



P.N.D.C.L. 153.

MINERALS AND MINING LAW, 1986

In pursuance of the Provisional National Defence Council (Establishment) Proclamation 1981, this Law is hereby made:



PART I—OWNERSHIP OF MINERALS AND GOVERNMENT RIGHT OF PRE-EMPTION

1. Every mineral in its natural state in, under or upon any land in Ghana, rivers, streams, water-courses throughout Ghana the exclusive economic zone and any area covered by territorial waters or continental shelf is the property of the Republic of Ghana and shall be vested in the Provisional National Defence Council for and on behalf of the people of Ghana.

All minerals property of Republic.

2. Where any land is required to secure the development or utilisation of a mineral resource the Council may acquire the land or authorise its occupation and use under any applicable enactment for the time being in force.

Compulsory acquisition of land.

3. (1) Except as otherwise provided in this Law or any other enactment, no person shall export, sell or otherwise dispose of any mineral unless he holds a licence granted by the Secretary for that purpose.

Exportation and disposal of minerals.

(2) An application for the licence shall be made in writing to the Secretary in accordance with such regulations as may be prescribed.

(3) The Secretary may issue the licence in such form and on such conditions as he may determine.

(4) A licence issued under subsection (3) of this section shall not be transferable.

4. (1) The Government shall have the right of pre-emption of all minerals raised, won or obtained in Ghana and from any area covered by territorial waters, exclusive economic zone, or the continental shelf and of products derived from the refining or treatment of such minerals.

Government's right of pre-emption.

(2) The Government may, by an Executive Instrument, appoint any statutory corporation to act as its agent for the exercise of the right of pre-emption conferred by subsection (1) of this section.

5. (1) The price to be paid for minerals or products taken in the exercise of the right of pre-emption under section 4 of this Law shall—

Price to be paid on pre-emption.

(a) where it has been provided for in a written agreement, be the price specified therein; and

MINERALS AND MINING LAW, 1986

- (b) where it has not been provided for in a written agreement, be the publicly quoted market rate prevailing for the minerals or products as delivered at the mine or plant where the right of pre-emption in respect of the minerals or products was exercised.

(2) Where there is no such agreement or prevailing market rate, the price shall be decided upon by an arbitration appointed under the Arbitration Act, 1961 (Act 38).

Right of pre-emption to extend to minerals already sold.

6. (1) The right of pre-emption under section 4 of this Law shall extend to all minerals or products sold to other customers by the person against whom such right is exercised, but which have not left the boundaries, territorial waters or air space of Ghana.

(2) The price to be paid for such minerals or products shall be the rate provided for in section 5 of this Law or the actual contract price at which such minerals or products were sold, whichever is less, together with—

- (a) the actual cost of transportation from the mine or plant to the port, railway station or locality to which the minerals or products were taken in the exercise of the right of pre-emption;
- (b) any actual penalty or damage which the person against whom the right of pre-emption is exercised may prove that he has suffered by reason of any cancellation or alteration of sea, rail, road or air transportation or of charter of vessels or planes for the transportation of the minerals or products; and
- (c) any actual cost of insurance of the minerals or products.

(3) Any penalty or cost of damage payable by virtue of paragraph (b) of subsection (2) of this section, shall be paid only in respect of a charter or freight agreement entered into for a particular voyage or despatch by sea, air, rail or road and not in respect of a general charter or freight agreement for any prospective voyage or despatch.

Obstruction to exercise of right of pre-emption.

7. (1) Any person who obstructs the Government or its agent from exercising its right of pre-emption in respect of any minerals or products under this Law commits an offence and shall on summary conviction be liable to a fine not exceeding ₵500,000.00 or to imprisonment for a term not exceeding two years or both.

(2) Where any person is convicted of an offence under subsection (1) of this section, he shall in addition to any other punishment that the Court may impose, be liable to pay an amount equivalent to twice the value of the minerals or products and to the cancellation by the Secretary of any mineral right held by him under this Law.

MINERALS AND MINING LAW, 1986

8. (1) Where a mineral right is for reconnaissance, prospecting or mining of minerals, the Government shall acquire a ten per cent interest in the rights and obligations of such mineral operations in respect of which no financial contribution shall be paid by Government. Government participation.

(2) The Government shall have the option to acquire on such terms as shall be agreed upon between the holder of a mining lease and the Government a further twenty per cent interest in the rights and obligations in any mining operations where any mineral is discovered in commercial quantities except that where the operation is for the mining of salt, the Government shall have the option to acquire a further forty-five per cent interest in the salt operations.

(3) Where the parties fail to agree on the terms of the acquisition by Government of any interest in any mineral operations under this section, the matter shall be referred to arbitration in accordance with section 31 of this Law.

(4) The provisions in subsections (1) and (2) of this section shall not exclude the Government from further participation in any mineral operations and any further participation shall be under such terms as the parties may agree.

PART II—ADMINISTRATION

9. The Secretary shall in consultation with the Minerals Commission appoint an officer to be known as the Chief Inspector of Mines who shall exercise the powers and perform the functions specified in relation to him under this Law, and who shall, under the direction of the Secretary, generally supervise the proper carrying out of the provisions of this Law. Chief Inspector of Mines.

10. (1) The Chief Inspector of Mines or an officer authorised by him may at all reasonable times enter any reconnaissance, prospecting or mining area or any premises in such area other than dwelling house, for any of the following purposes— Functions of Chief Inspector of Mines.

- (a) to break up the surface of land in such area for the purpose of ascertaining the rocks or minerals in or under the land;
- (b) to take samples or specimen of rocks, ore or concentrates, tailings or minerals situated in an area under a mineral right for inspection or assay;
- (c) to inspect the explosives magazine upon any mine and direct in what manner any explosives shall be stored;
- (d) to inspect the area of mineral operations to ascertain whether any nuisance is created in the area by the mineral operations;
- (e) to examine documents and records required to be kept under this Law, any regulations made thereunder or

MINERALS AND MINING LAW, 1986

the terms and conditions of any mineral right and take copies of such documents;

- (f) to enter into or upon any land through which it may be necessary to pass for the purpose of any survey; or
- (g) to give directions and effect all acts that are incidental or conducive to the attainment of his functions under this Law.

(2) The Chief Inspector of Mines or an officer authorised by him shall have power to hold an inquiry whenever a fire or an occurrence resulting in serious injury happens on any land subject to a mineral right.

Mines
Manager.

11. (1) The holder of a mineral right shall at all times have a responsible manager in charge of his mineral operations.

(2) The holder of a mineral right shall notify the Chief Inspector of Mines in writing of every appointment of a manager and of every change of a manager.

Obstruction
of Chief
Inspector
of Mines.

12. Any person who, without reasonable excuse hinders or obstructs the Chief Inspector of Mines or an officer authorised by him from carrying out any of his functions under this Law commits an offence and shall be liable on summary conviction to a fine not exceeding ₵100,000.00 or to imprisonment for a term not exceeding twelve months or to both.

Indemnity
of officers.

13. The Chief Inspector of Mines or an officer authorised by him shall not be liable for any thing done or omitted to be done in good faith in the exercise of his powers or functions under this Law.

PART III—MINERAL RIGHTS AND OTHER LICENCES

Mineral
rights.

14. (1) Notwithstanding any right or title which any person may have to any land in, upon or under which minerals are situated, no person shall conduct reconnaissance of, prospect for or mine any mineral in Ghana unless he has been granted a mineral right by the Secretary in the form of a licence or lease as the case may be.

(2) The Secretary shall on behalf of the Republic have power to negotiate, grant, revoke, suspend or renew any mineral right under this Law subject to a power of disallowance exercisable by the Council within thirty days of such grant, revocation, suspension or renewals. The powers of the Secretary under this subsection shall be exercised on the advice of the Minerals Commission.

Qualification
for the grant
of mineral
rights.

15. Except for such persons as may be exempted by the Secretary on the advice of the Minerals Commission or except as otherwise provided in this Law, no person shall qualify for the grant of a mineral right unless it is a body corporate or an unincorporated body of persons registered or established in Ghana under an enactment for the time being in force.

MINERALS AND MINING LAW, 1986

16. (1) Subject to the provisions of this Law, a mineral right shall be granted by the Secretary on such terms and conditions as the Secretary may on the advice of the Minerals Commission determine. Terms of a mineral right.

