



CODIFY
MINING REPORT

March 2021

Editors:

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Table of Contents

FEDERAL 2

- SOR/2021-17: Order Amending the Schedule to the Export and Import of Rough Diamonds Act 2
- SOR/2021-18: Regulations Amending the Special Economic Measures (Burma) Regulations..... 3

ONTARIO 4

- Bill 245, Accelerating Access to Justice Act, 2021..... 4

PRINCE EDWARD ISLAND 7

- Bill 2, Government Reorganization Act..... 7

QUEBEC 8

- Bill 74, An Act to give effect to fiscal measures announced in the Budget Speech delivered on 10 March 2020 and to certain other measures 8

YUKON..... 9

- Regulation 2020/168: Order amending the Order Prohibiting Entry on Certain Lands in Yukon (Proposed ATAC Road and Buffer) 9
- Regulation 2021/10: Order amending the Prohibition of Entry on Certain Lands (Ross River Area) Order 10

Other Provinces and Territories..... 11

Student Editors 12

Lawyer Editors..... 13

FEDERAL

SOR/2021-17: Order Amending the Schedule to the Export and Import of Rough Diamonds Act

Registered February 16, 2021

Published March 3, 2021

ENABLING STATUTE

Export and Import of Rough Diamonds Act, S.C. 2002, c. 25

GOVERNMENT NOTE

Since the last amendment to the *Export and Import of Rough Diamonds Act* (the “Schedule”) on January 28, 2019, the list of participants to the Kimberly Process Certification Scheme (“KPCS”) has changed and, as of January 1, 2021, it will include 57 participants representing 83 countries/territories, including the European Union with its 27 member states. As a result of a consensus reached on the admission of the United Kingdom of Great Britain and Northern Ireland to the KPCS during the Kimberley Process plenary in November 2019, the latter country will be admitted to the KPCS on January 1, 2021, and must therefore be added to the Schedule.

EDITOR’S COMMENTS

- The Schedule sets out which countries participate in the Kimberley Process (“KP”). The KP is an international agreement amongst diamond-producing and trading countries, representatives of civil society, and industry that prevents conflict diamonds from entering into legitimate diamond trade. Participation in the KP and KPCS is essential in order for Canadian producers and users of rough diamonds to export and import those goods internationally and remain competitive.
- Under this regulatory amendment, the United Kingdom of Great Britain and Northern Ireland is added to the schedule.

Edited by Erin Bower and Jai Lakhani

SOURCE

<https://gazette.gc.ca/rp-pr/p2/2021/2021-03-03/html/sor-dors17-eng.html>

SOR/2021-18: Regulations Amending the Special Economic Measures (Burma) Regulations

Registered February 18, 2021

Published March 3, 2021

ENABLING STATUTE

Special Economic Measures Act S.C. 1992, c. 17

GOVERNMENT NOTE

On February 1, 2021, under the direction of Senior General Min Aung Hlaing, Commander in Chief of the Myanmar Armed Forces (“Tatmadaw”), the Myanmar military initiated a coup against the democratically elected National League for Democracy (NLD) government.

The situation in Burma constitutes a grave breach of international peace and security that has resulted or is likely to result in a serious international crisis.

The international community has been united in condemning the coup conducted by the Tatmadaw against the democratically elected government, calling on the Tatmadaw to reverse their actions, release all arbitrarily detained individuals, and to refrain from taking violent measures against protestors. Canada has been strongly engaged in diplomatic efforts related to the situation in Myanmar through bilateral and multilateral channels to coordinate actions. Since 2007, Canada has maintained sanctions on Myanmar individuals and entities under the *Special Economic Measures (Burma) Regulations*.

