the reduced cost of staking and the simplicity of the process has created opportunities for speculators who stake ground during land re-openings, typically using small claims, and try to sell them to legitimate prospectors. In areas of prime interest, speculative staking has resulted in a fragmented land base.

Land grabs are one of the key concerns and results of the system. Some speculators and nuisance stakers are currently staking claims during competitive staking situations just to frustrate legitimate stakers or as a way of denying access to the staking system. When staking relatively small land packages, a team of four to five online filers is needed and a strategy is required to frustrate the speculators and competitors. MARS also has a lack of network capacity and cannot accommodate enough users in competitive staking times. In the past, this has led to delays and hung staking requests resulting in a loss of the right to acquire claims.

Ontario

The Northwestern Ontario Prospectors Association identified some concerns such as whether “old-timers” who are not computer literate will be able to successfully adapt to the new system. In addition, some industry members had conflicting concerns. For example, larger mining companies want to set the cost to stake land at high levels to prevent speculators but most junior mining companies and prospectors are unhappy with the new higher cost to acquire land, which is discussed in the section above.

The Ontario Prospectors Association expressed that most members believe that there will be an increase in acquisitions and speculation in the first few months of implementation and then acquisition rates will return to normal.

Nova Scotia

In Nova Scotia, the issues with switching to NovaRoc were mostly related to the transition. The system also had bugs and errors and was not working properly. For example, in its early days the system worked reasonably well for staking new ground, the simplest transaction. However, before the bugs were worked out, the system would often make mistakes calculating transactions like renewals or applying past credits. In some cases, the system would not process the more complicated transactions. The system also allowed some ground to be staked by more than one company. The Mining Association of Nova Scotia attributes most of the problems to the system being launched too quickly. The association suggested that building an IT system to reflect the intricacy of the legislative and regulatory rules is extremely complicated and time should be invested to ensure that it is done right.

Grant of Mineral Tenure
Adoption of Online Map-Staking

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Increased Notification Requirements

Mineral interests are just one form of interest that exists in land. Surface rights and Aboriginal and treaty rights may also overlap with a mineral tenure. Some jurisdictions impose an obligation to notify third parties of the issuance of mineral interest or the performance of activities.

Our survey focused on jurisdictions where notification requirements were recently introduced or where unique notifications are present. The primary focus was on whether proponents in such jurisdictions found the requirements onerous and any beneficial by-products of the increased notification requirements. Notification related to exploration plans has been discussed in a separate section.

Cross-Jurisdictional Overview

We identified only a single jurisdiction where notification was expressly required: Ontario.

Ontario

Since 2009, the *Mining Act* (Ontario)³ has required all licensees staking a new claim to give notice to all relevant surface rights owners that a claim has been staked within 60 days of having staked the claim. Proof of the provision of notice must be filed with the mining recorder's office. Alternatively, a licensee may apply for an order waiving the requirement. If a licensee does not comply with these requirements, or the mining recorder does not issue an order waiving confirmation, the claim automatically becomes invalid 60 days after the application to record the claim has been made and is cancelled. A claim is non-transferable until such time as confirmation has been given and proof of such confirmation has been filed with the mining recorder or the mining recorder has waived the requirement.⁴

According to policy documents published by the Ministry of Northern Development and Mines, the process for determining whether there is a surface rights owner required to be notified begins with the Ministry. Upon receiving an application to record a staked claim, the Ministry confirms whether any part of the claim encompasses privately owned land. If the data indicates that there are surface rights owners for any part of the claim, the Ministry will send a letter to the licensee identifying the surface rights owners.

Once a licensee has been made aware of surface rights owners that must be notified, the licensee must send a letter to the surface rights owner confirming the staking of a mineral claim and deliver to the Mining Recorder Form 0301, "Proof of Confirmation of Staking Mining Claims to Surface Rights Owner(s)" confirming that surface rights owners have been notified. If it is not feasible to deliver a letter to the surface rights owner, the licensee may apply to the mining recorder for an order waiving the requirement. The mining recorder has the discretion to

³ S. 46.1, *Mining Act* (Ontario)

⁴ S. 59 *Mining Act* (Ontario)

approve the application based on the information provided by the licensee and the particular circumstances of each case.

Feedback from Relevant Mining Associations

Ontario

The feedback received on the increased notification requirements was mixed. The Northwestern Ontario Prospectors Association said that the new requirement was a burden for Ontario prospectors. It can be difficult to find surface rights owners' contact information and to readily understand whether part of any claim encompassed private property. While the policy of the Ministry is to provide that information to prospectors, the Northwestern Prospectors Association stated that the Ministry has not provided such information and prospectors have been required to attend at local land registry offices to find this information themselves. This has increased costs of prospecting.

The Ontario Prospectors Association was optimistic about the change, stating that claimholders have not faced issues with the new process and that this has been a good change. The increased notification requirements have aided stakeholder engagement efforts at an early stage. However, in some cases, it was noted that it can be difficult to determine whether there are surface rights owners that are required to be notified. Even where a surface rights owner can be identified, challenges can exist in ascertaining their last known address.

Recommendations and Key Considerations

The following considerations may be relevant to the development of the *Mineral Resources Act*:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Modification of Requirements for Obtaining Mineral Leases

Mineral leases typically provide the holder with an interest in the subsurface rights necessary to extract and sell the subsurface resources (provided the requisite surface rights and activity authorizations have been obtained). This is different from a mineral claim which may or may not authorize exploration activities and which typically restricts the extraction and sale of resources. To obtain a mineral lease, proponents are usually required to obtain a mineral claim or its equivalent, depending on the jurisdiction, and to conduct a minimum amount of exploration work on that mineral claim.

There are typically work requirements which must be fulfilled to hold a mineral claim in good standing. Leases, however, do not commonly have any work requirements. There are no work requirements for leases in British Columbia, Ontario, Nova Scotia, or Yukon. This is also the case under the current *Mining Regulations*, where once a lease is obtained, there is no requirement for any further exploration work to be carried out and there are no provisions for reporting work or disclosing geological information obtained through work. Instead, to maintain a lease, typically the only requirement is the payment of an annual fee based on the size of the property.

Given that mineral leases often have no work requirements, jurisdictions across Canada have developed methods of ensuring that mineral leases are only granted in situations where there is an intention to take the lease to production. Certain jurisdictions limit the ability of proponents to renew their leases by requiring that production be commenced during their initial lease. Others subject the granting of leases to ministerial discretion based on such factors as the submissions of plans and reports, and ministerial satisfaction that there is an intent to produce.

This analysis examines the practical experience of proponents in taking a claim to lease, including how proponents have established an intent to take a lease to production and whether particular approaches are more onerous than others.

Cross-Jurisdictional Overview

In the course of our cross-jurisdictional survey, we noted only a few jurisdictions which have recent changes to the conditions for obtaining a mineral lease. We identified four jurisdictions with unique modified approaches to granting leases: Saskatchewan, Manitoba, Quebec and Newfoundland & Labrador.

Saskatchewan

There have been no recent legislative changes to *The Mineral Tenure Registration Regulations* (Saskatchewan), which govern minerals other than natural mineral salts. However, in 2015, the Government of Saskatchewan put in place significant changes to the regulations governing tenure, exploration and mining of natural mineral salts, including potash. Under the newly

enacted *The Subsurface Mineral Tenure Regulations*⁵, in order to renew a lease for subsequent 21-year terms, the lease holder will be required to meet its target “land utilization rate” (LUR), which is obtained by dividing the target “nameplate capacity” by the net mining area. The “nameplate capacity” of a mine is its engineered full-load sustained output in tonnes of product over a 12-month period, based on either the design capacity or the proven capacity of the mine as certified by an engineer. If this target is not met during the initial lease term, a lease holder can pay a “performance deposit” in order to renew its lease. The option of paying a “performance deposit” is not open to second and subsequent 21-year lease terms.

In addition, under the new regulations, if the leaseholder has not met the LUR that the Minister has calculated, then upon receipt of notice from the Minister, the leaseholder has 30 days to produce evidence or surrender part of the mineral lands. The additional evidence must demonstrate to the satisfaction of the Minister that the lease lands identified in the application for the renewal of the lease are eligible for renewal.

The amendments are only applicable to subsurface minerals, meaning all natural mineral salts of boron, calcium, lithium, magnesium, potassium, sodium, bromine, chlorine, fluorine, iodine, nitrogen, phosphorus and sulfur, and their compounds. Mineral salts are different from the minerals available in the NWT and therefore the LUR approach may be of limited value for comparison purposes.

Manitoba

In order to obtain a mineral lease under the *Mines and Minerals Act*,⁶ a holder must prove, to the satisfaction of the Minister, that within the boundaries of the proposed mineral lease area, the existence, extent, and value of an ore body has been determined and that the holder intends to commence production.

Quebec

Quebec's *Mining Act*⁷ stipulates that a mining lease has a term of 20 years and the Minister shall renew the lease for a period of ten years, not more than three times. However, the Minister may, notwithstanding the “not more than three times” requirement, grant five-year extensions.

Newfoundland & Labrador

Since 2008, one of the conditions to obtaining a mining lease in Newfoundland & Labrador, has been that a proponent must demonstrate, to the satisfaction of the Minister, that the claim for which a lease is requested has, underlying it, a mineral resource that is of sufficient size and quality to be potentially economic. In 2014, this requirement was added as a condition of obtaining a renewal of a mining lease.

⁵ *The Subsurface Mineral Tenure Regulations*, RRS c C-50.2 Reg 30 [*The Subsurface Mineral Tenure Regulations*]

⁶ *Mines and Minerals Act*, CCSM c M162 [*Mines and Minerals Act*]

⁷ *Mining Act*, CQLR c M-13.1 [*Quebec Mining Act*]

Feedback from Relevant Mining Associations

Saskatchewan

The Saskatchewan Mining Association specifically did not provide responses respecting the mineral lease provisions under *The Subsurface Mineral Tenure Regulations* as the mining of mineral salts such as potash is very different from the mining of the minerals that are available in the NWT.

Quebec

The Quebec Mining Association was unaware of any of their members asking for a grant of a five-year extension following the expiry of the original term and three extensions, and was not able to comment on the impact of this requirement on leaseholders.

Newfoundland and Labrador

According to the Newfoundland & Labrador Prospectors Association, requirements which delay or make it more challenging to obtain a lease affects the ability of firms to provide certainty to their investors and manage the risk of their project. However, as prospectors, most of their members have little experience at the later stages where a mineral claim is taken to lease. Generally, it was noted, that the lease requirements have not impacted prospector activities since it is in keeping with market expectations.

To supplement the feedback received, we have created a comprehensive document identifying the mineral lease requirements across jurisdictions in Canada. The chart is contained in Appendix A.

Considerations and Recommendations

The following considerations and recommendations may be relevant to the development of the *Mineral Resources Act*:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Grant of Mineral Tenure
Modification of Requirements for Obtaining Mineral Leases



Ministerial Discretion in the Granting of Mineral Tenure (Claims and Leases)

This topic focuses on the discretion afforded to ministers across Canada when determining whether to grant mineral tenure. In particular, we considered ministerial discretion in the context of granting of mineral claims and mineral leases.

Generally, Ministers have less discretion in issuing mineral claims than mineral leases. This may be because mineral claims typically only grant the claim holder a right to exclusively explore a property whereas a lease, in comparison, typically confers the right to extract subsurface minerals. In contrast, Ministers across Canada have high levels of discretion in cancelling a claim, usually if the claim holder is not acting in compliance with the terms of the statute or regulations, or if a mineral claim is not being used for the purpose of the mineral industry.

