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A BILL
FOR
AN ACT TO REPEAL THE MINERALS AND MINING ACT, NO. 34 OF 1999
AND RE-ENACT THE NIGERIAN MINERALS AND MINING ACT 2007 FOR
THE PURPOSES OF REGULATING ALL ASPECTS OF THE EXPLORATION
AND EXPLOITATION OF SOLID MINERALS IN NIGERIA; AND FOR RELATED
PURPOSES

[ ] Commencement

Enacted by the National Assembly of the Federal Republic Of Nigeria -

CHAPTER 1 – MINERALS, EXPLORATION, MINING AND
QUARRYING

PART I – OWNERSHIP AND CONTROL OF MINERALS

1. (1) The entire property in and control of all Mineral Resources in, under or
upon any land in Nigeria, its contiguous continental shelf and all rivers,
streams and water courses through out Nigeria, any area covered by its
territorial waters or constituency and the Exclusive Economic Zone is and
shall be vested in the Government of the Federation for and on behalf of
the people of Nigeria.

(2) All lands in which minerals have been found in commercial quantities
shall, from the commencement of this Act be acquired by the government
of the federation in accordance with the provisions of the Land Use Act.

(3) The property in mineral resources shall pass from the Government to
the person by whom the mineral resources are lawfully won, upon their
recovery in accordance with this Act.

2. (1) No person shall search for or exploit mineral resources in Nigeria or
divert or impound water for the purpose of Mining except as provided in
this Act.

(2) The provisions of this Act in respect of Reconnaissance, exploration
and exploitation of Mineral Resources in Nigeria shall apply to radio
active Minerals with such modifications as may be determined by health
and public policy considerations.

3. (1) No mineral title granted under this Act shall authorize reconnaissance,
exploration or exploitation of mineral resources on, or in, or the erection of
beacons on or the occupation of any land—

(a) set apart for, or used for or appropriated or dedicated to any
military purpose except with the prior approval of the President;

(b) within fifty metres of an oil pipeline licence area granted under
the Oil Pipeline Act;
(c) occupied by any town, village, market, burial ground or cemetery, ancestral, sacred or archaeological site, appropriated for a railway or situated within fifty metres of a railway, or which is the site of, or within fifty metres of, any government or public building, reservoir, dam or public road;

(d) that is subject to the provisions of the National Commission for Museums and Monuments Act, Cap N19, Laws of the Federation of Nigeria, 2004 and the National Parks Service Act, Cap N65, laws of the Federation of Nigeria, 2004; or

(e) over which a Mineral Title has previously been granted by the Mining Cadastre Office and where such Mineral Title is subsisting.

(2) No reconnaissance activity shall be carried out and no mineral title shall be granted under this Act over any area that is designated as closed to mining operations.

PART II — ADMINISTRATION OF THE ACT

4. Subject to the provision of this Act, the Minister shall —

(a) ensure the orderly and sustainable development of Nigeria's Mineral Resources;

(b) develop a well planned and coherent programme of exploitation of mineral resources taking into account the economic development, ecological and environmental factors;

(c) monitor compliance with Community Development Agreements by industry operators;

(d) establish the procedure for monitoring developments in the solid minerals sector and encourage the private sector investment in mineral resources development;

(e) ensure that in the exploitation of the mineral resources, an equitable balance is maintained between foreign and indigenous interest;

(f) create an enabling environment for the private investors, both foreign and domestic by providing adequate infrastructure for mining activities, and identify areas where Government intervention is desirable in achieving policy goals and proper perspective in mineral resources development;

(g) accelerate the development of technical and professional manpower required in the mineral sector;

(h) establish environmental procedures and requirements applicable to mining operations;

(i) maintain liaison between investors and Government Departments and Agencies set up for the purpose of
development of mineral resources and allied projects; and collaborate with other Ministries and agencies of the Federal Government whose functions relate to the objectives of this Act;

(j) prescribe measures for the general welfare and safety of workers engaged in mineral resources operations;

(k) develop a geo-scientific databank, and collate detailed data concerning the identity, quantity and quality of Nigeria's Mineral Resources;

(l) assist the private sector in identifying specific mining projects;

(m) initiate, organize and participate in promotion activities in mineral resources development, such as exhibitions, conferences, seminars and workshops geared towards the stimulation of investments in mineral resources;

(n) provide and disseminate up to date information on incentives in mineral resources available to investors under this Act;

(o) register and keep records of all enterprises and companies established and pursuing activities in mineral resources and allied projects;

(p) cause to be created, such departments and agencies as are necessary for the effective administration of this Act;

(q) introduce investment friendly local contents measures for mining projects;

(r) facilitate the development of indigenous technical and professional manpower required in the mineral resources sector;

(s) cooperate on behalf of the Federal Government with other Governments and international agencies in respect of matters relating to Nigeria's Mineral Resources;

(t) do such other things as are reasonably necessary or expedient for the performance of his functions under this Act, and

(u) have the power to designate a mineral as a radioactive mineral and by radioactive regulations make special provisions for the exploration, exploitation, possession, export or otherwise dealing in the radio active mineral.

5. (1) There shall be established within six (6) months of the coming into effect of this Act a Mining Cadastre Office with the responsibility for the administration of Mineral titles and the maintenance of the cadastral registers.

(2) The Mining Cadastre Office —

(a) shall be a body corporate with perpetual succession and a common seal;
(b) may sue and be sued in its corporate name; and

(c) may acquire, hold and dispose of property, whether movable or immovable.

(3) The Mining Cadastre Office shall be administered by a Director General who shall be assisted by such officers as shall be required for the efficient functioning of the cadastre system.

(4) In order to fulfill its functions under this Act the Mining Cadastre Office shall operate as the sole agency responsible for the administration of mineral titles.

(5) The Mining Cadastre Office shall in addition to any other functions prescribed by or under this Act perform the following:

(a) consider applications for mineral titles and permits, issue, suspend and upon the written approval of the Minister, revoke any mineral title;

(b) receive and dispose of applications for the transfer, renewal, modification, relinquishment of mineral titles or extension of areas;

(c) maintain a chronological record of all applications for mineral titles in:

(i) a priority book which is to be specifically used to ascertain the priority and registration of applications for exclusive rights on vacant areas;

(ii) a General Registry Book which is to be used for all other types of applications where registration of the priority is not required.

d) undertake such other activities reasonably necessary for the purpose of carrying out its duties and responsibilities under the provisions of this Act.

6. A Central Mining Cadastre Office with exclusive authority and jurisdiction over the whole of the country shall be established in Abuja as the headquarters of the Mining Cadastre Office. The Mining Cadastre Office shall, according to administrative convenience, maintain an appropriate number of Zonal offices.

