

Mines And Minerals

Act No 33 of 1992

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE GEOLOGICAL SURVEY AND MINES BUREAU TO REGULATE AMP; THE EXPLORATION FOR, MINING, TRANSPORTATION, PROCESSING, TRADING IN OR EXPORT OF, MINERALS FOR THE TRANSFER TO SUCH BUREAU OF THE FUNCTIONS OF THE DEPARTMENT OF GEOLOGICAL SURVEY FOR THE REPEAL OF THE SALT ORDINANCE (CHAPTER 211) THE RADIO ACTIVE MINERALS ACT, NO. 46 OF 1968, AND THE MINES AND MINERALS LAW, NO. 4 OF 1973 ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :

Act Nos,

15 of 1958

[28th July , 1992]

Short title and date of operation

1. This Act may be cited as the Mines and Mineral, Act, No. 33 of 1992, and shall come into operation on such date (hereinafter referred to as the " appointed date ") as the Minister may appoint by Order published in the Gazette.

PART I

ESTABLISHMENT, POWERS AND FUNCTIONS OF THE GEOLOGICAL SURVEY AND MINES BUREAU

Establishment of the Geological Survey Mines Bureau. **2.**

(1) There shall be established a Bureau which shall be called the Geological Survey and Mines Bureau (here in after referred to as the " Bureau ").

(2) The Bureau shall by the name assigned to it" by subsection (1) be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name,

Board of Management of the Bureau.

3. The administration and management of the affairs of the Bureau shall be vested in a Board of Management appointed in the manner provided in section 4 and the Board of Management may for that purpose exercise and discharge all the powers and functions of the Bureau.

Members of the Board of Management. **4.**

(1) The Board of. Management (hereinafter referred to as the "Board") shall consist of the following five members :

(a) three members appointed by the Minister from among persons who appear to the Minister to have knowledge of Geology, Mining or Business Management ;

(b) one member appointed by the Minister in consultation with the Minister in charge of the subject of Finance ;

(c) the Director of Geological Survey and Mines appointed under section 6.

(2) A person shall be disqualified from being appointed, or from continuing, as a member of the Board if he is, or becomes, a Member of Parliament or a member of, a Provincial Council or a local authority.

(3) Where a member of the Board appointed under paragraph (a) of subsection (1), is by reason of illness, in formality or absence from Sri Lanka temporarily unable to perform the duties of his office, the Minister may having regard to the

provisions of paragraph (a) of subsection (1) appoint another person to act in his place.

(4) The Minister may without assigning any reason therefor remove any member of the Board appointed under paragraph (a) of subsection (1) from office. The removal of any such member of the Board shall not be called in question in any court.

(5) A member of the Board appointed under paragraph (a) of subsection (1) may resign from the Board by a letter addressed to the Minister.

(6) Subject to the provisions of subsections (4) and (5), the term of office of a member of the Board referred to in paragraph (a) of subsection (1) shall be three years : Provided that, a member of the Board appointed in place of a member who resigns or is removed or otherwise vacates office, shall hold office for the unexpired part of the term of office of the member whom he succeeds.

(7) Any member of the Board vacating office by effluxion of time shall be eligible for reappointment.

(8)

(a) The Minister shall appoint a Chairman of the Board from among the members appointed under paragraph (a) of subsection (1) of this section.

(b) The Chairman may resign from the office of Chair man by a letter addressed to the Minister.

(c) The Minister may without assigning any reason therefor remove the Chairman from office and such removal shall not be questioned in any court.

(d) Subject to the provisions of paragraphs (b) and (c) of this subsection, the term of office of the Chairman shall be his period of membership in the Board.

The Chairman and
the conduct of
business. **5.**

(1) The Chairman shall preside at all meetings of the Board at which he is present. In the absence of the Chairman from any meeting of the Board, the members present at such meeting shall choose from among themselves another member to preside at that meeting.

(2) The quorum for any meeting of the Board shall be three.

(3) The Chairman at any meeting of the Board shall have in addition to his vote, a casting vote.

(4) Subject to the other provisions of this Act and any regulation made thereunder, the Board may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

Director of
Geological Survey
and Mines. **6.**

(1) The Minister shall appoint in consultation with the Board, a person having at least ten years of professional experience as geo-scientist or as a Mining Engineer and other prescribed qualifications, as the Director of Geological Survey and Mines.

(2) The Director of Geological Survey and Mines (here in after referred to as the " Director ") shall be the principal technical officer of the Bureau and shall subject to the general direction of the Board on matters of policy, be responsible for the conduct of geological surveys, and the administration of this Act.

(3) The Director shall hold office for a period of six years from the date of his appointment and shall be eligible for reappointment: Provided however that the Director shall retire from office on reaching the age of sixty years.

(4) The terms and conditions of service of the Director shall be specified in the contract of service entered into by him with the Bureau.

(5) The Director shall not be removed from office except for good and sufficient cause.

Board may act despite vacancy.

7. No act or proceeding of the Board shall be deemed to be invalid by reason only the existence of a vacancy among its members or any defect in the appointment of any of its members.

Delegation of powers of the Board.

8.

(1) The Board may delegate to the Chairman, Director or an employee of the Bureau any or all of the powers, duties and functions conferred or imposed on, or assigned to, the Bureau by this Act, other than the power conferred by this subsection.

(2) Every person to whom any power is delegated under subsection (1), shall exercise such power subject to the general or special directions of the Board.

Members of the Board to disclose interest in any project undertaking or contract proposed to be made by the Bureau .

9. A member of the Board who is directly or indirectly interested, financially or otherwise, in any project, under taking or contract made, or proposed to be made, by the Bureau shall disclose the nature of his interest at the earliest possible opportunity at a meeting of the Board. Such disclosure shall be recorded in the minutes of the Board, and such member shall not take part in any deliberation or decision of the Board with respect to that project under taking or contract, unless the Board otherwise directs.

Remuneration of the members of the Board.

10. All or any of the members of the Board shall be remunerated in such manner and at such rates as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Seal of the Bureau

11.

(1) The seal of the Bureau shall be in the custody of the chairman.

