

ZAMBIA

THE MINES AND MINERALS DEVELOPMENT

ACT, 2008

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FIRST SCHEDULE

SECOND SCHEDULE

GOVERNMENT OF ZAMBIA

ACT

No. 7 of 2008

Date of Assent: 27/03/08

An Act to revise the law relating to the prospecting for, mining and processing of minerals; to repeal and replace the Mines and Minerals Act, 1995; and to provide for matters connected with or incidental to the foregoing.

[4th April, 2008]

ENACTED by the Parliament of Zambia.

PART I

PRELIMINARY

1. (1) This Act may be cited as the Mines and Minerals Development Act, 2008.

(2) This Act shall come into operation on 1st April, 2008.

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

"access agreement" means an agreement entered into between the holder of a mining right and an owner or occupier of land over which the right subsists, for the regulation of prospecting, mining or other activities authorized by the mining right to be carried on upon the land;

"artisan's mining right" means an artisan's mining right granted under Part V of this Act;

"base metal" means a non-precious metal that is either common or more chemically active, or both common and chemically active and includes iron, copper, nickel, aluminum, lead, zinc, tin, magnesium, cobalt, manganese, titanium, scandium, vanadium and chromium;

"bird sanctuary" means an area declared as such under section *one hundred and forty four of the Zambia Wild life Act, 1998*;

"cadaster unit" means a quadrilateral formed by the intersection of meridians and parallels and with a distance equal to six sexagesimal seconds, and that covers an average plan metric surface of *three point three four zero zero* hectares;

"Central Mining Cadaster Office" means the office established under section *one hundred and forty-five*;

"citizen -owned company" means a company where at least fifty point one per cent of its equity is owned by Zambian citizens and in which the Zambian citizens have significant control of the management of the company;

"Commissioner-General" means the Commissioner- General appointed under the Zambia Revenue Authority Act;

"Director" means the Director of Mines appointed under section *one hundred and forty-four*;

" Director of Geological Survey" means the person appointed as such under subsection (3) of section *One hundred and forty four*;

"Director of Mines Safety" means the person appointed as such under subsection (2) of section *One hundred and forty-four*;

"energy minerals" means a naturally occurring substance in the earth's crust used as a source of energy and includes coal, uranium and any other minerals used to generate energy but does not include petroleum;

"Environmental Council of Zambia" has the meaning assigned to it in the Environmental Protection and Pollution Control Act;

"environmental impact study" has the meaning assigned to it in the Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997;

"Environment Management Plan" means a plan approved by the Environmental Council of Zambia in accordance with the Environmental Protection and Pollution Control Act;

"game management area" means an area of land declared as such under section *twenty-six* of the Zambia Wild life Act, 1998;

"gemstone sales certificate" means a gemstone sales certificate granted under Part VII

of this Act;

"gemstones" means amethyst, aquamarine, beryl, corundum, diamond, emerald, garnet, ruby, sapphire, topaz, tourmaline and any other nonmetallic mineral substance, being a substance used in the manufacture of jewelry, that the Minister, by statutory instrument, declares to be a gemstone for the purposes of this Act;

"holder" means the person in whose name a mining right is registered under this Act;

"industrial minerals" means a rock or mineral other than gemstones, base metals, energy minerals or precious metals used either in their natural state or after physical or chemical transformation and includes but is not limited to barites, dolomite, feldspar, fluorspar, graphite, gypsum, ironstone when used as a fluxing agent, kyanite, limestone, phyllite, magnesite, mica, nitrate, phosphate, pyrophyllite, salt, sands, clay, talc, laterite, gravel and any other minerals when so used:

Provided that the Minister may, by statutory order, classify any other mineral as an industrial mineral;

"large-scale gemstone licence" means a large-scale gemstone licence granted under Part III of this Act to enable a person prospect for and mine gemstones;

"large scale mining licence" means a large scale mining licence granted under Part III of this Act;

"local forest" means an area declared as such under section *seventeen* of the Forests Act;

"local office" means an office of the Ministry established for any area;

"mine" means any place, pit, shaft, drive, level or other excavation, and any drift, gutter, lead, vein, lode, reef, saltpan or working, in or on or by means of which any operation connected with mining is carried on, together with all the buildings, premises, erections and appliances, whether above or below the ground, that are used in connection with any such operation or for the extraction, treatment or preparation of any mineral or for the purpose of dressing mineral ores;

"mineral" means any substance, occurring naturally in or on the earth or in or under water and which was formed by or subjected to a geological process and includes any mineral occurring in residue stockpiles or in residue deposit, but excludes—