7. The Mining Cadastre Office shall open a series of files to be known as Mining Cadastre Office Registers for the purposes of this Act, comprising of:

(a) a register of Reconnaissance Permits;

(b) a register of Exploitation Licences;

c) a register of Mining Leases;
(d) a register of Small-Scale Mining Leases;
(e) a register of the Water Use Permits; and
(f) a register of Quarry Leases.

8. (1) Where several applications are received on the same area or for overlapping areas from two or more persons on the same business day the application which is first received in the proper form shall be deemed to have priority over the others.

(2) The criteria of first come, first served, as evidenced by registration with the issuing authority according to an established procedure, which in the case of the Mining Cadastre Office shall be registration in the Priority Register established by this Act, shall be strictly applied by the Mining Cadastre Office in case of competing applications for the same exclusive area.

(3) The Mining Cadastre Office shall provide a receipt to an applicant for Mineral title evidencing —

(i) all documents and fees received from the applicant in respect of the application; and

(ii) the date and time of the application.

9. (1) The Minister shall by regulations determine areas wherein an exploration licence and a mining lease shall be granted based on competitive bidding requirements.

(2) The Mining Cadastre Office shall consider competing bids and shall, through an open and transparent method, select the bid which will promote the expeditious and beneficial development of the Mineral Resources of the area having regard to —

(a) the programme of Exploration and Mining Operations which the applicant proposes to carry out and the commitments as regards expenditure which the applicant is prepared to make;

(b) the financial and technical resources of the applicant; and

(c) the previous experience of the applicant in the conduct of Reconnaissance and Mining Operations.

(3) The successful application shall be treated as an application under sections 59 or 65.

10. The Mining Cadastre Office shall collect —

(a) a fee for processing of applications for mineral titles; and

(b) an annual service fee established at a fixed rate per square cadastral unit for administrative and management services rendered by the Cadastre.

11. A mineral title shall become liable to revocation where the holder thereof...
has failed to pay the prescribed fees.

12. In case of default of payment of the annual service fee due to the Mining Cadastre Office, the Mining Cadastre Office shall give a thirty day written default notice to the defaulting party and, if payment is not effected during that period, the Mining Cadastre Office shall record the default and revoke the mineral title.

13. The amount of the fees payable under section 10, administration and modalities for their payment shall be determined in the regulations issued by the Minister.

14. Any notice required to be sent by the Mining Cadastre Office to an applicant for, or holder of a Mineral title shall be sent by courier service or registered mail to the last known address in Nigeria of the mineral title holder or given in person to an authorized representative of the applicant or holder of the mineral title in Nigeria or published in the Gazette. The notice shall for all purposes be sufficient notice of the subject matter of the notice to the applicant for or holder of a mineral title.

15. In the execution of his functions and relationship with the Mining Cadastre Office, the Minister shall, at all times ensure the independence of the Mining Cadastre Office in regard to the discharge of its functions and operations under this Act.

16. (1) For the purposes of carrying out his functions under this Act, the Minister shall establish in the Ministry —

   (a) a Mines Inspectorate Department;

   (b) a Mines Environmental Compliance Department; and

   (c) such other departments as he may consider expedient for the proper administration of this Act.

(2) Such inspectors, officers and other employees as may be considered necessary for carrying out the objectives of this Act shall be appointed into the departments and agencies established pursuant to subsection (1) of this section.

(3) The powers and duties of the inspectors, officers, or other employees appointed under sub-section (1) of this section shall be those assigned to them respectively under this Act, its regulations and in accordance with the provisions of the Public Service Rules in force.

17. The Mines Inspectorate Department shall in addition to any other functions prescribed by this Act and subject to the direction of the Minister —

   (a) exercise general supervision over all reconnaissance, exploration and mining operations to ensure their compliance with this Act;

   (b) supervise and enforce compliance by mineral title holders with all mine health and safety regulations prescribed under this Act and any other law in force;
(c) prepare and render records, reports and returns as required by the Minister or as prescribed by Regulations;

(d) take custody of mineral resources required by any Court to be forfeited to the Government;

(e) with the prior approval of the Minister, dispose of any mineral resources forfeited to the Government;

(f) carry out investigations and inspections necessary to ensure that all conditions relating to mineral titles and the requirements of this Act are complied with;

(g) discharge such other duties as may be assigned from time to time, by the Minister; and

(h) review and recommend to the Minister, programmes for controlling mining operations.

18. The Mines Environmental Compliance Department shall in addition to any other function prescribed by this Act and subject to the direction of the Minister —

(a) review all plans, studies and reports required to be prepared by Holders of Mineral title in respect of their environmental obligations under this Act;

(b) monitor and enforce compliance by holders of mineral title with all environmental requirements and obligations established pursuant to this Act, its regulations and by any other law in force;

(c) periodically audit the environmental requirements and obligations established pursuant to this Act, its regulations and by any other law in force and make recommendations thereon to the Minister; and

(d) liaise with relevant agencies of Government with respect to the social and environment issues involved in mining operations, Mine closure and reclamation of land.

19. (1) There is hereby established for each State of the Federation a Committee to be known as the Mineral Resources and Environmental Management Committee, in this section referred to as "the Committee".

(2) The Committee in each State shall consist of —

(a) a representative of the Mines Environmental Compliance Department in the Ministry who shall be the chairman of the Committee;

(b) a representative of the Ministry responsible for land matters or mineral related matters in the State;

(c) the Mines Officer responsible for the State;
(d) a representative of the Ministry of Agriculture or Forestry in the State;

(e) a representative of the Surveyor-General of the State;

(f) a representative of the Local Government Council when matters affecting the said Local Government Area are being considered by the Committee;

(g) a representative of the State Environmental Department or Agency;

(h) a representative of the Federal Ministry of Environment in the State.

(3) The functions of the Committee are to—

(a) consider and advise the Minister on issues affecting returns of necessary reports affecting grants of mining titles;

(b) consider issues affecting compensation and make necessary recommendations to the Minister;

(c) discuss, consider and advise the Minister on the matters affecting pollution and degradation of any land on which any mineral is being extracted;

(d) consider such other matters relating to mineral resources development within the state as the Minister may, from time to time, refer to the Committee;

(e) advise the Departments established in accordance with the provisions of this Act for the supervision of mineral Exploitation and the implementation of social and environmental protection measures;

(f) advise the Local Government Areas and communities on the implementation of programs for environmental protection and sustainable management of Mineral resources;

(g) advise and other necessary assistance required by holders of Mineral titles in their interaction with state governments, local government councils, communities, civil institutions, and other stakeholders;

(h) advise the Minister in resolving conflicts between stakeholders; and

(i) advise the Minister in respect of matters connected with the implementation of this Act.