(2) The seal of the Bureau may be altered in such manner as may be determined by the Board.

(3) The seal of the Bureau shall not be affixed to any instrument or document except in the presence of two members of the Board both of whom shall sign the instrument or document in token of their presence.

Functions of the Bureau.

12. The functions of the Bureau shall be-

(a) to undertake the systematic geological mapping of Sri Lanka and the preparation of geological

(b) to identify and assess the mineral resources of Sri Lanka ;

(c) to evaluate the commercial viability of mining for, processing and export of, such minerals;

(d) to regulate the exploration and mining for minerals and the processing, trading in and export of such minerals, by the issue of licences;

(e) to advise the Minister on measures to be adopted for the promotion of the extraction and production of minerals, on a commercial basis.

Power of the Bureau **13.**

(1) The Bureau shall have the power to do anything necessary for, or conducive or incidental to, the carrying the bureau out of its functions.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Bureau shall have the power

(a) to acquire, hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property ;

(b) to enter into any contracts which are necessary for the proper

Appointment of public officers to the staff of the bureau . **14.**

exercise of its powers and the discharge of its functions ;
(c)- to appoint, terminate the employment of, remunerate and control, its officers and servants;
(d) to issue licences for the exploration, mining processing, transport, trade and export of minerals ;
(e) to open, operate and close bank accounts, and borrow or raise money for the purposes of the Bureau in such manner and upon such security, as the Board may, with the approval of the Minister, given with the concurrence of the Minister in charge of the subject of Finance ;
(f) to charge fees for any services or facilities provided by the Bureau ;
(g) to make rules in respect of the administration of the affairs of the Bureau ; and
(h) to conduct training programmes and generally to do all other acts and things which, in the opinion of the Board, are necessary to facilitate the proper discharge of the functions and the exercise of the powers of the Bureau.

- (1) At the request of the Board any officer in the public service may, with the consent of that officer and of the Secretary to the Ministry of the Minister in charge of the subject of Public Administration be temporarily appointed to the staff of the Bureau for such period as may be determined by the Board with like consent, or with like consent be permanently appointed to such staff.
(2) Where any public officer is temporarily appointed to the staff of the Bureau

(a) if at the time of his temporary appointment to the staff of the Bureau, his substantive post in the public service was a post declared to be pension able under the Minutes on Pensions

(i) he shall while in the employ of the Bureau be deemed to have been absent from duty in the public service on leave granted without salary on grounds of public policy and accordingly, section 10(1) of those Minutes shall apply to him; and

(ii) in respect of him the Board shall pay out of the funds of the Bureau to the Treasury to be credited to the Consolidated Fund for every complete month during which he is in the employ of the Bureau such sum not exceeding twenty-five per centum of the salary payable to him in his substantive post in the public service as may be determined by the Minister in charge of the subject of Finance ; and

(b) if, at the time of his temporary appointment to the staff of the Bureau, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, his service to the Bureau shall, for the purpose of that Ordinance, be deemed to be service to the Government, and accordingly he shall, while he is in the employ of the Bureau continue to pay to the Public Service Provident Fund such contributions as he may be liable under that Ordinance to pay, and in respect of him the Bureau shall pay at the close of each financial year, out of the funds of the Bureau to the Deputy Secretary to the Treasury to be credited to the appropriate account in the Public Service Provident Fund, a sum equivalent to such contribution as the Government is liable to pay to the Public Service Provident Fund in respect of him.

(3) Where any public officer is permanently appointed to the staff of the Bureau

(a) he shall be deemed to have left the public service ;
(b) if, at the time of his permanent appointment to the staff of the Bureau his substantive post in the public service was a post declared to be pension able under the Minutes on Pensions

(i) he shall be eligible for such an award under those Minutes as might have been made to him if he had been retired from the public service on the date of his permanent appointment to the staff of the Bureau ; and

(ii) the amount of any such award made under those Minutes shall not be paid to him unless his employment in the staff of the Bureau is terminated by retirement on account of age or ill-health or by the abolition of the post held by him in such staff or on any other ground approved by the Minister in charge of the subject of Public Administration ; and

(iii) such an award as might have been made in respect of him under those Minutes if he had died immediately before his permanent appointment to the staff of the Bureau may be made in respect of him, in the event of his death while in the employ of the Bureau; and

(c) if, at the time of his permanent appointment to the staff of the Bureau he was a contributor to the Public Service Provident Fund established say the Public Service Provident Fund Ordinance, he shall for the purpose of that Ordinance, be deemed to have left the service of the Government upon the determination of his contract with the consent of the Government otherwise than by dismissal.

(4) Where the Bureau employs a person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Bureau by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(5) At the request of the Board any officer or servant of a public corporation may, with the consent at such officer or servant and the governing board of such corporation be temporarily appointed to the staff of the Bureau for such period as may be determined by the Board with like consent or with like consent be permanently appointed to such staff on such terms and conditions including those relating to pension or provident fund rights as may be agreed upon by the Board and the governing board of such corporation.

(6) Where any person is temporarily appointed to the staff of the Bureau in pursuance of the provisions of sub section (5), such person shall be subject to the same disciplinary control as any other member of such staff,

(7) At the request of the Board, any officer or servant of any Higher Educational Institution may, with the consent of such officer or servant and the principal executive officer of that Higher Educational Institution, be temporarily appointed to the staff of the Bureau for such period as may be determined by the Board with like consent or be permanently appointed to such staff, on such conditions including those relating to pension and provident fund rights, as may be agreed upon by the Board and such principal executive officer.

(8) Where any officer or servant of any Higher Educational Institution is temporarily appointed to the staff of the Bureau, he shall be subject to the same disciplinary control as any other member of such staff.

(9) In this section " Higher Educational Institution " and " principal executive officer" shall have the respective meanings assigned to them by the Universities Act, No. 16 of 1978.

servants of the Bureau deemed to be public servants. Bureau to be a Scheduled institution within the meaning of the Bribery Act The Fund of the Bureau.

meaning and for the purposes of, the Penal Code.

16. The Bureau shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

17.