EDITOR’S COMMENTS

- This amendment bolsters pre-existing economic sanctions against the Myanmar military government, by adding nine high-level military officials to a schedule of prohibited individuals.
- The *Regulations Amending the Special Economic Measures (Burma) Regulations* were initially enacted in response to the gravity of the human rights and humanitarian situation in Myanmar (formerly Burma) which, in the opinion of the Government of Canada, constituted a grave breach of international peace and security that has resulted or is likely to result in a serious international crisis.
- According to the Regulations, it is prohibited for any person in Canada and any Canadian outside Canada to: (a) deal in any property, wherever situated, held by or on behalf of a designated person; (b) enter into or facilitate any transaction related to a dealing referred to in paragraph (a); (c) provide any financial or related service in respect of a dealing referred to in paragraph (a); (d) make any goods, wherever situated, available to a designated person; or (e) provide any financial or related service to or for the benefit of a designated person. With:
 - Min Aung Hlaing
 - Soe Win

- Sein Win
- Soe Htut
- Ye Aung
- Mya Tun Oo
- Tin Aung San
- Aung Lin Dwe
- Ye Win Oo

- The objectives of these amendments are to put pressure on the Tatmadaw to change its behaviour and reverse its actions; and to send a clear message to the Tatmadaw that Canada will not accept actions constituting a grave breach of international peace and security.
- In the Regulatory Impact Analysis Statement, the Government of Canada predicts that these sanctions will minimally impact Canadian businesses as it is unlikely that they deal with the newly listed persons.
- Canadian banks and financial institutions must add the new prohibitions to their monitoring systems, which may add minor compliance costs.
- The Government of Canada predicts that the illegal drug, timber, and jade mining economies in Myanmar will continue to grow under the Tatmadaw.

Edited by Erin Bower and Jai Lakhani

SOURCE

<https://gazette.gc.ca/rp-pr/p2/2021/2021-03-03/html/sor-dors18-eng.html>

ONTARIO

Bill 245, Accelerating Access to Justice Act, 2021

Referred to Committee March 2, 2021

Published March 2, 2021

STATUTES OF INTEREST

Conservation Authorities Act, R.S.O. 1990, c. C.27

Mining Act, R.S.O. 1990, c. M.14

Ministry of Natural Resources Act, R.S.O. 1990, c. M.31

GOVERNMENT NOTE

Schedule 6

Ontario Land Tribunal Act, 2021

The Schedule enacts the *Ontario Land Tribunal Act, 2021*. The new Act amalgamates the board of negotiation continued under the *Expropriations Act*, the Conservation Review Board, the

Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal, and continues them as the Ontario Land Tribunal. The Act provides for the composition of the Ontario Land Tribunal, sets out its jurisdiction and powers and specifies the practices and procedures that apply with respect to proceedings before it. The *Consolidated Hearings Act* is repealed, and consolidated hearings provided for under the new Act (section 21). Regulation-making authority is given to the Attorney General to provide for transitional matters.

The Act makes numerous complementary repeals, revocations and amendments:

1. The Acts and provisions that establish the bodies that are amalgamated and continued as the Ontario Land Tribunal are repealed. Regulations made under those Acts and provisions are revoked.
2. The *Expropriations Act* is amended to eliminate the appointment of the chief inquiry officer and other inquiry officers, and to provide for hearings under section 7 of that Act to proceed before the Ontario Land Tribunal.
3. Various Acts are amended to replace references to an amalgamated body with references to the Ontario Land Tribunal.

Schedule 10

Amendments Respecting Appeals to a Minister

The Schedule amends the *Environmental Protection Act*, the *Mining Act*, the *Nutrient Management Act, 2002*, the *Ontario Water Resources Act*, the *Pesticides Act*, the *Safe Drinking Water Act, 2002* and the *Toxics Reduction Act, 2009* to remove provisions that permit specified matters to be appealed to a minister of the Government of Ontario, and to provide for regulation-making authority in each case to address any transitional matters that may arise as a result. A consequential amendment is made to the *Resource Recovery and Circular Economy Act, 2016*.

EDITOR'S COMMENTS

- **Schedule 6** of the proposed Bill would enact the *Ontario Land Tribunal Act, 2021*, which amalgamates the board of negotiation continued under the *Expropriations Act*, the Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal into the Ontario Land Tribunal. Multiple Acts are amended so that references to any of the above tribunals and boards instead refer to the Ontario Land Tribunal. Relevant Acts and their changes follow:

Conservation Authorities Act

- References to “Local Planning Appeal Tribunal” are replaced with “Ontario Land Tribunal”.
- Subsection 27(8) is amended by striking out “the Mining and Lands Tribunal continued under the *Ministry of Natural Resources Act*” at the end and substituting “the Ontario Land Tribunal”.
- Section 27.1 is amended by striking out “Mining and Lands Commissioner” wherever it appears and replacing it with “Ontario Land Tribunal”.