(4) The Committee shall—

(a) meet at least once every three months and at such times as the Minister may deem necessary; and
(b) regulate its own procedure;

(5) The Chairman shall appoint a competent officer from the Mines Inspectorate Unit in the state to be the secretary of the Committee. The secretary shall have no right to vote at any meeting of the Committee.

(6) The Committee shall forward its report to the Minister after each meeting.

(7) Where the committee desires to obtain the advice of a host community or any other person on a particular matter, the committee may co-opt a representative of the relevant host community or any person as a member of such period as it thinks fit, but such a person shall not be entitled to vote in any meeting of the committee and his attendance shall not count towards a quorum.

(8) The chairman and three other members shall form a quorum at a meeting of the Committee.

(9) Every meeting of the Committee shall be presided over by the Chairman or, in his absence, by the Mines Officer for the State.

(10) If on any question to be determined there is an equality of votes, the Chairman shall have a casting vote; and

(11) The Committee shall have the power to determine its own procedure.

20. (1) The Minister may, by notification in the Gazette, delegate to any department or officer of the Ministry the exercise of performance, subject to such conditions and restrictions as may be prescribed in the notification, of any function conferred on the Minister under this Act provided that it shall not apply to any function of the Minister to make Regulations.

(2) An officer authorized in writing by the officer in charge of the Mines Inspectorate Department may enter any mineral title Area where Mining Operations are being carried out under this Act, or which is within the general area of the mineral title for the purposes of inspecting such operations and he shall be provided by the mineral title holder with any information reasonably requested for the purpose of making a report.

(3) The failure of the mineral title holder to provide access to an officer for the purposes of inspection under subsection (2) shall constitute an offence.

21. The Minister shall subject to the provisions of this Act make Regulations in respect of any matter required to be prescribed by Regulations under this Act and generally for giving full effect to the provisions of this Act, including prescribing, amending or withdrawing any form that may be required under this Act.

22. (1) The use of land for mining operations shall have a priority over other uses of land and be considered for the purposes of access, use and occupation of land for mining operations as constituting an overriding public interest within the meaning of the Land Use Act.
(2) In the event that a mining lease, a small scale mining lease or a quarry lease is granted over land subject to an existing and valid statutory or customary right of occupancy, the Governor of the state within which such rights are granted shall within sixty days of such grant or declaration revoke such right of occupancy in accordance with the provisions of section 28 of the Land Use Act.

PART III — MINING INCENTIVES

23. The persons eligible for the fiscal regime set out in this Part of this Act shall include companies or enterprises engaged in mining operations.

24. (1) Any licence holder eligible under the provisions of this part of this Act shall be entitled, in determining its total profits, to deduct from its assessable profits a capital allowance of ninety-five percent of Qualifying Capital Expenditure incurred in the year in which the investment is incurred —

(a) all certified exploration, development and processing expenditure, including feasibility study and sample assaying costs; and

(b) all infrastructure costs incurred regardless of ownership and replacement.

(2) The amount of any loss incurred by any person eligible under the provisions of this part of this Act shall be deducted as far as it is possible from the assessable profits of the first year of assessment after that in which the loss was incurred and in so far as it cannot be so made, then from such amounts of such assessable profits of the next year of assessment, and so on up to a limit of four years after which period any unrelieved loss shall become lapse.

25. (1) All operators in the mining industry shall be granted the following benefits —

(a) exemption from payment of customs and import duties in respect of plant, machinery, equipment and accessories imported specifically and exclusively for mining operations;

(b) expatriate quota and resident permit in respect of the approved expatriate personnel, and

(c) personal remittance quota for expatriate personnel, free from any tax imposed by any enactment for the transfer of external currency out of Nigeria.

(2) For the purpose of subsection (1) of this section the Mines Inspectorate Department shall approve the appropriate machinery, equipment and accessories to be imported by the holder of a Mineral title for the purpose of this section.

(3) The plant, machinery, equipment and accessories imported pursuant to subsection (1) of this section may be disposed of by the holder of Mineral title upon the full payment of customs and import duties in respect thereof.
(4) The Mines Inspectorate Department shall ensure compliance with this section of this Act.

26. Where the holder of a mineral title earns foreign exchange from the sale of his minerals he may be permitted by the Central Bank of Nigeria to retain in an foreign exchange domiciliary account a portion of his foreign exchange earnings for use in acquiring spare parts and other inputs required for the mining operations which would otherwise not be readily available without the use of such earning.

27. Subject to the provisions of this Act, a holder of a mineral title shall be guaranteed free transferability through the Central Bank in convertible currency of —

(a) payments in respect of loan servicing where a certified foreign loan has been obtained by the holder for his mining operations; and

(b) the remittance of foreign capital in the event of sale or liquidation of the mining operations or any interest therein attributable to foreign investment.

28. (1) The tax relief period of a company granted mineral title under this Act shall commence on the date of operation and subject to the provisions of this Act or any other relevant financial enactment, the relief shall continue for three years.

(2) The tax relief period of a company granted a Mineral title under this Act may, by the end of the three years, be extended by the Minister for one further period of two years.

(3) The Minister shall not extend the tax relief period of a Company in exercise of the power conferred under subsection (2) of this section unless the Minister is satisfied as to —

(a) the rate of expansion, standard of efficiency and level of development of the company in mineral operations for which the Mineral title was granted;

(b) the implementation of any conditions upon which lease was granted; and

(c) the training and development of Nigerian personnel in the operation of the mineral concerned.

29. (1) The provisions of the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act shall apply to any investment in foreign currency made in respect of any mineral title granted pursuant to this Act.

(2) The provisions of the Nigerian Investment Promotion Commission Act shall apply to any foreign investment made in respect of any mineral title granted pursuant to this Act.

30. A tax deductible reserve for environmental protection, mine rehabilitation, reclamation and mine closure costs shall be established by companies engaged in the exploitation of mineral resources; provided however, that:
the appropriateness of the reserve is certified by an independent qualified person taking into account the determination made under the provisions of this Act —

(a) the reserve is recorded in the audited financial statements of the companies;

(b) tax deductibility will be restricted to actual amount incurred for the purpose of the reclamation; and

(c) a sum equivalent to the reserve amount is set aside every year and invested in dedicated account or trust fund managed by independent trustees appointed pursuant to the provisions of the Act.