- (1) The Bureau shall have and maintain its own Fund.
- (2) There shall be paid into the Fund of the Bureau

(a) all sums of money as may be voted from time to time by Parliament for the use of the Bureau; and

(b) all sums of money received by the Bureau in the exercise of its powers, and the discharge of its functions.

- (3) There shall be paid out of the Fund of the Bureau all sums of money required to defray any expenditure incurred by the Bureau in the exercise of its powers, and the discharge of its functions.

Financial year of the bureau and audit accounts. **18.**

- (1) The financial year of the Bureau shall be the calendar year.

(2) The Bureau shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Bureau.

(3) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the Bureau.

Minister's direction to the board. **19.**

(1) The Minister may give such general directions in writing to the Board as to the exercise of the powers, and the discharge of the functions of the Bureau shall give effect to every such direction.

(2) The Minister may from time to time direct the Board in writing to furnish to him in such form as he may* require returns, accounts and other information with regard to the exercise of the powers and the discharge of the functions of the Bureau and the Board shall carry out every such direction.

Acquisition of immovable property under the Land Acquisition act. **20.**

(1) Where any immovable property is required to be acquired for any purpose of the Bureau and the Minister, by Order published in the Gazette, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act and be transferred to the Bureau.

(2) Any expenses incurred in the acquisition of any immovable property under the Land Acquisition Act for the Bureau shall be paid out of the Fund of the Bureau.

Protection for action taken under this Act or on the direction of the Bureau. **21.**

- (1) No suit or prosecution shall lie

(a) against the Bureau for any act which in good faith is done or

purported to be done by the Bureau under this Act; or

(b) against any member of the Board or any officer or servant of the Bureau for any act which in good faith is done or purported to be done by him under this Act or on the direction of the Board.

(2) Any expense incurred by the Bureau in any suit or prosecution brought by or against the Bureau before any court shall be paid out of the Fund of the Bureau and any costs paid to, or recovered by, the Bureau in any such suit or prosecution shall be credited to the Fund of the Bureau.

(3) Any expense incurred by such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against such person before any court in respect of any act which is done, or is purported to be done, under this Act or on the direction of the Board shall if the court holds that such act was done in good faith, be paid out of the Fund of the Bureau unless such expense is recovered by him in such suit or prosecution.

Vesting Of property of the Department of Geological Survey in the Bureau. **22.**

(1) On such day as the Minister may by Order published in the Gazette appoint (in this Act referred to as the " transfer date") all the property, rights and liabilities (other than those excluded by the agreement referred to in subsection (2)) to which the Department of Geological Survey was entitled or subject to, immediately before the transfer date shall vest in the Bureau-

(2) At any time before the transfer date the Secretary to the Ministry of the Minister and the Bureau may agree in writing as to the property, rights and liabilities which shall remain with the Department of Geological Survey after that date.

Transfer and vesting of contracts, rights, amp;c. **23.**

(1) Except as otherwise excluded by the agreement referred to in subsection (2) of section 22, with effect from the transfer date

(a) all contracts and other agreements entered into by, with, or for, the Department of Geological Survey and subsisting on the day immediately preceding the transfer date shall be deemed with effect from that date, to be contracts or other agreements entered into by, with, or for, the Bureau ;

(b) all interests, rights, easements, obligations, debts and liabilities of the Department of Geological Survey subsisting on the day immediately preceding the transfer date shall with effect from that date be deemed to be the interests, rights, easements obligations, debts and liabilities of the Bureau;

(c) all installations, plant and equipment and other property installed and maintained by the Department of Geological Survey and all things of whatever description used for the purposes of such Department, on the day immediately preceding the transfer date, shall stand transferred to, and be vested in, the Bureau with effect from that date;

(d) the Bureau shall have the right to recover or receive any moneys that on the day immediately before the transfer date were due and owing to the Government in respect of services provided by the Department of Geological Survey.

(2) Every public officer of the Department of Geological Survey who does not belong to a combined service of the Government and was in service on the day immediately preceding the appointed date, shall be offered employment by the Bureau on such terms and conditions as are not less favorable than the terms and conditions on which he was employed in the Department.

(3) Where a public officer referred to in subsection (2) is appointed to the staff

of the Bureau

- (a) he shall be deemed to have left the public service ;
- (b) if, at the time of his appointment to the staff of the Bureau, his substantive post in the public service was a post declared to be pension able under the Minutes on Pensions

- (i) he shall be eligible for such an award under those Minutes as might have been made to him if he had been retired from the public service on the ground of abolition of office, on the date of his appointment to the staff of the Bureau;

- (ii) the amount of any such award made under those Minutes shall not be paid to him unless his employment in the Bureau is terminated by retirement on account of age or ill-health or by the abolition of the post held by him in the Bureau or on any other ground approved by the Minister in charge of the subject of Public Administration;

- (iii) in the event of his death while in the employ of the Bureau, such an award as might have been made in respect of him under those Minutes if he had died immediately before his appointment to the staff of the Bureau may be made in respect of him; and

- (c) if, at the time of his appointment to the staff of the Bureau, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, he shall, for the purposes of that Ordinance, be deemed to have left the service of the Government upon the determination of the contract with the consent of the Government otherwise than by dismissal.

(4) Where the Bureau employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Bureau, by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(5) Where any public officer referred to in subsection (2) does not accept the offer made to him under that subsection, he shall

- (a) be deemed to have left the public service on the appointed date; and

- (b)

- (i) if, on the day immediately preceding the appointed date, his substantive post in the Department of Geological Survey was a post declared to be pension able under the Minutes on Pensions, Be granted such an award under those Minutes as would have been granted to him if he had been retired from the public service on the ground of abolition of office on the appointed date; or

- (ii) if, on the day immediately preceding the appointed date he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, he shall, for the purposes of that Ordinance be deemed to have left the service of the Government upon the determination of the contract

with the consent of the Government, otherwise than by dismissal and shall be eligible for an award under that Ordinance.

Transfer to give absolute title to the Bureau of immovable property.
Third Party rights not to be prejudiced.

