

**THE MINES AND MINERALS DEVELOPMENT
ACT, 2015**

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GOVERNMENT OF ZAMBIA

ACT

No. 11 of 2015

Date of Assent: 14th August, 2015

An Act to revise the law relating to the exploration for, mining and processing of, minerals; provide for safety, health and environmental protection in mining operations; provide for the establishment of the Mining Appeals Tribunal; repeal and replace the Mines and Minerals Development Act, 2008; and provide for matters connected with, or incidental to, the foregoing.

[14th August, 2015

ENACTED by the Parliament of Zambia

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Mines and Minerals Development Act, 2015, and shall come into operation on 1st July, 2015.

Short title
and
commence-
ment

2. (1) In this Act, unless the context otherwise requires—

interpretation

“ access agreement ” means an agreement entered into between the holder of a mining right and an owner or occupier of land over which the mining right subsists, for the conduct of exploration, mining or other activities authorised by the mining right to be carried on upon the land;

“ appropriate authority ” in relation to any matter, means the Minister responsible for that matter or such public officer as the Minister may authorise to give the requisite consent in that behalf;

“ artisanal mining ” means an artisan’s mining operation undertaken by a citizen pursuant to a mining licence granted under Part III;

- “ authorised officer ” means a public officer or other person designated as such under subsection (8) of section *five*;
- “ base metal ” means iron, copper, nickel, aluminium, lead, zinc, tin, magnesium, cobalt, manganese, titanium, scandium, vanadium, molybdenum, chromium, tungsten, tantalum, bismuth, cadmium, zirconium, antimony, beryllium, germanium and rare earth elements, or a non-precious metal that is common or chemically active, or both common and chemically active;
- Act No. 14 of 2015 “ bird sanctuary ” has the meaning assigned to it in the Zambia Wildlife Act, 2015;
- “ cadastre unit ” means a quadrilateral formed by the intersection of meridians and parallels and with a distance equal to six sexagesimal seconds, and that covers an average planimetric surface of *three point three four zero zero* hectares;
- “ certificate of abandonment ” means the certificate granted by the Director of Mining Cadastre under section *seventy* at the abandonment of a mining or non-mining right;
- Cap. 1 “ citizen ” has the meaning assigned to it in the Constitution, and in relation to a partnership, means a partnership which is composed exclusively of citizens;
- “ citizen-empowered company ” means a company where twenty-five to fifty percent of its equity is owned by citizens;
- Act No. 9 of 2006 “ citizen-influenced company ” has the meaning assigned to it in the Citizens Economic Empowerment Act, 2006;
- Act No. 9 of 2006 “ citizen-owned company ” has the meaning assigned to it in the Citizens Economic Empowerment Act, 2006;
- Cap. 321 “ Commissioner-General ” means the Commissioner-General appointed under the Zambia Revenue Authority Act;
- “ Committee ” means the Mining Licensing Committee established under section *six*;
- Act No. 14 of 2015 “ Community Partnership Park ” has the meaning assigned to it in the Zambia Wildlife Act, 2015;
- Cap. 388 “ company ” means a private or public company as defined in the Companies Act;

- “ conflict mineral ” means a mineral which is mined from an area of armed conflict;
- “ co-operative ” means a co-operative society established under the Co-operative Societies Act, 1998; Act No. 20
of 1998
- “ day ” means a calendar day;
- “ decision letter ” means a letter issued by the Zambia Environmental Management Agency stating that—
- (a) a proposed project is not likely to cause adverse effects on the environment; or
 - (b) a proposed project is likely to bring about adverse effects on the environment and an authorisation, licence, permit or permission should not be issued to the applicant;
- “ Director of Geological Survey ” means the person appointed as such under paragraph (c) of subsection (1) of section *five*;
- “ Director of Mines ” means the person appointed as such under paragraph (a) of subsection (1) of section *five*;
- “ Director of Mines Safety ” means the person appointed as such under paragraph (b) of subsection (1) of section *five*;
- “ Director of Mining Cadastre ” means the person appointed as such under paragraph (d) of subsection (1) of section *five*;
- “ Directors ” means the Director of Mines, Director of Mines Safety, Director of Mining Cadastre and Director of Geological Survey;
- “ energy mineral ” means a naturally occurring substance in the earth’s crust used as a source of energy, and includes coal, uranium and any other mineral used to generate energy, but does not include petroleum;
- “ environmental impact assessment ” has the meaning assigned to it in the Environmental Management Act, 2011; Act No. 12
of 2011
- “ exploration area ” means the land covered by an exploration licence;
- “ exploration licence ” means an exploration licence granted under section *twenty-three*;

Act No. 14
of 2015

- “exploration” means the search for a mineral by any means and carrying out of such works, and removal of such samples, as may be necessary to test the mineral bearing qualities of any land and define the extent and determine the economic value of a mineral deposit;
- “*force majeure*” means an event which is beyond the reasonable control of a holder and which makes the exploration or mining operations under the licence impossible;
- “Game Management Area” has the meaning assigned to it in the Zambia Wildlife Act, 2015;
- “gemstone” includes amethyst, aquamarine, beryl, corundum, diamond, emerald, garnet, ruby, sapphire, topaz, tourmaline and any other nonmetallic mineral substance used in the manufacture of jewellery;
- “gold panning” means the process of liberating gold from a placer deposit by gentle agitation and gravity in a pan through a water course or body;
- “gold panning certificate” means a certificate for gold panning granted under section *forty-two*;
- “holder” means the person in whose name a mining right or non-mining right is registered under this Act;
- “industrial minerals” includes a rock or mineral other than gemstones, base metals, energy minerals or precious metals used in their natural state or after physical or chemical transformation, including barites, dolomite, feldspar, fluorspar, graphite, gypsum, ironstone when used as a fluxing agent, kyanite, limestone, phyllite, magnesite, mica, nitrate, phosphate, pyrophyllite, salt, sand, clay, talc, laterite, gravel, potash, potassium minerals, granite, marble, clay, silica, diatomite, kaolin, bentonite or quartz;
- “large-scale exploration” means exploration over an area covering a minimum of three hundred and one cadastre units and not exceeding fifty-nine thousand eight hundred and eighty cadastre units;
- “large-scale mining” means mining over an area of a minimum of one hundred and twenty-one cadastre units and not exceeding seven thousand four hundred and eighty-five cadastre units;

- “ local office ” means an office of the Mining Cadastre Department of the Ministry;
- “ mine ” means any place, pit, shaft, drive, level or other opening or excavation, and any drift, gutter, lead, vein, lode, reef, saltpan or working, in or on or by means of which any operation connected with mining is carried on, together with all the works, machinery, plant, buildings, premises, erections and appliances, whether above or below the ground, that are used in connection with the operation or for the extraction, treatment or preparation of any mineral or for the purpose of dressing mineral ores;
- “ mineral ” means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth or under water, formed by or subjected to a geological process, or any substance occurring in tailing dams, slag dumps, waste rock dumps, residue waste rock dumps, residue stockpiles or residue deposit, but excludes —
- (a) water, other than water taken from the land or any water body for the extraction of any mineral from that water; and
 - (b) petroleum;
- “ mineral processing ” means the practice of beneficiating or liberating valuable minerals from their ores which may combine a number of unit operations such as crushing, grinding, sizing, screening, classification, washing, froth floatation, gravity concentration, electrostatic separation, magnetic separation, leaching, smelting, refining, calcining and gasification or any other processes incidental thereto;
- “ mineral processing licence ” means a licence granted under Part III for processing minerals and cutting, polishing and manufacturing jewellery;
- “ mineral processing operations ” means an operation carried out under a mineral processing licence;
- “ mineral product ” means any mineral substance, in any form, extracted for commercial purposes pursuant to a mining right, or any product obtained from the mineral substance by way of mineral processing;

- “ mineral royalty ” means a payment received as consideration for the extraction of minerals;
- “ mineral trading permit ” means a mineral trading permit granted under Part III;
- “ mining ” means the extraction of material, whether solid, liquid or gaseous, from land or from beneath the surface of the earth in order to win minerals, or any operations directly or indirectly necessary or incidental to the extraction of the material;
- “ mining area ” means an area of land subject to a licence under this Act;
- “ Mining Cadastre Office ” means the central administrative office for processing applications for mining rights and mineral processing licences established pursuant to section *eight*;
- “ mining licence ” means a mining licence granted under section *thirty-two*;
- “ mining operations ” means an operation carried out under a mining right, excluding an operation carried out under an exploration licence or mineral processing licence;
- “ mining plant ” means any building, plant, machinery, equipment, tools or other property used for mining, whether or not affixed to land, excluding any timber or other material used or applied in the construction or support of any shaft, drive, gallery, terrace, race, dam or other work;
- “ mining right ” means a right granted under subsection (1) of section *thirteen*;
- “ non-mining right ” means a mineral processing licence or mineral trading permit granted under this Act;
- “ open cast mining operations ” means any working or excavation open to the surface beneath the original surface of the ground for the purpose of mining, but excludes prospecting pits;
- “ ore ” means a natural aggregate of one or more minerals which may be mined and sold at a profit or from which some parts may be profitably extracted;

- “petroleum ” has the meaning assigned to it in the Petroleum (Exploration and Production) Act, 2008, but does not include coal; Act No. 10 of 2008
- “ person ” includes a partnership and co-operative;
- “precious metal” means gold, platinum, palladium, indium, osmium, rhodium, iridium, ruthenium, selenium and silver, or any other relatively scarce, highly corrosion resistant metal of high economic value;
- “ radioactive mineral ” means a mineral which contains by weight at least onetwentieth of one percent of uranium or thorium or any combination thereof, including—
- (a) monazite, sand and other ores containing thorium; and
 - (b) carnotite, pitchblende and other ores containing uranium;
- “ regional certificate ” means a forgery resistant document with a format that identifies a shipment of specified minerals as having complied with the requirements of a regional mineral tracking and certification scheme;
- “ regional mining cadastre offices ” means mining cadastre offices established in districts throughout the Republic, other than Lusaka, to enable the public lodge applications for mining rights and non-mining rights;
- “ register ” means a register established and maintained pursuant to section *seventy-nine*;
- “ registered office ” means an office of a holder for the purpose of delivery of correspondence, service of notices or documents and for the storage of records as provided under this Act;
- “ repealed Act ” means the Mines and Minerals Development Act, 2008; Act No. 7 of 2008
- “ single licensing system ” has the meaning assigned to it in the Business Regulatory Act, 2014; Act No. 3 of 2014
- “ small-scale exploration ” means exploration over an area covering a minimum of three cadastre units and not exceeding three hundred cadastre units;

“small-scale mining” means mining over an area covering a minimum of three cadastre units and not exceeding one hundred and twenty cadastre units;

“technical committee” means a technical committee established by the Minister to evaluate bids under section *nineteen*;

“Tribunal” means the Mining Appeals Tribunal established under section *ninety-eight*;

“underground mining operations” means any working beneath the surface of the ground, which is accessed by means of a ramp, adit, raise, shaft or winze, but does not include an open pit mine or quarry;

“wildlife sanctuary” has the meaning assigned to it in the Zambia Wildlife Act, 2015; and

“Zambia Environmental Management Agency” means the Zambia Environmental Management Agency established under the Environmental Management Act, 2011.

Act No. 14
of 2015

Act No. 12
of 2011

(2) A reference in this Act to land subject to a mining right or mineral processing licence means a reference to an area of land in respect of which a mining right or mineral processing licence has been granted and subsists.

Ownership of
minerals

3. (1) All rights of ownership in, searching for, mining and disposing of, minerals wheresoever located in the Republic vest in the President on behalf of the Republic.

(2) This section has effect notwithstanding any right, title or interest which a person may possess in or over the soil in, on or under which minerals are found.

General
principles for
mining and
minerals
development

4. The following principles shall apply to the mining and development of minerals—

(a) mineral resources are a non-renewable resource and shall be conserved, developed and used prudently, taking into account the needs of the present and future generations;

(b) mineral resources shall be explored and developed in a manner that promotes and contributes to socio-economic development and in accordance with international conventions to which Zambia is a party;

- (c) the exploitation of minerals shall ensure safety, health and environmental protection;
- (d) wasteful mining practices shall be avoided so as to promote sustainable development and prevent adverse environmental effects;
- (e) citizens shall have equitable access to mineral resources and benefit from mineral resources development; and
- (f) development of local communities in areas surrounding the mining area based on prioritisation of community needs, health and safety.

PART II

ADMINISTRATION

5. (1) The Public Service Commission shall appoint as public officers —

Directors
and other
officers

- (a) the Director of Mines;
- (b) the Director of Mines Safety;
- (c) the Director of Geological Survey; and
- (d) the Director of Mining Cadastre.

(2) The Directors referred to in subsection (1) shall exercise and perform the powers and functions conferred or imposed upon the Directors by or under this Act or any other written law.

(3) The Director of Mines shall supervise and regulate the proper and effectual development of mines and conduct of mining operations in accordance with the provisions of this Act.

(4) The Director of Mines Safety shall have responsibility for matters concerning the environment, public health and safety in exploration, mineral processing and mining operations.

(5) The Director of Geological Survey shall—

- (a) undertake the geological mapping of Zambia and exploration operations on behalf of the Republic;
- (b) advise the Minister on geological matters;
- (c) provide data concerning the geology and mineral resources of Zambia, and assist members of the public on information concerning geological matters; and

(d) maintain such laboratory and library and record facilities as may be necessary for the performance of the functions under this Act.

(6) The Director of Mining Cadastre shall be responsible for the administration of mining rights and mineral processing licences.

(7) The Public Service Commission shall appoint such other public officers as may be necessary for the administration of this Act.

(8) The Directors may, by *Gazette* notice, designate any public officer to be an authorised officer for the purpose of the exercise and performance of all or any of the functions conferred on an authorised officer by the provisions of this Act.

(9) An authorised officer shall be provided with a certificate of appointment, which shall be *prima facie* evidence of the authorised officer's designation as such.

(10) An authorised officer shall, on demand by a person affected by the exercise of any power under this Act, produce for inspection the authorised officer's certificate of appointment.

(11) The Minister may attach the Director of Mines, Director of Mines Safety or Director of Geological Survey or an authorised officer to exploration, mining or mineral processing operations, border posts or mineral product trading centres in order to enforce the provisions of this Act.

Mining
Licensing
Committee

6. (1) There is established the Mining Licensing Committee which shall —

(a) consider applications for mining rights and non-mining rights and grant, renew or refuse to grant or renew mining rights and non-mining rights;

(b) terminate, suspend or cancel mining rights and non-mining rights;

(c) amend the terms and conditions of mining rights and non-mining rights; and

(d) advise the Minister on matters relating to its functions under this Act.