31. A tax deductible amount established in accordance with the applicable rate set out in the Pensions Reform Act shall be imposed on mining companies or enterprises, towards the payment of pensions to each employee.

32. An annual capital cost indexation, whereby the unclaimed balance of capital costs is increased yearly by five percent, shall apply to mines starting production within five years from the date of enactment of this Act.

33. (1) Any mineral obtained in the course of exploration or mining operations shall be liable to pay royalty as prescribed in the regulations made under this Act.

(2) The Minister may reduce or waive royalty on any mineral which the Minister is satisfied is being exported solely for the purpose of analysis or experiment or as a scientific specimen, not being in greater quantity than is reasonably necessary for that purpose.

(3) The Minister may defer payment of royalty on any minerals for a specific period, on the approval of the Federal Executive Council.

34. (1) There is hereby established a fund to be known as the Solid Minerals Development Fund (in this Chapter of this Act referred to as “the Fund”).

(2) The Fund shall be utilized for the following—

(a) development of both human and physical capacity in the sector;

(b) funding for geo scientific data gathering, storage and retrieval to meet the needs of private sector led mining industry;

(c) equipping the mining institutions to enable them perform their statutory functions;

(d) funding for the extension services to small scale and artisanal Mining Operators pursuant to Section 91 of this Act; and

(e) provision of infrastructure in mines land.
35. (1) The Fund shall be managed by a body to be known as the Solid Minerals Development Board (in this chapter of the Act referred to as "the Board") which shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(2) The Board shall comprise—

(a) a chairman to be appointed by the President on recommendation of the Minister of Solid Minerals Development;

(b) one person to represent the Central Bank of Nigeria;

(c) one person to represent the Banker's Committee;

(d) three persons to be appointed by the Minister to represent private mining operators and Mineral Processors; and

(e) the Secretary to the Board.

(3) The quorum for meeting of the Board shall be three, of whom at least one shall be a member representing the Central Bank.

(4) The Board shall meet not less than four times in each year and on such other occasion as the Board may consider necessary.

(5) At any meeting of the Board, the Chairman shall preside, but if he is absent, the members present at the meeting shall appoint one of their number to preside at the meeting.

(6) Subject to Section 27 of the Interpretation Act (which provides for decision of a statutory body to be taken by a majority of its members and for the person presiding to have a casting vote), the Board may make orders regulating its proceedings and those of any of its Committees.

(7) Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him as a member for such period as it thinks fit, but a person who is a member by virtue of this subsection shall not be entitled to vote in any meeting of the Board and shall not count towards a quorum.

(8) The Secretariat of the Board shall be located in such place as the Minister may determine.

(9) The administrative expenses of the Board shall be borne by the Federal Government.

36. Notwithstanding any other provision of this Act, the Board shall—

(a) monitor the operation and evaluate the progress of the Fund;

(b) advise the Minister as to changes required to improve the operation of the Fund;

(c) receive and consider the report of the management agent appointed under the provision of this Act and advise the Minister on it;
(d) determine the remuneration of external auditors and solicitors;

(e) publish names of defaulters of loans granted under this Act in the national newspaper;

(f) pursue defaulters through judicial action;

(g) solicit the assistance of Government loan machinery in the recovery of loans granted under this Act; and

(h) perform such other functions relating to the Fund as may be assigned to it by the Minister.

37. The Central Bank shall be deemed to have been appointed as the Custodian of the Fund for the purpose this section.

38. The Fund shall consist of—

(a) any sums appropriated for Solid Minerals Development under the Revenue Act or any other Federal Law;

(b) any sums appropriated for Solid Minerals Development under the Small and Medium Industries Equity Investment Scheme (SMIIES);

(c) any funds received as grants, donations, foreign loans, bonds and long term swaps;

(d) any sums appropriated to it by the Federal Government Budgetary allocation.

39. The Ministry of Solid Minerals Development shall each year present to the National Assembly a Budget proposal for the administering of the Fund.

40. Money in the Fund which may at any time be surplus to the current needs of the Fund may be invested in government securities and bonds, as may, from time to time, be determined by the Board.

41. (1) The Board shall keep proper accounts in respect of monies forming part of the Fund and proper records in relation to those accounts and shall prepare annually, a statement of account.

(2) For the purpose of subsection (1) of this section, the financial year of the Fund shall be from 1st January to 31st December of every year or such other period as may be determined by the Board with the approval of the Minister.

(3) The account of the Fund shall be audited annually by an Auditor appointed by the Board from a list of Auditors provided by the Auditor General of the Federation.

42. (1) It shall be the duty of the Board to prepare and submit to the Minister, not later than three months after the end of the each financial year, a report which shall be in such form as the minister may direct.
(2) The copy of the report shall be forwarded to the Minister of Solid Minerals Development for his information and comments.

(3) The report shall include the audited account of the Fund in respect of the period in question together with the auditor's report on the accounts and shall be presented by the Minister to the Federal Executive Council not later than one month thereof.

PART IV — MINERALS EXPLORATION

43. (1) Any person that undertakes or is involved in reconnaissance or exploration or exploitation of Mineral Resources under a Mineral title or further to the authorization of the Minister in accordance with the provisions of this Act shall —

(a) keep correct plans of Exploration or Mining Operations conducted within the Mineral title Area;

(b) keep correct records of every Mineral found and ore reserve calculated on the area of his mineral title lease;

(c) supply to the Mining Cadastre Office copies of the plans and records at such time and periods and in such manners as the Mining Cadastre Office may demand;

(d) provide to the Nigerian Geological Survey Agency for storage and archiving, a complete set of all geo scientific data acquired in the course of such activity inclusive of maps, coring and samples, and

(e) the plans required to be kept shall be prescribed.

(2) No core obtained in the exercise of rights conferred by a Mineral title shall be destroyed or otherwise disposed of except for the purposes of assay, identification, or analysis without the permission in writing of the Minister, which permission shall be granted within 30 days of the receipt of the application.

(3) Any person who destroys or disposes of core or samples in contravention of subsection (2) of this section shall be guilty of an offence.

(4) The data required to be provided under subsection (1) of this section, shall be provided to the Nigerian Geological Survey Agency in such a manner as is sufficient for the identification of the core or sample and the location and geological horizon of its origin.

(5) The data required to be submitted under subsection (1) of this section, shall be kept confidential and shall not be disclosed to the general public until the earlier of —

(a) a period of 5 years after its submission; or

(b) a part of the mineral title Area is relinquished by the mineral title holder; or
(c) when the holder of the mineral title ceases to hold the title either as a result of revocation of the title or relinquishment thereof.

(5) When disclosure of the data is required by the general public, it shall be made available in accordance with the format stated in the Regulations.