24. Notwithstanding anything in any other written law to the contrary, the vesting of any immovable property or any interest therein by virtue of section 22 shall be deemed for all purposes to give absolute title to the Bureau to all such immovable property or any interest therein without further proof of any requirement for registration.

25. The transfer to the Bureau of the property, rights and liabilities of the Department of Geological Survey, other than those excluded by the agreement referred to in subsection (2) of section 22, shall not in any way be deemed to affect prejudicially the rights of a third party to any contract or agreement subsisting between such third party and the Department of Geological Survey on the day immediately preceding the transfer date and every such contract or agreement shall be valid and enforceable for, or against the Bureau after the transfer date as though every reference in every such contract or agreement to the Department of Geological Survey were a reference to the Bureau.

PART II

OWNERSHIP OF MINERALS AND ISSUE OF LICENCES

Ownership and discovery of minerals,

26.

(1) Subject as hereinafter provided, and the rights granted by a licence issued under this Act, the ownership of minerals is hereby vested in the Republic, notwithstanding any right of ownership or otherwise which any person may have to the soil on, in or, under which minerals are found or situated.

(2) Any person who discovers any mineral shall forth with inform the Director thereof.

This Act not to affect hydrocarbons.

27. The provisions of this Act shall not apply to any mineral to which the provisions of the Ceylon Petroleum Corporation Act, No. 28 of 1961, and the State Gem Corporation Act, No. 13 of 1971 apply.

Mining and;c. to be under the authority of a licence.

28.

(1) No person shall explore for, mine, transport, process, trade in or export any minerals except under the authority of, or otherwise than in accordance with, a licence issued in that behalf under the provisions of this Act and the regulations made thereunder:

Provided that any person who prior to the appointed date had commenced to mine, explore for, process, trade in or export any minerals under the authority of a licence issued on issue of licences. in that behalf under the provisions of the Mines and Minerals Law, No. 4 of 1973, shall continue to do so for a period of six months from that date but shall within such period apply for a licence under the provisions of this Act, and no mineral mined after that date shall be transported from the mine or disposed of unless such transport or disposal is in conformity with the terms and conditions of a licence issued under the provisions of this Act.

(2) A person who purchases minerals after such minerals have been processed, for sale to the public or for incorporation into a semi-finished or finished product shall not be required to hold a licence to trade in such minerals.

(3) A licence issued to any person under this Act, to mine any mineral may transfer to the licensee the ownership of any mineral mined under the authority of such licence.

(4) Nothing in the preceding provisions of this section shall be deemed to require any owner or occupant of the surface of any land or the holder of a licence to explore for or mine for minerals on any land, to obtain a licence to mine for and transport any mineral used for the purpose of building, on or from such land.

Restriction on issue of licences.

29. No licence to explore for, mine, transport, process, trade in or export any mineral shall be issued to

(a) an individual who

- (i) is, under the age of eighteen years ;
- (ii) is, a public officer or employee of any Provincial Council or a local authority;
- (iii) is, under any law in force in Sri Lanka, declared to be of unsound mind; or
- (iv) is a person, having being declared an insolvent or a bankrupt under any law in force in Sri Lanka or in any other country, is an undischarged insolvent or bankrupt ;

(b) a company which

- (i) is not registered to do business in Sri Lanka ;
- (ii) is declared to be bankrupt or in liquidation;

(c) a firm which

- (i) is not registered to do business in Sri Lanka ;
- (ii) is declared to be bankrupt or in liquidation ;

(d) any applicant who does not possess the financial capacity and technical qualifications necessary in the opinion of the Bureau to conduct the Activities in respect of which the licence has been Applied for;

(e) any applicant who fails to pay the prescribed fee for the issue of the licence.

Restriction on powers to issue licences.

30.

(1) The Bureau shall not issue a license to any person to explore for, or mine any minerals upon

(a) any burial ground or cemetery within the meaning of the Cemeteries and Burial Grounds Ordinance (Chapter 231), without the approval of the Minister and the Minister in charge of the subject of Local Government ;

(b) any land within such distance of a railway track, aerodrome, road, thoroughfare, power line or other public work or public building as may be prescribed, without the approval of the Minister and the Minister in charge of the relevant subject ;

(c) any land situated within such distance of a lake, stream or a tank or bund within the meaning of the Crown Lands Ordinance (Chapter 454), as may be prescribed, without the approval of the Minister and the Minister in charge of the subject of Lands ;

(d) any wild life reservation, nature reserve, forest or park within the meaning of the Crown Lands Ordinance (Chapter 454) without the approval of the Minister and the Minister in charge of the subject of Lands ;

(e) any land situated within such distance of a catchment area within the meaning of the Crown Lands Ordinance (chapter 454) as may be prescribed, without the approval of the Minister and the minister in charge of the subject of Lands;

(f) the foreshore or sea-bed within the meaning of the Crown Lands Ordinance (Chapter 454) without the approval of the

Minister and the Minister in charge of the subject of Coast Conservation ;

(g) any land vested in any naval, military, or air force authority, without the approval of the Minister and the Minister in charge of the subject of Defence ;

(h) any land vested in any Provincial Council or a local authority without the approval of the Minister and the Minister in charge of the subject of Provincial Councils.

(2) In addition to any other condition that may be prescribed under this Act, the Minister or the Ministers referred to in subsection (1), as the case may be, may, in granting approval for a licence under subsection (1), lay down such further conditions, as may be determined by such Minister or Ministers. Where approval is granted subject to any further conditions, the Bureau shall cause such conditions to be specified in the licence.

Areas In respect of which no licences shall be issued.

31. The Bureau shall not issue a licence to any person to explore for, or mine any mineral upon

(a) any land situated within such distance of, any ancient monument situated on State land or any protected monument, as is prescribed under section 24 of the Antiquities Ordinance (Chapter 188) ; and

(b) any land declared by the Archeological Commissioner to be an archeological reserve under section 33 of the said Ordinance.

Closed reserved areas.

32.

(1) The Minister may, by Notification published in the Gazette, declare that the area described in such Notification shall be reserved for the exploration for or the mining of such minerals as are specified in such Notification:

Provided that no Notification shall be made in respect of any area under this section, if there is a licence for the time being in force issued under this Act in respect of that area.