There is generally a high level of ministerial discretion in granting mineral leases, particularly with respect to whether a mineral lease should be renewed. Typically proponents will need to incur enough money on the property to prove either that there is a mineral deposit to be mined or that the proponent has the intention to develop the mine.

This section outlines the different levels of ministerial discretion afforded in each jurisdiction. In particular, we were concerned with: how proponents have experienced the exercise of discretion; whether the discretion is exercised uniformly or if there is a level of uncertainty inherent in the granting of ministerial discretion; and whether the granting of discretion has affected exploration activity.

Cross-Jurisdictional Overview – Granting of Mineral Claims

There were no changes to the level of ministerial discretion afforded in any of the jurisdictions that we surveyed. Our cross-jurisdictional survey did, however, result in the creation of a comprehensive chart outlining the ministerial discretionary powers granted in each jurisdiction. The comprehensive chart can be found as Appendix B to this document. A brief overview of each jurisdiction's approach to ministerial discretion can be found below.

British Columbia

In British Columbia, no discretion is offered in the granting of a claim. However, the Chief Gold Commissioner has the discretion to cancel a claim if the recorded holder deliberately fails to comply with an order or other related legislation.

Saskatchewan

There are two mining regulations that govern the granting of mineral tenure in Saskatchewan: *The Mineral Tenure Registry Regulations* and *The Subsurface Mineral Tenure Regulations*,

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Ministerial Discretion in the Grant of Mineral Tenure

both of which exist under *The Crown Minerals Act*⁸. *The Mineral Tenure Registry Regulations* is applicable to all minerals except for natural mineral salts, and a moderate level of ministerial discretion is afforded under this legislation. The *Subsurface Mineral Tenure Regulations* apply to natural mineral salts, such as potash, and a higher level of discretion is granted.

Pursuant to *The Mineral Tenure Registry Regulations*, the Minister may issue a claim if satisfied that the application complies with the Act and the regulations.

There is a bidding system under *The Subsurface Mineral Tenure Regulations* and we note that this system applies to natural mineral salts, notably potash, which is different than the minerals that are available in the NWT. *The Subsurface Mineral Tenure Regulations* stipulates that the Minister may issue a notice of sale of permit by sealed bid for certain Crown minerals or Crown mineral lands on application of an interested person or on the Minister's own motion.

We solicited feedback from the proponents referred to us by the Saskatchewan Mining Association because this bidding process is unique to Saskatchewan and outlined the feedback in the section below.

Manitoba

There is low ministerial discretion for granting claims in Manitoba. To stake a claim in Manitoba, a proponent must have a prospecting licence. The Minister can suspend prospecting licences as the Minister considers appropriate.

Ontario

There is low ministerial discretion for granting claims in Ontario. However, the Minister may cancel claims and make orders to vary the way work assessment is calculated.

Quebec

In Quebec, the Minister may, in the public interest, impose such conditions and requirements that may concern work to be performed on the parcel of land that will be subject to the claim.

New Brunswick

There is low ministerial discretion for granting claims in New Brunswick. The registration of a mineral claim allows for the right of free access, the exclusive right to prospect for minerals and carry on mining, and the right to remove minerals from the claim area for the purposes of sampling and testing.

Nova Scotia

In Nova Scotia proponents require an exploration licence which confers the authority for prospecting and searching for minerals, extracting minerals for test purposes and applying for a mineral lease for all or part of the area held under the licence. To continue exploration beyond

⁸ *The Crown Minerals Act*, SS 1984-85-86, c C-50.2 [*The Crown Minerals Act*]

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the initial year, the licence must be renewed. The Minister has a duty to accept an application for an exploration licence. Notwithstanding this duty to accept an application, the Minister may reject or defer the application where, in the opinion of the Minister, the acceptance of an application for an exploration licence is not in the best interests of the Province or would hinder mineral development.

Newfoundland and Labrador

There is low ministerial discretion for granting claims in Newfoundland and Labrador.

Yukon

There is low ministerial discretion for granting claims in Yukon.

Cross-Jurisdictional Overview – Granting of Mineral Leases

British Columbia

There is low ministerial discretion for initially granting mineral leases in British Columbia. When granting mineral leases in British Columbia, the chief gold commissioner must be satisfied that all of the requirements under the Act are met before issuing a lease.

Alberta

In Alberta, a lease conveys the exclusive right to win, work and recover metallic and industrial minerals that are the property of the Crown. A lease will be granted if the Minister considers the granting of the lease to be warranted in the circumstances. Importantly, the Minister must be satisfied that there is evidence of a metallic and industrial mineral deposit underlying the proposed lease.

Saskatchewan

In Saskatchewan, pursuant to *The Mineral Tenure Registry Regulations*, the Minister has no discretion in refusing to issue a lease if the requirements are satisfied. There is a lot of discretion under *The Subsurface Mineral Tenure Regulations* as it is a bidding process for mineral salt resources.

Manitoba

In Manitoba, the Minister can impose terms and conditions on the proponent when issuing leases. In considering whether or not to issue a lease, the Minister must be satisfied that the extent and value of an ore body has been determined and that the holder intends to commence production.

Quebec

There is an “optimum recovery of the mineral substance” requirement in Quebec that leaseholders must abide by. The Minister may require a leaseholder to transmit a report justifying the mining method used, carry out a study to evaluate the method used, or require the

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Ministerial Discretion in the Grant of Mineral Tenure

proponent to take any measures necessary to remedy any situation that would compromise the optimum recovery of the mineral substance.

New Brunswick

In New Brunswick, when granting a mineral lease, the Minister must be satisfied that the extent and value of an orebody has been determined and that the applicant has made a decision to commence production.

Nova Scotia

To obtain a lease in Nova Scotia, the Minister must be satisfied that the applicant has delineated a mineral deposit within the proposed area.

Newfoundland and Labrador

In Newfoundland and Labrador, the applicant for a lease must demonstrate to the satisfaction of the Minister that a mineral resource exists under the area that is of significant size and quality to be potentially economic.

Yukon

There is low ministerial discretion for granting mineral leases in Yukon. In Yukon, to be eligible for a lease, a claim holder must receive a certificate of improvement by performing, to the satisfaction of the mining recorder, work on the claim in excess of \$500 or paying money in lieu of work.

Cross-Jurisdictional Overview – Renewal of Mineral Leases

British Columbia

The chief gold commissioner in British Columbia must be satisfied that the mining lease is required for mining activity before the lease can be renewed. The definition of mining activity under the British Columbia mineral tenure regulatory regime is broad and includes exploration activity.

Alberta

In Alberta, the Minister has the discretion to require a plan for the development of minerals or other documents with respect to production or development of minerals before issuing a lease or renewing a lease. To renew a lease the Minister must be satisfied that it is in the public interest to do so, and can impose any terms and conditions that the Minister considers warranted. The Minister may also require that a survey be conducted and that the payment for the survey be paid up-front. Failing payment, the Minister may cancel the lease.

Saskatchewan

Pursuant to *The Mineral Tenure Registry Regulations*, the Minister in Saskatchewan has no discretion in refusing to renew the lease if the lease holder applies for renewal within one year

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before the expiry of the existing term of the lease and has complied with the act and its regulations.

Manitoba

In Manitoba, a lessee is entitled to renewal of the lease if, at the time of the application, the lessee is in compliance with the Act and the terms and conditions of the mineral lease.

Ontario

The Minister in Ontario can refuse to renew a lease unless production of minerals has occurred continuously for more than one year since the issuance or last renewal of the lease or if the lessee has demonstrated, to the satisfaction of the Minister, a reasonable effort to bring the property into production.

Quebec

A lease can be renewed under statute in Quebec a maximum of three times. The Minister may, however, exercise discretion in granting renewals beyond the three renewals provided for under the statute.

New Brunswick

The Minister in New Brunswick may refuse to give his consent to renew a mineral lease if, in his opinion, it is in the public interest to do so.

Nova Scotia

In Nova Scotia, a lessee who is bona fide working the lease, is in compliance with the legislation, and who applies at least six months prior to the expiration of the term of the lease is entitled to a renewal.

Newfoundland and Labrador

In Newfoundland and Labrador, a lease may be renewed subject to terms and conditions that the Minister considers appropriate and the Minister may cancel the lease if satisfied that the lessee has failed to fulfil, perform, or observe the terms and conditions pertaining to the lease.

Yukon

Leases in Yukon can be renewed if the lessee furnishes evidence to the satisfaction of the Minister that during the term of the lease, the proponent has complied in every respect with the conditions of the lease, and may be renewed on such terms and conditions as may be prescribed by the Commissioner in Executive Council.

Feedback from Relevant Mining Associations

Our analysis involved requesting comment from the Saskatchewan Mining Association regarding *The Subsurface Mineral Tenure Regulations*, which involves a bidding process for certain mineral rights. The bid process is unique to Saskatchewan and applies to the mining of

Part 3: Work Requirements

Simplified Reporting Requirements

As a condition to maintaining a mineral claim, claimholders are required to complete prescribed amounts of work on a mineral claim. Proponents must complete and file a report identifying the specific work that was completed in a particular year. Most jurisdictions require that a work report be prepared or signed off by either an individual claimholder or a “qualified person”. Having a report prepared by a “qualified person” is often very expensive. In recognition of the fact that “qualified person” reports are expensive to prepare, certain jurisdictions, including the Northwest Territories, allow claimholders to submit simplified reports or alternative forms of reports that may not require the engagement of a “qualified person”.

The simplified reporting option under the current *Mining Regulations* was initially developed in order to allow independent prospectors to stake and maintain a claim until it could be sold to a junior or intermediate mining company with the capacity to carry on more extensive and resource intensive exploration. Since its introduction, however, the simplified report under Part 2 of Schedule 2 of the *Mining Regulations* has been regularly used by companies with the resources to prepare a standard report.

Cross-Jurisdictional Overview

In the course of our cross-jurisdictional survey, we identified three jurisdictions with some form of simplified reporting: British Columbia, Nova Scotia, and Nunavut.

British Columbia

In British Columbia, recorded claimholders are required to submit annual reports of work to maintain their claims under the *Mineral Tenure Act*. The *Mineral Tenure Act Regulation* gives claimholders the option of submitting one of two different types of annual reports of work: physical work reports or technical work reports. While both reports must include a statement of the qualifications of the author, technical reports must be written by an individual recorded claimholder in relation to their claim by a qualified person. There is no restriction on who can prepare a physical work report.

Physical work reports are simpler than technical work reports. In a short five page form provided by the Ministry of Energy and Mines, a completed physical work report includes: physical work activity such as trenching, open cuts, pits, adits/shafts, and panning; the geographic location of the work site; and a cost statement. There is no monetary limit to the use of physical reports. In contrast, a technical work report is required in any situation where technical geological work has been conducted such as geological mapping, geochemical surveying, geophysical surveying, and/or drilling. A technical work report includes the results of

any such technical work and corresponding analysis, as well as any archeological impact assessments.