(2) The Committee shall consist of the following members who shall be appointed by the Minister—

- (a) the Director of Mines;
- (b) the Director of Geological Survey;
- (c) the Director of Mines Safety;
- (d) the Director of Mining Cadastre who shall be secretary;
- (e) one representative each of the Ministries responsible for —
 - (i) the environment;
 - (ii) land;
 - (iii) finance; and
 - (iv) labour; and
- (f) a representative of —
 - (i) the Attorney-General;
 - (ii) the Zambia Development Agency; and
 - (iii) the Engineering Institution of Zambia.

(3) A person shall not be appointed as a member of the Committee if the person—

- (a) is an undischarged bankrupt;
- (b) has been convicted of an offence under this Act or any other relevant written law;
- (c) has been convicted of an offence involving fraud or dishonesty; or
- (d) has a mental or physical disability that makes the person incapable of performing the functions of a member.

(4) The Minister shall, where practicable ensure equitable gender representation when appointing the members of the Committee.

(5) The Minister shall appoint the Chairperson of the Committee and the members shall elect the Vice-Chairperson of the Committee from amongst themselves.

(6) The Committee may, in considering an application under this Act, consult any person in the area to which an application for a mining or non-mining right relates who may be affected by the grant, termination, suspension, cancellation or renewal of a mining or nonmining right.

(7) The Minister shall, where the Minister disposes of any matter contrary to the advice of the Committee, furnish the Committee with a statement, in writing, of the Minister's reasons for doing so.

(8) The provisions of the Schedule apply to the Committee.

Honorary
inspectors

7. (1) The Minister may, in consultation with the Directors, by notice in the *Gazette*, on such terms and conditions as the Minister may specify in the notice, appoint any suitably qualified person as an honorary inspector.

(2) The appointment of an honorary inspector may be —

(a) general, so that the honorary inspector is empowered to act in any part of the Republic, in a mining area or other area specified in the notice of appointment; or

(b) limited, so that the honorary inspector is empowered to act in areas of the honorary inspector's residence including a mining area as may be specified in the notice of appointment.

(3) Subject to the provisions of this Act and the terms of the notice of appointment, an honorary inspector shall, within the terms of appointment, exercise the functions and perform the duties of an authorised officer.

Mining
Cadastre
Office

8. (1) There shall be a Mining Cadastre Office which shall —

(a) receive and process applications for mining rights and mineral processing licences;

(b) administer mining rights and mineral processing licences; and

(c) maintain public cadastral maps and cadastre registers.

(2) The Ministry shall establish regional mining cadastre offices which shall receive applications for mining rights and forward the applications for processing by the Mining Cadastre Office.

Execution
and
delegation of
powers and
functions of
Directors
and other
officers

9. (1) Where an office referred to in subsection (1) of section *five* is vacant or the holder of the office is, owing to illness or other cause, unable to exercise or perform the powers and functions of office, the Public Service Commission shall appoint another person to exercise or perform the powers and functions of that office.

(2) The holder of an office referred to in subsection (1) may, by *Gazette* Notice, and subject to such terms and conditions as may be specified in the Notice, delegate to any public officer the exercise or performance of any of the powers and functions conferred or imposed on the holder of the office by this Act.

(3) The holder of an office referred to in subsection (1) may exercise or perform a power or function despite the delegation of the exercise or performance of the power or function to some other person.

10. (1) The Directors or an authorised officer may, at any reasonable time, enter upon a mining area or any premises or working on or under the mining area to —

Powers of
Directors
and
authorised
officers

- (a) inspect the area, premises or workings and examine exploration, mining or mineral processing operations or the treatment of minerals at the area, working or premises;
- (b) ascertain whether or not the provisions of this Act or the conditions of a mining right or non-mining right are being complied with;
- (c) ascertain whether or not any nuisance exists upon the area, land or mine or in the premises or workings;
- (d) give directions and take steps to enforce any provision of this Act or to abate or remove any nuisance;
- (e) take soil samples or specimens of rocks, ore concentrates, tailings, minerals or any other material from the area, premises or workings for the purpose of examination or assay;
- (f) examine books, accounts, vouchers, documents, maps, drilling logs or records of any kind; or
- (g) obtain any information necessary for the purposes of this Act.

(2) The Directors or an authorised officer may, at any reasonable time, inspect and make copies of any book, account, voucher, document, map, drill logs or record kept by a holder of a mining right or non-mining right for purposes of this Act.

(3) A holder of a mining right or non-mining right shall provide such reasonable assistance as is required to enable the Directors or an authorised officer to exercise or perform any power or function under this section.

(4) A person who, without reasonable excuse, delays, hinders or obstructs the Directors or an authorised officer in the exercise or performance of any power or function under this section commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Immunity

11. The Directors or an authorised officer shall not be liable for anything done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of any power or function conferred or imposed on the Directors or authorised officers by or under this Act.

PART III

MINING RIGHTS AND NON-MINING RIGHTS

Division 1 - General

Prohibition of exploration, mining or mineral processing without licence or environmental impact assessment

12. (1) A person shall not explore for minerals or carry on mining operations, mineral processing operations or gold panning except under the authority of a mining right, mineral processing licence or gold panning certificate granted under this Act.

(2) A person shall not undertake exploration, mining or mineral processing activities without obtaining the prior written approval of the environmental impact assessment relating to the exploration, mining or mineral processing operations by the Zambia Environmental Management Agency as provided under section *twenty-nine* of the Environmental Management Act, 2011.

Act No. 12 of 2011

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable, upon conviction—

(a) in the case of an individual, a partnership or co-operative, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both; or

(b) in the case of a body corporate, to a fine of five million penalty units.

Types of rights

13. (1) The following mining rights may be granted under this Act:

(a) an exploration licence; and

(b) a mining licence.

(2) The following non-mining rights may be granted under this Act—

- (a) a mineral processing licence;
- (b) a mineral trading permit;
- (c) mineral import permit;
- (d) mineral export permit; and
- (e) gold panning certificate.

(3) A mining right over an area between a minimum of two cadastre units and a maximum of one hundred and twenty cadastre units in extent shall only be granted to the following companies:

- (a) citizen-influenced company;
- (b) citizen-empowered company; and
- (c) citizen-owned company.

(4) A mining right over an area exceeding two cadastre units shall only be granted to a company.

14. (1) A mining right or non-mining right shall not be granted to any person except in accordance with the provisions of this Act.

Disqualification
from holding
mining rights

(2) A mining right or non-mining right shall not be granted to or held by a company which—

- (a) is in liquidation, other than liquidation which forms part of a scheme for the reconstruction of the company or for its amalgamation with another company;
- (b) is not incorporated under the Companies Act;
- (c) has not established a registered office in Zambia; or
- (d) has among its directors or shareholders holding more than ten percent of the issued equity of the company, a person who —

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- (i) is or becomes an undischarged bankrupt under any written law, or enters into an agreement or composition with creditors, or takes advantage of a legal process for the relief of bankrupt or insolvent debtors; or

- (ii) has been convicted, within the previous five years, of an offence involving fraud or dishonesty, or of an offence under this Act or any other written law within or outside Zambia, and sentenced to imprisonment without the option of a fine.

(3) A mining right or non-mining right shall not be granted to or held by an individual who —

- (a) is under the age of eighteen years;
- (b) is or becomes an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any written law, or enters into any agreement or composition with creditors, or takes advantage of any legal process for the relief of bankrupt or insolvent debtors; or
- (c) has been convicted, within the previous five years, of an offence involving fraud or dishonesty, or of an offence under this Act or any other written law within or outside Zambia and sentenced to imprisonment without the option of a fine.

(4) A document or transaction purporting to grant a mining right or a non-mining right to any person not entitled to hold the right under this Act is void.

Priority of applications for mining rights

15. Subject to this Act, where more than one person apply for a mining right over the same area of land, the Committee shall dispose of the applications in the order in which they are received.

Mining right for area subject to other rights

16. (1) An applicant for a mining right over an area subject to another mining right shall apply for consent from the holder of the mining right, which consent shall not be unreasonably withheld.

(2) A holder of a mining right over an area in respect of which an application is made under subsection (1) may, within a period of ninety days, give consent, in writing, to the applicant if—

- (a) the minerals or metals applied for are different from those indicated on the holder's licence;
- (b) the geographical position of the minerals or metals applied for is different from the holder's resource indicated in the approved programme of operations; and
- (c) the geographical location of the application for the mining right does not compromise the integrity of the exploration or mining programme of the holder of the existing mining right.

(3) An applicant shall, where a holder of a mining right over an area in respect of which the application is made withholds consent, apply to the Minister, who shall determine the matter taking into account the matters referred to in subsection (2).

17. (1) Subject to the other provisions of this Act, the Government may acquire mining rights for Government investment over identified areas.

Acquisition
of mining
rights by
Government

(2) The identified area referred to in subsection (1) shall be reserved for Government investment and shall not be subject to an application for the acquisition of a mining right by any person.

(3) Mining rights acquired in accordance with sub-section (1) shall be granted to a Government investment company in accordance with this Act or any other relevant written law.

18. (1) An applicant for a mining licence shall submit to the Mining Cadastre Office, at the time of application, the proposed positions of all beacons defining the location and extent of the land under application

Survey of
land

(2) A holder of a mining right or mineral processing licence shall, within one hundred and eighty days of the grant of the licence, survey and demarcate the area covered by the licence in the prescribed manner and register a pegging certificate at the Mining Cadastre Office.

(3) A person who contravenes subsection (2) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding four years, or to both.

19. (1) Subject to the other provisions of this Act, the Minister shall, by notice in a daily newspaper of general circulation in Zambia, issue invitations for bids for mining rights over identified areas or mineral resources which are not subject to mining rights or non-mining rights.

Bids

(2) The notice referred to in subsection (1) shall include—

(a) a description of the areas with map and geographical coordinates for which the bids are to be solicited;

(b) the procedures and rules relating to the submission of the bids; and

(c) the period within which the bids shall be submitted.

(3) The Minister shall establish a technical committee to evaluate bids under this section.

(4) The Minister shall, within fourteen days from the date of the expiry of the period referred to in paragraph (c) of subsection (2), refer the bids for evaluation by the technical committee established under subsection (3).

(5) The technical committee shall consider the following in evaluating the bids:

- (a) the bidder's investment and financial plan;
- (b) in the case of a holder of a mining right, whether the holder has been compliant with the provisions of this Act and the terms and conditions of the mining right;
- (c) the bid price; and
- (d) any other relevant matters for purposes of this Act.

(6) The technical committee shall provide a detailed analysis of all the bids, ranked in accordance with pre-determined parameters, and recommend to the Committee the bidder with the highest score to be granted the relevant mining right in accordance with the provisions of this Act.

(7) The Committee shall, upon receipt of the recommendation by the technical committee, grant a mining right to the recommended bidder in accordance with the provisions of this Act.

Preference
for
Zambian
products,
contractors
and services
and
employment
of citizens

20.(1) A holder of a mining right or a mineral processing licence shall, in the conduct of mining operations or mineral processing operations and in the purchase, construction, installation and decommissioning of facilities, give preference to the —

- (a) materials and products made in Zambia; and
- (b) contractors, suppliers and service agencies located in Zambia and owned by citizens or citizen-owned companies.

(2) A holder of a mining right or mineral processing licence shall, in the course of operations—

- (a) give preference in employment to citizens with relevant qualifications or skills; and
- (b) conduct training programmes for the transfer of technical and managerial skills to Zambians.

(3) A person who contravenes subsection (1) or (2) is liable to pay a fine of five hundred thousand penalty units and an additional fine of twenty thousand penalty units for each day during which the default continues.

Division 2 - Exploration Licence

21. (1) An application for an exploration licence shall be made to the Director of Mining Cadastre in the prescribed form upon payment of the prescribed fee.

Application
for
exploration
licence

(2) The area of land over which an application for an exploration licence is made shall be represented by complete and contiguous cadastre units as follows:

- (a) for small-scale exploration, a minimum of three cadastre units and not exceeding three hundred cadastre units; and
- (b) for large-scale exploration, a minimum of three hundred and one cadastre units and not exceeding fifty-nine thousand eight hundred and eighty cadastre units.

(3) Subject to subsection (4) and the other provisions of this Act, a company or its subsidiaries shall not hold a number of licences whose accumulated total area is more than two hundred and ninety-nine thousand, four hundred cadastre units.

(4) A company that accumulates an exploration area in excess of one hundred and forty-nine thousand, seven hundred cadastre units shall pay additional fees for the excess area as may be prescribed.

22. (1) The Committee shall, in considering an application made under section *twenty-one*, take the following into account:

Consideration
of
application
for
exploration
licence

- (a) that the applicant has the financial resources and technical ability to conduct the proposed exploration optimally in accordance with the exploration work programme;
- (b) that the estimated expenditure is compatible with the proposed exploration work programme, area size and duration of the exploration work programme;
- (c) if the land is within a National Park, Community Partnership Park, Game Management Area, bird or wildlife sanctuary, National Forest, Local Forest, Botanical Reserve or private forest or is land to which subsection (1) of section *fifty-two* applies, the applicant has obtained the necessary written consent of the appropriate authority;

- (d) that the proposed programme of exploration operations is adequate and makes proper provision for environmental protection;
 - (e) that the proposed exploration area is not the same as, and does not overlap in any manner with, an existing mining right or mineral processing licence area; and
 - (f) if the applicant is a holder, that the applicant has not contravened any condition of the licence or permit or any provision of this Act.
- (2) The Committee may cause investigations to be conducted in order to assess whether or not the applicant has fulfilled the criteria in subsection (1).
- (3) The Committee shall not grant an exploration licence to an applicant if—
- (a) the applicant is disqualified from holding an exploration licence;
 - (b) the applicant is the holder of another mining right and is in breach of any condition of that mining right or any provision of this Act;
 - (c) the area of land for which the applicant has made the application, or a part of it, is subject to another mining right and the holder of that mining right has not consented to the exercise of the right in respect of which the application is made;
 - (d) the area of land for which the application is made covers or includes an area of land for which an application has been earlier made by another person; or
 - (e) an application is for an exploration licence in respect of an area—
 - (i) that the applicant relinquished; or
 - (ii) over which the applicant previously held an exploration licence for ten years.
- (4) An applicant is not eligible to apply for an exploration licence in respect of an area over which the applicant previously held an exploration licence for ten years until after a period of one year from the date of the expiry of the previous exploration licence.
- (5) The Director of Mining Cadastre shall, where an application is rejected under subsection (3), inform the applicant of the rejection and give the reasons for the rejection in writing.

23. (1) The Committee shall, within sixty days of receipt of an application under section *twenty-one*, grant the applicant an exploration licence, in the prescribed form, if the application complies with the provisions of this Act.

Exploration licence

(2) An exploration licence confers on the holder exclusive rights to carry on exploration in the exploration area for the minerals specified in the licence and to do all such other acts and things as are necessary for, or incidental to, the carrying on of those operations.

24. (1) Subject to the other provisions of this Act, an exploration licence shall be valid for an initial period of four years.