(2) The Bureau shall not issue a licence to any person to explore for or mine any mineral other than a mineral specified in any Notification made under subsection (1) upon any land within any area described in such Notification.

Reserved minerals & c.

33.

(1) No licence to explore for or mine, transport process, trade in or export uranium, thorium, beryllium, lithium, coral and any other prescribed mineral shall be issued under this Act except with approval of the Minister and any other relevant Minister.

(2) The Minister may, by Order published in the Gazette declare such other category of minerals as may be specified in such Order to be a reserved mineral and prescribe the conditions subject to which a licence to explore for or mine, collect, remove, transport, process, trade in or export such minerals shall be issued :

Provided that the conditions so prescribed shall not apply to any licence issued prior to the date of such Order authorizing the exploration for, or the mining, collection, removal, transportation, processing, trading in or export of any such mineral or natural resource.

Application of licence.

34. Every application for a licence Act shall be made to the Bureau in such form and shall contain such particulars and shall be accompanied by such documents as may be prescribed and the prescribed fee.

Issue of licence .

35.

(1) On receipt of an application for a licence under this Act the Bureau may subject to the provisions of section licence 33, either issue a licence to the

applicant or for reasons to be recorded by it, refuse to issue such applicant a licence.

(2) Subject to the other provisions of this Act, every licence issued under this section shall

(a) be in such form and be subject to such terms and conditions as are set out in subsection (4) ;

(b) specify the limits of the area in respect of which the licensee is authorized to explore for or mine, transport, process, trade in or export minerals ;

(c) specify the minerals in respect of which exploration, mining, transportation, processing, trading in or exporting is authorized ;

(d) not be transferable, or given as security ; and

(e) specify the duration of such licence :

Provided however that, an industrial mining licence may be transferred or given as security as provided for in the investment agreement in pursuance of which such licence was issued or otherwise upon the approval of the Bureau, and subject to such conditions as may be prescribed.

(3) Any licence issued under this section shall, unless it is cancelled earlier, be valid for such period as shall be specified therein.

(4) Every licence issued under this Act shall in addition to the conditions referred to in subsection (2) of section 30 have attached thereto, inter alia, the following conditions :

(a) that the exploration, mining, processing,, trading in and export of minerals authorized by the licence shall not be conducted in a fraudulent, reckless, grossly negligent or willfully improper manner ;

(b) that the licensee shall notify the Bureau, of the discovery of minerals discovered by him in the exercise of his rights under the licence ;

(c) that the licensee shall in the exercise of his rights under the licence, comply with all written laws relating to the protection of the environment, health and safety standards and the protection of natural resources ;

(d) that the licensee shall on the completion of the exploration or mining authorized by the licence, rehabilitate the land to which such licence relates, to such condition as may be specified ;

(e) that the licensee shall not suspend, curtail or cease the activities authorized by the licence for a period exceeding six months, except with the prior permission of the Bureau ;

(f) that the licensee shall comply with the provisions of this Act and any regulation made thereunder;

(g) that the licensee shall maintain such books, records, other documents and materials as are required by the Bureau, to be maintained by him and shall enter the required particulars therein;

(h) that the Licensee shall pay to the Bureau, the fees in respect of such licence and any other payments he is required to pay by virtue of or under such licence, within such period as may be required by this Act or any regulation made thereunder;

(i) that the licensee shall afford any authorized officer of the Bureau, access to any premises in which any activity authorized by the licence is carried on and to make available to such officer, all books, records and other documents maintained by the licensee as required by the licence ; and to comply with any lawful direction or order given by such officer;

(j) that the licensee shall submit to the Bureau such reports, and give to the Bureau such notices, within such period, as he is

required to submit or give, by any provision of this Act or any regulation made thereunder.

Renewal of a licence.

36. A licence issued under this Act shall be renewed after the expiration of the period specified in the licence on application made to the Bureau not less than thirty days before the expiry thereof if

- (a) the Bureau is satisfied that the licensee has observed the terms and conditions attached to such licence ; and
- (b) the licensee pays the prescribed fee for the renewal of the licence;

Cancellation of a licence.

37-

(1) The Bureau may cancel a licence issued under this Act, if it is satisfied that the licensee

- (a) has contravened any term or condition attached to such licence ;
- (b) has not carried out any lawful direction given to him by the Bureau ;
- (c) carries on wasteful mining despite prior warning given in writing by the Bureau against such mining;
- (d) has suspended, curtailed or ceased to carry on any activity authorized by such licence for a period of over six months without the permission "of the Bureau ;
- (e) has surrendered his licence subject to satisfaction of the requirements of this Act; or
- (f) has been convicted of an offence under this Act or of any regulation made thereunder.

(2) The cancellation of a licence under subsection (1) shall not take effect until the time for appealing against the decision of the Bureau under section 39 has expired or if an appeal has been made within time, unless and until the appeal has been disallowed.

The Bureau shall communicate its decision to the applicant or licensee together with its reasons therefor.

38.

(1). Where the Bureau decides to refuse the issue or renewal of a licence or to cancel a licence, the Bureau shall communicate to the applicant or licensee, as the case may be, its decision with the reasons therefor, by registered post.

(2) Any decision required to be communicated under the preceding provisions of this section to any applicant or licensee shall be deemed to have been communicated to him after the expiry of a period of three days reckoned from the date of despatch of such communication by registered post to the usual place of business or residence of such applicant or licensee.

Appeals.

39.

(1) The applicant or licensee, as the case may be who is aggrieved by a decision of the Bureau

- (a) refusing the issue or renewal of a licence under section 35 or section 36 ;
- (b) cancelling his licence under section 37, may appeal against that decision to the Secretary within fourteen days of the date on which the decision is communicated to him.

(2) The Secretary may on an appeal made to him subsection (1) under

(a) allow the appeal and direct the Bureau to issue or renew the licence which is the subject of the appeal;

(b) disallow the appeal.

(3) The Bureau shall comply with any direction issued to it under subsection (2) by the Secretary.