Mining Act

- The definition of “Tribunal” in section 1(1) is replaced with “Ontario Land Tribunal”.
- The heading for part VI is changed from “Mining and Lands Tribunal” to “Ontario Land Tribunal”.

- Various sections regarding the operation and processes of the Mining and Lands Tribunal are repealed:
 - s. 114(3) – Place for a hearing (Tribunal’s authority to select where the hearing will occur)
 - s. 115 – Service of appointment for hearing (process and procedure for service)
 - s. 116 – Powers of Tribunal re proceedings
 - s. 117 – Decision of Tribunal (authority to hear and dispose of any application not involving the final determination of the matter)
 - s. 118 – Expert assistance (use of experts and expert opinion)
 - s. 119 – Tribunal may call for evidence and view property
 - s. 120 – Disclosure of evidence to parties (disclosure of report obtained under ss. 118 and 119 to the parties)
 - s. 122 – Security for costs (costs for a vexatious proceeding or if the proceeding was brought by a person resident outside of Ontario)
 - s. 123 – Use of court rooms, etc.
 - s. 125 – Recording of evidence
 - s. 126 – Costs
 - s. 127 – Scale of Costs
 - ss. 129(1-3) – Form of decision, when order of tribunal takes effect, oral reasons
 - s. 130 – Final order or judgment
 - s. 131 – Certified copy of order or judgment
 - s. 134(5) – Appeal Procedures – Practice
- Multiple sections are amended:
 - s. 128 is amended by striking out “Before the Tribunal or recorder” and replacing it with “before the recorder”.
 - s. 129(4) is amended to read “each order or judgment of the Tribunal”.
 - s. 133 is amended by striking out “including an order dismissing a matter or proceeding under section 122”.
 - s. 152(9) is amended from referencing sections 114, 115, 116, and 118-131 to referencing sections 114, 121, 124, 128, and 129.

Ministry of Natural Resources Act

- Ontario Reg 12/18 (Transition – Establishment of Mining and Lands Tribunal) is revoked.

Schedule 10 makes amendments to the *Mining Act* to eliminate the ability to appeal to the Minister.

- Subsection 152(11) of the *Mining Act* is repealed, removing the ability of a party to a hearing before the Mining and Lands Tribunal to appeal a decision to the Minister.
- Subsection 176(2) is amended by adding a provision authorizing the Lieutenant Governor in Council to govern transitional matters arising from the enactment of Schedule 10 to the *Accelerating Access to Justice Act, 2021*.

Edited by Portia Biswas

SOURCE

<https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-245>

PRINCE EDWARD ISLAND

Bill 2, Government Reorganization Act

1st Reading February 26, 2021

Published February 27, 2021

STATUTES OF INTEREST

Energy Corporation Act, R.S.P.E.I. 1988, Cap. E-7

Environmental Protection Act, R.S.P.E.I. 1988, Cap. E-9

Expropriation Act, R.S.P.E.I. 1988, Cap. E-13

Land Survey Act, R.S.P.E.I. 1988, Cap. L-2.1

Land Surveyors Act, R.S.P.E.I. 1988, Cap. L-3.1

Mineral Resources Act, R.S.P.E.I. 1988, Cap. M-7

Natural Areas Protection Act, R.S.P.E.I. 1988, Cap. N-2

Renewable Energy Act, R.S.P.E.I. 1988, Cap. R-12.1

GOVERNMENT NOTE

SECTION 1 of this Act updates the names of government departments and the titles of Ministers in the *Public Departments Act* to reflect the February 2021 reorganization of Government. The Departments of Environment, Water and Climate Change and Transportation, Infrastructure and Energy are now the Departments of Environment, Energy and Climate Action and Transportation and Infrastructure and the titles of the Ministers responsible have been changed accordingly.