Duration of exploration licence

(2) An exploration licence may, on its expiry after four years, be renewed for two further periods not exceeding three years each, but the maximum period from initial grant of the licence shall not exceed ten years.

(3) A holder of an exploration licence shall relinquish fifty percent of the exploration area at each renewal.

(4) Notwithstanding subsection (2), an exploration licence for small-scale exploration and gemstones, other than diamonds, is not renewable.

25. (1) A holder of an exploration licence shall—

Obligations of holder of exploration licence

(a) only commence exploration operations if the holder submits to the Mining Cadastre Office —

(i) a decision letter in respect of the environmental project brief approved by the Zambia Environmental Management Agency; or

(ii) written consent from the appropriate authority where subsection (1) of section *fifty-two* applies to the land;

(b) within one hundred and eighty days of the grant of the exploration licence, register a pegging certificate at the Mining Cadastre Office;

(c) give notice to the Director of Mining Cadastre of the discovery of any mineral deposit of possible commercial value within thirty days of the discovery;

(d) expend on exploration operations not less than the amount prescribed or required by the terms and conditions of an exploration licence;

- (e) carry on explorations in accordance with the programme of exploration;
 - (f) backfill or otherwise make safe any excavation made during the course of the exploration, as the Director of Mining Cadastre may specify;
 - (g) permanently preserve or otherwise make safe any borehole in the manner directed by the Director of Mining Cadastre and surrender to Government, on termination, without compensation, the drill cores, other mineral samples and the boreholes and any water rights in respect of the boreholes;
 - (h) unless the Director of Mining Cadastre otherwise stipulates, remove, within sixty days of the expiry or revocation of the exploration licence, any camp, temporary buildings or machinery erected or installed and repair or otherwise make good any damage to the surface of the ground occasioned by the removal, in the manner specified by the Director of Mining Cadastre; and
 - (i) keep and preserve such records as the Director of Mines Safety may determine relating to the protection of the environment.
- (2) A holder of an exploration licence shall keep full and accurate records, at the holder's office, of the exploration operations which shall indicate—
- (a) the boreholes drilled;
 - (b) the strata penetrated, with detailed logs of the strata;
 - (c) the minerals discovered;
 - (d) the results of any seismic survey or geo-chemical, geo-physical and remote sensing data analysis;
 - (e) the result of any analysis or identification of minerals removed from the exploration area;
 - (f) the geological interpretation of the records maintained under paragraphs (a) to (e);
 - (g) the number of persons employed;
 - (h) any other exploration work;
 - (i) the costs incurred for all exploration activities carried out by the holder under the exploration licence; and

(j) such other matters as may be prescribed.

(3) A holder of an exploration licence shall furnish to the Directors, at least once in every three months, digital and hard copies of the records, as may be prescribed.

26. (1) Except for the purpose of having the mineral analysed or conducting tests on the mineral, a holder of an exploration licence shall not remove any mineral from the exploration area without the written permission of the Director of Geological Survey and shall, when removing any mineral, comply with such conditions as the Director of Geological Survey may specify in the written permission.

Restrictions on removal of minerals

(2) The Minister may, by statutory instrument, determine the quantities of mineral samples to be removed from an exploration area for the purpose of mineral analysis or conducting tests on the mineral.

27. (1) The Director of Geological Survey or an authorised officer may, for the purpose of carrying on exploration operations on behalf of the Republic, enter upon any land with such number of persons as the Director of Geological Survey or authorised officer may consider necessary, and exercise the rights of a holder of an exploration licence.

Geological survey, mapping and exploration on behalf of Republic

(2) The Director of Geological Survey or an authorised officer may, for the purpose of carrying out the geological mapping or exploration on behalf of the Republic—

- (a) enter, at any reasonable time, upon any land with such persons, animals, vehicles, appliances, instruments and materials as are necessary for the survey;
- (b) break up the surface of any part of any land for the purpose of ascertaining the rocks or minerals within or under the land;
- (c) take any samples and specimens of the soil, rocks or minerals found on the land;
- (d) fix any post, stone, mark or object to be used in the survey of the land;
- (e) dig up any ground for the purpose of fixing any post, stone, mark or object; and
- (f) enter into or upon any land through which it may be necessary to pass for the purpose of the survey.

(3) The Director of Geological Survey or authorised officer shall not fix any object, post, stone or mark on any land without the consent of the owner or occupier of the land, which consent shall not be unreasonably withheld.

(4) The owner or occupier of the land referred to in subsection (3) shall, within one month of the request for consent, grant the consent.

(5) Where the owner or occupier of the land to which access is requested under subsection (3) delays or unreasonably withholds to grant consent, the Director of Geological Survey or an authorised officer shall refer the matter to the Committee.

(6) Notice of the intention to exercise any power conferred by this section shall be given in the *Gazette* and in a daily newspaper of general circulation in the area where the land is situated, at least fourteen days before the exercise of the powers, unless the land is State land alienated by the President in accordance with the Lands Act.

(7) The Director of Geological Survey shall ensure that —

(a) as little damage and inconvenience as possible is caused by the exercise of any of the powers conferred by this section; and

(b) all excavations opened are backfilled before abandoning any land.

(8) Nothing in subsection (1) authorises a person to enter upon any land referred to in subsection (1) of section *fifty-two* without obtaining the consent required to be obtained under that section.

28. (1) Subject to subsection (2), the Minister may, by statutory order, close an area described in the statutory order to priority licensing in respect of all minerals or the minerals specified in the statutory order.

(2) The Minister shall not close an area under subsection (1) that is already subject to a mining right or mineral processing licence.

(3) The Director of Mining Cadastre shall record an area closed to priority licensing in the appropriate register.

(4) An area closed to priority licensing under subsection (1) shall be subject to bidding in accordance with section *nineteen*.

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Closure of
area to
priority
licensing

Division 3 - Mining Licence

29. (1) A person who intends to carry on any artisanal mining, small-scale mining or large-scale mining shall apply for a mining licence under this Part. Licensing of mining activities

(2) Artisanal mining shall only be undertaken by a citizen or a co-operative wholly composed of citizens.

(3) Small-scale mining shall only be undertaken by a citizen-owned, citizen-influenced or citizen-empowered company.

(4) An applicant for artisanal mining or small-scale mining shall not be granted a mining licence in respect of radioactive minerals.

30. (1) A holder of an exploration licence may, not later than six months before the expiry of the exploration licence, apply for a mining licence for the mining of minerals within the exploration area. Application for mining licence

(2) An application for a mining licence shall be made to the Director of Mining Cadastre in the prescribed manner and form upon payment of the prescribed fee.

(3) The area of land over which an application for a mining licence is lodged shall be represented by complete and contiguous cadastre units as follows:

(a) for artisanal mining, a minimum of one cadastre unit and not exceeding two cadastre units;

(b) for small-scale mining, a minimum of three cadastre units and not exceeding one hundred and twenty cadastre units; and

(c) for large-scale mining, a minimum of one hundred and twenty-one cadastre units and not exceeding seven thousand, four hundred and eighty-five cadastre units.

(4) An application for a mining licence shall not be made for an area in excess of the area of mineralisation and additional areas reasonably required for development of infrastructure relating to the mining licence.

31. (1) The Committee shall, in considering an application under section *thirty*, take the following into account: Consideration of application for mining licence

(a) whether there are sufficient deposits or resources of minerals to justify their commercial exploitation;

- (b) that the area of land over which the licence is sought is not in excess of the area required to carry out the applicant's proposed programme for mining operations;
- (c) that the proposed programme of mining operations is adequate and compliant with the decision letter in respect of the environmental project brief or environmental impact assessment approved by the Zambia Environmental Management Agency;
- (d) where consent is required for the area under any written law, that the applicant has submitted evidence of that consent;
- (e) the standards of good mining practice and the applicant's proposed programme for development, construction and mining operations in order to ensure the efficient and beneficial use of the mineral resources for the area over which the licence is sought;
- (f) in respect of large-scale mining—
 - (i) whether the applicant has the financial resources and technical competence and the financing plan is compatible with the programme of mining operations;
 - (ii) the applicant's undertaking for the employment and training of citizens and promotion of local business development;
 - (iii) whether the applicant's feasibility study report is bankable; and
 - (iv) the applicant's capital investment forecast; and
- (g) that the applicant is not in breach of any condition of the exploration licence or any provision of this Act.

(2) The Director of Mining Cadastre may cause an investigation to be conducted in order to assess whether the requirements of this section have been met.

(3) The Committee shall, where an application does not comply with the provisions of this Act, reject the application and inform the applicant of the rejection and the reasons for the rejection, in writing.

(4) The Committee shall not grant a mining licence to a person disqualified under section *fourteen*.

Mining
licence

32. (1) Subject to the other provisions of this Act, the Committee shall, within ninety days of the receipt of an application under section *thirty*, grant the applicant a mining licence, in the prescribed form, if the application meets the requirements of this Act.

(2) There shall be attached to a mining licence as part of the conditions of the licence

- (a) the programme of development, construction and mining operations as approved by the Director of Mining Cadastre;
- (b) the applicant's undertaking for the employment and training of citizens;
- (c) the applicant's undertaking for the promotion of local business development;
- (d) the applicant's capital investment forecast; and
- (e) the applicant's undertaking for management of the environment in the mining area.

(3) Subject to the conditions of a mining licence, the mining licence confers on the holder exclusive rights to carry on mining, processing and exploration in the mining area and to do all such other acts and things as are necessary for, or incidental to, the carrying on of those operations.

(4) Without limiting the generality of subsection (1), a holder of a mining licence may—

- (a) enter onto the mining area and take all measures on or under the surface for the purpose of the mining operations;
- (b) erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered in the course of mining operations;
- (c) dispose of any recovered mineral product, and in the case of recovered gemstones, as prescribed by the Minister, by statutory instrument;
- (d) explore for any mineral within the mining area; and
- (e) stack or dump any mineral or waste products within the licensed area.

33. (1) The holder of a mining licence may apply to the Director of Mining Cadastre for authorisation to defer the commencement of mining on the grounds that—

Deferment of commencement of mining

- (a) the holder has identified a mineral deposit within the exploration area which is potentially of commercial significance; and

(b) the mineral deposit cannot be developed immediately due to adverse economic conditions or technological constraints, or both, which are, or may be, of a temporary nature.

(2) An application for deferment of the commencement of mining shall be made in the prescribed manner and form, upon payment of the prescribed fee.

(3) The Director of Mining Cadastre may, within sixty days of receipt of an application for authorisation to defer mining in an exploration area, if the Director of Mining Cadastre determines that commercial development of the deposit is not presently possible for the reasons specified in the application, but may be possible within a period of five years, grant authorisation to defer commencement of mining on such terms and conditions as the Director of Mining Cadastre may determine.

(4) An authorisation to defer the commencement of mining shall be for a period not exceeding five years.

(5) Where the Director of Mining Cadastre, based on the findings of independent studies determines that commercial mineral development of an area subject to an authorisation is possible during the currency of the authorisation, the Director of Mining Cadastre may, by notice to the holder of the mining licence, require the holder to commence mining operations, within ninety days of the notice, in accordance with the mining licence.

Duration of mining licence

34. A mining licence shall be granted for a period not exceeding—

- (a) two years, for artisanal mining;
- (b) ten years, for small-scale mining; and
- (c) twenty-five years, for large-scale mining.

Obligations of holder of mining licence

35. (1) A holder of a mining licence shall—

- (a) within one hundred and eighty days of the grant of the mining licence, register a pegging certificate at the mining cadastre office;
- (b) develop the mining area, and carry on mining operations, with due diligence and in compliance with the programme of mining operations and the environmental impact assessment;
- (c) take all measures on or under the surface to mine the mineral to which the mining licence relates;
- (d) for large-scale mining—

- (i) implement the local business development undertaking attached to the mining licence; and
 - (ii) employ and train citizens of Zambia in accordance with the proposal for employment and training attached to the licence;
- (e) comply with the proposed forecast of capital investment;
- (f) demarcate the mining area and keep it demarcated in the prescribed manner;
- (g) maintain at the holder's office —
 - (i) complete and accurate technical records of the operations in the mining area which should include mine plans and sections, primary and secondary developments, ore resources and reserves, ore recovery and treatment and production costs;
 - (ii) copies of all maps and geological reports, including interpretations, mineral analysis, aerial photographs, satellite maps, core logs, analyses and test results obtained and compiled by the holder in respect of the mining area;
 - (iii) accurate and systematic financial records of the operations in the mining area and such other books of account and financial records as may be prescribed; and
 - (iv) where the holder is engaged in any other activity not connected with the operations under the mining licence, separate books of account from the operations under the mining licence;
- (h) permit an authorised officer, at any reasonable time, to inspect the books and records maintained pursuant to paragraph (b) and deliver to the Director of Mines, Director of Geological Survey, Director of Mines Safety or Director of Mining Cadastre without charge, copies of any part of the books and records as may be required;
- (i) keep and preserve records and submit reports on mining operations and the protection of the environment as may be prescribed;

- (j) submit to the Director of Mining Cadastre such reports, records and other information as the Director of Mining Cadastre may require concerning the conduct of the operations in the mining area;
 - (k) submit to the Director of Mining Cadastre, within three months of the end of each financial year—
 - (i) a copy of the annual audited financial statements showing the profit or loss for the year and the state of the financial affairs of the licensee at the end of that financial year; and
 - (ii) for large-scale mining, a return showing compliance with the obligations specified in paragraph (d); and
 - (l) maintain security and ensure that there are no illegal miners at the licensee's tenements.
- (2) The holder of a mining licence shall submit to the Directors as may be prescribed—
- (a) annually, mine plans and sections, primary and secondary developments, ore recovery and treatment and production costs; and
 - (b) every two years, ore resources and reserves statements.

Suspension of production or closure of mine by Director of Mines Safety or Director of Mines

36. (1) Subject to the other provisions of this Act, the Director of Mines Safety or Director of Mines may direct a holder of a mining right or mineral processing licence to suspend or curtail production or close the mine or a section of the mine for any of the following reasons:

- (a) contravention of a condition of the mining right or mineral processing licence that presents danger of imminent harm to persons within the exploration, mining or mineral processing area;
- (b) an unsafe working environment;
- (c) uncontrollable pollution of the area resulting from the mining operations;
- (d) *force majeure*; or
- (e) a labour dispute that disrupts the mining or mineral processing operations.

(2) Where, in the course of an inspection, an authorised officer discovers a contravention of conditions of a mining licence or the existence of any of the circumstances set out in subsection (1), the authorised officer may order the suspension or curtailment of production or closure of the mine or a section of the mine.

(3) The Director of Mines Safety or Director of Mines shall, before exercising the powers conferred by subsection (1), give the holder of a mining licence a period within which the holder of the mining licence shall take remedial measures.