(4) Where an application for a licence or the renewal of a licence is refused under any of the preceding provisions of this Act, the Bureau shall refund to the applicant or the licensee, as the case may be, the fee accompanying such application.

(5) The Secretary shall communicate to the appellant his decision on any appeal made to him under subsection (1), together with reasons therefor by registered post.

(6) Any decision required to be communicated to the appellant shall be deemed to have been communicated to him after the expiry of a period of three days from the date of dispatch of such communication by registered post to the usual place of business or residence of such appellant.

Appeals appeal to
the supreme Court. **40.**

(1) Any person aggrieved by a decision of the Secretary under subsection (2) of section 39 may therefrom to the Supreme Court. Every such appeal shall be in the manner prescribed by the relevant rules of the Supreme Court.

(2) The Supreme Court may on an appeal made under subsection (1), affirm or reverse the decision against which such appeal has been made.

Termination of
licence, **41.**

(1) Where the holder of a licence being a limited liability company becomes bankrupt or is adjudged an insolvent, the licence shall be deemed to be terminated from the date on which such company becomes bankrupt or adjudged insolvent.

(2) Where the holder of a licence dies or becomes bankrupt or is adjudged an insolvent, the licence shall be deemed to be terminated with effect from the date on which the licensee dies or is adjudged a bankrupt or insolvent.

(3) Where the holder of a licence being a partnership is dissolved the licence shall be deemed to be terminated with effect from the date of dissolution of the partnership.

No licence required
for search or
development
mineral water

42. Subject to the provisions of any other law, the owner or occupier of any land or a licensee authorized under this Act to explore for or mine for minerals in such land, may without a licence issued in that behalf, search and mine for, develop, produce and consume mineral water in or from such land for his personal use.

Bureau to be in
charge of the
administration of
this Act.

43. The Bureau shall be in charge of the administration Bureau to be in charge of this Act, and the regulations made thereunder.

Powers of the
Bureau.

44. Subject to the provisions of this Act the Bureau shall have the power

(a) to maintain registers, maps and other records and materials in respect of, all licences issued under this Act, closed and reserved areas and reserved minerals declared under this Act, and such registers, maps records and materials shall be open for inspection by the public, subject to an obligation of confidentiality;

(b) to demand, receive and recover all fees, rents, royalties and other payments, due to the Bureau under any provision of this Act;

(c) to supervise exploration, mining and other activities authorized by a licence issued under this Act and to give directions to the licensee as to the conduct of

such activities;

(d) to enter into and inspect any land, mine or other premises in respect of which licence has been issued under this Act and carry out such investigations or surveys thereon as may be necessary to ascertain whether the terms and conditions of such licence or any provision of this Act or any regulation made thereunder, are being complied with ;

(e) to abate or remove any condition resulting from the non compliance by a licensee of any term or condition of his licence or any provision of this Act or any regulation made thereunder ;

(f) to examine and take copies of any books, records, and other documents which are required to be maintained by a licensee under this Act, relating to any activity authorized by the licence issued to him;

(g) to conduct geo scientific, mineral and mining investigations ;

(h) to collect, compile, analyse and publish, data pertaining to the mineral resources of Sri Lanka;

(i) to provide facilities for the purpose of historical and archival preservation and management, of information relating to mineral resources.

Taking of samples by officers of the Bureau authorized persons.

45. Officers of the Bureau or any person authorized by the Bureau may, at all reasonable times, enter upon any land whether or not a licence has been issued under this Act in respect of such land and take samples or specimens of soil, rocks, minerals or tailings found on such land, for the purpose of examination or assay.

Powers of officers and;c of the Bureau.

46. Officers of the Bureau or any person authorized in writing by the Bureau may for the purpose of carrying out geological and mineral investigations

(a) enter upon and occupy any land whatsoever with such persons, machinery, equipment and materials as are necessary for such purpose ;

(b) break up the surface of any part of such land and take and carry away samples or specimens of the soil, rock or minerals in, on or, under such land ;

(c) excavate, bore or drill such land and fix any post or other object thereon ; or

(d) enter upon and pass through any land which it may be necessary to pass for the purpose of carrying out such investigation :

Provided that

(i) notice in writing of the intention to exercise any of the powers conferred by this section in respect of any land shall be given in writing to the owner or occupier of such land, at least fourteen days before the exercise of such powers, unless such land is State land ;

(ii) as little damage and inconvenience as possible shall be caused in the exercise of any of the powers conferred by this section and such owner or occupier shall be entitled to compensation for any damage sustained by him in consequence of the exercise of those powers;

(iii) before abandoning any such land, all persons, machinery, equipment and materials used thereon shall be removed and all excavations and bore or drill holes made thereon shall be filled;

(iv) no investigation shall be carried out on any land in the exercise of any of the powers conferred by this section, if a licence has been issued under this Act in respect of that land.

Investigation on state land-

47- No investigation for minerals on State land shall be carried out by the Bureau without notice in writing to the Minister in charge of the subject of Lands.

Requirements of a licence to explore for Minerals.

48.

(1) No licence to explore for minerals shall be issued in respect of any area exceeding one hundred square kilometers.

(2) A licence to explore for minerals shall grant the licensee the exclusive right

to explore for all minerals other than any mineral excepted by the terms of the licence, within the area specified in the licence.

Right of licensee under mining licence to mine for all minerals in the area specified in the licence.

49. A licence to mine for any mineral issued under this Act, shall entitle the licensee to the exclusive right to mine for all minerals in the area specified in such licence and to trade in and export such minerals.

Holder of a licence to maintain books records amp;c.

50. The holder of a licence issued under this Act shall maintain such books, records and other documents in relation to the activities authorized by his licence, as may be required by the Bureau and shall submit to the Bureau such returns and information relating to such activities as the Bureau may from time to time require.

Right of a holder of a licence to possess area specified in licence.

51. The holder of a licence issued under this Act shall have the right to enter and possess any area of land specified in such licence :

Provided that where the owner of any such area of land is in possession of such area of land, the holder of the licence shall not exercise the rights conferred on him by this section except with the consent of such owner.

Holder of a licence not to interfere with owner or occupier of the land.

52.