Nova Scotia

In order to receive credit for work performed on a claim in Nova Scotia, a technical report or a prospector's statement must be submitted. A prospector's statement is simple and is only available to individuals who are, in the opinion of the Registrar, exempt from the requirement to file a technical report. Unlike a technical report, the prospector's statement is not required to be prepared by a geologist, geophysicist, geochemist, mining or geological engineer, or other person with experience or qualifications acceptable to the Registrar, which is the default requirement for report work. Provided they receive an exemption from the Registrar from preparing a technical report, any person can prepare a prospector's statement. Acceptable assessment work in a prospector's statement is credited on the basis of \$50.00 for each 8 hours during which the assessment work was performed. A prospector's statement may only be submitted in the first seven years of an exploration licence's life.

Though the regulations provide that a prospector's statement is only available to individuals who are, in the opinion of the Registrar, exempt from the requirement to file a technical report, it appears that such exemptions are granted by default. Provided that an exploration licence for which work is being reported is within its first seven years, the option to report assessment work in a prospector's statement is available. The submission of a prospector's statement is completed through NovaROC, the online administration system, and the option is available to all holders of an exploration licence who are reporting work.

The prospector's statement identifies information that would typically be obtained by a prospector, including details on the location of prospecting work, whether the prospector located any previously existing shafts, adits, or drillholes, the rock types observed, whether any samples were obtained and analyzed, and whether mineralization was observed. There is no dollar limit on the use of prospector's statements.

Nunavut

The *Nunavut Mining Regulations* is nearly identical in language to the current *Mining Regulations* in the Northwest Territories, and allows for claimholders to report work on a claim through a simplified report. In a simplified report, examinations of outcrops, sampling of rocks, and excavation may be disclosed and corresponding work credit received. In contrast to the Northwest Territories, where such reports are limited to where expenditures do not exceed \$10,000, the monetary limit for simplified reports in Nunavut is \$20,000. As in the Northwest Territories, where expenditures exceed the monetary limit, reports must be prepared and signed by an author with a professional designation.

Feedback from Relevant Mining Associations

Unfortunately, while we contacted and received responses from the Association for Mineral Exploration of British Columbia and the Nova Scotia Prospectors Association, we received no

specific feedback regarding the simplified reporting regime in those provinces. In both instances, the associations did not have any experience with their respective regimes. We did not receive responses from the other organizations that we contacted in those jurisdictions.

The Nunavut Chamber of Mines, who we had originally contacted, did not have any specific feedback with respect to Nunavut's threshold of \$20,000 for the simplified report. The Nunavut Chamber of Mines did, however, forward our cross-jurisdictional survey to the Land Administration Office at the Government of Nunavut, which, after conferring with Indigenous and Northern Affairs Canada, had some specific, though limited, feedback with respect to the new threshold.

The Land Administration Office did not raise any issues with respect to the new threshold. They did state that the simplified report is rarely used. In the circumstances where it has been used, it has been by small-time prospectors. The increased threshold was reportedly introduced as a way to account for the increased cost to transport prospectors around the territory given the lack of transportation infrastructure in Nunavut.

Recommendations and Key Considerations

The following consideration may be relevant to the development of the *Mineral Resources Act*:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Exploration Plan Filing

In the course of conducting exploration work, proponents may cause some level of surface disturbance to lands. Such surface disturbance may impact the interests of stakeholders who have interests in the land where the exploration is being conducted. Some jurisdictions require proponents to file plans that communicate their exploration activities to interested parties and stakeholders.

In conducting our cross-jurisdictional survey for this topic, we focused on disclosure of exploration plans that are targeted towards stakeholders. With the exception of Alberta, we did not include general exploration authorizations in our cross-jurisdictional survey, as those authorizations are more analogous to authorizations issued pursuant to the *Mackenzie Valley Resource Management Act*. We consulted with industry representatives respecting the effects of disclosing their exploration plans on their exploration activities and their stakeholder engagement efforts. We have also examined the unique approach that Quebec has created with its requirement for monitoring committees.

Cross-Jurisdictional Overview

In the course of our cross-jurisdictional survey, we identified five jurisdictions with unique exploration plan filing requirements: Alberta, Manitoba, Ontario, Nova Scotia, and Yukon. We also considered Quebec's monitoring committees, which are mandated for all projects following the issuance of a lease.

Alberta

Alberta has a requirement to disclose planned above-threshold work to certain parties. Under the *Exploration Regulation*⁹ to the *Mines and Minerals Act*, a person is required to give notice prior to commencing exploration activities that have been previously approved. Notice must be given to the Department of Environmental and Sustainable Resource Development not more than 5 days before commencement. Pursuant to exploration directive ED2006-10, such notice must include, among other things, the name of the person to be contacted in respect of the exploration, the program commencement date, and the energy source to be used in conducting the exploration program. Once the exploration program has been completed, the person conducting the exploration must give notice within five days to the relevant department authority that the exploration has been completed.

The *Exploration Regulation* further requires a person who has been authorized to conduct above-threshold exploration activities to provide written notification to the relevant land authorities (municipalities, etc.) and relevant holders of forest management agreements and timber licences upon the commencement, temporary suspension, and completion of an approved exploration program. Notification must be given not less than two days and not more than 15 days before the commencement of the exploration activity.

⁹ Sections 37 and 38, *Exploration Regulation* (Alberta)

Where the notice must be given to a government or authority, the timing of the notice can be changed with their consent. However, no ministerial discretion exists with regard to the notice provided to other parties.

Manitoba

Since 2002, a proponent has been required to notify the Director of Mines before and after conducting an airborne survey. The *Mineral Disposition and Mineral Lease Regulation* further specifies that notice is required to be given at least three days in advance of the start date of the survey regardless of whether the airborne survey is conducted over lands covered by a mineral disposition, mineral lease, or open Crown land.

Once an airborne survey is complete, a proponent is required to submit a report to the Director of Mines that sets out the results of the survey within three years. The report must include a map of the location of the survey, the flight lines, the survey method, the complete results, an interpretation of the data, and certain other information if the survey conducted was an airborne geochemical survey. The report is confidential for a period of five years. A proponent may submit applications to extend the confidentiality period for two additional five year periods, with the first of the two extensions being on application, and the second being on exercise of the Director of Mines' discretion.

Beyond the discretion to extend the period of confidentiality, the Minister has little discretion regarding the obligation to report airborne surveys.

Ontario

Since April 1, 2013, exploration plans must be submitted to the Ministry of Northern Development & Mines and circulated to Aboriginal communities, government, surface rights owners, and other stakeholders at least 35 days prior to the expected commencement of activities. Ontario is unique in this requirement insofar as the notice is required to be sent to aboriginal communities and governments, in addition to surface rights owners.

Proponents do not need ministerial authorization to begin work contained in an exploration plan.

An exploration plan includes information relating to the project and the proponent (details of the mineral tenures implicated in the exploration and the tenure holder), a description of the exploration work that is planned, and a description of exploration logistics such as transportation methods and equipment that will be required to conduct the exploration. A map must be attached to the exploration plan indicating the location of the proposed planned activities.

Once the contemplated exploration activities go beyond a certain threshold, a proponent will then be required to seek an exploration permit, which continues to require notification to interested stakeholders in addition to ministerial approval. Ontario is unique in this requirement insofar as the notice is required to be sent to Aboriginal communities and government, in addition to surface rights owners.

There is no clear discretionary power for the Minister to waive the exploration plan requirement.

Nova Scotia

Under the new *Mineral Resources Act (2016)* a licensee will be required to prepare and implement a stakeholder engagement plan. While the stakeholder engagement may include the provision of community notice, there is no requirement for distribution of the stakeholder engagement plan. As of the preparation of this Survey, the *Mineral Resources Act (2016)* had not yet been proclaimed into force. In order to better understand the stakeholder engagement provision, an explanation of the system was requested and received from the Department of Natural Resources (Nova Scotia).

Proponents will be required to prepare a stakeholder engagement plan at all stages of a project, from grass-roots prospecting to mine reclamation. There will not be a prescriptive form of an engagement plan, only a requirement that they exist. They may be requested by the Minister and must be to Minister's the satisfaction.

It is anticipated that in circumstances where public concern is raised, the Minister will be able to request and review the engagement plan. If the Minister has concerns after reviewing the engagement plan, the Minister may suspend the proponent's activities until the proponent can "demonstrate a more effective engagement approach and improved relationships with their neighbours."

As drafted, the new *Mineral Resources Act (2016)* will provide the Minister with discretion regarding if and when a stakeholder engagement plan is disclosed.

Yukon

Since *Ross River Dena Council*, the Government of the Yukon amended the *Quartz Mining Act* to establish the authority to designate areas where government notification of Class 1 exploration activities is required. Class 1 exploration activities generally include low level exploration activities including: camps of less than 10 people, fuel storage of less than 5,000 litres, corridors not exceeding 5m in width, and trenching not exceeding 400m³ per claim.¹⁰

Since January 1, 2014, a mandatory notification to the Mining Recorders office, and a minimum 25 day mandatory waiting period when conducting Class 1 exploration activities, has been instituted over approximately 45% of the territory of the Yukon: the Ross River area, the Peel River Watershed area, the South-Western Yukon area, the Watson Lake area, the Southern Yukon area, and all Category A and B Settlement Land identified in or pursuant to the Yukon First Nation Final Agreements. During the waiting period, the Yukon government reviews the notice to determine potential environmental or socio-economic effects, initiates consultation with each affected First Nation, and determines whether the proposed exploration activity will appropriately mitigate adverse effects. Following review and consultation, the Yukon government can amend the exploration program or refuse to allow it to be carried out.

¹⁰ *Quartz Mining Land Use Regulations*, Y OIC 2003/34

Ontario

We requested responses from prospectors' associations in Ontario with respect to their members' overall impressions of the new requirement to submit and circulate exploration plans and the requirement to obtain an exploration permit at certain thresholds. Overall, the general impression was that while proponents initially had strong opinions with respect to the new changes, they have settled into the program and the Ontario government continues to make fine-tune the system so as to address outstanding concerns.

The responses we received from the Northwestern Ontario Prospectors Association and the Ontario Prospectors Association suggest that there was some initial disappointment from industry members as to these changes. The Northwestern Ontario Prospectors Association was particularly disappointed with the changes, stating that many prospectors have left Ontario because of the new *Mining Act*. They suggested that in an industry where work is frequently done at the last minute and is tied to the stock market, the window of time for summer work is already narrow. Requiring plans and permits further narrows that window and has at times caused the delay or abandonment of exploration work altogether.

The feedback we've received also suggests that Indigenous communities have had a large role to play in the way these exploration plans have affected exploration. In certain cases, Indigenous communities have effectively locked down parcels of land from exploration when exploration permits are required because they will not approve them. While Aboriginal approval of exploration plans is not legislatively required, the Director of Exploration is required to consider the level of Aboriginal consultation that a proponent has conducted in order to issue an exploration permit. Soliciting and negotiating support from Aboriginal communities for exploration can be an expensive endeavour that makes exploration no longer economically feasible. In particular, some Aboriginal communities are said to have used this leverage to hold out for early exploration agreements that are felt to be untenable by prospectors and junior mining companies.

Similar to the problems associated with the new notification requirements after staking a claim, respondents identified that there has often been confusion over who the appropriate traditional land owners are, with occasional changes to the community consulted over the course of the exploration process. This was identified as an area where the Ministry is actively making improvements by better identifying the Aboriginal groups required to be notified at an early stage. Traditional land claims are being reviewed to determine which communities are required to be spoken with in Ontario.

Additionally, the Ontario government is beginning to take a leading role in the consultation process during the exploration cycle. This is welcomed by the respondents to our survey as the consultation process has been described as unrealistic for small-time prospectors and junior mining companies.