(4) The Director of Mines Safety or Director of Mines shall, if the holder of a mining licence fails to take remedial measures within the period specified under subsection (3), extend the suspension or curtailment of production or closure of the mine or a section of the mine for such further period as the Director of Mines Safety or Director of Mines may determine.

37. (1) Subject to the other provisions of this section, a holder of a mining licence or mineral processing licence may suspend or curtail production of a mine for any of the following reasons:

- (a) the maintenance, installation or de-commissioning of equipment;
- (b) an unsafe working environment;
- (c) uncontrolled pollution of the area resulting from the mining operations;
- (d) *force majeure*; or
- (e) a labour dispute that disrupts the mining operations.

Suspension of production by holder of mining or mineral processing licence

(2) A holder of a mining licence or mineral processing licence who suspends or curtails production of a mine shall give notice and reasons for the suspension or curtailment of production to the Director of Mines—

- (a) within twenty-four hours of the suspension of production;
- (b) at least ninety days before the suspension or curtailment of production where the holder, without abandoning the mining licence or mineral processing licence for reasons other than those specified in paragraphs (a) to (e) of subsection (1), proposes to suspend production; and
- (c) at least thirty days before the curtailment of production where the holder proposes to curtail the production.

(3) The Director of Mines shall, where the Director of Mines receives notice under subsection (1) or becomes aware of the suspension or curtailment of the production of a mine—

- (a) cause the matter to be investigated;
- (b) approve the suspension or curtailment of production on such terms and conditions as the Director of Mines may determine; or
- (c) direct the holder of the mining licence or mineral processing licence to resume full production within such period as the Director of Mines may specify.

Division 4 — Mineral Processing Licence

Application
for mineral
processing
licence

38. (1) An application for a mineral processing licence shall be made to the Director of Mining Cadastre in the prescribed manner and form upon payment of the prescribed fee.

(2) The area of land over which the mineral processing licence is sought shall—

- (a) be represented by complete and contiguous cadastre units; and
- (b) not exceed seven thousand, four hundred and eighty-five cadastre units.

(3) The holder of a mining licence for large-scale mining or small-scale mining may construct and operate a mineral processing plant within the licence area without a mineral processing licence.

Consideration
of
application
for mineral
processing
licence

39. (1) The Committee shall, in considering an application made under section *thirty-eight*, take the following matters into account:

- (a) that the applicant has the financial resources and technical competence and the financing plan is compatible with the programme of mineral processing operations;
- (b) that the applicant has title to the land over which the application is made or written consent from the surface right holder or mining right holder;
- (c) that the proposed programme of mineral processing operations is adequate and makes proper provision for environmental protection; and
- (d) that the applicant has not contravened any provision of this Act or any other relevant written law.

(2) The Director of Mining Cadastre may cause investigations to be conducted in order to assess whether the applicant has met the criteria in subsection (1).

(3) The Committee shall reject an application for a mineral processing licence if—

- (a) the applicant does not meet the requirements of this Act;
- (b) the applicant is disqualified from holding a mineral processing licence under section *fourteen*; or
- (c) the applicant is a holder of another mineral processing licence and is in breach of a condition of that licence or any provision of this Act.

(4) The Director of Mining Cadastre shall, where an application is rejected under subsection (3), inform the applicant of the rejection and the reasons for the rejection, in writing.

40. (1) The Committee shall, within sixty days of receipt of an application under section *thirty-eight*, grant to the applicant a mineral processing licence, in the prescribed form, if the application complies with the provisions of this Act.

Mineral
processing
licence

(2) A mineral processing licence confers on the holder of the licence exclusive rights to carry on mineral processing in the mineral processing area of the minerals specified in the licence and to do all such other acts and things as are necessary for, or reasonably incidental to, the carrying on of those operations.

(3) There shall be attached to a mineral processing licence conditions of the licence which shall include —

- (a) a programme of mineral processing operations as approved by the Director of Mining Cadastre, which shall form part of the conditions of the licence; and
- (b) the date for the commencement of operations under the licence, which shall not exceed three years from the date of grant, required by the holder of the licence to make any necessary preparation for mineral processing operations.

(4) Subject to the other provisions of this Act, a mineral processing licence is valid for a period of twenty-five years and may be renewed for a similar period.

Obligations
of holder of
mineral
processing
licence

41. A holder of a mineral processing licence shall—

- (a) commence mineral processing operations if the holder of the mineral processing licence submits to the Mining Cadastre Office a decision letter in respect of the environmental project brief or environmental impact assessment approved by the Zambia Environmental Management Agency;
- (b) carry on the mineral processing operations in accordance with the approved programme of mineral processing operations; and
- (c) submit reports to the Directors on —
 - (i) sources of ore, concentrates, tailings, slimes or any other mineral substances fed to the plant;
 - (ii) quantities and grade of feed to the plant;
 - (iii) compliance with safety and environmental standards;
 - (iv) labour and production returns; and
 - (v) any other records, reports and other information as the Director of Mines, Director of Mining Cadastre, Director of Geological Survey or Director of Mines Safety may require concerning the operations of the mineral processing operations.

Division 5— Gold Panning Certificate

Application
for and grant
of gold
panning
certificate

42. (1) A citizen or a cooperative consisting only of citizens may apply to the Director of Mines for a gold panning certificate in the prescribed manner and form upon payment of the prescribed fee.

(2) The Director of Mines shall, if the applicant does not meet the requirements of this Act—

- (a) reject the application for a gold panning certificate; and
- (b) inform the applicant of the rejection, in writing, and the reasons for the rejection.

(3) The Director of Mines shall, within thirty days of receipt of an application under this section, grant to the applicant a gold panning certificate in a prescribed form, if the application meets the requirements of this Act.

(4) A gold panning certificate confers upon the holder exclusive rights to pan for gold and shall be issued only over areas specified by geographical coordinates along water courses and bodies.

(5) A gold panning certificate shall not be issued in respect of an area over which there is a subsisting mining right or mineral processing licence.

(6) A gold panning certificate shall be valid for a period of two years and is renewable for a further period of two years.

43. (1) A holder of a gold panning certificate shall—

(a) maintain at the holder's office accurate and separate production and sales registers;

(b) keep daily records of production and sales, indicating the names of buyers, their permit numbers and the amount and value of gold sold;

(c) submit to the Director of Mines, on or before the fifteenth day of each month, a true and correct copy in duplicate of all the entries made in the production and sales in the preceding month;

(d) make the records and minerals available, within normal working hours, for inspection by an authorised officer;

(e) pay mineral royalty in accordance with this Act; and

(f) maintain the panning area in accordance with the Environmental Management Act, 2011.

(2) A holder of a gold panning certificate shall not undertake any excavations.

Obligations
of holder
of gold
panning
certificate

Act No. 12
of 2011

Division 6 — Mineral Trading Permit

44. (1) Subject to subsection (2), a person shall not trade in minerals without a mineral trading permit issued under this Part.

(2) Subsection (1) does not apply to a holder of a mining licence.

45. (1) A citizen, a citizen-influenced company, a citizen-empowered company or a citizen-owned company may apply for a mineral trading permit to the Director of Mines in the prescribed manner and form upon payment of the prescribed fee.

(2) The Director of Mines shall, within thirty days of receipt of an application under this section grant a mineral trading permit to the applicant, in a prescribed form, if the applicant meets the requirements of this Act.

(3) A mineral trading permit confers upon the holder of the permit the exclusive rights to trade in minerals.

Prohibition
of trading in
minerals
without
permit
Application
for mineral
trading permit

(4) A mineral trading permit shall be valid for a period of three years and is renewable.

Obligations
of holder of
mineral
trading
permit

46. A holder of a mineral trading permit shall—

- (a) maintain at the holder's office accurate and separate mineral trading registers for the transactions for each mineral;
- (b) keep daily records of buying, selling or processing, indicating the names of buyers and sellers, their licence numbers and the amount and value of minerals bought, sold, processed, exported or imported;
- (c) submit to the Director of Mines, on or before the fifteenth day of each month, a true and correct copy in duplicate of all the entries made in the mineral trading register in the preceding month; and
- (d) make the records and minerals available within normal working hours for inspection by an authorised officer.

Division 7 — Mineral Import and Mineral Export Permits

Importation
and
exportation
of minerals

47. (1) A person shall not import or export any mineral, ore or mineral product without a permit issued by the Director of Mines.

(2) A person intending to export or import any mineral, ore or mineral product shall apply for a permit to the Director of Mines in a prescribed manner and form upon payment of the prescribed fee.

(3) The Director of Mines shall consider the following in evaluating an application under this section:

- (a) for a mineral import permit—
 - (i) clearance by the national authority responsible for mining in the country of origin;
 - (ii) for a conflict mineral, a regional certificate as confirmation that the minerals are not from a conflict area;
- (b) for a mineral export permit—
 - (i) a mineral analysis and valuation certificate issued by the Director of Geological Survey;
 - (ii) a verification report from the Commissioner-General of the payment of the mineral royalty in accordance with Part VII;

- (iii) security clearance by the Police;
- (iv) the production returns made in respect of the mineral, ore and mineral products by the holder; and
- (v) the mining right or mineral processing licence which is the source of the mineral, ore or mineral product;

(c) for an application for a mineral export or mineral import permit for radioactive minerals, the applicant's compliance with the requirements of the Ionising Radiation Protection Act, 2005; and

Act No. 16 of 2005

(d) such other information as may be prescribed.

(4) A holder of a mineral export or mineral import permit shall submit monthly export or import returns in the prescribed form.

48. A mineral export or mineral import permit—

(a) shall be valid for a period of one year; and

(b) is limited to the quantities specified on the permit.

Duration of mineral export or import permit

Division 8— Authorisation for Radioactive Minerals and Mineral Analysis

49. (1) A person shall not acquire, store, transport or sell any radioactive mineral except under and in accordance with the terms and conditions of an authorisation granted by the Minister or in accordance with a mining licence to mine radioactive minerals, and in accordance with the provisions of the Ionising Radiation Protection Act, 2005.

Prohibition of acquisition, selling, etc. of radioactive minerals
Act No.16 of 2005

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine of one million penalty units or to imprisonment for a term not exceeding ten years, or to both.

50. (1) An application for authorisation to acquire, store, transport or sell radioactive minerals shall be made to the Minister in the prescribed manner and form upon payment of the prescribed fee.

Application to acquire, sell, etc. radioactive minerals

(2) The Minister shall, within fourteen days of receipt of an application made under subsection (1), reject the application if the applicant does not meet the requirements of this Act and shall give the applicant the reasons for that decision.

(3) The Minister shall, within fourteen days of receipt of an application under sub-section (1), approve the application on such terms and conditions as the Minister may determine, if the applicant—

(a) meets the requirements of this Act; and

(b) is in possession of a licence issued by the Radiation Protection Authority under the Ionising Radiation Protection Act, 2005.

Act No. 16 of
2005

Mineral
analysis

51. (1) The Director of Geological Survey shall be responsible for analysing minerals and mineral products and issuing mineral analysis certificates and valuation certificates in respect of—

(a) applications for the import or export of minerals, mineral products or samples;

(b) minerals or mineral products in storage or in transit within the Republic;

(c) minerals which are covered by a mineral trading permit; and

(d) minerals or mineral products at mines or mineral processing plants.

(2) The mineral analysis certificate issued by the Director of Geological Survey under subsection (1) is admissible as evidence in the assessment of mineral royalty and other payments due to the Government.

PART IV

MINING RIGHTS AND SURFACE RIGHTS

52. (1) A holder of a mining right or mineral processing licence shall not exercise any rights under this Act—

(a) without the written consent of the appropriate authority, upon any land—

(i) dedicated as a place of burial, whether in use or not;

(ii) containing any ancient monument or national monument as defined in the National Heritage Conservation Commission Act;

Restrictions
of rights of
entry by
holder of
licence or
permit

Cap. 173

- (iii) any land which is the site of, or within ninety metres of, any building or dam owned by the Republic; or
 - (iv) any land forming part of a Government aerodrome as defined in the Air Navigation Regulations made under the Aviation Act; Cap. 444
- (b) without the written consent of the owner or legal occupier of the land or the duly authorised agent—
- (i) upon any land which is the site of, or which is within one hundred and eighty metres of, an inhabited, occupied or temporarily uninhabited house or building;
 - (ii) within fortyfive metres of any land which has been cleared or ploughed or otherwise prepared in good faith for growing of farm crops or upon which farm crops are growing;
 - (iii) upon any land which is the site of, or is within ninety metres of, any cattle dip tank, dam or any private water as defined in the Water Resources Management Act, 2011; or Act No. 21 of 2011
 - (iv) upon any land forming part of an aerodrome, other than an aerodrome referred to in sub- paragraph (iv) of paragraph (a);
- (c) upon land occupied as a village, or other land under customary tenure without the written consent of the chief and the local authority for the district in which the village is situated;
- (d) without the written consent of the railway administration, upon any land reserved for the purposes of any railway track or within one hundred metres of any railway track;
- (e) without the written consent of the appropriate authority or the local authority concerned, upon any land within, or within sixty metres, of the boundaries of any city, municipality or district for which a council is established under the provisions of the Local Government Act; Cap. 281
- (f) without —
- (i) the written consent of the appropriate authority, upon any land used as a forest nursery or plantation or as a timber depot, sawmill or other installation for working a forest; and

- Act No. 4 of 2015
- (ii) due compliance with the relevant provisions of the Forests Act, 2015 upon any land declared to be a National Forest, Local Forest, Botanical Reserve or Private Forest, as defined in that Act;
- (g) upon any street, road or highway, without the written consent of the appropriate authority or the public body which has the control of the street, road or highway;
- (h) upon any land comprised in a National Park, Community Partnership Park, Game Management Area or a bird sanctuary without complying with the Zambia Wildlife Act, 2015; and
- Act No. 14 of 2015
- (i) upon any land that, under the Urban and Regional Planning Act, 2015, cannot be developed without permission, unless the requisite permission is first obtained.
- Act No. 3 of 2015
- (2) Any consent given for the purposes of this section by the Director of Mining Cadastre or the appropriate authority may be given unconditionally or subject to such conditions as are specified in the terms of the written consent.
- (3) Where any consent required under this subsection is unreasonably withheld, the Director of Mining Cadastre may arrange for arbitration of the matter in accordance with section *fifty-six*.
- Exercise of rights under licence or permit
- 53.** Subject to the terms of any access agreement, the rights conferred by a mining right or mineral processing licence shall be exercised reasonably and, except to the minimum extent necessary for the reasonable and proper conduct of the operations, shall not be exercised so as to prejudice the interest of any owner or occupier of the land over which those rights extend.
- Right to use and access water or graze stock
- 54.** (1) Subject to the terms of an access agreement, the owner or lawful occupier of any land within the area of an exploration licence shall retain the right to use and access water and to graze stock upon, or to cultivate the surface of, the land in so far as such use, grazing or cultivation does not interfere with the proper working in the area for exploration or other operations to be carried on under the exploration licence.
- (2) An owner or lawful occupier of land subject to an exploration licence shall not erect any building or structure on the land without the consent of the holder of the exploration licence, except that where such consent is unreasonably withheld, the Director of Mining Cadastre may grant it.