(2) Without prejudice to subsection (1) of this section every mineral right shall specify the shape, orientation and dimension, including diagram and plan of the area to which it relates and shall have appended thereto a programme of mineral operations approved by the Secretary.

17. (1) All applications for the grant, revocation, suspension or renewal of a mineral right shall be submitted to the Secretary in accordance with such regulations as may be prescribed. Application for mineral right.

(2) All applications for the grant or renewal of a mineral right shall have appended thereto a statement giving—

- (a) particulars of the financial and technical resources available to the applicant for the mineral operations;
- (b) an estimate of the amount of money proposed to be spent on the operations;
- (c) particulars of the programme of proposed mineral operations; and
- (d) particulars of the applicant's proposals with respect to the employment and training of Ghanaians.

(3) Copies of every application shall at the time of submission of the application to the Secretary be forwarded by the applicant to the Minerals Commission, the Lands Commission, the Forestry Commission in cases where forestry resources are to be affected by the mineral operations envisaged, and the Public Agreements Board.

18. (1) The Secretary shall notify the applicant in writing of his decision on the application, and where the application is approved, the notification of the approval shall include the terms and conditions on which the mineral right is to be granted. Grant of mineral right by Secretary and notification of grant.

(2) Where an application is approved and the applicant is notified under subsection (1) of this section, he shall within sixty days of the date of the notification or within such further period as the Secretary may allow, notify the Secretary in writing of his acceptance of the grant.

(3) The Secretary shall upon receipt of the notification of acceptance under subsection (2) of this section, grant a mineral right to the applicant.

(4) Where an applicant who has been notified under this section fails to notify the Secretary of his acceptance in accordance with subsection (2) of this section, the application shall lapse.

MINERALS AND MINING LAW, 1986

(5) A mineral right granted by the Secretary under this section shall be deemed a requisite and sufficient authority over the land in respect of which the right is granted.

Transfer or assignment of mineral rights.

19. No mineral right or any interest therein shall be transferred, assigned or dealt with in any other manner without the prior approval in writing of the Secretary.

No removal of minerals without permission.

20. (1) The holder of a mineral right shall not remove or destroy any mineral obtained by him in the course of his mineral operations without the permission in writing of the Chief Inspector of Mines.

(2) Any permission granted under subsection (1) of this section shall be on such conditions as the Chief Inspector of Mines may determine.

(3) Notwithstanding the provision in subsection (1) of this section, cores and samples may be retained by a holder for the purpose of assay, identification or analysis of the mineral.

(4) Where any core or sample is retained under subsection (3) of this section, the holder shall maintain in respect of the core or sample such particulars as the Chief Inspector of Mines may, in consultation with the Director of Geological Survey determine sufficient for the identification of the core or sample and the location and geological horizon of its origin.

Licence for diverting water.

21. (1) No person shall obtain, divert, impound or convey water from any river, stream or watercourse for mining or other industrial purposes without a licence granted by the Secretary for that purpose.

(2) An application for licence under this section shall be made in writing to the Secretary in accordance with such regulations as may be prescribed.

(3) A licence for the obtaining, diverting, impounding or conveying of water from any river, stream or watercourse for mining or other industrial purposes shall be issued by the Secretary in such form and on such conditions as he may determine.

(4) A licence issued under subsection (3) of this section shall not be transferred without the prior approval in writing of the Secretary.

PART IV—TAXES, INCENTIVES AND BENEFITS

Royalties.

22. (1) A holder of a mining lease shall be liable to pay to the Republic royalty in respect of minerals obtained by him from his mining operations.

(2) The Secretary shall on the advice of the Minerals Commission determine the rate of royalty payable under this section by the holder of a mining lease, provided that the rate of royalty

MINERALS AND MINING LAW, 1986

payable shall not be more than 12 per cent or less than 3 per cent of the total revenue of minerals obtained by the holder from his mining operations.

(3) Notwithstanding the provisions in subsections (1) and (2), the Secretary may in consultation with the Secretary for Finance and Economic Planning and on the advice of the Minerals Commission defer wholly or in part the royalty payable on any mineral for such period as he may determine where he is satisfied that it is in the national interest and in the interest of the production of such mineral so to do.

(4) Samples of minerals required for assay, analysis or other examination may be exempted from liability for royalties at the discretion of the Secretary.

23. (1) A holder of a mining lease shall pay income tax at the rate of forty-five per cent (45%). Payment of Tax.

(2) The holder of a mining lease shall be liable to pay Additional Profit Tax as provided under the Additional Profit Tax Law, 1985 (P.N.D.C.L. 122).

24. There shall be payable by every holder of a mineral right such annual rental charges as may be prescribed by regulations in respect of the area to which his licence or lease relates. Rental charges.

25. (1) Royalties, fees, rents or other payments which fall due in respect of any mineral right or otherwise under the provisions of this Law shall be a debt due to the Republic and recoverable in the court. Recovery of debts.

(2) The Secretary may, from time to time make such arrangements as appear appropriate to ensure that the holders of mineral rights comply with the provisions of this Law, and, without prejudice to the generality of the foregoing may accept guarantees, whether from shareholders or otherwise, in respect of such compliance.

26. The holder of a mining lease shall where qualified be entitled to the following capital allowances— Capital allowances.

- (a) depreciation or capital allowance of 75 per cent of the capital expenditure incurred in the year of investment and 50 per cent in subsequent years;
- (b) losses in each financial year not exceeding the value of capital allowances for the year may be carried forward;
- (c) investment allowance of five per cent;
- (d) capitalisation of all expenditure on reconnaissance and prospecting approved by the Secretary on the advice of the Minerals Commission where the holder

MINERALS AND MINING LAW, 1986

Additional
benefits.

27. The holder of a mineral right shall be granted the following benefits as appropriate—

- (a) exemption from payment of customs import duties in respect of plant, machinery, equipment and accessories imported specifically and exclusively for the commencement of the mineral operations and may after establishment receive additional relief from payment of customs and excise duties as provided in the Mining List;
- (b) exemption of staff from payment of income tax relating to furnished accommodation at the mine site;
- (c) immigration quota in respect of the approved number of expatriate personnel;
- (d) personal remittance quota for expatriate personnel free from any tax imposed by any enactment for the transfer of external currency out of Ghana;
- (e) exemption from the selective alien employment tax under the Selective Alien Employment Tax Decree, 1973 (N.R.C.D. 201).

Deferment
of stamp
duty.

28. The Secretary for Finance and Economic Planning in consultation with the Secretary may defer wholly or in part the payment of registration and stamp duties for a period not exceeding five years where the Secretary is satisfied that the circumstances prevailing at the time of the application for the benefit justify such deferment.

Transfer-
ability of
capital.

29. (1) Where the holder of a mining lease earns foreign exchange from his mining operations he may be permitted by the Bank of Ghana to retain in an external 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 earnings.

(2) Where the net earnings of a holder of a mining lease from his mining operations is in foreign exchange he shall be permitted by the Secretary for Finance and Economic Planning, in consultation with the Secretary acting on the advice of the Minerals Commission, to retain in an external account, not less than 25 per cent of his foreign exchange earnings for acquiring machinery and equipment, spare parts and raw materials as well as for debt servicing, dividend payment and remittance in respect of quotas for expatriate personnel.

(3) An external account operated by virtue of subsection (2) of this section shall be held in trust on behalf of the holder by a trustee appointed by the holder with the consent of the Bank of Ghana.

MINERALS AND MINING ACT, 1986

30. Subject to the provision of this Law a holder of a mining lease shall be guaranteed free transferability through the Bank of Ghana or in the case of a net foreign exchange earning holder through the external account opened with the permission of the Secretary for Finance and Economic Planning in convertible currency of— ^{Transfer of dividends etc.}

- (a) dividends or net profits attributable to the investments of such convertible currency;
- (b) payments in respect of loan servicing where a foreign loan has been obtained by the holder for his mining operations;
- (c) the remittance of foreign capital in the event of sale or liquidation of the mining operations or any interest therein attributable to foreign investment.

31. (1) Where any dispute arises between a holder of a mineral right and the Government in respect of any matter under Part IV of this Law all efforts shall be made through mutual discussion to reach an amicable settlement. ^{Dispute settlement.}

(2) Where any dispute arises between a holder who is a citizen of Ghana and the Government in respect of any matter under Part IV of this Law which is not amicably settled as provided in subsection (1) of this Section, the dispute may be submitted to arbitration for settlement in accordance with the provisions of the Arbitration Act, 1961 (Act 38).