Quebec

Though not an exploration plan, Quebec has instituted a unique approach to promoting community involvement in mineral development, extraction and remediation. A mining committee must be established within 30 days of the issuance of a mining lease. The committee must include a municipal, economic sector, public and, where applicable, Indigenous representative, all from the region of the mining lease. The committee must meet at least annually, and the proponent must provide any information or documents requested by the committee, or provide reasons for refusing to do so. The proponent must publicly publish an annual report of the committee's activities and expenses on a website.

Feedback from Relevant Mining Associations

Alberta

The Alberta Chamber of Resources provided a wholesome response with respect to the requirement to notify forest management tenure holders. They identified that, in practice, the vast majority of exploration activities are discussed with relevant forest management agreement holders far in advance of any exploration activity taking place. As such, the legislated requirement has not been particularly onerous, as industry buy-in has, and continues to, exist for this requirement. The Alberta Chamber of Mines specifically stated that this requirement has not actually changed any of the stakeholder engagement activities that proponents usually conduct. Forest management tenure holders and mineral tenure holders coordinate their activities in matters of accommodation and road planning. Such efficiencies have allowed for greater recovery of resources.

The Alberta Chamber of Resources stated that there are no difficulties in identifying all relevant land authorities or relevant holders of forest management agreements, as such information is readily available online.

Generally, the Alberta Chamber of Resources was enthusiastic about the requirement, stating that better coordination of activities on the land base has led to lower cumulative effects (in relation to both timber harvesting and mining) and has overall led to lower concerns from other stakeholders.

Manitoba

No responses were provided by the Mining Association of Manitoba and the Manitoba Prospectors and Developers Association with respect to notification and reporting requirements for airborne surveys.

Nova Scotia

While the new requirement for a stakeholder engagement plan is not yet in force in Nova Scotia, we solicited feedback on the new requirement and attempted to understand how proponents will fulfill the requirements of the new Act. According to the feedback we received from the Nova Scotia Mining Association, proponents are satisfied that the new requirement is a codification of a best practices approach to building a social licence to operate. In fact, it is effectively a legislative codification of a voluntary consultation document that the Nova Scotia Mining Association was involved in negotiating with environmental groups and the Department of Natural Resources in Nova Scotia several years ago titled "Community Consultation: A Guide for Prospectors and Mineral Exploration Companies Working in Nova Scotia" or "Information Circular ME 068". The voluntary consultation document is a guideline that provides direction and resources to assist prospectors and exploration companies with community consultation. The guidelines offer examples of stakeholder engagement activities that can be engaged in at various times throughout the exploration process depending on the impact of the exploration activity. High impact activities, such as a large work crew clearing land for several months and building roads into a prospective mine-site, for example, would call for town hall meetings with residents, information sessions, and meeting with stakeholder groups who may have special concerns about a project.

Further, according to the Nova Scotia Mining Association, the new stakeholder engagement plan requirement is not meant to be onerous. Rather, plans will be kept relatively simple (i.e. at as brief as a page or two) so that the requirement will be easy to fulfill. The requirement to have a stakeholder engagement plan is meant to ensure consultation is top-of-mind and proactively initiated.

Yukon

We consulted both the Yukon Prospectors Association and the Yukon Chamber of Mines in relation to the *Ross River* decision and potential front-end consent for staking on unsettled land claim areas. We received a response from the Yukon Chamber of Mines. The Yukon Prospectors Association did not respond.

The new Class 1 notification requirements were identified as being onerous and an impediment to exploration work in the future. Such notice is said to adversely affect the confidentiality of staked claims. The Yukon Chamber of Mines specifically argued that land which is open for staking must be available without notice in order to maintain confidentiality. Proponents should have confidence that they can stake adjoining claims without risk of having those claims scooped by competitors or other groups. Having a mineral claim is, they suggest, a competitive advantage. The Yukon Chamber of Mines suggested that if land is open to staking, it should be inherent that one has the right to prospect over that land using relatively low impact techniques without further notification to either the Government of Yukon or other communities.

Work Credits for Indigenous Engagement

In order to keep mineral tenure in good standing, claim or permit holders must conduct exploration work and file reports to prove they carried out the work. Annual minimum work requirements are stipulated in legislation as a dollar value of work per hectare or claim. Work credits support the fundamental purpose of assessing and advancing the mineral potential of the mineral tenure and serve to add to the public geosciences data of the province or territory. Each province and territory has different work requirements and different policies and guidelines for calculating what constitutes as eligible work to obtain work credits.

The cost of community engagement and Indigenous consultation is a real and necessary cost of mineral exploration. Theoretically, allowing Indigenous engagement for work credits would incentivize claimholders to undertake community engagement and Indigenous consultation at an early stage, hopefully encouraging the establishment of a working relationship early on.

The purpose of our research with respect to allowing work credit for costs incurred in conducting Indigenous engagement and consultation was to understand its impact on proponents. We were particularly concerned with understanding whether proponents were more likely to conduct Indigenous engagement if work credit was readily given for such costs.

Cross-Jurisdictional Overview

In the course of our cross-jurisdictional survey, we identified two jurisdictions where funds spent on Indigenous engagement could be eligible for work credits and for the maintenance of a claim: Ontario and Alberta.

Alberta

Although costs for conducting Indigenous consultation are not expressly provided for in the mineral regulatory regime in Alberta, such costs are eligible for work credits. The Alberta Energy Regulator has issued a policy document that specifically allows for Indigenous engagement to be included as work credits. According to the policy document, costs incurred to consult First Nations or Métis for the purposes of furthering exploration on land are acceptable work expenditures. The costs may be applied towards the expenditures required to maintain a claim with the caveat that such costs may only make up 20% of the total required expenditures.

In addition, the policy document gives guidance to proponents on what are considered acceptable and unacceptable costs for the purpose of work credits. There are certain costs that the Alberta Energy Regulator will only consider on a case by case basis. Acceptable costs include consultation specific to the exploration program undertaken to meet a legal or informal requirement relating to a permit or exploration approval, such as the cost to rent a facility to host consultation, equipment rentals, and/or meals and refreshments provided at sessions. Unacceptable costs include consultation fees charged by a First Nations or Métis group, legal fees associated with consultation and litigation, community compensation for loss of opportunity for traditional use, and development and delivery of training. The Alberta Energy Regulator will consider, on a case by case basis, whether traditional use or historic resource studies that are

not normally a requirement for an exploration program under a permit qualify as acceptable costs.

Ontario

In Ontario, effective November 1, 2012, consultation costs incurred by proponents to consult with Aboriginal communities in relation to exploration activities are eligible as assessment work credits. The costs incurred in Aboriginal consultation can be claimed as a work credit as part of the proposed exploration without accompanying geosciences work in the first required unit of assessment work (the first two years of a mineral claim). After the first required unit, the regulations require accompanying geosciences work be performed. While costs incurred for Indigenous engagement can be used to maintain a claim, these costs cannot be applied towards taking a claim to lease. In Ontario, a claimholder must complete at least five units of assessment work (equivalent to annual work requirements) to take a claim to lease.

Feedback from Relevant Mining Associations

In Ontario, the Northwestern Ontario Prospectors Association expressed support for the change that allows work credits to be given for Indigenous engagement. Such costs were identified as making up a substantial part of the exploration budget. Providing work credit for such engagement accurately reflects the work conducted on a mineral claim. The Ontario Prospectors Association did not provide any specific feedback with respect to the new change. No comments were provided on the fact that work credits for Indigenous engagement could not apply towards taking a claim to lease.

Alberta Chamber of Resources noted that the costs incurred in conducting Indigenous engagement are important in allowing companies to seek input and, potentially, consent from the Indigenous communities. However, the ability to apply costs to total required expenditures in Alberta's current regime is not a significant issue because, according to the Chamber, costs incurred in conducting Indigenous engagement often makes up less than 10% of the costs related to a project. The Alberta Chamber of Resources noted that the government of Alberta is currently reviewing its First Nation and Métis consultation policies. That review may require proponents to begin to pay a "capacity fee" to these communities to allow them to engage in wholesome consultation. This may result in much higher consultation costs that will then become more significant, thereby making work credits for costs incurred in conducting Indigenous engagement much more important.

Recommendations and Key Considerations

The following consideration may be relevant to the development of the *Mineral Resources Act*:

[REDACTED]

[REDACTED]

[REDACTED]

Payment Instead of Exploration and Development Work

Jurisdictions across Canada include annual or bi-annual work requirements for the maintenance of mineral claims. These work requirements are part of the exchange inherent in Canada's free-entry resource regimes: claimholders are given a monopoly on the exploration of lands in exchange for the submission of geological data which is a general public benefit, and the potential opportunity for future public rents from resource development.

Jurisdictions across Canada have allowed proponents to make payments in lieu of work requirements ("Payments in Lieu") in order to accommodate circumstances where proponents are unable to perform the annual work requirement. Some Payment in Lieu regimes are strict, intended for very limited use, while others are more generous, allowing proponents greater flexibility in how they schedule and prioritize work. The *Mining Regulations* presently limit the use of Payment in Lieu to three periods in the ten year life of a mineral claim.

Cross-Jurisdictional Overview

In the course of our cross-jurisdictional research, we noticed that, while most provinces and territories provide for some form of payment in lieu of meeting that province or territory's required exploration and development expenditure thresholds in a given term ("Payment in Lieu"), there is significant variance in the substance and structure of Payment in Lieu mechanisms in terms of the refundability of the payments, the frequency in which Payments in Lieu are acceptable in place of the required work and the price of the payment relative to the expenditure required.

British Columbia

British Columbia has recently enacted new amendments to the *Mineral Tenure Act Regulation* that affects Payment in Lieu rates. Prior to 2012, the Payment in Lieu rates were equivalent to the value of exploration and development work required in a given year. Since the amendments, the Payment in Lieu rate has been set at double the value of the corresponding assessment work requirement. The payment is not refundable. British Columbia has also amended the eligible term of a claim to between six months to a maximum of one year. Previously, a claim could be registered for a single day. This means that a miner will have to register a Payment in Lieu for a minimum of six months even if they only wish to maintain a claim for an extra day beyond the expiry date.

British Columbia has stated that one of its goals of the 2012 amendments was to increase the amount of mineral land available. It intends the alterations to its Payment in Lieu provisions to help accomplish this goal by making it more onerous for miners to hold tenure of mineral lands without actually registering any work on it. An ancillary purpose of this increase is to discourage mineral land speculation to some degree.

Work Requirements
Payment Instead of Exploration and Development Work

Alberta

Under the Alberta *Mines and Minerals Act*, the *Metallic and Industrial Minerals Tenure Regulation* stipulates that a permittee may make a Payment in Lieu only once during the life of a permit and only with the approval of the Minister. These regulations also appear to limit the time periods during which one can make a Payment in Lieu for – a Payment in Lieu claim appears to need to be for a two year period of the term of a permit, although, with ministerial approval, a lesser amount may be paid.

Saskatchewan

Saskatchewan's *Mineral Tenure Registry Regulations*, provide slightly different rules for work requirements of a permit and a mineral claim. For a permit, which lasts two years, a permit holder may, if it does not satisfy its work expenditure requirements, make a non-refundable cash payment to the Minister equivalent to the deficiency.

For a mineral claim, if a claimholder does not satisfy their work requirement in a given period, they can either make a non-refundable payment to address the deficiency or pay a deficiency cash deposit. If, during the next period, the proponent completes more work than is required for that year, the excess may be refunded up to the amount of the deficiency cash deposit. Deficiency payments are not allowed to make a non-refundable payment, or allow the deficiency cash deposit to be forfeited for more than three consecutive periods.