55. (1) Subject to subsection (2), a holder of a mining right who requires the exclusive or other use of the whole or any portion of the exploration or mining area for the purpose of the mining right may, in accordance with the laws relating to such acquisition, acquire a lease of the land or other right to use the land upon such terms as may be agreed between the holder and the owner or occupier of the land.

Acquisition
of use of land
by holder of
mining right

(2) A holder of a licence shall not purchase or obtain a lease of, or other rights over, any land specified in paragraph (a), or in paragraphs (c) to (h), of subsection (1) of section *fifty-two*, except with the consent of the appropriate authorities mentioned in that section.

56. (1) Where there is dispute concerning—

Arbitration
of disputes

(a) whether or not paragraph (b) of subsection (1) of section *fifty-two* applies in respect of any land, or the withholding of any consent under that subsection;

(b) the withholding of any consent under paragraph (c) of subsection (1) of section *fifty-two*; or

(c) any other matter arising under this Part that is prescribed by the Minister by statutory instrument; a party to the dispute may, by consent of the parties, apply to the Director of Mining Cadastre to determine the dispute or the Director may require the parties to enter into a submission to arbitration within the meaning of the Arbitration Act, 2000.

Act No. 19
of 2000

(2) Subsection (1) shall have effect subject to the terms of any access agreement.

57. (1) A holder of a mining right or mineral processing licence shall, on demand being made by the owner or lawful occupier of any land subject to the mining right, promptly pay the owner or occupier fair and reasonable compensation for any disturbance of the rights of the owner or occupier and for any damage done to the surface of the land by the operations and shall, on demand being made by the owner of any crops, trees, buildings or works damaged during the course of the operations, pay compensation for the damage.

Compensation
for
disturbance
of rights, etc

(2) In assessing the compensation payable under subsection (1), account shall be taken of any improvement effected by the holder of the mining right or mineral processing licence or by the holder's predecessor in title, the benefit of which has or will ensue to the owner or lawful occupier of the land.

(3) The compensation payable for damage to the surface of any land shall be the extent to which the market value of the land, for which purpose it shall be deemed saleable, upon which the damage has occurred has been reduced by reason of such damage, but without taking into account any enhanced value due to the presence of minerals.

(4) A demand made in terms of this section shall not entitle the owner or lawful occupier to prevent or hinder the exercise by the holder of rights under the mining right pending the determination of compensation to be paid.

(5) Compensation shall not be payable under subsection (1) in respect of any indigenous wood or timber taken—

(a) upon land that has been declared a National Forest, Local Forest, Botanical Reserve or Private Forest under the provisions of the Forests Act, 2015; or

(b) upon other land that has not been alienated by the President in accordance with the Lands Act.

(6) Where a holder of a mining right fails to pay the compensation demanded under this section, or where the owner or lawful occupier of any land is dissatisfied with any compensation offered, the dispute shall be determined by arbitration.

(7) A claim for compensation under subsection (1) shall be made within a period of three years from the date when that claim accrued, failing which, notwithstanding the provisions of any other written law, that claim shall not be enforceable.

58. (1) Except as otherwise provided under this Act, nothing in this Act shall prevent the taking by—

(a) the owner or lawful occupier of any land that is not subject to a mining right, of limestone or other materials ordinarily used for building, road-making or agricultural purposes, from the land, where—

(i) the materials taken are for use on the land; and

Act No. 4 of
2015

Rights to
building
materials

- (ii) the owner or lawful occupier is the holder of a permit from the Director of Mines authorising such taking;
- (b) the holder of a mining right in respect of any land, of such materials from the land for use on the land;
- (c) the owner or lawful occupier of any land that is subject to a mining right, of such materials from the land with the consent of the holder of the mining right and for use on the land, which consent shall not be unreasonably withheld; or
- (d) the Republic, any local authority, a highway authority or any person duly authorised by any such authority and acting under the Public Roads Act, 2002, of such materials for public purposes.

Act No. 12
of 2002

(2) The provisions of this section shall not affect any requirement of this Act or any other law to obtain any requisite consent, in writing, from any owner or occupier of land or any public authority or other person.

PART V

REGULATORY PROVISIONS

59. (1) Subject to this Act, the Committee shall operate a single licensing system for the mining sector in accordance with the Business Regulatory Act, 2014.

Single
licensing
system
Act No. 3
of 2014

(2) The Committee shall, before granting a mining right or non-mining right, consult with appropriate authorities in accordance with the Business Regulatory Act, 2014, and any other relevant written law.

Act No. 3
of 2014

(3) Where a permit, licence or certificate is obtained in accordance with the procedures specified under the Business Regulatory Act, 2014, the Committee shall endorse on the permit, licence or certificate—

Act No. 3
of 2014

- (a) the name of the permit, licence or certificate;
- (b) the nature and scope of the activity authorised under the permit, licence or certificate;
- (c) the conditions attached to the permit, licence or certificate; and
- (d) any other relevant information that the regulatory agency may request to be so endorsed.

Disposal of
conflict
mineral

60. (1) A holder of a mining or non-mining right in respect of a mineral that is similar to a conflict mineral or a person in possession of a conflict mineral shall obtain a regional certificate from the Minister prior to the disposal of the conflict mineral.

(2) The Minister may, by statutory instrument, declare a mineral as a conflict mineral.

(3) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units.

Display of
mining or
non-mining
right

61. A holder of a mining or non-mining right shall, at all times, cause the mining or non-mining right to be displayed in a prominent place at the place of business.

Registered
office

62. (1) A company which is a holder of a mining right or non-mining right shall maintain a registered office in Zambia and notify the Directors of any change of the registered office.

(2) The use by an applicant or holder of a mining right or non-mining right of an office of a consultant or other agent of the applicant or holder for any purposes related to the requirements of this Act shall not be treated as a registered office for the purpose of subsection (1).

Insurance
and
indemnities

63. (1) A holder of a mining right or mineral processing licence shall—

(a) obtain and maintain at all times during the lifetime of the mining right or mineral processing licence and for the prescribed period thereafter; and

(b) cause its contractors to obtain and maintain at all times; insurance coverage, within the Republic, in such amounts and against such risks as may be prescribed by the Minister, by statutory instrument, and shall furnish to the Minister the certificates evidencing that such coverage is in effect and provide copies of any policies requested.

(2) A statutory instrument made under subsection (1) shall include requirements for such insurance coverage as it is internationally recognised to obtain in the mining industry in accordance with good mining industry practice.

(3) A holder of a mining right or mineral processing licence shall, if so directed by the Director of Mines and Director of Mines Safety by notice, in writing, obtain and maintain in force in respect of the mining operations carried on by the holder, such insurance cover as the Director of Mines and Director of Mines Safety may consider reasonably necessary in the public interest.

(4) A holder of a mining right or mineral processing licence shall indemnify, defend and hold the Republic harmless against all actions, claims, demands, injury, losses or damages of any nature, including claims for loss or damage to property or injury or death to persons, resulting from any act or omission in the conduct of mining operations or mineral processing operations by or on behalf of the holder.

(5) The indemnity referred to in subsection (4) shall not apply to the extent that an action, claim, demand, loss, damage or injury resulted from any direction given by, or wrongful act committed on behalf of, the Republic.

(6) A person who contravenes subsection (1) or (3) commits an offence and is liable, upon conviction, to a penalty of one million penalty units and to a further penalty of twenty thousand penalty units for each day the contravention continues.

64. A mining right or mineral processing licence, and the rights conferred by it, shall be subject to the provisions of this Act, the conditions attached to it at the time it is granted and, to the extent that the amendment of the conditions during the currency of the mining right or mineral processing licence is permitted under this Act, to the conditions as amended.

Restrictions
on mining
rights and
mineral
processing
licence

65. (1) A holder of a mining right shall, where the holder intends to make an amendment to the programme of exploration or mining operations, apply to the Director of Mining Cadastre for approval in the prescribed manner and form.

Amendment
of
programme
of
exploration
or mining
operation

(2) The Director of Mining Cadastre may, within thirty days of receiving an application under subsection (1) —

(a) approve the proposed amendment with or without any modification and on such terms and conditions as the Director of Mining Cadastre may determine in accordance with this Act; or

(b) reject the proposed amendment and give the applicant the reasons for the rejection, in writing.

Transfer of
mining or
mineral
processing
licence

66. (1) A person shall not transfer, assign, encumber or otherwise deal with a mining right or a mineral processing licence, or an interest in a mining right or a mineral processing licence, without the approval of the Minister and the production of a tax clearance certificate.

(2) A holder of a mining right or mineral processing licence or a person with an interest in a mining right or mineral processing licence who intends to transfer, assign, encumber or otherwise deal with the mining right or mineral processing licence or any interest therein shall apply to the Minister for approval in the prescribed manner and form upon payment of the prescribed fee.

(3) A holder of a mining right or mineral processing licence or interest in the mining right or mineral processing licence shall, in the application referred to in subsection (2), give to the Minister such details of the transferee as would be required in an application for a mining right or mineral processing licence.

(4) The Minister shall, within thirty days of the submission of an application, approve the transfer of the mining right or mineral processing licence or interest in the mining right or mineral processing licence, unless the transferee is disqualified from holding a mining right or non-mining right under the provisions of this Act.

(5) Upon the transfer of a mining right or mineral processing licence, the transferee shall assume and be responsible for all the rights, liabilities and duties of the transferor under the mining right or mineral processing licence for the unexpired period of the mining right or mineral processing licence.

(6) The Committee shall revoke any mining right or mineral processing licence which is transferred, assigned, encumbered or otherwise dealt with contrary to the provisions of this Act.

Transfer of
control
of company

67. (1) A holder of a mining right or mineral processing licence shall not, after the date of the grant of the right or licence, without the prior written approval of the Minister—

- (a) register the transfer of any share or shares in the company to any person or that person's nominee if the effect of doing so would give that person control of the company; or
- (b) enter into an agreement with any person, if the effect of doing so would be to give that person control of the company.

(2) The Minister may, on an application for approval under this section, call for and obtain such information as is necessary for purposes of the application, but such approval shall not be unreasonably withheld.

(3) The Minister shall approve or reject an application for approval within sixty days of receipt of the application.

(4) For the purposes of this section, a person is deemed to have control of a company—

(a) if the person or that person's nominee holds, or the person and that person's nominee together hold, a total of fifty percent or more of the equity shares of the company; or

(b) if the person is entitled to appoint, or to prevent the appointment of, half or more than half of the number of Directors of the company.

(5) In this section, "equity shares" has the meaning assigned to it in the Companies Act.

Cap. 388

68. (1) A holder of a mining right may, at any time during the currency of that right, apply for the alteration of the exploration or mining area.

Alteration of
exploration
or mining
area

(2) An application to alter an exploration or mining area shall be made to the Committee in the prescribed manner and form upon payment of the prescribed fee.

(3) An application under this section shall not be approved if the approval would prejudice a neighbouring mining right, mineral processing licence or pending application for a mining right.

(4) An alteration of an exploration or mining area shall be guided by the following principles:

(a) the altered area shall not overlap an area which is covered by another mining right or a pending application;

(b) the altered area shall consist of at least twenty-five percent of the land that was part of the exploration or mining area before the alteration; and

(c) an alteration shall ensure safe and productive exploration or mining operations and not fall below the prescribed minimum standards.

(5) The Committee may approve an application for the alteration of the exploration or mining area in respect of which the application is made on such terms and conditions as the Committee may determine.

(6) An approval under this section, together with any conditions to which it is subject, shall be endorsed on the applicant's licence and the licence shall be deemed to be amended in accordance with the endorsement.

Mergers or
co-ordination
of mining
operations

69. (1) If, after inquiry, the Director of Mines considers that the best interests of the Republic or of the holders of a mining licence for artisanal and small-scale mining operations, covering contiguous or neighbouring mining areas, will be served with regard to the economic exploitation of minerals by the merging or co-ordination of all or part of the operations of the holders, the Director of Mines may direct the holders to effect such merger or co-ordination within such time and on such terms as the Director of Mines shall specify and the holders shall comply with such directions.

(2) The Director of Mines shall, before giving any direction under subsection (1), afford the holders of the mining licences concerned an opportunity to make representations to the Director of Mines, in writing.

Abandonment
of land
subject to
mining or
non-mining
right

70. (1) A holder of a mining or non-mining right who wishes to abandon all or any part of the land subject to the mining or non-mining right shall apply to the Director of Mining Cadastre for a certificate of abandonment not later than ninety days before the date on which the holder wishes the abandonment to have effect.

(2) An application under subsection (1) shall—

- (a) identify the land to be abandoned and, if the application applies to only a part of the land subject to the mining or non-mining right, shall include a map with geographical co-ordinates clearly identifying both the part to be abandoned and the part to be retained;
- (b) state the date on which the applicant wishes the abandonment to take effect;
- (c) include a certificate of closure issued by the Director of Mines Safety;
- (d) give particulars of the operations which have been carried on under the mining or non-mining right on the land to be abandoned; and

(e) be supported by such records and reports in relation to those operations as the Director of Mining Cadastre may require.

(3) Subject to this section, the Director of Mining Cadastre shall, in consultation with the Director of Mines Safety, issue to the applicant a certificate of abandonment subject to such conditions as the Director of Mining Cadastre may determine.

(4) A certificate of abandonment shall take effect on the date on which it is granted to the applicant, and—

(a) where the certificate relates to the whole of the land subject to the holder's mining or non-mining right, the mining or non-mining right shall be cancelled with effect from the same date; and

(b) in any other case, the mining or non-mining right shall be amended to take account of the abandonment.

(5) The abandonment of any land does not affect any liability incurred before the date on which the abandonment has effect in respect of the land, and any legal proceedings that might have been commenced or continued in respect of any liability against the applicant for the certificate of abandonment may be commenced or continued against that applicant.

71. (1) A holder who decides not to continue with the activity or operations to which the mining right or mineral processing licence relates shall notify the Director of Mining Cadastre, in writing.

Surrender of mining right or mineral processing Licence

(2) Where a mining right or mineral processing licence is surrendered under subsection (1)—

(a) the Director of Mining Cadastre shall specify the terms and conditions of the surrender of the mining right or licence; and

(b) the mining right or licence shall lapse and subject to section *seventy-two*, be revoked.

72. (1) Subject to the other provisions of this Act, the Committee may suspend or revoke a mining or nonmining right if the holder —

Suspension or revocation of mining right or processing Licence

(a) obtained the right by fraud or submission of false information or statements;

(b) contravenes this Act, any other written law relating to the right or any terms and conditions of the right;

- (c) fails to carry out mining operations in accordance with the approved plan of mining operations and the gross proceeds of sale of minerals from the mining area in any three successive years is less than half of the deemed turnover applicable to the mining licence in each of those years;
- (d) gives false information on the recovery of ores and mineral products, production costs or sale;
- (e) fails to pay annual area charges;
- (f) fails to pay mineral royalty;
- (g) fails to execute the approved exploration programme, in the case of a holder of an exploration licence;
- (h) has ceased to fulfil the eligibility requirements under this Act; or
- (i) the suspension or revocation is in the public interest.

