



**stornoway**  
DIAMOND CORPORATION

**Ontario Mining Act Seminar  
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Diamond Royalty Provisions

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- Diamond Mining Royalty introduced in 2007 Provincial Budget and incorporated into Mining Act as Part VIII “Royalty on Diamonds” (section 154), and accompanied by regulations July 2007.
- The Diamond Royalty was established in direct response to the establishment of the De Beers Victor Mine, Ontario’s first diamond producer, which commenced production in 2008.
- The new royalty was contentious. It replaced a 5% mining royalty rate applicable under Ontario’s remote location provision, and came following the bulk of Victor’s capital expenditure.
- Rate is an effective 13%, graduated between 5% to 14% up to \$45m production value.
- Regulations provide for a valuation formula, diamond royalty valuer process, deductions and allowances, return and payment, dispute mechanism, penalties etc.
- Ontario has enjoyed the precedence of the diamond royalty mechanism established within the federal Canada Mining Regulations, and applied by INAC in the NWT and Nunavut since 1998.
- Ontario’s diamond royalty regime was created for a single owner operator (De Beers Canada), with a diamond marketing channel that comprises the mixing of mine production prior to sale. This provides challenges for reconciliation between final sales revenue mine production.
- Amendments contained with the 2009 Amended Mining Act reflect the gained, practical experience of levying a royalty from an operating diamond mine.

## ***Definition of “Operator”***

- Expanded definition to include non single owner-operator scenarios such as JV arrangements, minority partners, trusts etc

## ***Housekeeping Amendments***

- Provision for the levying of a royalty in a year with <12 months production
- More realistic time periods defined for the notice of royalty and revised notice(s) of royalty

## ***Fleshed Out Audit Mechanism***

- Much more comprehensive and specific rights to audit, including amendments on access to records, inventory, obligations of operator to provide data, etc
- Provision for admissibility of evidence in future potential disputes
- Powers of Inquiry
- Confidentiality obligations on Minister’s representatives, to prevail over the *Freedom of Information and Protection of Privacy Act*, but not the *Export and Import of Rough Diamonds Act*.