(7) Any person that undertakes or is involved in the search for or exploitation of Mineral Resources in contravention of the provisions of subsection (1) of this section shall be guilty of an offence.

44. (1) The holder of a mineral title shall, if he discovers during the course of mining, any radioactive mineral or any mineral that may reasonably be expected to be radioactive, immediately notify the Mines Inspectorate Department of the discovery in writing.

(2) The provisions of the Nuclear Safety and Radioactive Act shall apply to any radioactive mineral discovered pursuant to Mineral Exploitation under this Act.

(3) The Mines Inspectorate Department may, in consultation with other relevant authorities and with the approval of the Minister, authorise the removal of the radioactive minerals from the land where they have been obtained to any other place approved by the Minister for safe custody and in accordance with subsection (2) of this section.

45. (1) Any officer or former officer responsible for the administration of this Act who has any confidential information, which if generally known might reasonably be expected to materially affect a Mineral Exploitation activity which —

(a) such officer acquired by virtue of his official capacity or former official capacity, and
(b) it would be reasonable to expect a person in his official capacity or former official capacity not to disclose except for the proper performance of the functions attached to that official capacity,

shall not make improper use of such information to gain, directly or indirectly, an advantage for himself or for any other person.

(2) An officer appointed under this Act shall within thirty days of his appointment disclose any mineral title he may have or interest therein at the time of his appointment. No officer shall directly or indirectly acquire any Mineral title under this Act during the term of his appointment.

(3) Any officer who fails to comply with the provisions of sub-section (1) or (2) of this section commits an offence.

46. (1) Subject to the provisions of this Act, the right to search for or exploit Mineral Resources is obtained through one of the following mineral titles in the form of —

(a) a Reconnaissance Permit;
(b) an Exploration Licence;
(c) a Small Scale Mining Lease;
(d) a Mining Lease;
(e) a Quarry Lease; and
(f) a Water Use Permit.

(2) Subject to the exceptions provided in this Act, any person that undertakes or is involved in the search for or exploitation of Mineral Resources without the requisite mineral title or authority shall be guilty of an offence.

(3) Any mineral title issued under this Act shall be subject to such conditions as may be prescribed in the licence or lease or by Regulation made under this Act.

(4) The form of all Mineral titles shall be prescribed.

47. A qualified applicant for a Reconnaissance Permit is —

(a) a citizen of Nigeria with legal capacity and who has not been convicted of a criminal offence; or

(b) a body corporate duly incorporated under the Companies and Allied Matters Act; or

(c) a Mining Cooperative.

48. A qualified applicant for an Exploration Licence is —

(a) a body corporate duly incorporated under the Companies and Allied Matters Act, or

(b) a Mining Cooperative; or

(c) the holder of a Reconnaissance Permit granted in respect of the area subject to the application, provided that the applicant has fulfilled all the conditions attached to the Reconnaissance Permit.

49. A qualified applicant for a Small Scale Mining Lease is —

(a) a citizen of Nigeria with legal capacity and who has not been convicted of a criminal offence; or

(b) a Mining Cooperative; or

(c) a body corporate duly incorporated under the Companies and Allied Matters Act; or

(d) the holder of an Exploration Licence granted in respect of the area subject to the application, provided that the applicant has fulfilled all the conditions attached to the Exploration Licence.

50. A qualified applicant for a Mining Lease is a body corporate duly incorporated under the Companies and Allied Matters Act or other legal
entity that —

(a) has demonstrated under conditions stated in the regulations that a commercial quantity of Mineral Resources exists in the area in respect of which the application is made, and

(b) has fulfilled all the conditions attached to the Exploration Licence in respect of the area subject to the application.

51. A qualified applicant for a Quarry Lease is —

(a) any individual citizen of Nigeria with legal capacity and who has not been convicted of a criminal offence; or

(b) a Mining Cooperative; or

(c) a body corporate duly registered under the Companies and Allied Matters Act; or

(d) any person extracting construction materials for the construction of roads, railway lines, dams and other engineering works or structures of public interest.

52. A qualified applicant for a Water Use Permit is —

(a) the Holder of the Exploration License, Mining Lease or Quarry Lease at the time that the water right granted will be used; or

(b) an applicant for a Mining Lease, Small Scale Mining Lease or Quarry Lease for which the water right will be required to be used.

53. The Mining Cadastre Office shall not grant a mineral title under this Act to an applicant if it is shown that within a period of five years before the date of the application a shareholder holding a controlling share of the applicant has been convicted of an offence under this Act.

54. (1) The Mining Cadastre Office shall require an applicant for mineral title to provide —

(a) proof of sufficient working capital for the Exploration or mining of the area applied for and of technical competence to carry on the proposed Exploration or mining operation as prescribed in the Regulations under this Act; and

(b) any other information as the Mining Cadastre Office shall require or prescribe.

(2) Where an applicant fails to satisfy the Mining Cadastre Office as provided in subsection (1) of this section, the Mining Cadastre Office shall, upon consultation with the Minister refuse the application. The applicant may submit a new application to the Mining Cadastre Office.

55. Subject to the provisions of this Act, the Mining cadastral Office shall, within 30 days of the receipt of the application of any qualified applicant and upon payment of the prescribed fees, grant and issue to that person a Reconnaissance Permit to search for Mineral Resources.
56. (1) A Reconnaissance Permit shall be granted subject to the covenants and conditions that the Holder thereof shall —
   
   (a) carry out reconnaissance on a non exclusive basis;
   
   (b) not engage in drilling, excavation or other sub surface techniques;
   
   (c) submit information and such periodical reports as may be prescribed by relevant Departments of the Ministry;
   
   (d) conduct reconnaissance activities in an environmentally and socially responsible manner as may be prescribed by relevant Departments of the Ministry; and
   
   (e) compensate owners of land for damage to land and property; and pay the prescribed fees.

   (2) The activities allowed under a Reconnaissance Permit together with corresponding environmental and social obligations shall be further specified in regulations.

   (3) Reconnaissance activity authorized by a Reconnaissance Permit shall not constitute a land use right for the purposes, objectives, rents, fees and requirements of the Land Use Act.

   (4) A Reconnaissance Permit is not transferable.

57. A Reconnaissance Permit shall be issued for a period of one year and is renewable annually provided the requirements of this Act and its regulations have been met.

58. (1) A Reconnaissance Permit, confers on the Holder the right to —
   
   (a) obtain access into, enter on or fly over any land within the territory of Nigeria available for mining purposes to search for Mineral Resources on a non exclusive basis; and
   
   (b) obtain and remove surface samples in small quantities.