(3) Where any dispute arises between a holder who is not a citizen of Ghana and the Government in respect of any matter under Part IV of this Law which is not amicably settled as provided under subsection (1) of this Section the dispute may be submitted to arbitration—

- (a) in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law; or
- (b) within the framework of any bilateral or multilateral agreement on investment protection to which the Government and the country of which the holder is a national are parties; or
- (c) in accordance with any other international machinery for the settlement of investment disputes agreed to by the parties.

(4) The Secretary on the advice of the Minerals Commission may specify the particular mode of arbitration to be resorted to in the case of a dispute relating to any matter under Part IV of this Law and such specification shall constitute the consent of the Government or the Agency thereof and of the holder to submit to that forum.

MINERALS AND MINING LAW, 1986

PART V.—RECONNAISSANCE AND PROSPECTING

Reconnaissance licence. 32. (1) No person shall search for any mineral in Ghana by reconnaissance unless he is granted a mineral right in the form of reconnaissance licence by the Secretary.

(2) The Secretary may on application duly made and subject to the provisions of this Law grant a reconnaissance licence.

(3) A reconnaissance licence may be granted for a period not exceeding twelve months.

(4) A reconnaissance licence may in respect of any mineral to which the licence relates confer on the holder thereof an exclusive right to carry on reconnaissance for a specified mineral in the reconnaissance area.

Restriction on grant of reconnaissance licence. 33. (1) No reconnaissance licence shall be granted in respect of an area in or which constitutes—

(a) a prospecting area where another person holds in respect of that area a prospecting licence or a restricted prospecting licence in respect of a mineral to which the reconnaissance licence, if granted, would relate;

(b) a mining area where another person holds in respect of that area a mining lease in respect of a mineral to which the reconnaissance licence, if granted, would relate;

(c) a restricted mining area where another person holds in respect of that area a mining lease in respect of a mineral to which the reconnaissance licence, if granted, would relate.

(2) Where an area is subject to a reconnaissance licence which confers on the holder thereof an exclusive right to carry on reconnaissance over that area, for a specified mineral, no other reconnaissance licence shall be granted over that area in respect of the mineral to which such exclusive right relates.

(3) Where an area to which a reconnaissance licence relates becomes a mining area or part of a mining area the reconnaissance licence shall cease to have effect in relation to such mining area.

Right of holder of reconnaissance licence. 34. (1) Subject to this Law, any regulations made thereunder and the conditions that may be stated in the licence, a reconnaissance licence granted under this Law shall confer on the holder of the licence the right to carry on reconnaissance in the reconnaissance area.

(2) For the purposes of exercising the right conferred under subsection (1) of this section, the holder of a reconnaissance licence may enter the reconnaissance area and erect camps or temporary buildings including installations in any waters which form part of the reconnaissance area.

MINERALS AND MINING LAW, 1986

(3) The holder of reconnaissance licence shall not engage in any drilling, excavation or other under surface operations, except where such operations are authorised by the licence granted to him.

35. (1) The holder of a reconnaissance licence may, not later than three months before the expiration of the licence, apply for a renewal of the licence in respect of all or part of the reconnaissance area. Application for renewal of reconnaissance licence.

(2) An application made under subsection (1) of this section shall be in such form as the Secretary may prescribe.

(3) Where an application for the renewal of a reconnaissance licence is made under this section, the Secretary may, if he is satisfied that it is in the public interest to do so, renew the licence with or without variations of any of the conditions attached to the original licence.

(4) No reconnaissance licence shall be renewed at any one time for a period exceeding twelve months.

36. (1) No person shall prospect for any mineral in Ghana unless he has been granted a prospecting licence by the Secretary. Prospecting licence.

(2) Subject to the provisions of this Law, the Secretary may on an application duly made grant a prospecting licence.

(3) Subject to subsection (5) of this section no prospecting licence shall be granted for a period exceeding three years.

(4) Except as provided in subsection (5) of this section the size of the area in respect of which a prospecting licence may be granted shall not exceed 150 square kilometres in the aggregate.

(5) The Council may in respect of any particular grant of a prospecting licence where it considers it in the national interest to exceed the limits provided in subsections (3) and (4) of this section, direct that the grant shall exceed the said limits.

(6) No prospecting licence shall be granted by the Secretary unless—

- (a) the applicant has adequate financial resources, technical competence and experience to carry on effective prospecting operations;
- (b) the proposed programme of prospecting operations is adequate;
- (c) the applicant's proposal for the employment and training of Ghanaian personnel are adequate;
- (d) the applicant is able and willing to comply with the terms and conditions applicable to the prospecting licence; and
- (e) the applicant is not in default.

MINERALS AND MINING LAW, 1986

(7) No prospecting licence shall be granted in respect of land which constitutes a mining area.

(8) Where an area is subject to a prospecting licence, no other prospecting licence shall be granted over land in that area in respect of any mineral to which that prospecting licence relates.

(9) Where an area is subject to a reconnaissance licence which confers on the holder an exclusive right to carry on reconnaissance in that area in respect of a specified mineral, a prospecting licence shall not be granted in respect of the mineral to which such exclusive right relates to any person other than the holder of the reconnaissance licence.

Renewal of a
prospe-
cting
licence.

37. (1) The holder of a prospecting licence may, at any time but not later than three months before the expiration of the licence, apply to the Secretary for a renewal of the licence.

(2) An application for renewal of a prospecting licence shall state the period for which the renewal is sought and shall be accompanied by such documents as the Secretary may prescribe.

(3) Upon an application duly made under subsection (1) of this section, the Secretary may subject to the provisions of this Law, grant a renewal of the licence for a period not exceeding two years.

(4) Where the holder has made an application for a renewal of the licence over part of the area covered by the prospecting licence and the licence may expire before the application is granted the Secretary may extend the period of validity of the prospecting licence for such period as he may determine pending his decision on the application.

Extension of
period of
renewal.

38. (1) The Secretary may on the expiration of the period of renewal, and upon an application made in that behalf, grant a renewal of the licence for a further period not exceeding two years.

(2) Subject to the provisions of subsection (4) of this section and to any modification of the requirements contained in the prospecting licence, the prospecting area shall, in the event of the renewal of the licence in respect thereof, be reduced in size to eliminate therefrom—

- (a) at the end of the initial period of the licence, not less than half of the initial area; and
- (b) at the end of any period of renewal, half of the remaining area.

(3) The holder of a prospecting licence shall prior to the end of each of the periods specified in subsection (2) of this section, indicate the area or areas to be shed off from the prospecting area and, in default the Secretary shall determine the area to be shed off.

MINERALS AND MINING LAW, 1986

37 Where a person holds two or more prospecting licences for the same mineral or minerals, the Secretary may, for the purposes of subsection (2) of this section consider the area covered by these licences to be one area.

39. (1) Subject to subsections (2) and (3) of this section, the Secretary shall not renew a prospecting licence if—

Rejection of application for renewal of prospecting licence.

- (a) the applicant is in default;
- (b) the proposed programme of prospecting operations to be carried out during the period of renewal of the licence is inadequate.

(2) No application for the renewal of a prospecting licence shall be rejected on the ground that the applicant is in default unless the Secretary has given the applicant notice to remedy the default and the applicant has failed to do so within such reasonable period as may be specified in the notice.

(3) No application for the renewal of a prospecting licence shall be rejected on the ground that the proposed programme of operations is inadequate unless the applicant has been given an opportunity to make appropriate amendments to the programme and he has, within such reasonable period as the Secretary may permit, failed to do so.

40. (1) Where in the course of exercising his right under a prospecting licence, the holder discovers any mineral not included in his licence, he may apply to the Secretary for an amendment of his prospecting licence to include that mineral.

Discovery of minerals not included in prospecting licence.

(2) An application for an amendment of a prospecting licence under subsection (1) of this section shall—

- (a) specify the mineral discovered;
- (b) state particulars of the situation and the circumstances of the discovery; and
- (c) have appended thereto a proposed programme of prospecting operations in respect of that mineral.

(3) Subject to the provisions of subsection (4) of this section, the Secretary may permit the amendment of the prospecting licence to include the mineral discovered.

(4) No amendment of a prospecting licence shall be permitted under this section where a person other than the applicant holds a reconnaissance licence in respect of the area with the right to reconnoitre for the mineral discovered.

41. (1) Subject to the provisions of this Law, the holder of a prospecting licence may in the exercise of his rights under the licence, enter upon any land to which the licence relates—

Rights of holder of prospecting licence.