SECTION 2 amends Schedule A of the *Financial Administration Act* to update the names of government departments to reflect the February 2021 reorganization of Government. The Departments of Environment, Water and Climate Change and Transportation, Infrastructure and Energy are now the Departments of Environment, Energy and Climate Action and Transportation and Infrastructure.

SECTION 3 amends the specified Acts to reflect changes to the names of government departments and titles of Ministers as a result of the February 2021 reorganization of Government. The Departments of Environment, Water and Climate Change and Transportation, Infrastructure and Energy are now the Departments of Environment, Energy and Climate Action and Transportation and Infrastructure and the titles of the Ministers responsible have been changed accordingly.

EDITOR'S COMMENTS

- *Energy Corporation Act* – Subsection 11(2) is amended by deleting the words “Transportation, Infrastructure and Energy” wherever they occur and substituting the words “Transportation and Infrastructure”.
- *Environmental Protection Act* – Clauses 1(c) and (k) are amended by deleting the words “Environment, Water and Climate Change” and substituting the words “Environment, Energy and Climate Action”.

- *Expropriation Act* – Section 31 is amended by deleting the words “Transportation, Infrastructure and Energy” and substituting the words “Transportation and Infrastructure”.
- *Land Survey Act Clause* – 1(b) is amended by deleting the words “Transportation, Infrastructure and Energy” and substituting the words “Transportation and Infrastructure”.
- *Land Surveyors Act* – Clauses 1(j) and 6(2)(a) are amended by deleting the words “Transportation, Infrastructure and Energy” and substituting the words “Transportation and Infrastructure”.
- *Mineral Resources Act* – Clauses 1(c) and (m) are amended by deleting the words “Transportation, Infrastructure and Energy” and substituting the words “Transportation and Infrastructure”.
- *Natural Areas Protection Act* – Clause 1(a) is amended by deleting the words “Environment, Water and Climate Change” and substituting the words “Environment, Energy and Climate Action”.
- *Renewable Energy Act* – Clause 1(1)(k) is amended by deleting the words “Transportation, Infrastructure and Energy” and substituting the word “Environment, Energy and Climate Action”.

Edited by Portia Biswas

SOURCE

<https://www.assembly.pe.ca/legislative-business/house-records/bills#/home/LegislativeAssemblyBillProgress/LegislativeAssemblyBillView;e=LegislativeAssemblyBillView;id=576fab85-a7ee-4a00-ab75-c0ecb23dd447>

QUEBEC

Bill 74, An Act to give effect to fiscal measures announced in the Budget Speech delivered on 10 March 2020 and to certain other measures

Adopted du principe (*English: passage in principle / second reading*) February 2, 2021
Published February 2, 2021

STATUTES OF INTEREST

Mining Tax Act, C.Q.L.R. c. I-0.4

GOVERNMENT NOTE

The purpose of this bill is to give effect to fiscal measures announced in the Budget Speech delivered on March 10, 2020 and to certain other measures. For the purpose of introducing or modifying measures specific to Quebec, the bill amends the *Taxation Act* and the Act respecting the sectoral parameters of certain fiscal measures.

In addition, as a consequence of the COVID-19 pandemic, the bill introduces various transitional measures whose effect is to (1) extend several time limits that are due to expire in 2020 under the Act respecting parental insurance, the *Mining Tax Act*, the *Taxation Act*, the *Act respecting the legal publicity of*

enterprises, the Act respecting the Régie de l'assurance maladie du Québec, the Act respecting the Québec Pension Plan and the Act respecting the Québec sales tax, including the time limits applicable to the filing of an individual's fiscal return, the payment, in certain cases, of the balance of tax payable and of provisional accounts, the remittance of the Québec sales tax as well as the filing of the return respecting the tax on lodging and the remittance of the related tax payable.

EDITOR'S COMMENTS

- Defers certain dates related to the payment or refund of duties by an operator under certain parts of the *Mining Tax Act* to September 30, 2020.
- Amends section 4.4 of the *Mining Tax Act* to modify the definition of "relevant spot rate" as it pertains to the conversion of an amount from one currency to another.