   (2) Subject to the provisions of this Act, the Reconnaissance Permit shall not be granted over any land that is or has become subject to an exploration licence, small scale mining lease, mining lease or water use permit.

59. (1) Subject to the provisions of this Act, the Mining Cadastre Office shall, upon receipt of a valid application from a qualified applicant, grant and issue to that person, an exploration licence within thirty days of the filing of such application;

   (2) An exploration licence shall not be granted over any land that is subject to an existing exploration licence, mining lease, small scale mining lease or quarry lease.

   (3) An exploration licence shall not be granted in respect of an area exceeding 200 square kilometres.
60. (1) The holder of an exploration licence shall have the exclusive right to conduct exploration upon the land within the area of his licence and for that purpose may —

(a) enter upon the land with his agents and workmen;

(b) employ on the land any number of persons for the purpose of such exploration;

(c) erect and maintain thereon any machinery and plant and subject to the provisions of this Act, construct such ways as may be necessary for or in connection with his Exploration operations;

(d) explore on an exclusive basis for all Mineral Resources and to carry out the operations and work necessary for the achievement of this objective;

(e) take, remove and export specimens and samples not exceeding such limit as prescribed in the Regulations to be reasonably required for purposes of analysis;

(f) conduct bulk sampling and trial processing of Mineral Resources not exceeding such limit as is reasonably required for determining mining potential;

(g) sell specimens and samples obtained from exploration activities or from bulk sampling and trial processing; and

(h) while engaged in exploration, take timber other than protected trees and use water from any lake, or Watercourse not the subject of a Water Use Permit for domestic purposes, in accordance with Regulations; and sink or drill shafts or wells and dig holes and trenches.

(2) Who has fulfilled all the conditions attached and subject to the provisions of this Act, shall be entitled to the grant of a mining lease for any mineral for which he was authorized to explore (the authority not having been determined by a notice) under the provisions of this Act in respect of any portion of the area included in the licence.

61. (1) Every holder of an exploration licence shall —

(a) conduct exploration activities in a safe, friendly, skillful, efficient and workmanlike manner in accordance with the regulations;

(b) conduct exploration activities in an environmentally and socially responsible manner;

(c) if intending to explore on land occupied subject to a right of occupancy, give notice to the Chairman of the affected Local Government Area concerned and to the holder of the right of occupancy or the user or occupier of the land before commencing exploration activities on the land; and where the Mineral title area is within more than one Local Government Area, the Mineral title holder shall give notice to the respective chairmen of the Local
Government Areas concerned and the holders of rights of occupancy or the users and occupiers of land affected accordingly;

(d) maintain and restore, the land that is the subject of the licence to a safe state from any disturbance resulting from exploration activities, including, but not limited to filling up any shafts, wells, holes or trenches made by the titleholder, and in compliance with applicable environmental laws and regulations;

(e) not abstract, divert or discharge water or effluent from any Watercourse except in compliance with a water use permit and regulations;

(f) not explore in any forest reserve except with the approval of the Minister and in consultation with other relevant authorities and subject to such conditions as may be specified in the Regulations;

(g) compensate users or occupiers of land for damage to land and property resulting from activities in the exploration area;

(h) allow geological surveys and mapping by government agencies and scientific surveys by educational institutions as provided for in this Act, if such activities will not interfere with exploration operations;

(i) submit information and such periodical reports as may be prescribed in the Regulations; and

(j) pay all applicable fees, annual rental and water usage charges.

(2) The Mining Cadastre Office may, upon the application of the Holder and for good cause shown, suspend the obligation to work in respect of the Licence and may direct that any or part of the period of suspension shall not be reckoned in the currency of the licence, if during that time no work is done by the holder on the lands included in the area covered by the licence.

(3) The activities allowed under an exploration licence together with corresponding environmental, social and other obligations shall be further prescribed.

(4) The holder of an exploration licence has the exclusive right to apply for, and to be granted subject to this Act, one or more Small Scale Mining Leases, Mining Leases or Quarry Leases in respect of any part or parts of the exploration area, if the Exploration Title Holder has complied with the obligations of the Exploration Licence under this Act.

62. The duration of an exploration licence is for three years and it may be renewed for two further periods of two years each provided —

(a) the titleholder has complied with his minimum work obligation commitments; and

(b) all other requirements of this Act and its regulations have been met.
63. The holder of an exploration licence who sells any mineral resources as provided for in this Act shall be subject to the payment of royalty as if the mineral resources sold were obtained under a mining lease.

64. (1) An applicant for an exploration licence, mining lease, small scale mining lease and quarry lease shall indicate the minerals, which he intends to explore or mine within his lease on his application.

(2) Where in the course of the exercise of his rights under this Act the holder of a mining lease, small scale mining lease and quarry lease discovers any mineral not specified in his lease, he shall, within thirty days of the discovery, notify the mining cadastre office in writing of the discovery.

(3) The notice given to the Mining Cadastre Office under subsection (1) of this section shall—

(a) contain particulars of the minerals discovered;

(b) the location and circumstance of the discovery; and

(c) have appended thereto a proposed program for the orderly and timely exploitation of the minerals discovered therewith.

(4) Where the Mining Cadastre Office is satisfied with the programme proposed by the mineral title holder under subsection (2)(c) of this section, it shall approve the application within thirty days of the submission of the application and shall accordingly endorse the mineral title with the right or authority to the holder to mine the mineral discovered; provided, however, that where the minerals subsequently discovered are security minerals—

(a) the provisions of subsection (3) (c) of this Section shall not apply; and

(b) the Mineral title holder shall not have a right to mine such mineral.

(5) It shall be an offence for a Mineral title Holder or any of his agents or employees to conduct Mining Operations with respect to any Mineral not included in the Mineral title without complying with the provisions of this section.

PART V – MINING

65. (1) Subject to the provisions of this Act, the Minister shall, upon receipt of a valid application from a qualified applicant, grant and issue to that person a Mining Lease for the purposes required within forty five days of such application.

(2) No Mining Lease shall be granted in respect of any area within an Exploration Licence Area or a Small Scale Mining Area except to the Holder of the Exploration Licence or Small Scale Mining Lease covering such area.
66. The duration of a Mining Lease is twenty five years, and shall be renewable every twenty-four years provided that—

(a) the Holder thereof has complied with his minimum work obligation commitments; and

(b) all other requirements of this Act and its regulations have been met.

67. The area of land in respect of which any Mining Lease is granted shall be determined in relation to the ore body as defined in the feasibility study submitted in respect of the Mining Lease together with an area reasonably required for the workings of the Mineral Resources, provided such area shall not exceed fifty square kilometres.