- (a) to prospect for the mineral to which the licence relates;

MINERALS AND MINING LAW, 1986

- (b) to make boreholes and such excavations as may be necessary;
- (c) to erect camps and put up temporary buildings necessary for prospecting operations.

Obligation
of holder of
a prospecting
licence.

42. (1) The holder of a prospecting licence shall—

- (a) commence prospecting operations within three months from the date of the issue of the licence, or at such time as the Secretary may specify;
- (b) demarcate and keep demarcated the prospecting area in the prescribed manner;
- (c) carry on prospecting operations in accordance with the programme of prospecting operations;
- (d) notify the Secretary through the Chief Inspector of Mines of any discovery of the mineral to which his prospecting licence relates within a period of thirty days from the date of discovery;
- (e) notify the Secretary through the Chief Inspector of Mines of the discovery of any mineral deposit which is of possible economic value within a period of thirty days from the date of discovery;
- (f) fill back or otherwise make safe to the satisfaction of the Chief Inspector of Mines any borehole or excavation made during the course of prospecting operations;
- (g) unless the Chief Inspector of Mines otherwise stipulates, remove, within sixty days from the date of the expiration of the prospecting licence any camp, temporary buildings or machinery erected or installed by him, and repair or otherwise make good any damage to the surface of the ground occasioned by such removal, to the satisfaction of the Chief Inspector of Mines;
- (h) subject to the conditions of the prospecting licence, expend on prospecting not less than such amount as may be specified in the prospecting licence;
- (i) submit to such persons at such intervals as may be prescribed, reports or other documents containing such information and supported in such manner as may be prescribed.

(2) Any monies required to be spent under paragraph (h) of subsection (1) of this section and which are not so spent shall be a debt due to the Republic and recoverable from the holder in the Court.

(3) The holder of a prospecting licence shall keep, to the satisfaction of the Secretary, full and accurate records of the prospecting operations showing such particulars as the Secretary may prescribe.

MINERALS AND MINING LAW, 1986

(4) The holder of a prospecting licence shall at least once in every four months furnish the Secretary with copies of the records kept by him under this section.

(5) Records furnished to the Secretary under subsection (4) of this section shall, as long as the holder or his successor-in-title retains the prospecting licence over the area to which the records relate be treated as confidential and shall not be divulged without the consent of the holder.

(6) Nothing in this section shall prohibit the disclosure of any confidential information—

- (a) where such disclosure is necessary for the purposes of this Law or any other enactment;
- (b) for the purposes of a prosecution under this Law;
- (c) to any person being a consultant to or an officer employed by the Council who is authorised by the Secretary to receive such confidential information.

43. (1) The holder of a prospecting licence shall notify the Secretary of any amendment he wishes to make to his programme of prospecting operations and such amendment shall, unless rejected by the Secretary within two months, after he has been notified, have effect after that period. Amendment of programme of prospecting operations.

(2) The Secretary may, upon an application made to him by the holder of a prospecting licence, limit or suspend the obligation of the holder to carry on prospecting operations under such terms and conditions as he may on the advice of the Minerals Commission determine.

PART VI—MINING LEASE

44. (1) Where a holder of prospecting licence has established that a mineral to which his licence relates exists in commercial quantities within the prospecting area he shall notify the Secretary of this in writing and may apply to the Secretary in writing for a mining lease in respect of the land which constitutes his prospecting area. Minerals found in commercial quantities, mining lease.

(2) An application under subsection (1) of this section shall be made not later than three months from the date of the notice or within such further period as the Secretary may determine.

(3) Subject to the provisions of this Law, upon an application duly made under subsection (1) of this section the Secretary shall grant the applicant a mining lease on such conditions as he may determine.

MINERALS AND MINING LAW, 1960

Application
for a mining
lease by a
non-
prospecting
licence
holder.

45. (1) Where a person other than the holder of a prospecting licence establishes to the satisfaction of the Secretary that mineral in commercial quantities exists in any land, the person may apply for a mining lease over that land, notwithstanding that such person does not hold a prospecting licence over that land.

(2) Upon an application duly made under subsection (1) of this section the Secretary may grant the applicant a mining lease on such conditions as he may on the advice of the Minerals Commission determine.

(3) No mining lease shall be granted under this section in respect of any land which is held by another person—

- (a) under a mining lease or a restricted mining lease;
- (b) under a prospecting licence or a restricted prospecting licence;
- (c) under a reconnaissance licence which gives the holder exclusive rights in respect of a specified mineral and the application for a mining lease has been made in respect of that mineral.

Duration,
area, etc. of
mining lease.

46. (1) Except as provided in subsection (3) of this section, a mining lease shall be valid for a period not exceeding thirty years.

(2) Except as provided in subsection (3) of this section the size of the area in respect of which a mining lease may be granted shall not exceed 50 square kilometres for any grant or in the aggregate 150 square kilometres.

(3) The Council may in respect of any particular grant of a mining lease where it considers that it is in the national interest to exceed the limits provided in subsections (1) and (2) of this section, direct that the grant shall exceed the said limits.

(4) A mining lease shall not be granted to an applicant unless—

- (a) the proposed programme of mining operations submitted by him ensures the most efficient, beneficial and timely use of the mineral resources concerned;
- (b) the proposed programme of mining operations submitted by him takes proper account of environmental safety factors;
- (c) the area of land over which the mining lease is sought is not in excess of the area reasonably required to carry out the proposed programme of mining operations;
- (d) the applicant is not in default.

MINERALS AND MINING LAW, 1986

(5) The Secretary shall not reject an application for a mining lease made under this Law—

- (a) on the grounds specified in paragraphs (a), (b), (c) of subsection (4) of this section unless the applicant has been given an opportunity to make appropriate amendments to his application or to his proposed programme of mining operations and has within such reasonable time as the Secretary may permit, failed to do so; or
- (b) on the grounds that the applicant is in default unless he has given the applicant notice of the default and the applicant has failed within such reasonable time as may be specified in the notice to remedy the default.

47. Where any land is subject to more than one prospecting licence no mining lease shall be granted over that land to any applicant for a mining lease unless—

Land subject to more than one prospecting licence.

- (a) the Secretary is satisfied that:
 - (i) the rights of any other holder of a prospecting licence over that land would not be substantially prejudiced by the grant of the mining lease; or
 - (ii) it is in the public interest that the mining lease be granted; or
- (b) any other holder of a prospecting licence over that land consents in writing to the grant of the mining lease.

48. (1) The holder of a mining lease may apply to the Secretary for the renewal of his lease at any time not later than one year before the expiration of such lease.

Renewal of mining lease.

(2) The Secretary may grant the renewal of a mining lease for a period not exceeding thirty years and on such conditions as he may determine.

(3) Where the holder of a mining lease has made an application for the renewal of the lease and the lease may expire before the application is granted the Secretary may extend the period of validity of the mining lease for such period as he may determine pending his decision on the application.

(4) Upon the renewal of a mining lease, the Secretary shall amend the lease accordingly and append thereto the programme of mining operations to be carried out during the period of renewal.

49. The holder of a mining lease shall notify the Secretary of any amendments he intends to make to his programme of mining operations and such amendments shall, unless the Secretary rejects them within three months after being so notified, have effect after that period.

Amendment of programme of mining operations.

MINERALS AND MINING LAW, 1986

Rights conferred by mining lease.

50. Subject to the provisions of this Law, any other enactment and any conditions in the mining lease, the holder of a mining lease may enter upon the land to which his mining lease relates for the following purposes—

- (a) to take all reasonable measures on or under the surface to mine the mineral to which his mining lease relates;
- (b) to erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing, treating, smelting or refining the mineral recovered by him during the mining operations;
- (c) to prospect within his mining area;
- (d) to stack or dump any mineral or waste product in a manner approved by the Chief Inspector of Mines.

Discovery of further mineral and other minerals.

51. (1) Where in the course of exercising his rights under this Law the holder of a mining lease discovers any further deposits of the mineral in respect of which he holds the mining lease or any other mineral not included in the mining lease, he shall within thirty days of such discovery, notify the Secretary in writing of the discovery.

(2) The notification given to the Secretary under subsection (1) of this section shall—

- (a) contain particulars of the mineral discovered; and
- (b) the site and circumstances of the discovery.