Manitoba

Under *The Mines and Minerals Act*, if necessary work is not completed on a claim, the claim can be renewed so long as the claimholder makes a cash payment of an amount equal to the unperformed work. The cash payment can then be refunded if the missing work is performed before the fifth anniversary of the renewal date.

Ontario

Ontario's new *Mining Act* has recently been amended such that a claim holder may "in prescribed circumstances and to the extent permitted by the regulations, make payments in place of assessment work according to the regulations." Under new regulations, Payment in Lieu may not be made in place of the first two years of required work. Payment in Lieu is also restricted from being used in two consecutive years.

Quebec

In Quebec, according to section 73 of the *Quebec Mining Act*, in the event that the work required to be performed by a holder of a claim is not performed, the holder may pay the minister an amount equal to twice the minimum cost of the work that should have been performed or reported or, where applicable, twice the difference between that minimum cost and the cost of the work performed on the land as reported. Before 2013, the value of Payment in Lieu was only the difference between the work performed and the required value of work.

Work Requirements
Payment Instead of Exploration and Development Work

New Brunswick

The New Brunswick *Mining Act* allows for Payment in Lieu only upon the first renewal of a mineral claim after one year. The second renewal shall not be granted unless the required work for both the first and second terms has been performed.

Nova Scotia

An amended *Mineral Resources Act* received royal assent in 2016, however this act has not yet come into force. In this revised act, Section 46 specifies that if insufficient work has been performed for renewal of an exploration license, a licensee may make a Payment in Lieu of assessment work. Payments in Lieu may only be made every ten years. Payments in lieu can be refunded if, in the following two-year term, the work performed exceeds the minimum work requirement.

Yukon

The *Quartz Mining Act* allows for Payment in Lieu, if the claimholder pays the full claim work requirement in a given year.

Nunavut

Similar to the requirements presently set out in the *Mining Regulations*, Section 49(3) of the *Nunavut Mining Regulations* provides that a Payment in Lieu for the difference between the work expenditure required and the actual cost of work may be paid in order to maintain a claim, however this can only be done three times before the claim is cancelled.

Feedback from Relevant Mining Associations

We engaged with mining and prospector associations on the existing abilities to make Payments in Lieu and whether they had an impact on exploration activity.

British Columbia

Respondents in British Columbia noted that it is possible that the doubling of the cost of Payments in Lieu may have increased claim turn-over and reduced land speculation. However, given the downturn in the industry which corresponded with the timing of the amendments, it was difficult to assess whether such turnover related to the increase in Payment in Lieu costs or a general lack of activity in the industry.

Saskatchewan

Respondents in Saskatchewan noted that the Payment in Lieu regime is regularly relied upon by proponents. Payments in Lieu were considered to be a positive attribute of the mining regime, since they provided proponents with flexibility in the short-term with the ability to retain land. It was also noted that having Payments in Lieu forfeit to the government in the second year provided sufficient incentive to encourage proponents to undertake work rather than simply relying on Payments in Lieu to hold lands. Respondents suggested that most Payments in Lieu are recovered rather than being forfeited.

Work Requirements
Payment Instead of Exploration and Development Work

Ontario

Respondents in Ontario suggested that Payments in Lieu were used infrequently, and when used, were typically employed to supplement a shortfall in assessed work. Overall, respondents felt that the provisions for Payments in Lieu did not impact the quantity of exploration activity conducted.

Recommendations and Key Considerations

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Part 4: Dispute Resolution

Dispute Resolution Mechanisms

As with any regulatory regime, disputes may arise with respect to how legislation or regulation should be applied. Disputes can arise between claimholders, for example, with respect to the location of claims, or they can arise between a proponent and the Minister with respect to a number of different topics, including the recognition of work for work credits or the payment of royalties.

Under the current *Mining Regulations*, the Minister currently has the authority to review any decision, action, or omission that may arise with respect to any decision made, action taken, or omitted to be taken under the regulations. Within the *Mining Regulations*, which offer limited discretionary powers, the dispute resolution mechanism has rarely been used.

Cross-Jurisdictional Overview

In the course of our cross-jurisdictional survey, we identified four jurisdictions with unique dispute resolution processes or features: Alberta, Manitoba, Ontario, and Nova Scotia.

Alberta

Since 2015, the *Mines and Minerals Dispute Resolution Regulation* has governed the resolution of disputes relating to prescribed matters such as royalty payments, violations, and assessment work under the *Mines and Minerals Act*. Alberta is unique in how it handles oil sands disputes specifically in that if a proponent does not accept the resolution of a matter by the Minister, the Minister must issue a “Statement of No Resolution” and the proponent may request that the Minister establish an ad-hoc oil sands dispute review committee to provide recommendations to the Minister regarding a resolution to the matters in dispute. Each committee is required to be made up of one nominee of the Department, one nominee of the applicant, and a chair.

While this process is special to the oil sands industry in Alberta, it is the only system that we identified as having ad-hoc features in our cross-jurisdictional survey.

Manitoba

The *Mines and Minerals Act* established the Mining Board in Manitoba in 1991. This board is responsible for hearing all disputes arising from the Act, including disputes between holders of mineral dispositions, between a holder of a mineral disposition and a person seeking surface rights in respect of the claim, and between a holder of a mineral disposition and the Minister, the director, the recorder, or an officer of the department. The Mining Board is unique in Canada insofar as it is a permanent body that is required to be made up of three individuals who are required to have specific qualifications. At least two of the members of the Mining Board must have specialized, expert or technical knowledge of mineral resources, mining, and the administration of mineral rights.

Ontario

In 2009, Ontario introduced a new dispute resolution mechanism under section 170.1 of the *Mining Act* that gives the Minister the discretion to appoint an independent third party to facilitate Aboriginal consultation processes and help to resolve disputes that may arise at the early exploration stage. The disputes to be governed by this section are specifically with relation to decisions governing the issuance, maintenance, and renewal of exploration permits and the decision to allow advanced exploration to begin. The Ministry of Northern Development Mines' ultimate decision to issue an exploration permit is contingent upon it being satisfied that Indigenous communities have been adequately consulted with. This dispute resolution mechanism is meant to offer proponents an opportunity to include an independent third person in the consultation process.

According to policy documents issued by the Ministry, there is no application process to request the appointment of a third party. Instead, decisions to appoint a third party are intended to be a last resort after other efforts have been exhausted, and will be made on the recommendation of the Ministry after considering the consultation efforts that have occurred to date. The third party will report to the Ministry within 30 days of the appointment with respect to his or her efforts to facilitate a resolution to outstanding issues in a consultation process. Such report will inform the Ministry's ultimate decision whether or not to issue an exploration permit.

Nova Scotia

Nova Scotia has introduced new dispute resolution procedures in the new *Mineral Resources Act (2016)*. Under the new Act, the Minister will be permitted to appoint a commissioner or establish a board to hear appeals of decisions made under the Act. This is in contrast to the old *Mineral Resources Act* which provides that in respect of a dispute, the decision of the Minister is final.

Given the relatively recent change, we included Nova Scotia in our cross-jurisdictional survey as the mining or prospectors associations may have specific feedback on why such a change was adopted relative to problems that were ongoing under the old mineral regulatory regime.

Feedback from Relevant Mining Associations

While we engaged with mining and prospector associations on the topic of dispute resolution processes, we received very limited feedback in respect of each jurisdiction.

Alberta and Manitoba

The Alberta Chamber of Resources did not have any specific feedback to offer with respect to dispute resolution processes in the oil and gas industry in Alberta. None of the organizations we contacted in Manitoba responded to our request for them to complete our cross-jurisdictional survey.

Ontario

In Ontario, the Ontario Prospectors Association commented that the use of the Aboriginal dispute resolution process is inhibited by bureaucrats in the Ministry. The Ministry is more likely to put a hold on an exploration permit as they try to consult directly with an identified Aboriginal community.

Nova Scotia

The Nova Scotia Mining Association did provide some insight into why the new *Mineral Resources Act (2016)* has given the Minister the authority to appoint a commissioner or establish a board to hear appeals under the Act. This new authority has been implemented to allow the Minister, if he or she so deems appropriate, to create a surface rights board. This was introduced as the previous Act had not been overhauled for about 25 years and the officials wanted to create the authority in case another review of the Act is not done for many years.

The Nova Scotia Mining Association raised three concerns at the time the new surface rights board language was introduced:

- First, applications for surface rights disputes are extremely rare in Nova Scotia, meaning that members of a board or a commissioner could serve entire terms without having an application to consider. Nova Scotia's small mineral industry arguably makes the board concept impractical.
- Second, the small number of applications means that that the board or commissioner would not build proper expertise in the Act relative to the staff of the Department of Natural Resources.
- Finally, because the Minister would still retain ultimate decision-making authority, it would make sense that the Minister receives advice from knowledgeable representatives from the Department of Natural Resources who already advise the Minister on such matters.

Recommendations and Key Considerations

The lack of responses to our survey may demonstrate that dispute resolution processes are not something that proponents have frequent experience with. Such a conclusion necessarily leads to a number of considerations that should remain at the forefront in developing any dispute resolution process.

The following considerations and recommendations may be relevant to the development of the *Mineral Resources Act*:

[REDACTED]

[REDACTED]

Dispute Resolution
Dispute Resolution Mechanisms

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Part 5: Benefit Agreements

Benefit Agreements

Benefit agreements are generally not mandated elements of mineral regimes in Canada, though they may arise during regulatory approval processes where Crown decision makers consider the net benefit of the project and the impact on Section 35 *Constitution Act, 1982* rights.

One form of benefit agreement is Impact Benefit Agreements (“IBAs”). IBAs are not typically the subject of provincial mining legislation but rather are typically privately negotiated agreements between the proponent of a project and impacted Indigenous communities. With that said, certain Northern jurisdictions are subject to land claims agreements which require IBAs prior to development in certain regions. For example, in the North, the Nunavut Land Claims Agreement and the Inuvialuit Final Agreement govern requirements for IBAs. Article 26 of the Nunavut Land Claims Agreement requires the proponent of any major development project on Inuit-owned lands to finalize an Inuit Impact and Benefit Agreement, and the Inuvialuit Final Agreement at Chapter 10 requires the proponent to conclude a Participation Agreement with the Inuvialuit Lands Administration. The Labrador Inuit Land Claims Agreement at Chapters 6, 7 and 8 requires prospective developers and the Nunatsiavut Government to sign an Inuit IBA prior to starting projects, and the Tlicho Agreement at Chapter 23 requires proponents of certain major mining or oil and gas projects or exploration activities to consult with the Tlicho Government in order to develop an agreement on these activities. The Eeyou Marine Region Land Claims Agreement at Chapter 19 details that no major development project may begin until an IBA is signed.

At the provincial and territorial level, there are significant variations in regulatory requirements regarding benefits agreements, however few explicitly legislate in requirements for such agreements except in very limited circumstances.

Cross-Jurisdictional Overview

The following jurisdictions contemplate benefit in legislation, regulation, or policy.

British Columbia

British Columbia does not directly mandate benefit agreements, however it shares direct revenue from mining with Indigenous parties.

Manitoba

Manitoba’s consultation protocol encourages IBAs with First Nation and Métis groups, but it does not require them.