(1) The holder of a licence issued under this Act shall avoid interference with the owner or occupier of the - land specified in his licence or the holder of any other licence in respect of such land and avoid damage to their personal property.

(2) The holder of a licence issued under this Act shall on the completion of the activities authorized by his licence or on the date of expiration of his licence, whichever occurs earlier, rehabilitate the land to the satisfaction of the Bureau-

(3) Where the Bureau determines that the land has not been rehabilitated to a satisfactory condition, the holder shall be liable to the payment of compensation to the owner of the land in such amount as may be determined by the Bureau in the prescribed manner.

Holder of a licence may erect or install plant machinery amp;c

53. Subject to the provisions of any other law and to such conditions as may be prescribed, the holder of a licence issued under this Act may erect or install plant, machinery and equipment and construct buildings in the area specified in his licence.

Right of the state and Buearu to plant, buildings & c in the event of an emergency.

54. The State and the Bureau shall in the event of an emergency or in any urgent circumstances, be entitled, subject to the payment of compensation of such amount and assessed in such manner as may be prescribed, to any plant, buildings, machinery, equipment or facilities erected, constructed or installed on any land by the holder of a licence issued under this Act.

PART III

HEALTH, SAFETY AND WELFARE OF WORKERS IN MINES

Restriction on employment of females.

55. No female, irrespective of age, shall work or be engaged or permitted to work underground at any time in any mine.

Restriction on employment of person.

56.

(1) No young person shall work or be engaged or permitted to work underground in a mine except as hereinafter provided.

(2) No young person who has not completed the age of sixteen years shall work or be engaged or permitted to work underground in any mine.

(3) On the application of any young person who has completed the age of sixteen years and who wishes to work in a mine, or of the parent or guardian of such young person, or of the manager of the mine in which the young person wishes to work, the medical officer shall examine the young person, and if he

is satisfied that, that person has completed sixteen years of age and is fit for a full day's work in a mine shall issue a certificate of fitness accordingly.

(4) No young person over the age of sixteen years shall work or be engaged or permitted to work in a mine, unless a certificate of fitness issued in respect of that young person is first deposited with the manager of the mine.

(5) At the time of the engagement of a young person over the age of sixteen years as a worker, the manager of the mine shall issue to the young person a token bearing a reference to the certificate of fitness deposited under subsection (4).

(6) No young person over the age of sixteen years shall work or be permitted to work in a mine unless he carries on his person while he is at work the token issued to him under subsection (5).

(7) Any young person over the age of sixteen years working in a mine may, at the instance of any officer duly authorized by the Bureau be examined at any time by the medical officer, and if upon such examination he is found to be no longer fit to work in the mine, his certificate of fitness shall be revoked by the medical officer.

(8) Every young person over the age of sixteen year whose certificate of fitness is revoked under subsection (7) shall forthwith be discharged from employment by the manager of the mine.

Hours of work for young person. **57.**

(1) No young person over the age of sixteen years shall work or be permitted to work during the night in any mine.

(2) No young person over the age of sixteen years shall be ordered or compelled to work underground in a mine for more than eight consecutive hours on any one day, inclusive of one hour for meals and rest, or for more than forty-four hours during any six consecutive days.

(3) No young person over the age of sixteen years shall work or be permitted to work in any mine on any day on which he has already worked in any other mine for the maximum number of hours prescribed by subsection (2) for any one day.

Hours of work for adults. **58.**

(1) No adult worker shall be ordered or compelled to work underground in a mine for more than eight consecutive hours on any one day, inclusive of one hour for meals and rest, or for more than forty-eight hours during any six consecutive days.

(2) No adult worker shall work or be permitted to work in any mine on any day on which he has already worked in any other mine for the maximum number of hours prescribed by subsection (1) for any one day.

Time spent in descent and ascent. **59.** For the purposes of this Act, the time spent by a worker in descending a mine and ascending there from shall be deemed to be time spent in work underground in the mine.

Sanitary and medical equipment. **60.**

(1) There shall be provided for the use of the workers in each mine, in such manner and according to such standards and specifications as may be prescribed

(a) a supply of water fit for drinking and water for washing ;

(b) latrine accommodation ; and

(c) a supply of splints, bandages and other medical requirements.

(2) On the premises of every mine in which workers are ordinarily employed

- (a) there shall be provided and maintained, for the purposes of first-aid treatment in the event of an accident, a special room conforming to such standards and fitted with such equipment of stretchers, drugs and accessories as may be prescribed; and
- (b) a member of the permanent staff, trained in first-aid treatment up to such standard as may be prescribed, shall be on duty at all times when any work is carried on below ground in the mine-

Protection of environment.

61.

(1) The holder of a licence issued under this Act, shall carry out the activities authorized by such licence in compliance with such standards and procedures as are prescribed for the carrying out of such activities by the National Environment Act, No. 47 of 1980 and where such licence is for exploration or mining the holder of the licence shall restore and rehabilitate the land on which such exploration or mining had been carried out, in the manner prescribed by that Act or this Act.

(2) Where a licence has been issued under this Act, the Bureau may require the surface owner or occupant of the land to which such licence relates, to allow the licensee access to such land and leave to carry out thereon the activities authorized by such licence.

(3) Where the surface owner or occupant of any land who fails to comply with any requirement imposed on him by subsection (1), the Bureau shall report such matter to the Minister. The Minister may thereupon by Order published in the Gazette approve of the proposed acquisition of the land or in any interest on the land to which such licence relates and where such an Order is so published, the land or the interest in the land specified in the Order shall be deemed to be required for a public purpose and may be acquired under the land Acquisition Act.

Interpretation.

62. For the purposes of this part of this Act

"adult" means a person who has completed eighteen years of age ;

" day " means a period of twenty-four hours beginning at mid-night;

" manager" in relation to a mine, means the person whether paid or unpaid who has effective charge and control of such mine ;

" night" means the period between seven o' clock in the evening and six o'clock in the morning; and

"young person" means a person who has completed fourteen years of age but had not completed eighteen years of age.

PART IV

GENERAL

Offence.

63.