(3) The holder of a mining lease may on notifying the Secretary of the discovery of further mineral deposits or other mineral apply to the Secretary for the inclusion of the area of the further deposits or the mineral discovered in his mining lease.

(4) An application made under subsection (3) of this section shall have appended thereto the proposed programme of mining operations in respect of the further deposits or the mineral discovered.

(5) Where the Secretary is satisfied with the proposed programme of mining operations, he may approve the application on such terms and conditions as he thinks fit and shall accordingly amend the mining lease.

Enlargement of mining area.

52. The holder of a mining lease may apply to the Secretary for the enlargement of the mining area to which the lease relates and the Secretary may, subject to the provisions of this Law, approve the application if he is satisfied that such approval is in the national interest.

Obligation of holder of a mining lease.

53. (1) Subject to the provisions of this Law, the holder of a mining lease shall—

- (a) commence commercial production on or before the date specified in the programme of mining operations;
- (b) subject to subsection (2) of this section, develop and mine the mineral covered by the lease in accordance with the programme of mining operations;

MINERALS AND MINING LAW, 1986

- (c) demarcate and keep demarcated the mining area in such manner as may be prescribed;
- (d) submit to the Secretary through the Chief Inspector of Mines, within three months from the date specified in the programme of mining operations, a diagram of the mining area;
- (e) keep and maintain in Ghana an address which shall be registered with the Secretary, and to which all communications and notices may be addressed;
- (f) notify the Secretary as soon as he starts commercial production.

(2) The Secretary may, on an application made to him by the holder of a mining lease, limit or suspend the programme of mining operations referred to in paragraph (b) of subsection (1) of this section for such period and on such terms and conditions as he may on the advice of the Minerals Commission determine if he is satisfied that in the circumstances it is fair and reasonable to do so.

54. (1) In pursuance of a localisation policy every holder of a mining lease shall submit for the approval of the Minerals Commission a detailed programme for the recruitment and training of the Ghanaian personnel.

Recruitment and training of Ghanaians.

(2) For the purposes of subsection (1) of this section "localisation" means a training programme designed towards the eventual replacement of expatriate personnel by Ghanaian personnel.

55. The holder of a mining lease shall maintain at the address kept in accordance with paragraph (e) of subsection (1) of section 53 such documents and records as may be prescribed and shall permit an authorised officer at any reasonable time to inspect such documents and records.

Further Obligations of holder of mining lease.

56. (1) Where the Secretary considers that the holder of a mining lease is using wasteful mining or treatment practices he may notify such holder accordingly and require him to show cause, within such period as the Secretary shall specify, why he should not cease to use such practices.

Wasteful mining and treatment practices.

(2) If, within the period specified in a notice issued under subsection (1) of this section the holder of the mining lease fails to satisfy the Secretary that he is not using wasteful mining or treatment practices, or that the use of such practices is justified, the Secretary may order the holder to cease using such practices within such period as he may specify.

(3) Where the holder of a mining lease, after being ordered to cease using wasteful mining or treatment practices, fails to do so, the Secretary may cancel or suspend the mining lease for such period as he thinks fit.

MINERALS AND MINING LAW, 1986

Merger of
mining lease.

57. (1) Where the Secretary, after taking account of the public interest and the interests of the holders of mining leases covering neighbouring or contiguous mining areas, considers that the efficient and economic exploitation of the minerals concerned require the merger of all or part of the mining operations of such holders, he may direct the holders to effect such merger within such time and on such terms as he may specify.

(2) Before giving any directions under subsection (1) of this section, the Secretary shall afford the holders of the mining leases concerned reasonable opportunity to make representations to him in writing.

Suspension
of production.

58. (1) The holder of a mining lease shall notify the Secretary—

- (a) one year in advance where he proposes to cease production from his mine;
- (b) six months in advance where he proposes to suspend production from his mine;
- (c) three months in advance where he proposes to curtail such production; and

shall, in all cases, give reasons for such cessation, suspension or curtailment.

(2) Where, for reasons beyond his control, the holder of a mining lease ceases, suspends or curtails production from a mine, he shall, within fourteen days of such cessation, suspension or curtailment, notify the Secretary of this.

(3) Upon receiving the notification under subsection (1) or (2) of this section or if he otherwise becomes aware of any cessation, suspension or curtailment of production, the Secretary shall cause the matter to be investigated and shall subject to any relevant requirement contained in the mining lease,

- (a) give his approval for such cessation, suspension or curtailment; or
- (b) direct the holder of the mining lease to resume full production at the mine by such date as he may specify.

(4) Approval of cessation, suspension or curtailment may be given subject to such conditions as the Secretary may on the advice of the Minerals Commission determine.

Permit for
other business in
mining area.

59. (1) No person shall carry on in a mining area any business for which a permit or other authorisation is required under any enactment for the time being in force unless that person has obtained the consent of the Secretary to carry on such business.

(2) Subject to subsection (1) of this section no person shall erect in a mining area building or other structure for the purpose of carrying on any such business without the consent of the holder of the mining lease.

MINERALS AND MINING LAW, 1986

60. (1) A company which is the holder of a mining lease shall not without the prior consent in writing of the Secretary—

Control of
Company
holding
mining lease.

- (a) register the transfer of any equity share or shares in the company to any particular person or a nominee of such person; or
- (b) enter into an agreement, arrangement, or understanding, (whether enforceable as a legal right or not) with any particular person,

if the effect of, doing so would be to give to that particular person or any other person, control of the company.

(2) Upon an application duly made to him under subsection (1) of this section the Secretary shall give his consent if he considers that the public interest would not be prejudiced by the change of control of the company, otherwise he shall refuse to give his consent; and for the purpose of considering any such application the Secretary may request such information as he considers necessary to enable him determine the application.

(3) For the purposes of this section—

- (a) a person is deemed to have control of a company—
 - (i) if that person or his nominee holds or that person and his nominee hold a total of twenty per cent or more of the issued equity shares in the company;
 - (ii) if that person is entitled to appoint or prevent the appointment of half or more than half of the directors of the company; or
 - (iii) if that person is entitled to exercise or control the exercise of the right to cast votes in respect of not less than two-fifths of the total number of votes in respect of the issued equity shares in the company;
- (b) "Equity share" or "preference share" has the meaning assigned to it under section 48 of the Companies Code, 1963 (Act 179);
- (c) the reference in paragraph (a) (iii) of subsection (3) of this section to the entitlement to control the exercise of the right to cast votes shall be read as including an entitlement to control the exercise of that right directly and includes control that is exercisable as a result of or by means of trust.

PART VII—RADIO-ACTIVE MINERALS

61. (1) The provisions of this Law relating to reconnaissance, prospecting and mining of minerals in Ghana shall, subject to the provisions contained in this Part apply to radio-active minerals with such modifications as may be necessary.

Prospecting
and mining
of radio-
active
minerals.

MINERALS AND MINING LAW, 1986

(2) Where any radio-active mineral is discovered in the course of exercising any right under this Law or under any other enactment, the holder of the mineral right or such other authority shall immediately notify the Secretary or the Chief Inspector of Mines and the Director of Geological Survey of the discovery.

(3) Where any radio active mineral is discovered on any land other than land subject to a mineral right, the owner of the land shall immediately notify the Secretary, the Chief Inspector of Mines and the Director of Geological Survey of the discovery.

Holder of radio-active mineral right to report his operations.

62. A holder of a licence or lease under his Part shall within the first week of every month furnish the Secretary with a true report in writing of the prospecting and mining operations conducted by him in the immediately preceding month with respect to radio-active minerals.

Export of radio-active mineral.

63. (1) No person shall export any radio-active mineral except under and in accordance with the terms and conditions of a permit granted by the Secretary on the advice of the Minerals Commission for that purpose.

(2) A permit issued under subsection (1) of this section shall be in such form and shall be subject to the payment of such fee as the Secretary may prescribe.

Offence and penalties.

64. (1) Any person who contravenes any of the provisions of this Part or obtains a permit by means of any false statement or representation commits an offence and shall on summary conviction be liable to a fine not exceeding £500,000.00 or to imprisonment for a term not exceeding two years or both.

(2) The court before which any person is convicted of an offence under subsection (1) of this section shall order the forfeiture to the State of any radio-active mineral obtained by the person convicted.

Powers of search and arrest.