(2) The Committee shall, before suspending or revoking a mining or non-mining right in accordance with subsection (1), give written notice to the holder of the right of the intention to suspend or revoke the mining or nonmining right and shall—

- (a) give the reasons for the intended suspension or revocation; and
- (b) require the holder to show cause, within a period of not more than sixty days, why the right should not be suspended or revoked.

(3) The Committee shall not suspend or revoke a mining or nonmining right under this section if the holder takes remedial measures to the satisfaction of the Committee within the period referred to in subsection (2).

(4) The Committee shall, in making the final determination on the suspension or revocation of a mining or non-mining right, consider the submissions made by the holder under subsection (2).

(5) The Committee may suspend or revoke a mining or nonmining right if the holder, after being notified under subsection (2), fails to show cause or does not take any remedial measures, to the satisfaction of the Committee within the time specified in that subsection.

(6) A holder shall, where the mining or nonmining right is suspended, cease to be entitled to the rights conferred under this Act for the period of the suspension of the mining or nonmining right.

(7) Where a mining or nonmining right is revoked, the holder of the mining or nonmining right shall cease to be entitled to the rights conferred under this Act with effect from the date of the revocation and shall return the mining or non-mining right to the Director of Mining Cadastre.

(8) The Committee shall, where a mining or non-mining right is suspended or revoked under this section, publish the suspension or revocation, as the case may be, in a daily newspaper of general circulation in Zambia.

(9) The Committee shall, by notice, in writing, to the holder of a mining right or non-mining right, revoke the mining right or non-mining right on the occurrence of an event that renders the holder ineligible to hold a mining right or non-mining right as provided by section *thirteen*.

(10) The revocation of a mining or non-mining right under this section does not affect any liability incurred by the holder of the mining or non-mining right before the revocation, and any legal proceedings commenced or continued against the holder before the revocation may be commenced or continued against that holder.

73. Where the holder of a mining or non-mining right terminates the mining right by abandonment, surrender of the mining or non-mining right or other action under this Act or the term of a mining or non-mining right expires, the holder shall immediately before the termination or expiration of the mining or non-mining right deliver to the Director of Mining Cadastre —

Surrender of records on termination of mining or non-mining right

- (a) all records which the holder maintained under this Act with respect to the right;
- (b) all plans or maps of the area of land that was subject to the mining or non-mining right and which were prepared by or on the instructions of the holder; and
- (c) such other documents as the Director of Mining Cadastre may, by notice given to the holder, require the holder to so deliver.

Management of assets on suspension, abandonment or revocation of mining or non-mining right

74. (1) Where the holder of a mining or non-mining right abandons the land subject to the mining or non-mining right or the mining or non-mining right is revoked, the Director of Mines shall take the necessary measures to ensure that where an activity provided for under the mining or non-mining right can be continued before a new mining or non-mining right holder takes over the activity which is the subject of the mining or non-mining right, the activity under the licence is continued until the new holder is found.

(2) Where operations under a mining or non-mining right cease under any of the circumstances set out in this Act, the holder shall, not less than three months, or such other period as the Director of Mines may allow, before such cessation or termination, furnish to the Director of Mines —

- (a) a full register of assets showing those assets which the holder intends to remove and those assets which the holder intends to leave in the area of operation; and
- (b) details of any potentially hazardous substances, erections or excavations in the area of operation.

(3) The Director of Mines shall, upon receipt of the notice referred to in subsection (2) consultation with the Director of Mines Safety and after—

- (a) certify that specified items of fixed machinery are necessary for the care and maintenance of the mining or non-mining right area and such items and machinery shall not be removed from the area;
- (b) require that specified buildings and other items of fixed machinery be removed from the area; or
- (c) require that potentially hazardous substances, erections and excavations be removed or made safe in such manner as the Director of Mines may direct.

(4) Where the removal of assets which the holder has specified that the holder intends to remove is prohibited under paragraph (a) of subsection (2), the Government shall pay reasonable compensation to the holder for such assets and any person who subsequently acquires the mining or non-mining right shall reimburse the Government the sum equal to the compensation paid by the Government.

(5) A mining area shall, upon cessation of mining operations by the holder of the mining right or mineral processing licence, revert to the owner of the area, except that if the Director of Mines determines that the area should be retained by the Government, the Government may retain the area subject to payment of fair compensation to the owner of the area.

75. (1) The Director of Mines Safety may, where the Director of Mines Safety has reasonable grounds to believe that any condition of a mining or non-mining right issued under this Act has been breached, serve a compliance order on the holder requiring the holder to remedy the breach within the period stipulated in the order.

Compliance
order

(2) A compliance order issued under subsection (1) may —

- (a) suspend the mining or non-mining right with immediate effect if the Director of Mines Safety considers that the suspension is necessary to prevent or mitigate an imminent risk to the safety of the mine or persons within the mining operation area, or to prevent adverse effects to the environment or to human health occurring; or
- (b) require the holder to take specified measures to prevent or abate the risk or adverse effect referred to in paragraph (a).

(3) A person on whom a compliance order is served shall comply with the requirements of the order by the date or dates specified in the order and if no date is specified, the person shall comply with the order immediately.

(4) The Director of Mining Cadastre may, where the holder referred to in subsection (2) fails to comply with a compliance order—

- (a) vary the conditions of the mining or non-mining right;
- (b) revoke the mining or non-mining right; or
- (c) cause the necessary steps to be taken to execute it, and the costs thereof and incidental thereto shall be a debt due to the Republic from the person to whom the direction was given and shall be recoverable in any court of competent jurisdiction on behalf of the Republic.

(5) A certificate signed by the Director of Mines Safety stating that a specified amount is the amount of the debt due shall be admissible as evidence in all courts for the recovery of debts due to the Republic under subsection (4).

(6) A debt due to the Republic under this section is recoverable whether or not the person by whom it is due is prosecuted or convicted of an offence.

(7) A person who contravenes subsection (3) commits an offence and is liable, upon conviction, to a fine not exceeding three million penalty units or to imprisonment for a period not exceeding four years, or to both.

Renewal of
mining or
non-mining
right

76. (1) A holder of a mining or non-mining right may apply for the renewal of the mining or non-mining right in the prescribed manner and form upon payment of the prescribed fee.

(2) A holder of an exploration licence shall relinquish at least fifty percent of the initial exploration area on the first renewal and at least fifty percent of the balance on the second renewal.

(3) Where the holder of a mining or non-mining right applies for the renewal of the mining or non-mining right, the existing mining or non-mining right shall continue in force until the date of the renewal of the application or until the application is rejected.

Annual
charge

77. (1) A holder of a mining right or mineral processing licence shall pay to the Republic an annual area charge of such amount as may be prescribed, or as may be calculated in the manner prescribed, by the Minister, by statutory instrument.

(2) The annual area charge referred to in subsection (1) shall be payable on the grant of the mining right or mineral processing licence, and thereafter annually on the anniversary thereof until the termination of the mining right or mineral processing licence.

Production
of
information

78. (1) The Directors may direct a holder of a mining right, mineral processing licence, gold panning certificate or any permit issued under this Act, at a specified time and place, to make available to, or to produce for inspection by, the Directors or an authorised officer any books, accounts, vouchers, documents or records of any kind relating to the mining right, mineral processing licence, gold panning certificate or permit and the holder of the mining right, mineral processing licence, gold panning certificate or permit shall comply with the directive.

(2) If the Directors have reason to believe that a person is capable of giving information or producing or making available books or documents relating to minerals obtained, or the value of minerals obtained, the Directors may, by notice, in writing, served on that person, require that person to—

- (a) furnish the information, in writing, within the period and in the manner specified in the notice;
- (b) attend before any of the Directors or a person specified in the notice, at a time and place so specified, and answer questions relating to minerals obtained or the value of the minerals obtained; or
- (c) make available to a person specified in the notice, at a time and place so specified, books or documents in that person's custody or power relating to the minerals obtained or the value of the minerals obtained.

(3) Where books or documents are made available as required under this section, the person to whom the books or documents are made available may make copies of, or take extracts from, the books or documents.

79. (1) The Director of Mining Cadastre shall maintain or cause to be maintained — Registers

- (a) a priority register, showing details of all new applications for mining rights and mineral processing licences;
- (b) a general register, showing details of application for renewal, transfer, alteration, abandonment and amendment of mining and non-mining rights under this Act; and
- (c) a mining cadastre register, showing—
 - (i) all mining rights and mineral processing licences granted under this Act;
 - (ii) the geographical coordinates of the areas of land over which mining rights and mineral processing licences have been granted, the areas that are vacant and can be applied for and the areas that, for environmental and other reasons, are closed to exploration, mining or mineral processing;

- (iii) the date of issue and duration of the mining rights and mineral processing licences and the corresponding title, and copies of all the decisions rendered in connection with all the mining rights and mineral processing licences; and
- (iv) the minerals for which the mining rights and mineral processing licences are granted.

(2) Any person may, upon payment of the prescribed fee, inspect any of the registers maintained or kept under this section and may obtain certified copies of any document contained in the registers.

PART VI

SAFETY, HEALTH AND ENVIRONMENTAL PROTECTION

Consideration of environment and human health when granting mining rights or mineral processing licences

80. (1) The Committee shall, in deciding whether or not to grant any mining right or mineral processing licence, take into account—

(a) the need to conserve and protect—

- (i) the air, water, soil, flora, fauna, fish, fisheries and scenic attractions; and
- (ii) the features of cultural, architectural, archaeological, historical or geological interests; and

(b) the need to ensure that any mining or mineral processing activity prevents any adverse socio-economic impact or harm to human health, in or on the land over which the right or licence is sought.

(2) The Director of Mines Safety and the Zambia Environmental Management Agency may cause such environmental impact studies and other studies to be carried out as the Director of Mines Safety considers necessary to enable a decision under subsection (1) to be made.

Conditions for protection of environment and human health

81. (1) The conditions subject to which the mining right is granted or renewed shall include such conditions as may be prescribed by the Minister, by statutory instrument, or as the Minister may, in a particular case, otherwise determine, in relation to—

(a) the conservation and protection of—

- (i) the air, water, soil, flora, fauna, fish, fisheries and scenic attractions;
 - (ii) the features of cultural, architectural, archaeological, historical or geological interest; and
 - (iii) in or on the land subject to the right or licence;
- (b) the protection of human health, in consultation with the Minister responsible for health;
- (c) the rehabilitation, levelling, re grassing, reforestation or contouring of such part of the land over which the right or licence has effect as may have been damaged or adversely affected by exploration operations, mining operations or mineral processing operations; and
- (d) the filling in, sealing or fencing of excavations, shafts and tunnels.
- (2) Any conditions of the kind referred to in subsection (1)—
- (a) shall conform to specifications and practices established by national standards for the management of the environment as it is affected by mining or mineral processing operations; and
 - (b) shall include requirements for the lodgment, by an applicant for the grant or renewal of a licence or permit, or holder of a licence, as the case may be, of one or more cash deposits for securing the performance by that applicant or holder of a licence of all or any such conditions.

82. (1) A holder of a mining right or mineral processing licence over land that ceases to be subject to the mining right or mineral processing licence—

- (a) may, within the prescribed period; and
- (b) shall, if directed to do so by the Director of Mines Safety by notice in writing, within the period specified in the notice;

cause to be removed from the land, on the surface or underground, any mining or mineral processing plant brought onto, or erected upon that land in the course of mining or mineral processing operations carried out under the mining right or mineral processing licence.

Clearing
away of
mining or
mineral
processing
plant

(2) The Director of Mines Safety may give a direction under this section even though the prescribed period has not expired.

(3) In this section, “prescribed period” means a period of six months from the date on which the land ceased to be subject to the right or such longer period as the Director of Mines Safety may allow, in any particular case, with the consent of the Minister.

Sale of
mining or
mineral
processing
plant

83. (1) The Director of Mines Safety may, where any mining or mineral processing plant is not removed under section *eighty-two*, direct that the mining or mineral processing plant be sold by public auction.

(2) Any mining or mineral processing plant remaining unsold after the public auction under subsection (1) has been held, may be sold by private treaty.

(3) The following amounts shall be deducted from the proceeds of any sale under subsection (2):

- (a) the costs of the sale and of any matter incidental to or connected with the sale;
- (b) the costs of removing from the land any mining or mineral processing plant remaining unsold after the public auction;
- (c) any amount owing in respect of compensation payable under Part IV; and
- (d) any other amount that the Director of Mines Safety certifies to be a deductible amount.

(4) Any balance remaining shall be paid to the Minister responsible for finance who shall credit the same to a trust account and may, on application, pay it to any person who is lawfully entitled to it.

(5) Where no person applies to the Minister under subsection (4) within a period of ninety days, the balance shall be paid to the revenues of the Republic.

(6) Where the proceeds of sale are less than the amounts to be deducted—

- (a) the shortfall shall be a debt due to the Republic from the person to whom the relevant direction was given and shall be recoverable in any court of competent jurisdiction; and
- (b) the proceeds of sale shall be applied in meeting those amounts in such manner as the Minister may direct.

(7) A debt due to the Republic under this section is recoverable whether or not the person by whom it is due is prosecuted or convicted of an offence under this Part.

84. (1) Where the Director of Mines or Director of Mines Safety considers that a holder of a mining licence is using wasteful mining practices, the Director of Mines or Director of Mines Safety shall—

Wasteful
mining
practices

- (a) give notice to the holder specifying the particulars of the wasteful mining practices;
- (b) request the holder to cease the wasteful mining practices and remedy any damage caused by the practices;
- (c) require the holder to reply, in writing, showing cause, within a time specified by the notice, why the holder's licence should not be revoked; and
- (d) suspend the mining operations until the holder takes remedial measures.

(2) The Committee shall cancel the licence if the holder fails to cease using the wasteful mining practices or to remedy any damage caused by the wasteful mining practice within the time specified in the notice.

85. A holder shall inform the Director of Mines Safety of any accident that occurs at an exploration, mining, gold panning or mineral processing area in the prescribed manner and form.

Notification
of accidents
and
dangerous
occurrences

86. (1) There shall be an Environmental Protection Fund, which shall be administered and managed by the Environmental Protection Fund Committee appointed by the Minister.

Environmental
Protection
Fund

(2) The Minister may, by statutory instrument, prescribe the rules for the management and administration of the Fund.

(3) There shall be paid into the Fund the amount of any cash deposit referred to in paragraph (b) of subsection (2) of section *eighty-one*.