Saskatchewan

Every operator of a mine operation in north Saskatchewan is required to enter into two special partnership agreements with the Province of Saskatchewan. These are aimed at maximizing the local benefits afforded to residents of northern Saskatchewan through training and educational opportunities, industry commitments to maximize northern employment, and business opportunities. These two agreements are the “Mine Surface Lease Agreement” (the “MSLA”) and the “Human Resource Development Agreement” (the “HRDA”). There is no statutory requirement for the provision of benefits, or for the HRDA, however these elements and obligations have been implemented into the MSLA through policy.

The content of MSLAs are negotiated between the proponent and the government. The primary provisions of MSLAs relate to: (1) employment policies and practices; (2) training and development programs; (3) procurement policies; and (4) monitoring provisions. The MSLA also includes specific socio-economic commitments for the proponent to strive towards.

As with MLSAs, HRDAs are negotiated between the parties – there are no prescribed requirements. As such, each HRDA can vary in its terms. In large part, the HRDA simply restates the commitments included in the MSLA but provides greater clarity that recruitment is to be done on a priority basis, and further clarifies the monitoring mechanisms that are to be put in place.

Under the HRDA regime, proponents are required to provide quarterly and annual reports detailing performance as against goals.

MLSAs and HRDAs are enforceable through contract law. In addition, the MLSAs include provisions governing disputes among the parties requiring them to submit any and all disputes to arbitration.

Ontario

Ontario currently does not require IBAs in the mineral extractive sector, however its *Mining Act* encourages mineral exploration companies to build positive relationships with impacted Indigenous communities early in the development process and may consider whether an IBA exists as a factor to determining whether there has been adequate community consultation.

Feedback from Relevant Mining Associations

Feedback was solicited from Saskatchewan with regard to HRDA, however no specific concerns were raised.

Appendices

Appendix A: Mineral Lease Requirements

Jurisdiction	Rights under Lease	Application for Lease Requirements	Work Requirements on Leases	Intention to Mine	Fees	Renewal Period and Requirements
British Columbia	Claims only allow for production up to 1000 tonnes of ore per year per claim or cell. Beyond this production, need a lease.	Application is online with a registration fee of \$100 per application.	Must file updated plans every 3 months, have manager (or designate) onsite every day. No work requirements for leases.	Chief Gold Commissioner must be satisfied that the lease is for mining activity.	Annual rent of \$20 per hectare for a mining lease.	Lease is issued for 30 years – can register for renewal. The term of the lease will only be renewed if the lease is required for a mining activity.
Alberta	Lease gives the right to win, work and recover metallic and industrial minerals.	An application in a form that is satisfactory to the Minister, the application fee, the rent for the first year of the term of the lease, and evidence, satisfactory to the Minister, of a metallic and industrial mineral deposit in the location of the lease for which application is being made.	A lease must be proven productive at the end of its five-year term by drilling, producing, mapping, being part of a unit agreement or by paying offset compensation.	Must be evidence of metallic or industrial deposit in location of lease. The Minister can demand plans or other documents to indicate intent to develop in foreseeable future.	Application fee of \$625 and annual rent of \$3.50 per hectare.	Leases are good for 15 years. Can be renewed if the Minister is satisfied with production or development plan.
Saskatchewan	Leases grant rights to explore, mine, work, and recover minerals.	Application and the fee.	Expenditure requirements for a lease is \$25 per hectare per assessment work		\$10 per hectare per year with a minimum of \$1,600 per lease per year.	Leases are good for 10 years.

Jurisdiction	Rights under Lease	Application for Lease Requirements	Work Requirements on Leases	Intention to Mine	Fees	Renewal Period and Requirements
			period, from the first to tenth assessment work periods with a minimum of \$500 per lease per assessment work period; \$50 per hectare per assessment work period, from the eleventh to twentieth assessment work periods with a minimum of \$800 per lease per assessment work period; \$75 per hectare per assessment work period, for the twenty-first assessment work period and all subsequent assessment work periods with a minimum of \$1,200 per lease per assessment work period.			
Manitoba	No production without a lease. A mineral lease conveys to the lessee, for the term of the lease, the exclusive right to the	The Minister shall issue a mineral lease where the claim or group of claims is in good standing. The	Mandatory filings required before mining commences. Must meet	Must prove extent of deposit and intention to commence production.	Rental for the first term mineral lease or the renewal of a mineral lease in production is \$10.50	Leases are good for 21 years. If lease is not

Jurisdiction	Rights under Lease	Application for Lease Requirements	Work Requirements on Leases	Intention to Mine	Fees	Renewal Period and Requirements
	minerals, other than quarry minerals, and mineral access rights as required for the purpose of working the mineral lease and mining and producing minerals from it.	holder completes and files with the record a report of the work performed and that has a dollar value of not less than the expenditures required by regulation or of such lesser value as the Minister approves where the holder demonstrates, to the satisfaction of the Minister, that having regard to geological and economic circumstances, the proposed mineral lease area is sufficiently explored and that further expenditures are not warranted at the time of the application; or the holder proves to the satisfaction of the Minister, that within the boundaries of the proposed mineral lease area the existence, extent and value of an ore body has been determined and that the holder intends to commence	requirements before applying for lease (fee, expenditures at \$625/ha, claim in good standing). The required amount of expenditures on approved work within the mineral lease area shall be no less than \$1250 per hectare during the preceding term of the mineral lease for which renewal is sought.		per hectare or fraction thereof per year but not less than \$193. Rental for the first term of a mineral lease not in production is \$12 per hectare but not less than \$257. Rental for a renewal mineral lease when the mineral lease is not in production is \$12 per hectare or fraction thereof per year, but not less than \$200.	producing, can be renewed but the work needs to be done in prior term that meets the expenditure requirement of \$1250/ha and reporting requirements. If not producing, there must also be economic and geological circumstances to explain why there is no mining. Lease renewal must show that the business is still incorporated in the province.

Jurisdiction	Rights under Lease	Application for Lease Requirements	Work Requirements on Leases	Intention to Mine	Fees	Renewal Period and Requirements
		production and the holder submits to the Minister such information as the Minister requires and the prescribed application fee and rent for the first year of the mineral lease.				
Ontario	A lease grants its owner title and ownership to the land, permits the extracting and sale of extracted resources.	<p>Application for leases not allowed until fifth year of prescribed unit of assessment work (or payment in lieu of) is complied with.</p> <p>No person shall carry out exploration activities on a mining claim, mining lease, or licence of occupation for mining purposes unless the person has submitted an exploration plan, in accordance with any prescribed requirements, including any Aboriginal consultation that may be prescribed.</p>	No requirement to perform yearly assessment work.	To convert a mining claim into a lease, a letter of intent must be submitted.	Annual rental for a lease or renewal lease under sections 81, 82 and 83 of the Act is \$3 per hectare.	<p>Leases are good for 21 years.</p> <p>Minister can refuse to renew a lease unless there is production of minerals continuously for more than 1 year since the issuance of the lease or since last renewal. The lessee can also demonstrate to the Minister that reasonable effort has been made to bring the property into production.</p> <p>A lease is renewable for further terms of 21 years.</p>

Jurisdiction	Rights under Lease	Application for Lease Requirements	Work Requirements on Leases	Intention to Mine	Fees	Renewal Period and Requirements
Quebec	No person may mine mineral substances, except surface mineral substances, petroleum, natural gas and brine, unless he has previously obtained a mining lease from the Minister or a mining concession under any former Act relating to mines.	<p>Requirement for application include a rehab / restoration plan filed. The application must provide a report indicating size, nature and value of the deposit (signed by a qualified engineer or geologist) and there needs to be scoping and market studies. There must also be a survey and a certificate of authorization stipulated by the Environment Quality Act.</p> <p>The Minister shall grant a lease in respect of all or part of a parcel of land that is subject to one or more claims if the claim holder establishes the existence of indicators of the presence of a workable deposit, meets the conditions and pays the annual rental prescribed by</p>	Must be mining within 4 years of lease being issued, unless the Minister grants permission to do otherwise.	To obtain a mining lease, a claim holder must first establish the existence of indicators showing the presence of a workable deposit and must submit a report certified by an engineer or a geologist who is certified.	Annual rent for mining lease is \$22.30/ha on granted or alienated land and \$46.75/ha on lands in the public domain.	<p>The term of a mining lease is 20 years.</p> <p>The Minister shall renew the lease, by mere notice, for a period of 10 years, not more than three times, provided the lessee applies 60 days before expiry or failing that, payment of an additional amount as prescribed by regulation, has submitted a report establishing that he has performed mining operations for at least 2 years in the last 10 years of the lease, has provided the Minister with a scoping and market study regarding processing in Quebec, has paid the annual rental prescribed by regulation, has complied with the Act and any renewal requirement prescribed by</p>

Jurisdiction	Rights under Lease	Application for Lease Requirements	Work Requirements on Leases	Intention to Mine	Fees	Renewal Period and Requirements
		regulation.				regulation.
New Brunswick	<p>No person shall carry on production or cause production to be carried on unless he is the holder of a mining lease.</p> <p>A mining lease gives the lessee: the right of free access by any reasonable means to and over and exit from the lease area; the exclusive right to prospect for minerals and carry on mining on the lease area and to remove minerals from the lease area for purposes of sampling and testing; the exclusive right to carry on production on the lease area and to remove minerals from the lease area for purposes of sampling and testing; and the exclusive right to carry on production on the lease area and remove minerals from the lease area accordingly.</p>	<p>Requirements for application include feasibility study done within 12 months immediately prior to application; satisfactory proof of land ownership or compensation for land; work commitments met on each claim and boundaries surveyed.</p> <p>Application fee is \$500.</p>	<p>If the lease is not in production, the lessee must file a statement of work done during the year, plus report of work.</p> <p>The work must equal \$60/ha/year.</p> <p>If production at 60% of capacity has not commenced by the time as stated in the feasibility report, or if the production is reduced to less than 60% of planned capacity at any time after commencement or ceases for any reason during the term of the lease, the lessee shall notify the Minister and provide reasons.</p>	<p>Must prove to the Minister the existence, extent and value of an orebody and that the applicant has decided to commence production.</p>	\$6 per hectare.	<p>Leases are good for 20 years.</p> <p>A mining lease may be renewed for two additional terms of 20 years each.</p>

Jurisdiction	Rights under Lease	Application for Lease Requirements	Work Requirements on Leases	Intention to Mine	Fees	Renewal Period and Requirements
Nova Scotia	A lease gives the exclusive right to all or specified minerals in or upon the leased area for the term of the lease, subject to the payment of royalties and to all other conditions contained in the Act.	Applicant provides written undertaking to commence production within 2 years of lease and pays the first year rental fee. Survey of boundary is also required when applying.	No requirements for work on the lease and no work credits are granted for work conducted on a lease. Minister reviews a lease where the lessee has failed to commence production, failed to file annual reports, or wishes to surrender lease.	To be able to make an application, must satisfy the Minister that the applicant has delineated mineral deposits. Needs to give an undertaking that production will commence within 2 years.	\$120.90/claim/year for lease rental.	Leases are good for 20 years and can be renewed for several 20 year terms.
Newfoundland and Labrador	A mining lease issued under the <i>Mineral Act</i> confers upon the lessee the exclusive right to develop, extract, remove, sell, mortgage or otherwise dispose of all unalienated minerals.	Holder of licence must apply for lease during currency of licence. Must have met all terms of the licence (assessment filing), submit a survey of perimeter / certified survey plan and demonstrate, through confirmation of a qualified person, the existence of a mineral resource of sufficient size and quality to be potentially economic. Lease will not be issued unless licence has been held by		Lease must start production within 5 years of lease issue. To get a mining lease, the person has demonstrated to the satisfaction of the Minister, including through the confirmation of a qualified person, the existence of a mineral resource that is of sufficient size and quality to be potentially economic.	\$120/ha.	Leases are good for 25 years and can be renewed for 10 year terms.