65. (1) Any Police Officer not below the rank of an Inspector, any senior officer of the Mines Department, and any officer authorised in writing by the Secretary or the Chief Inspector of Mines may for the purpose of enforcing the provisions of this Part, without warrant—

- (a) enter and search any place where he has reasonable grounds to suspect that an offence under this Part has been, or is about to be committed;
- (b) search and arrest any person whom he has reasonable grounds to suspect to have committed, or is about to commit an offence under this Part;

MINERALS AND MINING LAW, 1986

- (c) seize any radio-active mineral which he suspects to have been obtained contrary to the provisions of this Part;
- (d) seize any prospecting or mining apparatus which is used or about to be used in the commission of an offence under this Part.

PART VIII—SURRENDER, SUSPENSION AND CANCELLATION OF MINERAL RIGHTS

66. (1) The holder of any mineral right who wishes to surrender all or any part of the land subject to the mineral right shall apply to the Secretary through the Chief Inspector of Mines for a certificate of surrender not later than three months before the date on which he wishes the surrender to take effect; Surrender of mineral rights.

(2) An application under subsection (1) of this section shall be in accordance with such regulations as may be prescribed.

(3) Subject to subsection (4) of this section upon an application duly made under subsection (1) of this section the Secretary shall through the Chief Inspector of Mines issue a certificate of surrender in respect of the land to which the application relates.

(4) The Secretary shall not issue a certificate of surrender—

- (a) to an applicant who is in default;
- (b) to an applicant who fails to give records and reports in relation to his mineral operations;
- (c) where he is not satisfied that the applicant will surrender the land in a condition which is safe and accords with good mining practice;
- (d) in respect of any land if the remaining area of the land after such surrender would not be of the shape or dimension prescribed with respect to any such area.

(5) Where a certificate of surrender is issued under this section the Secretary shall, where part only of the land subject to the mineral right is surrendered, amend the relevant licence accordingly or cancel the mineral right where the surrender is in respect of the whole area covered by the mineral right.

(6) The Secretary shall through the Chief Inspector of Mines give notice to the applicant of the amendment or cancellation of the mineral right and where there is surrender, issue a certificate of surrender.

(7) Land in respect of which certificate of surrender is issued shall be treated as having been surrendered with effect from the date on which notice of the surrender is given under subsection (6) of this section.

MINERALS AND MINING LAW, 1986

(8) The surrender of any land under this section shall not affect any liability incurred by any person in respect of that land before the date on which the surrender took effect.

Suspension
and cancella-
tion of
mineral right.

67. (1) The Secretary may suspend or cancel a mineral right if the holder—

- (a) fails to make any of the payments required by or under this Law on the due date;
- (b) is in breach of any provision of this Law or the conditions of the mineral right or the provisions of any other enactment relating to mines and minerals;
- (c) becomes insolvent or bankrupt, enters into any agreement or scheme of composition with his creditors, or takes advantage of any enactment for the benefit of his debtors or goes into liquidation, except as part of a scheme for an arrangement or amalgamation;
- (d) makes any statement to the Secretary in connection with his mineral right which he knows or ought to have known to be false; or
- (e) for any reason becomes ineligible to apply for a mineral right under the provisions of this Law.

(2) The Secretary shall before suspending or cancelling any mineral right give notice to the holder in such manner as shall be prescribed and shall in such notice require the holder to remedy any breach of the condition of his mineral right and where such breach cannot be remedied to show cause to the satisfaction of the Secretary why the mineral right should not be suspended or cancelled.

(3) On cancellation of a mineral right under this section, the right of the holder shall cease but without prejudice to any liabilities or obligations incurred by any person in relation thereto prior to the date of the cancellation.

Vesting of
property on
termination
of mining
lease.

68. (1) Except as may otherwise be provided in the mining lease, all immovable assets of the holder under the mining lease shall vest in the Republic on the effective date of the termination of the lease.

(2) All movable assets of the holder in the mining area which are fully depreciated for tax purposes shall vest in the Republic without charge on the effective date of such termination and any such property not then fully depreciated for tax purposes shall be offered for sale to the Republic within sixty days from the effective date of termination at the depreciated cost.

MINERALS AND MINING LAW, 1986

(3) Where the Republic fails to purchase any assets offered for sale in accordance with subsection (2) of this section, the owner may remove or otherwise dispose of such assets within such period as the Secretary may determine and after the expiration of such period the assets shall become the property of the Republic without charge.

69. (1) Upon termination of a mineral right the former holder thereof shall deliver to the Secretary—

Delivery of documents to Secretary on termination of a mineral right.

(a) all records which the holder is obliged under the provisions of this Law or regulations made thereunder to maintain;

(b) all plans or maps of the area covered by the mineral right prepared by the holder or at his instructions; and

(c) such other document relating to the mineral right as the Secretary may direct.

(2) Any person who fails to deliver, within thirty days from the date of his being called upon to do so by the Secretary, any document which is required to be delivered under subsection (1) of this section shall be guilty of an offence.

PART IX—SURFACE RIGHTS

70. (1) The holder of a mineral right shall exercise his rights under this Law subject to such limitations relating to surface rights as the Secretary may prescribe.

Surface rights.

(2) The rights conferred by a mineral right shall be exercised in a manner consistent with the reasonable and proper conduct of the operations concerned so as to affect as little as possible the interest of any lawful occupier of the land in respect of which such rights are exercised.

(3) The lawful occupier of any land within an area subject to a mineral right shall retain the right to graze livestock upon or to cultivate the surface of such land in so far as such grazing or cultivation does not interfere with the mineral operations in the area.

(4) In the case of a mining area, the owner or lawful occupier of the land within the mining area shall not erect any building or structure thereon without the consent of the holder of the mining lease, or if such consent is unreasonably withheld, without the consent of the Secretary.

71. (1) The owner or occupier of any land subject to a mineral right may apply to the holder of the right for compensation for any disturbance of the rights of such owner and for any damage done to the surface of the land, buildings, works or improvements or to livestock, crops or trees in the area of such mineral operations.

Compensation for disturbance of owner's surface rights.

MINERALS AND MINING LAW, 1986

(2) An application for compensation under subsection (1) of this section shall be copied to the Secretary and the Land Valuation Board.

(3) The amount of compensation payable under subsection (1) of this section shall, subject to the approval of the Land Valuation Board, be determined by agreement between the parties concerned and if the parties are unable to reach an agreement as to the amount of compensation, the matter shall be referred to the Secretary who shall in consultation with the Land Valuation Board determine the compensation payable.

Prevention of
pollution of
environment.

72. The holder of a mineral right shall in the exercise of his rights under the licence or lease have due regard to the effect of the mineral operations on the environment and shall take such steps as may be necessary to prevent pollution of the environment as a result of such mineral operations.

PART X—BUILDING AND INDUSTRIAL MINERALS AND SMALL-SCALE MINERAL OPERATIONS

Restricted
licences and
leases.

73. (1) No person shall—

- (a) search for any building or industrial mineral by reconnaissance;
- (b) prospect for any building or industrial mineral; or
- (c) mine any building or industrial mineral,

without a restricted reconnaissance licence, restricted prospecting licence or restricted mining lease respectively granted by the Secretary.

(2) Except as provided in this Part and subject to any specific provision made in this Law in respect of building and industrial minerals, the provisions of this Law relating to mineral rights shall apply to building and industrial minerals subject to such exemptions and modifications as the Secretary may on the advice of the Minerals Commission by regulations prescribe.

Limits on
restricted
licences and
leases.

74. (1) A restricted reconnaissance licence, a restricted prospecting licence and a restricted mining lease shall not be amended to include therein any mineral other than the building or industrial mineral in respect of which the licence or lease was granted.

(2) Subject to subsection (3) of section 46 a restricted mining lease shall be valid for a period not exceeding fifteen years as the Secretary may on the advice of the Minerals Commission determine and may on an application made to the Secretary be renewed for further periods not exceeding fifteen years at any one time.

MINERALS AND MINING LAW, 1986

(3) No restricted mining lease shall be granted to any applicant unless such applicant holds a restricted prospecting licence in respect of the building or industrial mineral applied for.

75. (1) No restricted reconnaissance licence, restricted prospecting licence or restricted mining lease shall be granted to any person who is not a citizen of Ghana.

Qualification for application for restricted licence or mining lease.

(2) The Secretary may on the advice of the Minerals Commission exempt any person from the provision of subsection (1) of this section where he is satisfied that—

(a) it is in the public interest that a restricted reconnaissance, a restricted prospecting licence or a restricted mining lease be granted to such person; or

(b) (i) the restricted reconnaissance licence, the restricted prospecting licence or restricted mining lease applied for is in respect of building or industrial minerals required for specific works; and

(ii) the applicant has given an undertaking that the minerals concerned will not be sold or otherwise disposed of for profit.