(4) Moneys from the Fund may be applied —

- (a) at the expiry or termination of a licence or permit by way of refund to the holder thereof of the amount of any cash deposits referred to in section *eighty-one* that were paid by the holder, to the extent that such moneys are not appropriated under paragraph (b); or

(b) to the payment of any debt due under subsection (4) of section *seventy-five* or under subsection (6) of section *eighty-three* to the extent that the debt is not paid by or recovered from, the person from whom it is due, and regardless of whether proceedings have been taken against that person for an offence under this Part or for the recovery of the debt.

(5) In the case of any particular debtor, the amount of any moneys expended under this section for or towards the satisfaction of the person's debts shall not exceed the amount of any cash deposits referred to in section *eighty-one* that were lodged by that person.

(6) Moneys standing to the credit of the Fund that are not immediately required for the purposes of the Fund may be invested in such manner as the Environmental Protection Fund Committee, with the approval of the Minister responsible for finance, may determine.

Liability and
redress

87. (1) A holder shall be strictly liable for any harm or damage caused by mining operations or mineral processing operations and shall compensate any person to whom the harm or damage is caused.

(2) Liability shall attach to the person who directly contributes to the act or omission which results in the harm or damage.

(3) Where there is more than one person responsible for the harm or damage, the liability shall be joint and several.

(4) Where any harm or damage is caused to the environment or biological diversity, compensation shall include the cost of reinstatement, rehabilitation or clean-up measures which are incurred and where applicable, the costs of preventive measures.

(5) Liability shall extend to—

(a) any harm or damage caused directly or indirectly by the mining or mineral processing operations to the economy or social cultural conditions;

(b) any negative impact on the livelihood or indigenous knowledge systems or technologies of any community;

(c) any disruption or damage to any production or agricultural system;

(d) any reduction in yields of the local community;

(e) any air, water or soil contamination or damage to biological diversity;

(f) any damage to the economy of an area or community; or

(g) any other consequential disorder.

(6) Notwithstanding any other law to the contrary, the right to bring any action in respect of harm caused by mining or mineral processing operations shall lapse after a reasonable period from the date on which the affected person or the community could reasonably be expected to have learned of the harm or damage, taking due account of—

(a) the time the harm or damage may take to manifest itself; and

(b) the time that it may take to correlate the harm with the mining or mineral processing operations, having regard to the situation or circumstance of the person or community affected.

(7) A person, group of persons or a private or State organisation may bring a claim and seek redress in respect of the breach or threatened breach of any provision relating to damage to the environment, biological diversity, human and animal health or to socio-economic conditions—

(a) in that person's or group of persons' interest;

(b) in the interest of or on behalf of, a person who is, for practical reasons, unable to institute such proceedings;

(c) in the interest of, or on behalf of, a group or class of persons whose interests are affected;

(d) in the public interest; and

(e) in the interest of protecting the environment or biological diversity.

(8) Costs shall not be awarded against any of the persons specified under subsection (7) who fail in any action if the action was instituted reasonably out of concern for the public interest or the interest of protecting human health, biological diversity and in general, the environment.

(9) Where any harm or damage is caused to human and animal health by mining or mineral processing operations, compensation shall include—

- (a) any costs and medical expenses;
- (b) compensation for any disability suffered; and
- (c) compensation for loss of life.

PART VII

MINERAL ROYALTIES AND CHARGES

Collection
and
assessment
of mineral
royalty

Cap. 323

88. (1) The Commissioner-General shall be responsible for the carrying out of the provisions of this Part in relation to mineral royalty.

(2) The Income Tax Act shall apply to the collection, assessment, enforcement of, and right of appeal with respect to, any mineral royalty imposed under this Part.

Royalties on
production
of minerals

89. (1) A holder of a mining licence shall pay a mineral royalty at the rate of nine percent for open cast mining operations and six percent for underground mining operations of—

- (a) the norm value of the base metals or precious metals produced or recoverable under the licence; and
- (b) the gross value of the gemstones or energy minerals produced or recoverable under the licence.

(2) The mineral royalty payable on industrial minerals shall be at six percent of the gross value of the minerals produced or recoverable under the licence.

(3) A person who is not a holder of a mining licence and who is in possession of minerals extracted in the Republic for which mineral royalty has not been paid is liable to pay mineral royalty at the rate of —

- (a) nine percent of the norm value for base metals or precious metals;
- (b) nine percent of the gross value for gemstones or energy minerals; and
- (c) six percent of the gross value for industrial minerals.

(4) Where the Commissioner-General determines that the realised price does not correspond to the price that would have been paid for the minerals if they had been sold on similar terms in a transaction at arm's length, between a willing seller and a willing buyer, the Commissioner-General may give a notice to that effect to the licensee and the amount of the gross value shall be determined in accordance with the mechanism contained in sections *ninety-seven A* to *ninety-seven D* of the Income Tax Act.

Cap. 323

(5) In this section—

“ gross value ” means the realised price for a sale free on board at the point of export from Zambia or point of delivery within Zambia;

“ norm value ” means—

(a) the monthly average London Metal Exchange cash price per tonne multiplied by the quantity of the metal or recoverable metal sold;

(b) the monthly average Metal Bulletin cash price per tonne multiplied by the quantity of metal sold or recoverable metal sold to the extent that the metal price is not quoted on the London Metal Exchange; or

(c) the monthly average cash price per tonne, at any other exchange market approved by the Commissioner-General, multiplied by the quantity of the metal or recoverable metal sold to the extent that the metal price is not quoted on the London Metal Exchange or Metal Bulletin; and

“ open cast mining operations ” includes winnings from tailing dumps or similar dumps and leaching.

90. Subject to section *ninety-four*, the mineral royalty payable under this section is due and payable within fourteen days after the end of the month in which the sale of minerals is done.

Due date for mineral royalty

91. A person required to pay mineral royalty under section *eighty-nine* shall submit monthly mineral royalty returns in the prescribed form containing such particulars as may be required by the Commissioner-General within fourteen days after the end of the month in which the sale of the minerals is done.

Mineral royalty returns

92. (1) Where, for any reason, it is impractical to assess the amount of any mineral royalty due, the CommissionerGeneral may assess, and the person required to pay mineral royalty shall be liable to pay, a provisional mineral royalty.

Provisional assessment of mineral royalty

(2) Where a provisional mineral royalty is assessed under this section, and the amount of the mineral royalty is ascertained at the end of any period of adjustment prescribed under this Act, the person required to pay mineral royalty shall be liable for any balance or, as the case may require, shall be refunded any excess sum paid by that person on the provisional assessment.

Remission of
mineral
royalties

93. (1) The Minister responsible for finance may, after consultation with the Minister, remit in whole or part any mineral royalty payable on any mineral, or on any mineral obtained from a particular deposit, for such period as the Minister responsible for finance may determine, if the Minister considers it expedient in the interests of the production of the mineral to do so.

(2) The Minister may exempt from liability to pay mineral royalty any samples of minerals acquired for purposes of assay, analysis or other examination after taking into account—

- (a) any mineral analysis certificate issued under this Act; and
- (b) such quantity or value as may be prescribed by regulation.

Deferment of
mineral
royalties

94. (1) The Commissioner-General may, on application by a holder of a mining licence, defer payment of mineral royalty due from the holder if, during any period for which a payment of mineral royalty is due as prescribed under this Act, in this section referred to as “the mineral royalty payment period”, the cash operating margin of the holder in respect of mining operations in the mining area falls below zero, and in any such case, the amount payable on account of mineral royalty in respect of that period shall be reduced to such an extent as is necessary to increase the cash operating margin to zero, and payment of the difference between the mineral royalty due in respect of that period and the reduced amount shall be deferred.

(2) Where the payment of any mineral royalty is deferred—

- (a) it shall be accumulated with any other deferred payment of mineral royalty which is outstanding;
- (b) the amount outstanding shall become payable when the mineral royalty is due in respect of the next mineral royalty payment period or periods in which, after the deduction of the mineral royalty then due, the cash operating margin is positive; and
- (c) the sum payable on any particular occasion under paragraph (b) shall not exceed that which would reduce the cash operating margin for the relevant royalty payment period below zero.

(3) In this section—

“cash operating margin” means the amount derived by deducting operating costs from revenue;

“operating costs” means cash expenditures incurred in mining operations after the commencement of production from the mining area, other than—

- (a) capital expenditure or any expenditure of a capital nature;
- (b) provision for depreciation;
- (c) financing charges, including interest on loans and fees and related charges in respect thereof; or
- (d) agency fees or any other fees or charges not directly or necessarily related to the production and disposal of minerals from the mining area; and

“revenue ” means the gross value of all sales or other disposal of minerals.

95. (1) Where a holder of a mining licence fails to pay any mineral royalty or provisional mineral royalty payable by the holder of the mining licence on or before the due date or any extension thereof allowed by the Commissioner-General, the Commissioner-General may, by order served on the holder, prohibit the disposal of any mineral from the mining area concerned, or from any other mining area held by that holder, until an arrangement has been made that is acceptable to the Commissioner-General for the payment of the mineral royalties.

Prohibition
of disposal
of minerals

(2) A holder of a mining licence who contravenes or fails to comply with an order given under subsection (1), and any person who, knowing of such order and contrary thereto, receives any mineral from the area, commits an offence and is liable, upon conviction—

- (a) in the case of an individual, to a fine not exceeding five hundred thousand penalty units or imprisonment for a term not exceeding five years, or to both; or
- (b) in the case of a body corporate, to a fine not exceeding one million penalty units.

PART VIII APPEALS

96. Whenever the Minister, the Committee, any of the Directors or an authorised officer makes a decision against which an appeal lies by virtue of a provision of this Part, the holder or applicant affected by the decision shall be informed of the decision and the reasons for the decision by notice, in writing, and the notice shall inform the person notified of that person’s right of appeal.

Notification
of decisions

Appeal
against
decision of
Directors or
Committee

97. (1) A person who is aggrieved by a decision of the Director of Mining Cadastre, Director of Mines Safety, Director of Mines, Director of Geological Survey or the Committee under this Act may, within thirty days of receipt of the decision, appeal to the Minister in the prescribed manner and form.

(2) The Minister shall determine an appeal under subsection (1) in accordance with this Act and the circumstances of the case.

(3) A determination of the Minister under this section may include such directions to the Director of Mining Cadastre, Director of Mines Safety, Director of Mines, Director of Geological Survey or the Committee as the Minister considers appropriate for the disposal of the matter, and the Director concerned or the Committee shall give effect to the directions.

(4) A person who is aggrieved with the decision of the Minister may appeal to the Tribunal within thirty days of receipt of the Minister's decision.

Mining
Appeals
Tribunal

98. (1) There is established the Mining Appeals Tribunal.

(2) The Tribunal shall consist of five members appointed by the Minister as follows:

- (a) the Chairperson, who is a legal practitioner of at least ten years legal experience;
- (b) the Vice-Chairperson, who is a legal practitioner of at least ten years legal experience; and
- (c) three other members who are experts with not less than eight years experience and knowledge in matters relevant to mining or licensing under this Act.

(3) The Tribunal has jurisdiction to—

- (a) inquire into and make awards and decisions in any dispute relating to exploration, gold panning and mining under this Act;
- (b) inquire into, and make awards and decisions relating to, any dispute of compensation to be paid under this Act;
- (c) generally to inquire into and adjudicate upon any matter affecting gold panning, the mining or non-mining rights and obligations of any person or the Government under this Act, except for matters under Part VII which shall be heard and determined by the Tax Appeals Tribunal; and
- (d) perform such other functions as may be prescribed under this Act or any other written law.

(4) The powers, rights and privileges of the Tribunal shall be the same as those conferred upon Commissioners by the Inquiries Act, and the provisions of that Act shall apply in relation to the hearing and determination of an appeal by the Tribunal under this section and to a person summoned to give evidence before the Tribunal. Cap. 41

99. The Tribunal shall, within fourteen days of determining an appeal, inform the appellant and the Minister of its decision and the reasons therefor in writing. Decision of Tribunal

100. A person aggrieved with a decision of the Tribunal may, within thirty days of receiving the decision, appeal to the High Court. Appeals to High Court

101. The Chief Justice may, by statutory instrument, make rules— Rules

(a) regulating the procedure of the Tribunal; and

(b) prescribing the procedure for the summoning and appearance of witnesses and the production of any document or other evidence before the Tribunal.

PART IX

OFFENCES

102. (1) A holder of a mining right or mineral processing licence shall appoint a qualified person as a manager to supervise the general operations of the mining or mineral processing activity. Failure to appoint manager

(2) A holder of a mining or mineral processing licence right who fails to appoint a manager in accordance with subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

103. A holder of a mining right, mineral processing licence or gold panning certificate who wilfully fails or neglects to give notice of an accident in a mining, exploration, mineral processing or gold panning area to the Director of Mines Safety contrary to the provisions of this Act commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both. Notice of accidents

Endangering
safety and
health of
persons
employed in
mine

104. (1) A person employed in a mine or mineral processing plant shall not—

- (a) willfully interfere with or misuse an appliance, convenience or other thing provided in a mine for the purposes of securing the health, safety or welfare of employees;
- (b) willfully and without reasonable cause do anything likely to endanger the life of a person in the mine; or
- (c) willfully neglect to make use of any appliance or other thing provided in the mine for the purpose of securing the health or safety of the persons employed in the mine.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or to imprisonment for a term not exceeding ten years, or to both.

Working in
suspended or
closed mine

105. A person who works or continues to work in a mine in contravention of an order of closure of a mine or an order to suspend the operations of a mine commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Prohibition
of conduct
with
dangerous
results

106. (1) A person in a mine who conducts oneself in a manner that—

- (a) results in loss of life or serious bodily injury; or
- (b) causes injury or danger to persons employed in the mine or other persons in or about the mine;

commits an offence and is liable, upon conviction, to a fine not exceeding four hundred thousand penalty units or to imprisonment for a term not exceeding four years, or to both.

(2) A court may, in passing judgment under subsection (1), order the whole or any part of a fine recoverable to be paid as compensation to an injured person or, in the case of a fatal injury, to the deceased person's personal representative.

(3) A fine referred to in subsection (3) shall not, if imposed in a case which is subject to appeal—

- (a) be paid before the period allowed for filing the appeal has elapsed; or
- (b) if an appeal has been filed, before the determination of the appeal.

107. A person who, without reasonable excuse, obstructs or hinders or delays a holder of a mining or non-mining right from doing any act which the holder is authorised to do by this Act commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Obstruction of holder of mining or non-mining right

108. (1) A holder of a mining or non-mining right who—

Offences relating to records and reports

(a) fails to keep a record or information required to be kept under this Act;

(b) fails to supply a record or mineral samples to the Director of Mines, Director of Geological Survey, Director of Mines Safety or Director of Mining Cadastre, as the case may be, in accordance with this Act; or

(c) supplies a false or misleading record, report, plan or information required for purposes of this Act;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(2) A person who, without reasonable excuse, omits to make or furnish any plan, report, return, notice, record, register or other document required by or under this Act to be made or furnished, commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(3) A person who—

(a) in an application under this Act;

(b) in a report, return or affidavit submitted for the purposes of this Act; or

(c) in purported compliance with a requirement under this Act to furnish any information, make a statement or answer a question;

furnishes information or makes a statement that is false or misleading in a material particular, commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

(4) A person who, in pursuance of a requirement under this Act, produces or makes available a document or any books, that the person knows to be false or misleading in a material particular commits an offence.