(1) Any person who

(a) explores for, or mines, processes, transports, trades in or exports, any mineral without a licence in that behalf issued under this Act;

(b) knowingly purchases any mineral from a person who is not the holder of a licence issued under this Act to trade in such mineral;

(c) knowingly makes a false statement or fraudulent representation in, or in connection with, an application for a licence under this Act;

(d) being the holder of a licence issued under this Act, fails to notify the Bureau of the discovery of any mineral discovered by him in the carrying out of the activities authorized by the licence, shall be guilty of an offence under this Act and shall on conviction

after summary trial before a Magistrate be liable to a fine not exceeding five hundred thousand rupees and in the case of a second or subsequent offence, to a fine not exceeding one million rupees or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(2) Any person who;

(a) being the holder of a licence issued under this Act

(i) fails to maintain any book, record or other document that he is required to maintain by or under this Act;

(ii) fails to furnish any return or information that he is required to furnish by or under this Act ;

(iii) makes any statement in any such book, record, return or information which to his knowledge is false ;

(iv) willfully omits to include material particulars in such book, record return or information;

(b) obstructs or interferes with any officer of the Bureau or a person authorized by the Bureau, in the exercise by such officer or person of any power conferred on such officer or person by or under this Act, shall be guilty of an offence under this Act, and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(3) Any person who contravenes any other provision of this Act, for which no punishment has been specified under subsection (1) or (2) of this section, shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding twenty-five thousand rupees.

Regulations,

64.

(1) The Minister may make regulations in respect of all matters which are required by this Act to be prescribed or in respect of which regulations are required or authorized to be made under this Act.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of publication or on such later date as may be specified therein.

(3) Every regulation made by the Minister, shall soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(4) The notification of the date on which any regulation is deemed to be so rescinded shall be published in the Gazette.

Amendment of the
Crown Lands
Ordinance (Chapter
464).

65. The Crown Lands Ordinance (Chapter 454) (in this section referred to as the (" Ordinance")) is hereby amended as follows :

(1) by the repeal of paragraphs (5) and (6) of section 2 of that Ordinance;

(2) by the repeal of section 63 of that Ordinance and the substitution of the following section therefor ;

Restriction on
the power to
mine the sea
bed.

63. No person other than a person holding a licence in that behalf issued under the Mines and Minerals Act, No. 33 of 1992,

(3) in section 4 of that Ordinance by the substitution for the words "from any place on the sea shore " of the words " from any place " .

(4) in section 67 of that Ordinance by the substitution for all the words and figures from " under section 62" to " aggrieved to the Minister", of the words and figures " under section 62 or has issued such permit subject to a condition to which objection is taken by the holder of the permit, or has issued a prohibition under section 64, an appeal shall lie by any person aggrieved to the Minister : .

Amendment of the
Coast Conservation
Act, No. 57 of 1981.

66. The Coast Conservation Act, No. 57 of 1981, is hereby amended as follows :

(1) in subsection (1) of section 14 of that Act, by the substitution for the words " permit issued in that behalf by the Director ", of the words " permit issued in that behalf by the Director or of a licence issued under the Mines and Minerals Act, No. 33 of 1992 " ;

(2) in subsection (2) of section 14 of that Act, by the substitution for the words " under subsection (1) ", of the words " under subsection (1) or a licence issued under the Mines and Minerals Act, No. 33 of 1992. " ;

(3) by the addition at the end of subsection (3) of section 24 of that Act, of the following new subsection :

"(4) Notwithstanding anything in the preceding provisions of this section, the holder of a licence issued under the Mines and Minerals Act, No. 33 of 1992, shall not be required to obtain a permit from the Director or any officer authorized by him, for the occupation of any part of the foreshore or bed of the sea lying within the Coastal Zone." ;

(4) in section 31A of that Act, by the substitution for the words "No person shall within the Coastal Zone", of the words "No person, other than a person holding a licence issued under the Mines and Minerals Act, No. 33 of 1992, shall within the Coastal Zone"-

Limits on Provincial
Council to impose
taxes on minerals.

67. The taxes on the right to mine for minerals within a province that may be imposed by the Provincial Council established for that province shall not exceed 0.5 per centum of the gross turnover value of the minerals mined in the exercise of that right.

Repeals.

68. The Quarries, Mines and Minerals Ordinance (Chapter 210), the Salt Ordinance (Chapter 211), the Radio Active Minerals Act. No. 46 of 1968 and the Mines and Minerals Law, No. 4 of 1973, are hereby repealed.

Sinhala text to
prevail in case of
inconsistency.

69. In the event of any inconsistency between the Sinhala and Tamil texts of this Act,, the Sinhala text shall prevail-

Interpretation

70. In this Act, unless the context otherwise requires

" deposit" means, except in respect of geothermal deposits a natural concentration of minerals ;

"explore" means to define the extent and determine the economic value of a deposit;

" geothermal deposits " means deposits of warm waters, regardless of whether or not such waters are mineral waters, which may be used as a source of energy:

" licence " means a licence issued in accordance with the provisions of this Act ;

" licensee " means a holder of a licence issued under this Act; " local authority " means any Municipal Council, Urban Council or any Pradeshiya Sabha and includes any authority created or established by or under any law to exercise, perform or discharge the powers, duties and functions corresponding to, or similar to, the powers, duties and functions exercised, performed or discharged by any such Council or Sabha;

"mining" means excavating in, on or, below the surface for the purpose of evaluating and obtaining any minerals; " mineral waters" means waters from which minerals may be extracted on a commercial basis ;

" mineral" means a naturally occurring substance that can be mined, whether in solid. liquid or gaseous form, in or below the surface of the soil; any ores containing such minerals and any product of such minerals derived by Processing and include peat and salt but does not include

hydro-carbons ;

" Minister " means the Minister appointed under Article 44 of Constitution to whom the subject of Minerals is assigned ;

" prescribed " means prescribed by regulations ;

" process," mean to crush, beneficiate, concentrate or otherwise treat minerals in a preliminary manner by a physical, chemical or other process, but does not include smelting and refining, and the expression " processing " shall be construed accordingly ;

"Secretary" means the Secretary to the Ministry of the Minister.