68. A mining lease confers on the holder the right within the Mining Lease Area to—

(a) obtain access and to enter the Mining Lease Area;

(b) exclusively use, occupy and carry out Mineral Exploitation within the Mining Lease Area;

(c) exclusively carry out exploration within the Mining Lease Area;

(d) utilize the water and wood and other construction materials as necessary for mineral exploitation in accordance with the Permit and Regulations;

(e) use such portions as may be required for the purposes of growing such plants and vegetables, or keeping such animals, poultry and fish as may be reasonable for use of the employees at the Mine;

(f) store, remove, transport, submit to treatment, transform and process the Mineral Resources, and dispose of any waste, and

(g) market, sell, export or otherwise dispose of the mineral products resulting from the Mining Operations.

69. The holder of a mining lease shall not, unless authorized under any other Federal law, remove beyond the boundaries of the Mining Lease area for commercial gain any of the timber or other forest produce, plants, vegetables, animals, poultry, fish, or water obtained from or raised on the Mining Lease area.

70. (1) Every holder of a mining lease shall—

(a) commence mine development within eighteen months for a Mining Lease for Mineral Resources and, twelve months for a Mining Lease for Mineral Water, effective from the date that the requirements of this Act have been met, unless circumstances justify an extension of the period;

(b) commence production no later than thirty six months for a Mining
Lease for Mineral Resources and twelve months for a Mining Lease for Mineral Water, effective from the date that the requirements of this Act have been met, unless circumstances justify an extension of the period;

(c) carry out Mining Operations in a skillful and efficient manner;

(d) maintain the Mining Lease area and Mining Operations in a safe manner in compliance with applicable mine health and safety regulations;

(e) not divert water from any water course in a manner contrary to the provisions of this Act;

(f) comply with social obligations prescribed in the regulations;

(g) comply with all requirements for Environmental Impact Assessment Studies and protection plans required under this Act;

(h) allow access to any adjoining land through the Mining Lease area insofar as such access shall not interfere with Mining Operations;

(i) allow the construction and use on Mining Lease area of such waterways, canals, pipelines, sewers, drains, wires, transmission lines, public roads, and public utilities as shall not interfere with Mining Operations;

(j) compensate owners or lawful occupiers of land for the revocation of their rights to use the land under this Act;

(k) submit information and such periodical reports as may be prescribed in the Regulations;

(l) cause to be maintained in Nigeria, plans and true and sufficient books of account of the Mining Operations and other businesses undertaken in the Mining Lease area, and of the sale or other disposal of the Mineral Resources obtained; and to produce such books upon request from duly authorized officers; and

(m) pay fees, annual rental, royalty and water usage charges, if any and as prescribed in the regulations.

(2) The activities allowed under a Mining Lease together with corresponding environmental and social obligations shall be further specified in regulations.

71. The holder of a mining lease shall not commence any development work or extraction of Mineral Resources on the Mining Lease Area until after —

(a) the submission and approval by the Mines Environmental Compliance Department of all Environmental Impact Assessment Studies and mitigation plans required under applicable environmental laws and regulations;

(b) the submission and approval by the Mines Inspectorate
Department of the details of the work which the applicant is prepared to undertake or a programme for carrying out any minimum work obligations imposed by the Mines Inspectorate Department;

(c) the conclusion of a Community Development Agreement approved by the Mines Environmental Compliance Department; and

(d) the Holder has duly notified, compensated, or offered compensation to all users of land within the Mining Lease Areas as provided for under this Act or in the event of a dispute, after the matter has been resolved by Arbitration;

(2) The holder of a mining lease, except a mining lease for mineral water exploitation, is required to have resolved the matters specified in subsection (1) (a) and (b) of this section within three years from the issue of the Mining Lease, failing which the Mining Lease may be temporarily suspended without affecting the rental payments that shall continue and without prejudice to the transfer right of the title Holder under the provisions of this Act;

(3) The Holder of a Mining Lease for Mineral Water Exploitation is required to have complied with the conditions specified in subsection (1) (a) and (b) of this section within two years from the issue of the Mining Lease for Mineral Water, failing which the Mining Lease may be suspended.

72. Subject to this Act and any other enactment, the lawful occupier of any land within an area subject to Mining Lease shall retain the right to graze livestock upon or to cultivate the surface of the land in so far as the grazing or cultivation does not interfere with the Mining Operations in the Mining Lease Area.

73. (1) A mining lease shall not be granted by the Minister to any company unless the company has employed a person who possesses adequate professional qualification and experience in mining and the Minister is satisfied that the company shall, during the currency of the lease, have such qualified person in its employment.

(2) Where a mining lease has been granted, the lease shall remain in force during such time only as the lessee employs a person who possesses adequate mining experience and qualification in mining, to supervise personally the mining operations being undertaken by the company during the period of the lease.

(3) Where a person with adequate mining qualification and experience in mining is not available to supervise the mining operations being undertaken under a lease, the company shall cease operations until a suitably qualified person is available.

74. (1) The lessee of a mining lease who has paid all rents, royalties and other payments due to be made by it under this Act or under the terms of its lease may, within three months, in the case of alluvial lease, and six months, in the case of bore lease, after the expiration or other determination of his lease, remove all or any of the plants, building or other property of the lessee.
(2) Where on the expiration or determination of the lease, a lessee is in default in the payment of any rent, royalty or other payments, and in the case of a lessee who has not removed its property within —

(a) three months in the case of an alluvial lease; or

(b) six months in the case of a lode lease; or

(c) such further period, if any, as the Mines Inspectorate may allow the plant, building and property of the lessee on the land, the subject of the lease, shall become the property of the Federal Government and may be dealt with and disposed of in lieu of the rent, royalty or other payments, as the case may be.

PART VI — QUARRYING

75. This part applies in relations to all naturally occurring quarriable minerals, such as asbestos, china clay, fuller's earth, gypsum, marble, limestone, mica, pipe clay, slate, sand, stone, laterite, gravel, etc. which may also be lawfully extracted under Mining Leases.

76. (1) Notwithstanding the provisions of any other enactment, consent or approval provided for under any enactment and in particular, sections 9(1), 29(1), 10, 11, 12 and 13 of the National Inland Waterway Authority Act, every operation for the purpose of extracting any quarriable mineral from a quarry including sand dredging in the navigable water ways or elsewhere for industrial use (in this part referred to as a "quarrying operation") shall be conducted under a lease or licence granted by the Minister under this Act.

(2) Every grant of a lease or licence shall be made subject to the provisions of this Part, the prescribed regulations and the terms of the lease or licence.