Jurisdiction	Rights under Lease	Application for Lease Requirements	Work Requirements on Leases	Intention to Mine	Fees	Renewal Period and Requirements
		applicant for 3 years and all the assessment work for the 3 years has been filed and completed.				
Yukon	Holder of mineral claim, by lease, is entitled to all minerals found in veins or lodes, on or under the lands included in the lease, together with the rights to enter on, use and occupy the surface of the claim to such extent as Minister may consider necessary for the efficient and miner-like operation of the mines but for no other purpose.	<p>Must satisfy requirements with mining recorder that includes at least \$500 in work value, having found a vein or lode within the claim, had claim surveyed at own expense, posted notice on the claim of survey. They also have to have intention to apply for certificate of improvement and have it advertised in the paper for 60 days and file a copy with the mining recorder.</p> <p>The holder of a mineral claim for which a certificate of improvement has been granted and recorded is entitled to a lease of the claim on payment being made within 3 months of the prescribed</p>			<p>Application for a lease and issue of the same is \$10.</p> <p>Lease: \$50 if acreage is 51.65 acres or less. For each acre or fraction over 51.65 acres add \$5.</p> <p>Rental for renewal term of twenty-one years: \$200 if acreage is 51.65 acres or less. For each acreage or fraction over 51.65 acres add \$20.</p>	Leases are good for 21 years and renewable for another 21 years if the lessee furnishes evidence satisfactory to the Minister that they have complied with conditions of the lease.

Jurisdiction	Rights under Lease	Application for Lease Requirements	Work Requirements on Leases	Intention to Mine	Fees	Renewal Period and Requirements
		rental and fee.				

Appendix B: Ministerial Discretion for Granting Mineral Tenures

Jurisdiction	Discretionary Powers	Interest granted by the Mineral Tenure
British Columbia	<p>Discretionary powers:</p> <p>Moderate for Claims</p> <p>High for Lease and Lease Renewal</p> <p>The chief gold commissioner may, by order, cancel a claim if the recorded holder deliberately fails to comply with the order of the chief gold commissioner, the <i>Mineral Tenure Act</i>, RSBC 1995, c 292 [<i>Mineral Tenure Act</i>], the <i>Mines Act</i>, RSBC 1996, c 293 or the Health Safety and Reclamation Code for Mines in British Columbia, or any enactment under which a mining activity has been or is required to be authorized.</p> <p>If the chief gold commission is satisfied that the recorded holder has met all of the requirements of subsection 42(1) of the <i>Mineral Tenure Act</i>, the chief gold commissioner must issue a mining lease for an initial term not longer than 30 years on conditions of the chief gold commissioner considers necessary.</p> <p>If the lessee complies with the <i>Mineral Tenure Act</i>, the regulation and any conditions of the mining lease issued under by the chief gold commissioner, the lessee is entitled to a renewal of the mining lease for one or more further terms not exceeding 30 years each, subject to the approval of the chief gold commissioner that the mining lease is required for a mining activity.</p>	<p>Mineral claim means a claim to the minerals within an area which has been located or acquired by a method set out in the regulations and includes a claim to minerals recorded under one of the former Acts. A claim allows the holder to explore and develop the mineral or placer mineral resource, and contains a production limit for mineral claims of 1,000 tonnes of ore in a year from each unit in a legacy claim or a cell claim in a year. Production beyond these limits requires a lease tenure.</p> <p>A lease is an interest in land and conveys to the lessee the minerals or placer minerals, as the case may be, within and under the leasehold, together with the same rights that the lessee held as the recorded holder of the claim or group of claims, but is subject to a valid charge registered against the record of the claim.</p> <p>Mineral leases are issued according to a survey plan, and for a specific term. There are no work requirements on a lease, but the term of a lease will only be renewed if the lease is required for a mining activity.</p>
Alberta	<p>Discretionary powers:</p> <p>Moderate for Permit</p> <p>High for Lease and Lease Renewal</p> <p>Permits: The Minister <u>may</u> grant a permit to an applicant if the Minister receives an application in a form that is satisfactory to the Minister and</p>	<p>A permit grants the non-exclusive right to explore for metallic and industrial minerals on the surface of the location, the exclusive right to explore for metallic and industrial minerals in the subsurface strata within and under the location and the right to remove samples of metallic and industrial minerals from the location for the purposes of assaying and testing and of metallurgical, mineralogical and other scientific studies. This permit does not grant the holder any real</p>

Jurisdiction	Discretionary Powers	Interest granted by the Mineral Tenure
	<p>the application fee.</p> <p>The Minister may refuse to grant an exploration approval or to issue an exploration licence or exploration permit where the Minister considers that it would be appropriate to refuse to grant the exploration approval or issue the exploration licence or exploration permit. The Minister may also cancel an exploration licence.</p> <p>Agreement: The Minister may issue an agreement in respect of a mineral or subsurface reservoir on application, if the Minister considers the issuance of the agreement warranted in the circumstances, by sale of public tender, or by any other procedure determined by the Minister.</p> <p>Lease: Minister may issue a lease to a person who applies for the lease, if the Minister considers the granting of the lease to be warranted in the circumstances; to a permittee who has complied with the requirements, has held the permit for at least the 2-year period referred and at any time before the permit expires. Minister may grant a lease to an applicant if the Minister receives from the applicant an application in a form that is satisfactory to the Minister, the application fee, the rent for the first year of the term of the lease, and evidence, satisfactory to the Minister, of a metallic and industrial mineral deposit in the location of the lease for which application is made.</p> <p>The Minister may require a plan for the development of minerals or other documents with respect to production or development of minerals before issuing a lease or renewing a lease.</p> <p>The Minister may, if the Minister is satisfied that it is in the public interest to do so, agree from time to time with the lessee to extend the term of the lessee's agreement for an additional period or periods. The Minister may also make an order, authorization, direction, determination or other decision under the act subject to any terms and conditions that the Minister considers warranted. The Minister may</p>	<p>property interest in the land.</p> <p>Metallic and industrial mining leases entered into by the holder of a permit with the Crown create a leasehold real property interest. An agreement is an instrument issued under the <i>Mines and Minerals Act</i> that grants rights in respect of a mineral or subsurface reservoir.</p> <p>The Minister may restrict the kind of metallic and industrial minerals in respect of which the right to explore is granted under a permit and limit the operations and activities that may be conducted under a permit to those operations or activities specified by the Minister in the permit.</p> <p>A lease conveys the exclusive right to win, work and recover metallic and industrial minerals that are the property of the Crown.</p> <p>The Minister may restrict the kinds of metallic and industrial minerals in respect of which rights are granted under a lease and may limit the operations or activities that may be conducted under a lease to those operations or activities specified by the Minister in the lease.</p>

Jurisdiction	Discretionary Powers	Interest granted by the Mineral Tenure
	<p>enter into a contract with any person or government of Canada or of a province or territory respecting a list of mining related matters, issue an agreement or issue an agreement containing a provision providing for the waiver by the lessee of a benefit under the act.</p> <p>The Minister may require that a survey be conducted and that payment for the survey be paid up front. Failing payment, the Minister may cancel the lease.</p>	
Saskatchewan	<p>Discretionary Powers: Moderate for Permit Low for Lease and Lease Renewal</p> <p><u>Mineral Tenure Registry Regulations under the Crown Minerals Act (Minerals except for Potash and other Natural Mineral Salts)</u></p> <p>On receipt of a claim application, the Minister may issue a claim if the Minister is satisfied that the application complies with the Act and these regulations or refuse to issue a claim.</p> <p>The Minister shall issue a lease of Crown mineral lands to the holder of a claim if a) the holder submits an application to the registry and the Minister is satisfied that the holder has complied with the Act and regulations. The Minister shall register the renewal of a lease in good standing for a further term of 10 years if the application for a renewal is received within one year before the expiry of the existing term of the lease and the holder has complied with the Act and these regulations.</p> <p>The Minister has discretion to grant relief from expenditure requirements for lease and to extend the time to meet expenditure requirements.</p> <p>High for Lease</p> <p><u>Subsurface Mineral Tenure Regulations under the Crown Minerals</u></p>	<p><u>Mineral Tenure Registry Regulations under the Crown Minerals Act (Minerals except for Potash and other Natural Mineral Salts)</u></p> <p>A claim grants to the holder the exclusive right to explore for any Crown minerals that are subject to these regulations within the claim lands. A claim does not grant the holder the right to extract, recover, remove or produce minerals from the claim lands except for assaying, testing, and conducting metallurgical, mineralogical or other scientific studies.</p> <p>Leases grant rights to explore, mine, work, and recover minerals</p> <p><u>Subsurface Mineral Tenure Regulations under the Crown Minerals Act (Potash and other natural mineral salts)</u></p> <p>A permit grants the holder the exclusive right to explore for and to develop any subsurface minerals that are within the permit lands. It does not grant the holder the right to remove, carry away or dispose of any subsurface minerals from the permit lands except for removing samples for testing. The permit expires eight years after the date it was issued.</p> <p>A lease grants to the holder the exclusive right to explore for, mine, work, recover, procure, remove, carry away and dispose of any subsurface minerals within the lease lands.</p>

Jurisdiction	Discretionary Powers	Interest granted by the Mineral Tenure
	<p><u>Act (Potash and other natural mineral salts)</u></p> <p>On the application of an interested person or on the Minister's own motion, the Minister may issue a notice of sale of permit by sealed bid for any Crown minerals or Crown mineral lands that may be granted by permit pursuant to <i>The Subsurface Mineral Tenure Regulations</i>. The Minister shall issue a permit to the person who meets a list of criteria, the main one being the highest bidder. However, the Minister reserves the unqualified right to refuse all bids and the unqualified right to refuse to issue a permit to any or all persons submitting a bid.</p> <p>The Minister may extend the term of the permit if the permit holder was barred from doing work for more than 90 consecutive days as a result of natural disasters or action taken by the government for environmental or regulatory purposes.</p> <p>The Minister shall issue a lease of Crown mineral lands to the holder of a permit if the holder submits an application pursuant to the regulations, meets the required work expenditure for the permit and is in compliance with all other requirements of the Act and the regulations.</p> <p>On receipt of an application for lease, the Minister shall renew the lease for an additional 21 year term.</p>	
Manitoba	<p>Discretionary Powers: Moderate for Prospecting Licences High for Lease but Low for Renewal of Lease</p> <p>The Minister may, by order, withdraw open Crown mineral land from exploration, staking out and lease.</p> <p>The director may suspend the prospecting licence for a period not</p>	<p>Prospecting licence is required for exploration and to stake a mineral claim.</p> <p>The holder of a prospecting licence may apply to the recorder for a mineral exploration licence. A mineral exploration licence may be renewed once. The holder of a mineral exploration licence has exclusive right to explore for Crown minerals in the area except where mineral claims or leases already exist. The term of a claim is two</p>