Permitting unqualified person to prepare reports

109. (1) A holder of a mining or non-mining right shall not cause or permit a report required under this Act to be prepared by a person—

(a) who is not qualified in the field to which the report relates; or

(b) whose qualifications are not recognised by the relevant professional body for that field in the Republic.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Use of false certificates

110. A person who recklessly or fraudulently—

(a) uses or attempts to use a mineral analysis certificate or valuation certificate granted to another person in relation to a mineral; or

(b) allows a mineral analysis certificate or valuation certificate to be used or attempted to be used by another person;

commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.

Offences related to mining

111. (1) A person commits an offence who—

(a) fails, neglects or refuses to comply with any direction given under this Act;

(b) explores, retains a mineral deposit or mines otherwise than in accordance with the provisions of this Act;

(c) removes or fails to remove any buildings, fixed machinery or other movable property contrary to the provisions of this Act;

(d) removes or disposes of any mineral contrary to the provisions of this Act; or

(e) places or deposits, or is accessory to the placing or depositing of, any mineral in any place with the intention to mislead any other person regarding the mineral possibilities of such place.

(2) A person who—

- (a) exports a radioactive mineral in contravention of subsection (1) of section *fifty-nine* or fails to comply with the terms or conditions of a permit issued under that section;
- (b) causes environmental damage contrary to this Act or any other written law; or
- (c) fails to rehabilitate a site or deal with potentially hazardous substances, erections or excavations in accordance with directions given in accordance with this Act;

commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or to imprisonment for a term not exceeding ten years, or to both.

112. A person who commits an offence under this Act for which no penalty is provided is liable, upon conviction—

General penalty

- (a) in the case of an individual, to a penalty not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both; or
- (b) in the case of a body corporate or un-incorporate body, to a penalty not exceeding one million penalty units.

113. (1) A person commits an offence who, with intent to deceive—

Mingling samples of ore

- (a) places or deposits, or is accessory to the placement or deposit of, any mineral or material in any place; or
- (b) mingles or causes to be mingled with any sample of ore any substance which will enhance the value or in any way change the nature of the ore.

(2) A person convicted of an offence under this section is liable—

- (a) in the case of an individual, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both; or
- (b) in the case of a body corporate or un-incorporate body, to a fine not exceeding one million penalty units.

114. If a body corporate or unincorporate body is convicted of an offence under this Act, every person who—

Offence committed by body corporate or unincorporate body

- (a) is a director of, or is otherwise concerned with the management of, the body corporate or unincorporate body; and

(b) knowingly authorised or permitted the act or omission constituting the offence;

shall be deemed to have committed the same offence and may be prosecuted and punished accordingly.

PART X

GENERAL PROVISIONS

Summary
imposition of
penalties

115. (1) An authorised officer may, where satisfied that any person has committed an offence for which the penalty does not exceed two hundred thousand penalty units or where a person has admitted the commission of an offence under this Act for which the penalty does not exceed two hundred thousand penalty units, summarily demand from the person the payment of a fine not exceeding six thousand penalty units in respect of the offence.

(2) An authorised officer shall, where the authorised officer demands a payment under subsection (1), inform the person against whom the demand is made of the right to admit or dispute the liability.

(3) A person from whom payment of a fine has been demanded under subsection (1) may elect to admit liability and pay the fine, or dispute liability.

(4) The payment of a fine shall operate as a bar to any further criminal proceedings against the person making the payment in respect of the offence concerned.

(5) An authorised officer who receives payment of a fine shall give a receipt to the person making the payment in such form as may be prescribed.

(6) An authorised officer who receives a payment under this section and—

(a) fails to issue a receipt to the person making the payment as required under subsection (5);

(b) fails to account for any payment made under this section;
or

(c) in any manner, misuses or puts to personal use any payment made under this section;

commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

116. The Attorney-General may demand, sue for, recover and receive all royalties, fees, dues, rents or payments which may become due in respect of any mining right or non-mining right or otherwise under the provisions of this Act.

Recovery of fees

117. (1) Subject to subsection (2), any information furnished or information in a report submitted to the Minister, Committee, Director of Mines, Director of Mines Safety, Director of Mining Cadastre or Director of Geological Survey or any authorised officer under or for the purposes of this Act by a holder of a mining or non-mining right shall not, for so long as the mining or non-mining right has effect over the land to which the information relates, be disclosed, except with the consent of the holder of the mining or non-mining right.

Disclosure of information

(2) Nothing in subsection (1) shall prevent the disclosure of information where the disclosure is made—

- (a) for or in connection with the administration of this Act;
- (b) for the purpose of any legal proceedings;
- (c) for the purpose of any investigation or inquiry conducted under this Act;
- (d) to any person being a consultant to the Government or public officer who is authorised by the Minister to receive such information; or
- (e) for, or in connection with, the preparation by or on behalf of the Government of statistics in respect of prospecting or mining, except that a disclosure authorised by this paragraph shall be no more specific in detail than is necessary for the purpose of the statistics concerned.

(3) Any person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

118. Where this Act requires the payment of a fee or any document, report, licence, permit, certificate of registration or submission of an application to be issued or received, the payment, issuance or receipt may be done electronically, where applicable.

Electronic submissions and payments

119. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

Regulations

(2) In particular, and without prejudice to the generality of subsection (1), regulations may provide for—

- (a) the classification of any mineral as a precious metal;
- (b) the proper and efficient working of exploration areas, mining areas and mines;
- (c) the avoidance of wasteful mining or metallurgical practices;
- (d) decommissioning and closure of mines;
- (e) participation by mining right and mineral processing licence holders in the development of local communities;
- (f) the inspection of books and documents;
- (g) the regulation of work and machinery connected with exploration, mining or mineral processing in so far as safety and the protection of life are concerned;
- (h) disclosure of the sale and purchase agreement on the transfer of mining rights;
- (i) the regulation of all matters relating to sanitation and health, including the establishment of cemeteries, in mining and mineral processing areas;
- (j) the reporting of cases of accident and death occurring on any exploration, mining, gold panning or mineral processing area;
- (k) the demarcation of exploration, mining and gold panning areas;
- (l) the circumstances and procedures for referring any matter for determination by an expert for purposes of this Act;
- (m) the manner of making and dealing with applications under this Act;
- (n) fees to be paid by a holder of a mining or non-mining right;
- (o) fees and annual charges;
- (p) the sale, disposal, exportation and importation of minerals, ores or mineral products;
- (q) the development, use and retention of documents and information in electronic form; and
- (r) the regulation of the export of gemstones including the introduction of a sealing mechanism of gemstones and precious metals after valuation by Government officers.

(3) The Minister responsible for finance may, after consultation with the Minister, by statutory instrument, make regulations for the better carrying into effect of Part VII.

(4) Any regulations made under this Act may prescribe for any breach, a fine not exceeding five hundred thousand penalty units or imprisonment for a term not exceeding five years, or to both.

120. The Mines and Minerals Development Act, 2008, is repealed.

Repeal of Act No. 7 of 2008

121. (1) Notwithstanding section *one hundred and twenty*, this section applies in relation to the savings and transitional provisions.

Transitional provisions

(2) Unincorporated holders of mining rights, except holders of artisan's mining rights, granted under the repealed Act shall incorporate companies within two years of the commencement of this Act.

Act No. 7 of 2008

(3) Large-scale mining licences, small-scale mining licences and mineral processing licences granted under the repealed Act shall remain valid under this Act for the period specified on the licence.

Act No. 7 of 2008

(4) Large-scale and small-scale gemstone licences granted under the repealed Act shall be converted to mining licences and shall remain valid under this Act for the period specified on the licence.

Act No. 7 of 2008

(5) A prospecting permit issued under the repealed Act shall remain valid under this Act for the period specified on the permit.

Act No. 7 of 2008

(6) A prospecting licence granted under the repealed Act shall convert to the following tenure under this Act:

Act No. 7 of 2008

(a) a holder whose tenure is in the first or second year is eligible to apply without relinquishment and be granted an exploration licence with an additional three years tenure;

(b) a holder whose tenure is in the third year is eligible to apply without relinquishment and be granted an exploration licence with an additional one year tenure;

(c) a holder whose tenure is in the fourth year is eligible to apply for an exploration licence covering only fifty percent of the prospecting area held under the licence issued under the repealed Act and the exploration licence may be granted for an additional three years subject to provisions under the Act;

Act No. 7 of 2008

(d) a holder whose tenure is in the fifth year is eligible to apply without relinquishment and be granted an exploration licence with an additional two years tenure; and

(e) the licence of a holder whose tenure is in the sixth or seventh year shall remain valid for the period specified in the licence.

(7) A person who, prior to the commencement of this Act, is carrying out mineral trading operations or holds a gemstone sales certificate, without a licence shall be required to apply for a mineral trading permit within ninety days of the commencement of this Act.

(8) The fees, accumulated area charges and area charges for the year following the change of tenure shall, where applicable, be paid in accordance with this Act.

SCHEDULE

(Section 6)

THE MINING LICENSING COMMITTEE

Alternate member

1. (1) The Minister shall nominate an alternate member for each of the members referred to in paragraphs (a) to (d) of subsection (2) of section *six*.

(2) The Ministries, Attorney-General, organisations and associations referred to in paragraphs (e) and (f) of subsection (2) of section *six* shall nominate an alternate member for each of their respective members.

Tenure of office and vacancy

2. (1) Subject to the other provisions of this Act, a member of the Committee, other than the members referred to in paragraphs (a) to (d) of subsection (2) of section *six*, shall hold office for a term of three years from the date of appointment and may be re-appointed for a further term of three years.

(2) On the expiration of the term for which a member is appointed, the member shall continue to hold office until another member is appointed, but in no case shall an extension of the period exceed three months.

(3) The office of a member becomes vacant—

- (a) on the member's death;
- (b) if the member is adjudged bankrupt;
- (c) if the member is absent, without reasonable excuse, from three consecutive meetings of the Committee of which the member had notice, without the prior approval of the Committee;
- (d) upon the expiry of one month's notice of the member's intention to resign, given by the member, in writing, to the Minister;
- (e) if the member becomes mentally or physically incapable of performing duties as a member of the Committee; or
- (f) if the member is convicted of an offence under this Act or any other written law.

3. The Minister may, where the office of a member becomes vacant before the expiry of the term of office, appoint another member in the place of the member who vacates office, but that member shall hold office for the unexpired part of the term.

Filling of
casual
vacancy

4. (1) Subject to the other provisions of this Act, the Committee may regulate its own procedure.

Proceedings
of Committee

(2) The Committee shall meet as often as is necessary to perform its functions and at such places and times as the Chairperson may determine.

(3) The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Committee and shall call a special meeting to be held within fourteen days of receipt of a written request to the Chairperson by at least five members of the Committee.

(4) If the urgency of any particular matter does not permit the giving of the notice required under sub-paragraph (3), a special meeting may be called by the Chairperson on giving a shorter notice.

(5) The quorum at a meeting of the Committee shall be half of the members of the Committee.

(6) There shall preside at any meeting of the Committee—

- (a) the Chairperson;
 - (b) in the absence of the Chairperson, the Vice-Chairperson;
- and

(c) in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present may elect from amongst themselves for the purpose of that meeting.

(7) A decision of the Committee on any question shall be by a majority of votes of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote, in addition to the deliberative vote.

(8) The Committee may invite any person whose presence is in its opinion desirable to attend and participate in the deliberations of a meeting of the Committee but such a person shall not have a vote.

(9) The validity of any proceedings, act or decision of the Committee shall not be affected by a vacancy in the membership of the Committee or by a defect in the appointment of any member or by reason that a person not entitled to do so, took part in the proceedings.

(10) The Committee shall cause minutes to be kept of the proceedings of every meeting of the Committee and every meeting of any sub-committee established by the Committee.

Sub-
committees
of
Committee

5. (1) The Committee may, for the purpose of performing the functions of the Committee constitute such sub-committees as it considers necessary for the effective performance of the functions of the Committee.

(2) The Committee may appoint, as members of a sub-committee, persons who are or are not members of the Committee, except that at least one member of the Committee shall be a member of a sub-committee.

(3) A person serving as a member of a sub-Committee shall hold office for such period as the Committee may determine.

(4) Subject to any specific or general direction of the Committee, a sub-committee may regulate its own procedure.

Allowances
of
members

6. The members of the Committee or any sub-committee of the Committee shall be paid such allowances as the Committee may, with the approval of the Minister, determine.

7. (1) If a member or person who is present at a meeting of the Committee or a sub-committee of the Committee at which any matter is the subject of consideration and in which matter that member or person or the member's or that person's associate or relative, is directly or indirectly interested, in a private capacity, the member or person shall, as soon as is practicable, after the commencement of the meeting, declare such interest and shall not, unless the Committee or the sub-committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to, that matter.

Disclosure of
interest

(2) A declaration of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(3) In this paragraph—

(a) associate, in relation to a person means—

- (i) a nominee or an employee of that person;
- (ii) a former spouse or conjugal partner of that person;
- (iii) a firm of which that person, or that person's nominee, is a partner or a person in charge or in control of its business or affairs;
- (iv) a company in which that person or that person's nominee, is a director or is in charge or in control of its business or affairs, or in which that person, alone or together with that person's nominee, holds a controlling interest or shares amounting to more than thirty percent of the total share capital; or
- (v) the trustee of a trust, where the trust has been created by that person or the total value of the assets contributed by that person before or after the creation of the trust, amounts at any time, to not less than twenty percent of the total value of the assets of the trust; and

(b) "relative" in relation to a person, means—

- (i) a parent, son, daughter, brother, sister, niece, uncle, aunt, grandparent or cousin of that person; or
- (ii) that person's spouse or the spouse of a person mentioned in sub-item (i).

Prohibition
of
publication
or
disclosure of
information
to
unauthorised
persons

8. (1) A person shall not, without the consent in writing, given by or on behalf of the Committee, publish or disclose to an unauthorised person, otherwise than in the course of duties of that person, the contents of any document, communication or information, which relates to or which has come to the knowledge of that person in the course of that person's duties under this Act.

(2) A person who contravenes sub-paragraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of sub-paragraph (1), unlawfully publishes or communicates the information to any other person, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Immunity

9. An action or other proceeding shall not lie or be instituted against a member of the Committee or sub-committee, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance of any of the powers or functions conferred under this Act.