(3) Pursuant to section 1(1) of this Act, except as provided in this part, no person shall conduct any quarry operation on any land in Nigeria its contiguous continental shelf and all rivers, streams and water courses throughout Nigeria, any area covered by its territorial waters or constituency and the Exclusive Economic Zone, or divert or impound water for that purpose.

(4) In this section, "industrial use" includes sale, barter and usage for or in connection with any industry or trade and excludes sand dredging for the improvement of navigability of waterways, in so far as the sand dredged is not sold or used for commercial purposes.

77. A quarry lease shall —

(a) not be granted in respect of any area of land exceeding 5 square kilometres; and

(b) unless previously revoked or otherwise determined, remain in force for a period of five years; or any lesser period for which the lease has been granted, from the date of the grant of the lease and shall then expire unless renewed.
78. (1) Subject to the provisions of this Act, a quarry lease shall confer on the lessee the right to—

(a) enter on the land within the area of the lease or licence granted under this Part;

(b) carry out quarrying operation on the land within the area of the lease and shown on the plan supplied (if required) by the applicant; and

(c) remove and dispose of any quarriable minerals specified in the lease.

(2) Subject to the provisions of this Part and the Regulations, the Holder of a quarry lease who has complied with the provision of this Part and the regulations relating in particular to compensation and the payment of surface rents shall, for the purposes of the quarrying operation, have on the land within the area of the lease, the right to—

(a) make all necessary excavations;

(b) erect, construct and maintain such houses and buildings as, in the opinion of the Mines Inspectorate Office, are necessary for his use and for the use of his agents and servants;

(c) erect, construct and maintain such engines, machinery, buildings and workshops and other structures as may be necessary or convenient;

(d) stack or dump any of the products from the quarry;

(e) lay water pipes and make water courses and ponds, dams and reservoirs; and

(f) construct and maintain all such electrical transmission lines, tramways, railway, roads, landing grounds, communication and conveniences as may be necessary subject to laws and regulations governing these infrastructures.

(3) A lessee under a lease—

(a) may, on the land within the area of the lease cut, take and use any tree when necessary in the course of the quarrying operation or when required for carrying out the quarrying operation or for domestic purpose;

(b) shall not take any protected tree except with the consent of the proper Forestry officer; and

(c) shall reimburse the Mining Cadastre Office for any payment made by the Mining Cadastre Office in respect of any fee and royalty prescribed under the forestry law of State.

(4) A quarry lease shall not, except as provided under a water licence granted under this Part convey any exclusive right or privilege in relation
to any lake, river, spring, stream or other body of water on, passing through or adjacent to the land within the area of the lease.

(5) Nothing in this section shall authorize the Holder of a quarry lease to make such alteration in the flow of water in any navigable water as would obstruct or interfere with or is likely to obstruct or interfere with the free and safe passage of any vessel, boat, canoe or other craft.

79. Subject to the provision of this section, the Mining Cadastre Office shall, before granting a lease, require the area specified in the application to be surveyed in accordance with the provisions of the survey Co ordination Act and the cost of the survey shall be paid by the application in accordance with the scale prescribed by or under that Act.

80. A reference in any enactment (apart from this Act, the Factories Act and the Criminal Code Act) to a Mine or Mining Operations shall be construed, unless it is otherwise expressly provided or the context otherwise requires, as including a reference to a quarry or quarrying operations and effect shall be given to the enactment with any necessary modifications.

PART VII — ROADS

81. No person shall, in the course of Exploration or carrying out mining operations, under this Act construct a road, tramway or railway over, on or under—

(a) any State land, other than that comprised within the area of the mining lease, without the consent of the Mining Cadastre Office after consultation with the officer in charge of lands in the Federal Capital Territory, Abuja, or in the State as the case may be;

(b) any customary lands, other than those comprised within the area of the mining lease, without the approval of the Mining Cadastre Office, after consultation with the Chairman of the Local Government Council or Area Council, as the case may be, without first—

(i) giving notice in writing to the lessee or holder or applicant, and

(ii) obtaining the consent of the Mining Cadastre Office.

82. (1) A person who has constructed a road, tramway or railway in accordance with the provisions of this Act shall not hinder or prevent any other person from having access to using the road, tramway or railway.

(2) A person who constructs a road, tramway or railway may, if in his opinion, the road, tramway or railway is being used by any other person in such a manner as—

(a) will cause appreciable damage to the road, tramway or railway, or

(b) substantially increase the cost of its upkeep,

may call on the user to contribute to the cost of upkeep.
(3) Where a person uses a road, tramway or railway constructed by another person in such a manner as to interfere materially with the free use and enjoyment of it, the person who constructed the road, tramway or railway may call on that user to limit his use of the road in order to stop the interference.

(4) A person who constructs a road, tramway or railway over any part of the area of a mining lease under the provision of this Act may be required by the lessees or holder of the mining lease or mining title who wishes to mine the area covered by the road to divert the road, tramway or railway to some other part of the area of the lease or title and cost of the diversion shall be borne by the person who constructed the road, tramway or railway.

(5) References to a person who constructs a road, tramway or railway under the provisions of this Act shall be construed as also references to a person who maintains the road, tramway or railway to which section 73 of this Act applies.

(6) The person who constructed a road, tramway or railway may close it for the purpose of occur by reason of any inadequacy of the road, tramway or railway and shall not be liable to any person to whom the notice is given.

(7) A person who is constructing a road, tramway or railway shall display and keep displayed, adequate notice drawing attention to any bridges or culverts and to any precautions necessary, in the use of the road, tramway or railway and the user of a motor vehicle who neglects the precautions notified shall be liable to reimburse the person who constructed it, the cost of any damage occurring to a bridge or culvert by him.

(8) For the purpose of this section "road", tramway or railway" includes a road, tramway or railway constructed by a local community or person and used in connection with exploration or mining operations.

83. No person shall, except in relation to minerals designated by the Minister as strategic in accordance with the provisions of this Act in the course of Exploration or carrying on mining operations under this Act impede or obstruct the right of way over any public road.

PART VIII — INQUIRY INTO ACCIDENTS

84. (1) The holder of mining lease or licence shall, if an accident occurs in any mine or in connection with the mining operations conducted under its lease, temporary title or licence granted under this Act involving loss of life or serious injury to a person, report the accident as soon as possible, with full particulars of the accident —

(a) to the nearest Police Station, or

(b) to the office of the Mines Inspectorate Department in the State in which the accident occurred

(2) On receipt of the report made pursuant to subsection (1) of this section, the Mines Inspectorate Department shall forthwith inform the