(3) The Secretary may cancel a mineral right granted under this Part where he is satisfied that the holder has entered into an arrangement with a person who is not a citizen of Ghana which arrangement has the effect of transferring to that person the benefit of such mineral right.

76. Nothing in this Law shall prevent—

(a) a local authority on land owned by it;

(b) the owner or lawful occupier of any land owned or occupied by him; or

(c) the holder of any mineral right on land to which the right relates,

Special rights of owner or occupier with regard to building and industrial minerals.

from prospecting for and mining any building or industrial minerals to be used by such owner, occupier or holder solely for building, road making or agricultural purposes on such land, so long as the exercise of such right is not inconsistent with or detrimental to the right of any other person holding a mineral right in respect of such land.

77. (1) Where the Secretary after consultation with the Minerals Commission considers that it is in the public interest to encourage prospecting and mining of minerals in any area of land by methods not involving substantial expenditure or the use of specialised technology, he may by notice in the *Gazette*, designate that area for small-scale mineral operation and prescribe the mineral to be mined.

Small-scale mineral operations.

MINERALS AND MINING LAW, 1986

(2) Where an area has been designated for small-scale mineral operation under subsection (1) of this section the Secretary may on the advice of the Minerals Commission in respect of that area and in relation to any mineral prescribed exclude or modify by regulation any of the provisions of this Law which would otherwise apply to prospecting or mining operations in that area and for the minerals prescribed.

(3) Nothing in subsection (2) of this section shall be read or construed as authorising anything to be done—

- (a) which has the effect of modifying or extinguishing the rights of any person holding a mineral right over a designated area or any part thereof; or
- (b) which affects the rights of any other person except to the extent that those rights might have been affected if no exclusion or modification had been made under subsection (2) of this section.

(4) The provision in section 75 of this Law which relates to the qualification of applicants for building and industrial minerals shall apply to applicants for small-scale mineral operation.

PART XI—MISCELLANEOUS PROVISIONS

Preference for Ghana products and employment of Ghanaians.

78. (1) The holder of a mineral right shall in the conduct of his mineral operations, and in the purchase, construction and installation of facilities, give preference to—

- (a) materials and products made in Ghana;
- (b) service agencies located in Ghana and owned by
 - (i) Ghanaians;
 - (ii) companies or partnership registered under the Companies Code 1963 (Act 179) or the Incorporated Private Partnerships Act, 1962 (Act 152);
 - (iii) public corporation,

to the maximum extent possible and consistent with safety, efficiency and economy.

(2) The holder of a mineral right shall, in all phases of his operations, give preference in employment to citizens of Ghana to the maximum extent possible and consistent with safety, efficiency and economy.

Records and furnishing of information.

79. (1) The Secretary shall maintain records of all mineral rights granted under this Law and, subject to such conditions as the Secretary may prescribe, such records shall be open to inspection by members of the public during normal official working hours and members of the public may on payment of such fees as may be prescribed be permitted to take copies of such records.

MINERALS AND MINING LAW, 1986

(2) The Secretary may, for the purposes of this Law, in writing request any person to furnish him within the period specified in the request, such information and documents as may be specified in the request.

80. (1) Any person who—

Offences.

- (a) conducts reconnaissance, prospects for or mines minerals otherwise than in accordance with the provisions of this Law;
- (b) in making application for mineral right or renewal thereof, knowingly makes any statement which is false or misleading in any material particular;
- (c) in any report, return or affidavit submitted in pursuance of the provisions of this Law, knowingly includes any information which is false or misleading in any material particular;
- (d) removes or disposes of any mineral contrary to the provisions of this Law;
- (e) carries on business in contravention of subsection (1) of section 59 or erects any building or other structure in contravention of the provisions of subsection (2) of section 59;
- (f) pollutes the environment contrary to section 72;
- (g) removes any building, fixed machinery or other movable property contrary to section 68;
- (h) places or deposits, or causes to be placed or deposited any mineral in any place with the intention to mislead any other person as to the mineral possibilities of such place;
- (i) mingles or causes to be mingled with samples or ore any substances which will enhance the value or in any way change the nature of such ore with the intention to cheat, deceive or defraud;
- (j) being engaged in the business of milling, leaching, sampling, concentrating, reducing, assaying, transporting or dealing in ores, metals or minerals, keeps or uses any false or fraudulent scales or weights for weighing such ores, metals or minerals, or uses any false or fraudulent assay scales or weights or enriched fluxes used for ascertaining the assay value of minerals, knowing them to be false or fraudulent;
- (k) fails, neglects or refuses to comply with any direction lawfully given under this Law;
- (l) fails neglects or refuses to allow or provide all reasonable facilities and assistance to any officer exercising any power under this Law;

MINERALS AND MINING LAW, 1986

(m) obstructs, hinders or delays an authorised officer in the performance of his duties under this Law; or

(n) contravenes any of the other provisions of this Law,

shall be guilty of an offence.

Offences by
bodies of
persons.

81. (1) Where an offence is committed under this Law or under regulations made thereunder by a body of persons—

(a) in the case of a body corporate, other than a partnership, every director or an officer of the body shall also be deemed to be guilty of the offence; and

(b) in the case of a partnership every partner or officer of that body shall be deemed to be guilty of that offence.

(2) No person shall be deemed to be guilty of an offence by virtue of subsection (1) of this section if he proves that the offence was committed without his knowledge or connivance and that he exercised all due care and diligence to prevent the commission of the offence having regard to all the circumstances.

Penalty.

82. (1) Any person found guilty of an offence under this Law for which no penalty has been provided shall be liable, on first conviction, to a fine not exceeding £500,000.00 or to imprisonment for a term not exceeding two years or to both.

(2) On a second or subsequent conviction for an offence under this Law, a Court may impose a penalty which does not exceed double the penalty referred to in subsection (1) of this section.

(3) The Court before which any person is convicted of an offence under this Law may in addition to any penalty that it may impose order the forfeiture to the Republic of any mineral in respect of which the offence was committed.

Regulations.

83. (1) The Secretary may, by legislative instrument make regulations for the conservation and development of mines and minerals and for the purpose of giving effect to the provisions of this Law.

(2) Without prejudice to the generality of subsection (1) of this section, regulations made under this section may provide for—

(a) the shape of areas over which mineral rights may be granted;

(b) the examination of any mine or mineral by an authorised officer;

(c) determining the qualities of the minerals to be extracted;

(d) the retention of any ore or specimen of any mineral by any person in charge of a mine or connected therewith for the identification of such ore or sample and for the taking by an authorised officer of samples of such ore or specimen;

MINERALS AND MINING LAW, 1986

- (e) directions to be given to any person in charge of a mine or connected therewith by an authorised officer for the conservation and development of mines and minerals;
- (f) the making of returns of minerals won and for the valuation of such minerals;
- (g) the returns to be rendered in relation to accounts, books and plans required to be kept by holders;
- (h) the submission by any person in charge of a mine or connected therewith of such returns as the Secretary may specify in the regulations and for the maintenance by such person of such records;
- (i) the nature and adequacy of any map or plan required for the purposes of this Law;
- (j) the merger of mineral rights;
- (k) the contribution by parties benefitted by a fair share of cost of pumping in cases where pumping in one mine benefits other mines;
- (l) the restriction of prospecting operations in or near any river, dam, lake, or stream;
- (m) preventing the pollution of waters, springs, streams, rivers or lakes;
- (n) the manner in which areas and boundaries shall be marked, beacons and surveyed and the fees payable in respect of such survey;
- (o) the grazing of cattle or other animals on the mineral area;
- (p) the gathering of firewood and the cutting down and use of timber for the purpose of carrying on prospecting and mining operation;
- (q) the renewal, transfer, assignment and surrender of mineral rights;
- (r) the protection of pits, shafts and such other dangerous places;
- (s) the reporting of accidents;
- (t) ensuring the safety of the public and the safety and welfare of persons employed in mines and the carrying on of mineral operations in a safe, proper and effective manner;
- (u) preventing the employment of incompetent persons to be in charge of machinery;
- (v) preventing injury to persons or property in a mining area by chemicals;

MINERALS AND MINING LAW, 1986

- (w) regulating the use of explosive in mineral operations;
- (x) fees payable under this Law;
- (y) forms of applications and licences to be made and issued under this Law;
- (z) the penalties for offences against the regulations and anything which is to be prescribed.