Edited by Erin Bower

SOURCE

<http://m.assnat.qc.ca/en/travaux-parlementaires/projets-loi/projet-loi-74-42-1.html>

YUKON

Regulation 2020/168: Order amending the Order Prohibiting Entry on Certain Lands in Yukon (Proposed ATAC Road and Buffer)

Registered December 7, 2020

Published January 14, 2021

ENABLING STATUTE

Placer Mining Act, S.Y. 2003, c. 13

Quartz Mining Act, S.Y. 2003, c. 14

GOVERNMENT NOTE

No summary.

EDITOR'S COMMENTS

- The prohibition from entering onto designated lands (being the ATAC Proposed Tiger Tote Road Route and buffer zone) to: (i) locate a claim or prospect for precious minerals or stones under

the *Placer Mining Act*; or, (ii) locate, prospect, or mine minerals under the *Quartz Mining Act* is extended until January 1, 2022.

Edited by Erin Bower and Jai Lakhani

SOURCE

<https://legislation.yukon.ca/pdf/2021-0001.pdf>

Regulation 2021/10: Order amending the Prohibition of Entry on Certain Lands (Ross River Area) Order

Registered January 28, 2021

Published February 17, 2021

ENABLING STATUTE

Placer Mining Act, S.Y. 2003, c. 13

Quartz Mining Act, S.Y. 2003, c. 14

GOVERNMENT NOTE

No summary.

EDITOR'S COMMENTS

- The prohibition from entering onto designated lands (being the Ross River Area) to (i) locate a claim or prospect for precious minerals or stones under the *Placer Mining Act*; or, (ii) locate, prospect, or mine minerals under the *Quartz Mining Act* is extended until April 30, 2022.

Edited by Erin Bower and Jai Lakhani

SOURCE

<https://legislation.yukon.ca/pdf/2021-0002.pdf>

Other Provinces and Territories

NOTE: There was no new legislation pertinent to this report for the provinces and territories not mentioned above during the months of January and February.

Student Editors



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Full Bio:

Erin is a recent law school graduate from the University of Alberta. Prior to law school, she obtained a Bachelor of Science in Psychology from the University of Calgary. While at law school she became interested in natural resource law and energy law through her coursework. She also served for two years as a member of the Editorial Board for the Alberta Law Review. Currently, she is clerking at the Alberta Court of Appeal. After her time at the Court she will finish her articles with Osler, Hoskin & Harcourt LLP in Calgary.



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Full Bio:

Portia is a third-year law student at Osgoode Hall Law School and is currently a summer student at Aird & Berlis LLP in Toronto. Prior to law school, Portia obtained a Bachelor of Arts in

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Full Bio:

Michael's practice is focused in the mining industry. A member of the Global Mining Group, he acted as the group's co-ordinator from 2004-2012. A recognized expert, Michael has accumulated extensive experience on both Canadian and international mining projects.

Michael was Co-Chair of the International Bar Association's Mining Executive Committee and a past Director of both the Rocky Mountain Mineral Law Foundation and the Prospectors and Developers Association of Canada. Michael also frequently writes on important CSR trends in the mining industry, and speaks on a wide range of mining related topics.

Widely recognized for his mining expertise, Michael has been ranked in several leading legal publications including Chambers Global, Chambers Canada and the Canadian Legal Lexpert Directory. He has also been named Who's Who Legal's "Mining Lawyer of the Year" in 2010, 2011, 2012, 2014 and 2017, and been recognized in their International Who's Who of Mining Lawyers, for 13 consecutive years.



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A highly versatile lawyer, he draws from broad experience to advise clients on complex legal matters. Prior to Bennett Jones, Jai worked at Bell Canada leading regulatory projects on a national scale, and was previously seconded to both Volkswagen Group Canada and the enforcement branch of the Ontario Securities Commission.

Jai graduated from Osgoode Hall and the Schulich School of Business with a JD / MBA and also holds an undergraduate degree in business from Wilfrid Laurier University with a specialization in international finance and accounting.