Jurisdiction	Discretionary Powers	Interest granted by the Mineral Tenure
	<p>exceeding five years.</p> <p>The Minister shall, upon such terms and conditions as the Minister considers appropriate, issue a mineral lease to a holder of a recorded claim or a recorded group of claims who applies for a mineral lease.</p> <p>The Minister shall issue a mineral lease where the claim or group of claims is in good standing, the holder completes and files with the record a report of the work performed and that has a dollar value of not less than the expenditures required by regulation or of such lesser value as the Minister approves where the holder demonstrates, <u>to the satisfaction of the Minister</u>, that having regard to geological and economic circumstances, the proposed mineral lease area is sufficiently explored and that further expenditures are not warranted at the time of the application, or the holder proves <u>to the satisfaction of the Minister</u>, that within the boundaries of the proposed mineral lease area the existence, extent and value of an ore body has been determined and that the <u>holder intends to commence production</u>.</p> <p>A lessee is <u>entitled</u> to renewal of the lease for a further of 21 years if, at the time of the application, the lessee is in compliance with the act and the terms and conditions of the mineral lease.</p>	<p>years.</p> <p>A lease allows for production of mineral. A mineral lease conveys to the lessee, for the term of the lease, the exclusive right to the minerals, other than quarry minerals, and mineral access rights as required for the purpose of working the mineral lease and mining and producing minerals from it.</p>
Ontario	<p>Discretionary Powers: High for Claim High for Lease and High for Lease Renewal</p> <p>The Minister may, in his or her discretion, waive the requirement for a prospector to complete the prescribed <i>Mining Act</i> awareness program.</p> <p>Where the Commissioner finds, after a hearing, that a holder of a mining claim has been guilty of a wilful contravention of any of the provisions of the Act or its regulations, the Minister may, on the recommendation of the Commissioner, declare any mining claims of</p>	<p>Prospector's licence allows for the holder to prospect and register a mining claim.</p> <p>The registration of a mining claim or the acquisition of any right or interest in a mining claim by any person does not confer upon that person: a) any right, title, interest or claim in or to the mining claim other than the right to proceed as in this Act provided to perform the prescribed assessment work or to obtain a lease from the Crown and, prior to the performance, filing and approval of the first prescribed unit of assessment work, the person is merely a licensee of the Crown and after that period and until he or she obtains a lease the person is a tenant at will of the Crown in respect of the mining claim; or b) any right</p>

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	<p>the holder to be cancelled and upon cancellation all rights of the holder in or to mining claim lands cease.</p> <p>The Minister may make an order to: a) exclude a period of time in computing the time within which work on a mining claim must be performed or reported, or both, or within which application and payment for a lease may be made; b) fix the date by which the next or any prescribed unit of assessment work must be performed or reported, or by which a payment in place of assessment work must be made, or by which an application and payment for lease may be made; and c) relieve the holder of a requirement to perform units of assessment work to make payments for any period excluded.</p> <p>The Minister shall refuse to renew a lease unless a) the production of minerals has occurred continuously for more than one year since the issuance or last renewal of the lease or b) the lessee has demonstrated to the satisfaction of the Minister a reasonable effort to bring the property into production.</p>	<p>to take, remove, or otherwise dispose of any minerals found in, upon or under the mining claim.</p>
Quebec	<p>Discretionary Powers: High for Claim High for Lease and High for Lease Renewal</p> <p>The Minister may, in the public interest, impose such conditions and requirements that may, in particular and notwithstanding the provisions of this Act, concern work to be performed on the parcel of land that will be subject to the claim.</p> <p>The Minister shall renew the claim for a term of 2 years provided the claim holder has applied for the renewal before the 60th day preceding its expiry, paid the prescribed fee, complied with the Act and regulations, and has met any other renewal requirement prescribed by regulation.</p>	<p>Claims and leases are immovable real rights.</p> <p>Prospecting licence allows the holder to prospect the land and obtain a claim.</p> <p>The holder of a claim has the exclusive right to explore for mineral substances on the parcel of land subject to the claim.</p> <p>No person may mine mineral substances, except surface mineral substances, petroleum, natural gas and brine, unless he has previously obtained a mining lease from the Minister or a mining concession under any former Act relating to mines.</p>

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	<p>The Minister may, on his own initiative or at the request of any interested person, suspend the term of the claim.</p> <p>At the Minister's request, the holder of the mining right shall provide the Minister with any document and information relating to the mining project.</p> <p>The Minister may, after the third renewal of the lease, grant five-year extensions.</p> <p>The Minister may suspend or revoke any mining right where a holder does not comply with the conditions, obligations or restrictions applicable to the exercise of a mining right or has not paid the annual duties, royalties or rental.</p> <p>The Minister may revoke mining claims or mining leases.</p> <p>In order to ensure that every operator recovers, according to recognized mining practices, the economically workable mineral substance that is the subject of his mining operations, the Minister may require him to transmit a report justifying the mining method used, carry out a study to evaluate the method used, and/or require him to take any measures necessary to remedy any situation that would compromise the optimum recovery of the mineral substance.</p>	
New Brunswick	<p>Discretionary powers: Low for Claims High for Lease and High for Lease Renewal</p> <p>No discretion in issuing claims as the registration of claims grant the claim holder's powers.</p> <p>A holder of a mineral claim may apply to the Minister for and obtain</p>	<p>No person shall prospect for minerals or otherwise carry on mining unless he is the holder of a prospecting licence.</p> <p>The registration of a mineral claim gives the holder of the mineral claim the right of free access by any reasonable means, to and over and exit from the claim area, and the exclusive right to prospect for minerals and carry on mining in or on the claim area and to remove minerals from the claim area for the purposes of sampling and testing.</p>

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	<p>from him a mining lease if each mineral claim is in good standing; and the applicant has demonstrated to the satisfaction of the Minister that each mineral claim is necessary for the planned mine or mines or is necessary to cover the extension of ore along the strike and down the dip; or the applicant has proved to the satisfaction of the Minister that within the land to be covered by the lease the existence, extent and value of an orebody has been determined, and the applicant has made a decision to commence production.</p> <p>The Minister may refuse to give his consent to renew a mineral lease if, in his opinion, it is in the public interest to do so.</p>	<p>No person shall carry on production or cause production to be carried on unless he is the holder of a mining lease. A mining lease gives the lessee the right of free access by any reasonable means to and over and exit from the lease area, the exclusive right to prospect for minerals and carry on mining on the lease area and to remove minerals from the lease area for purposes of sampling and testing, the exclusive right to carry on production on the lease area and to remove minerals from the lease area for purposes of sampling and testing, and the exclusive right to carry on production on the lease area and remove minerals from the lease area accordingly.</p>
Nova Scotia	<p>Discretionary powers: High for exploration licence High for Lease and Low for Lease Renewal</p> <p>The Minister may extend, upon application and for good cause shown, the time fixed or allowed for the doing of anything or the taking of any proceeding pursuant to this Act; or cancel, revoke, or rescind a mineral right where money is due and owing to the Crown by the mineral right holder.</p> <p>The Minister has a duty to accept application. The Minister, where satisfied that the requirements have been met, shall accept an application for an exploration licence. Notwithstanding the duty to accept an application, where, in the opinion of the Minister, the acceptance of an application for an exploration licence is not in the best interests of the Province or would hinder mineral development, the Minister may reject or defer the application.</p> <p>To obtain a lease, the Minister must be satisfied that the applicant has delineated a mineral deposit within the proposed area.</p> <p>A lessee who is bona fide working the lease and is in compliance with the Act and who applies to the Minister at least six months prior to the expiration of the term of the lease is entitled to a renewal thereof for an</p>	<p>Exploration licence confers prospecting and searching for minerals, extracting minerals for test purposes and applying for a mineral lease for all or a part of the area held under a licence. To continue exploration beyond the initial year, the licence must be renewed. No prospecting licences or prospector's permit is needed in Nova Scotia.</p> <p>A lease gives the exclusive right to all or specified minerals in or upon the leased area for the term of the lease, subject to the payment of royalties and to all other conditions contained in the Act..</p>

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	additional twenty years upon the terms and conditions in force at the time of renewal.	
Newfoundland and Labrador	<p>Discretionary Powers: Low for Claims High for Lease and High for Lease Renewal</p> <p>The Minister may suspend a person's right to stake out claims under this section where the person has not paid a licence fee or security deposit in respect of any application for a licence. Where the person has paid the fee or security then the Minister shall reinstate the person's right to stake claims.</p> <p>A holder of a licence who delivers an application has a right to the issuing of a mining lease for a reasonable period, not exceeding 25 years, that the Minister may determine, but only if the provisions of the act are complied with. To get a mining lease, the person has demonstrated to the satisfaction of the Minister, including through the confirmation of a qualified person, the existence of a mineral resource that is of sufficient size and quality to be potentially economic.</p> <p>An applicant must demonstrate to the satisfaction of the Minister of Natural Resources that a mineral resource exists under the area of application that is of significant size and quality to be potentially economic. A lease may be renewed subject to the terms and conditions that the Minister considers appropriate. The Minister may cancel a lease issued if satisfied that the lessee has failed to fulfil, perform or observe the terms and conditions of or pertaining to the lease, that the lessee has failed to comply with a production order, that the lease was issued as a result of material misrepresentation, that the lessee is insolvent, declared bankrupt or has committed an act of bankruptcy.</p> <p>When mineral exploration work involves mechanized activities, work</p>	<p>A licence (map stake licence) has the exclusive right to explore for minerals for a period of 5 years. A licence confers no right to remove minerals except for the purpose of sampling, assaying and testing.</p> <p>A mining lease confers upon the lessee the exclusive rights to develop, extract, remove, deal with, sell, mortgage or otherwise dispose of all the unalienated minerals, or those specified in the lease, in on or under the land described in the lease.</p>

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	shall not commence until the plan for the activity has been reviewed by the department and an exploration approval issued on those terms and conditions considered necessary and prescribed by the Minister.	
Yukon	<p>Discretionary Powers: High for Claims Moderate for Lease and High in Lease Renewal</p> <p>The mining regime in the Yukon allows for any person having duly located and recorded a mineral claim to be entitled to hold it for the period of one year after the date of recording the claim. During that year and each succeeding year the locator of the claim shall do, or cause to be done, work on the claim itself to the value of one hundred dollars, in accordance with a schedule to be prepared by the Commissioner in Executive Council.</p> <p>To be eligible for a lease, a claim holder must have a certificate of improvement. To receive a certificate of improvement, the mineral claim holder must, to the satisfaction of the mining recorder, done or caused work to be done on the claim in developing a mine to the value of \$500, exclusive of the cost of all houses, buildings and other like improvements or made payment in lieu of work.</p> <p>Leases can be renewed for a further term of 21 years if the lessee furnishes evidence to the satisfaction of the Minister that during the term of the lease he or she has complied in every respect with the conditions of the lease and the provisions of the law and regulations. Leases are renewable for additional periods of twenty-one years on such terms and conditions as may be prescribed by the Commissioner in Executive Council.</p>	<p>The holder of a mineral claim is entitled to all minerals to which "Disposition of Government Mineral Rights" applies that may lie within the boundaries of their claim continued vertically downwards.</p> <p>The holder of a mineral claim, by entry or by lease, located on vacant territorial lands is entitled to all minerals found in veins or lodes, whether the minerals are found separate or in combination with each other in, on or under the lands included in the entry or lease, together with the right to enter on and use and occupy the surface of the claim, or such portion of it and to such extent as the Minister may consider necessary, for the efficient and miner-like operation of the mines and minerals contained in the claim, but for no other purpose.</p>