Interpreta-
tion.

84. (1) In this Law, unless the context otherwise requires—

“authorised officer” means a person authorised by the Secretary or the Chief Inspector of Mines to exercise any power or function under this Law;

“benefits” include facilities, entitlements and exemptions conferred on a holder in respect of a mineral right;

“building and industrial minerals” means barite, basalt, clay, dolomite, feldspar, granite, gravel, gypsum, laterite, limestone, mica, magnesite, marble, phosphate, rock, sand, sandstone, slate and talc, when mined for use in Ghana for agriculture, building, roadmaking or industry and such other minerals as the Secretary may from time to time declare, by notice published in the *Gazette*, to be building and industrial minerals when so mined;

“Capital” means all cash contributions, plant, machinery, equipment, buildings, spare parts, raw materials and other business assets other than goodwill;

“Chief Inspector of Mines” means the Chief Inspector of Mines appointed under section 9.

“citizen of Ghana” means—

(a) in relation to an individual, an individual who is a citizen of Ghana by virtue of any law for the time being in force in Ghana;

(b) in relation to a partnership or association of individuals, a partnership or association which is composed exclusively of individuals who are citizens of Ghana;

(c) in relation to a body corporate other than public corporation, a body corporate which is incorporated in Ghana under the Companies Code, 1963 (Act 179), and

(i) which is certified by the Secretary to be controlled by Government; or

(ii) whose membership is composed exclusively of persons who are citizens of Ghana; or

MINERALS AND MINING LAW, 1986

(iii) whose directors are exclusively citizens of Ghana; or

(iv) which is controlled by individuals who are citizens of Ghana;

(d) in relation to a public corporation, a corporation that is established in Ghana by or under any enactment;

"continental shelf" or "the exclusive economic zone" means any area declared by any enactment for the time being in force as the continental shelf or the exclusive economic zone of the Republic;

"Council" means the Provisional National Defence Council;

"Customs import duties" includes import duty, sales tax and other related charges;

"Foreign capital" means convertible currency, plant, machinery, equipment, spare parts, raw materials and any other business assets other than goodwill that enter Ghana with no initial disbursement of Ghana's foreign exchange and are intended for or related to mineral operations approved under this Law;

"Government" means the Government of Ghana;

"holder" means the holder of a mineral right under this Law;

"in default" means in breach of any of the provisions of this Law;

"Map or plan" means a document containing geometrical numerical and verbal representations of a piece of land, which has been signed by a land surveyor and approved or certified in such manner as the Chief Inspector of Mines may require;

"mine" when used as a noun, means any place, excavation or working wherein, whereon or whereby any operation connected with mining is carried on together with all buildings, premises, erections and appliances belonging or appertaining thereto above and below the ground for the purpose of winning, treating or preparing minerals, obtaining or extracting any mineral or metal by any mode or method or for the purpose of dressing mineral ore, and includes a quarry where building and industrial minerals are mined;

"mine" when used as a verb, means intentionally to win minerals, and includes any operations directly or indirectly necessary therefor or incidental thereto, and "mining" shall be construed accordingly;

MINERALS AND MINING LAW, 1986

- “mineral” means any substance in solid or liquid form occurring naturally in or on the earth, or on or under the seabed, formed by or subject to geological process including building and industrial minerals but does not include petroleum (as defined in the Petroleum (Exploration and Production) Law, 1984 (P.N.D.C.L. 84) or water;
- “mineral operations” means reconnaissance, prospecting or mining of minerals;
- “mineral right” means a right to reconnoitre, prospect for or mine minerals given by the Secretary in the form of a reconnaissance licence, a prospecting licence, a mining lease, a restricted reconnaissance licence, a restricted prospecting licence or a restricted mining lease;
- “mining area” means the land designated as a mining area in a mining lease;
- “Mining lease” means the area which is subject to a right to mine under section 44 or 45 of this Law;
- “mining operations” means the mining of minerals under a mining lease;
- “prescribed” means prescribed by Regulations;
- “a programme of mining operations” means such a programme approved on the granting of a mining lease and includes any amendment thereto made in pursuance of the provisions of this Law;
- “programme of prospecting operations” means such a programme approved on the granting of a prospecting licence and includes any amendment thereto made in pursuance of the provisions of this Law;
- “programme of reconnaissance operations” means such a programme approved on the granting or renewal of a reconnaissance licence and includes any amendment thereto made in pursuance of this Law;
- “prospect” means intentionally to search for minerals and includes operations to determine the extent and economic value of any deposit;
- “prospecting area” means the land subject to a prospecting licence;
- “prospecting licence” means a right to prospect acquired under section 36;
- “provided” means provided under this Law, a mining lease, or licence granted under this Law;
- “radio-active mineral” means a mineral which contains by weight at least one-twentieth of one per cent

MINERALS AND MINING LAW, 1986

(0.05 per cent) of uranium or thorium or any combination thereof, including but not limited to the following—

- (a) monazite sand and other ores containing thorium;
- (b) carnotite, pitchblende and other ores containing uranium;

“reconnaissance” means the search for minerals by geophysical, geochemical and photo-geological surveys or other remote sensing techniques and surface geology in connection therewith but does not, unless a licence granted under section 32 so provides, include drilling, excavation or other subsurface techniques;

“reconnaissance licence” means a right to conduct reconnaissance acquired under section 32;

“reconnaissance area” means the land subject to a reconnaissance licence;

“regulations” means Regulations made under section 83 of this Law;

“Republic” means the Republic of Ghana;

“restricted mining area” means the land subject to a restricted mining lease;

“restricted prospecting area” means the land subject to a restricted prospecting licence;

“restricted mining lease” means a lease to mine building or industrial mineral;

“restricted prospecting licence” means a licence to prospect for building or industrial mineral;

“restricted reconnaissance licence” means a licence to search for building or industrial mineral by reconnaissance;

“Secretary” means the Provisional National Defence Council Secretary for Lands and Natural Resources;

“State” means the Government of the Republic of Ghana;

“termination” means the lapse of a mineral right by expiry of time, surrender or cancellation.

85. (1) The following enactments are hereby repealed—

- (i) The Minerals Ordinance, 1936 (Cap. 155);
- (ii) The Radio-Active Minerals Ordinance, 1946 (Cap. 151);
- (iii) Minerals Act, 1962 (Act 126):

Repeals and savings.

MINERALS AND MINING LAW, 1986

- (iv) The Mines and Minerals (Conservation and Development) Act, 1965 (Act 278);
- (v) Mining Rights Regulations, 1905 (Cap. 153); and
- (vi) Section 1 of the Minerals Act and Regulations (Amendment) Decree, 1968 (N.L.C.D. 308).

(2) The provisions of the Administration of Lands (Amendment) Decree, 1979 (A.F.R.C.D. 61) shall to the extent that they apply to mining rights cease to be operative on the coming into force of this Law and accordingly all references in that Decree to mining rights are hereby repealed.

(3) Notwithstanding the repeal in subsections (1) and (2) of this section, any regulations made under the repealed enactments shall so far as they are consistent with the provisions of this Law, continue in force as if they were regulations made under section 83 of this Law.

Transitional provisions relating to existing licences, etc.

86. Notwithstanding the repeal of the enactments referred to in section 85 of this Law, any licence, lease or permit granted under any of those enactments and subsisting immediately before the commencement of this Law shall continue in force subject to such conditions as the Secretary may determine.

Modification of existing enactments.

87. The following enactments—

- (a) the Administration of Lands Act, 1962 (Act 123);
- (b) the Concessions Ordinance, 1939 (Cap. 136);
- (c) the Concessions Act, 1962 (Act 124);
- (d) the Aliens Act, 1963 (Act 160);
- (e) the Selective Aliens Employment Tax Decree, 1973 (N.R.C.D. 201);
- (f) the Exchange Control Act, 1961 (Act 71);
- (g) the Income Tax Decree, 1975 (S.M.C.D. 5);
- (h) the Minerals Regulations, 1962 (L.I. 231) and

any enactment relating to minerals as defined under section 84 of this Law shall apply with such modifications as may be necessary to give full effect to the provisions of this Law.

Made this 4th day of July, 1986.

FLT.-LT. JERRY JOHN RAWLINGS

Chairman of the Provisional National Defence Council

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