(a) water, other than water taken from the land or any water body for the extraction for any mineral from such water; and

(b) petroleum

"mineral processing" means the practice of beneficiating or liberating valuable minerals from their ores which may combine a number of unit operations such as crushing, grinding, sizing, screening, classification, washing, froth floatation, gravity concentration, electrostatic separation, magnetic separation, leaching, smelting, refining, claiming and gasification or any other processes incidental thereto;

"mineral process licence" means a mineral processing licence granted under part VI of this Act;

"mineral royalty" means a payment received as consideration for the extraction of minerals;

"mining" means the extraction of material, whether solid, liquid or gaseous, from land or from beneath the surface of the earth in order to win minerals, or any operations directly or indirectly necessary or incidental thereto;

"Mining Advisory Committee" means the Mining Advisory Committee established by section *one hundred and fifty*;

"mining area" means an area of land subject to a licence or permit under this Act;

"Mining Cadaster Office" means the central administrative office established in Lusaka which is responsible for the processing and administration of mining rights and non-mining rights;

"mining operations" means any operation carried out under a mining right referred to in section *six* but does not include an operation carried out under a prospecting permit, prospecting licence or mineral processing licence;

"mining plant" means any building, plant, machinery, equipment, tools or other property used for mining, whether or not affixed to land, but does not include any timber or other material used or applied in the construction or support of any shaft, drive, gallery, terrace, race, dam or other work;

"mining right" means a right granted under subsection (1) of section *six*;

"National Forest" means an area declared as such under section *eight* of the Forests Act;

"National Park" means an area declared as such under section *ten* of the Zambia Wildlife Act;

"non-mining right" means a mineral processing licence or gemstone sales certificate

granted under this Act;

"ore" means a natural aggregate of one or more valuable minerals which may be mined or from which some parts may be extracted;

"ore body" means a continuous, well defined mass of ore; "petroleum" has the meaning assigned to it in the Petroleum (Exploration and Production) Act, but does not include coal or oil shale;

"preliminary investigation rights" means rights granted by the Director of Geological Survey under subsection (2) of section *five*;

"person" includes a partnership and a co-operative;

"prospect" means to search for any mineral by any means and to carry out such works, and remove such samples, as may be necessary to test the mineral bearing qualities of any land;

"prospepecting area" means an area of land subject to a prospecting licence or a prospecting permit;

"prospepecting licence" means a prospecting licence granted under Part III of this Act;

"prospepecting operations" means operations carried out in the course of prospecting;

"prospepecting permit" means a prospecting permit granted under Part IV of this Act;

"radioactive mineral" means a mineral which contains by weight at least one twentieth of one per centum of uranium or thorium or any combination thereof, and includes, but is not limited to—

(a) monazite sand and other ores containing thorium; and

(b) carnotite, pitchblende and other ores containing uranium.

"regional mining cadaster offices" means other mining cadaster offices, established in other districts throughout the Republic other than Lusaka, to enable the public lodge applications for mining rights and non mining rights;

"Register" means the Register established and maintained pursuant to section *one hundred and twelve*;

"royalty" means the royalty charged under this Act.

"small-scale gemstone licence" means a small-scale gemstone licence granted under Part IV of this Act; and "small-scale mining licence" means a small scale mining licence granted under Part IV of this Act.

(2) A reference, in any provision of this Act, to an authorized officer is a reference to a public officer or other person, designated under section *one hundred and forty-four*, who is duly authorized to exercise and perform the powers and functions conferred or imposed by that provision on an authorized officer.

(3) A reference in this Act to land subject to a mining right, is a reference to an area of land in respect of which a mining right has been granted and subsists.

3. (1) All rights of ownership in, searching for, mining and disposing of, minerals whosoever located in the Republic are hereby vested in the President on behalf of the Republic.

(2) The provisions of this section have effect notwithstanding any right, title or interest, which any person may possess, in or over the soil in, on or under which minerals are found.

PART II

MINING RIGHTS

4. Subject to the other provisions of this Act, rights of prospecting for, mining and disposing of, minerals shall be acquired and held under and in accordance with this Act.

5. (1) A person shall not prospect for minerals or carry on mining operations or mineral processing operations except under the authority of a mining right or mineral processing licence granted under this Act.

(2) The Director of Geological Survey may, for a period not exceeding ninety days, grant in writing, subject to such conditions, including conditions relating to work and expenditure, as the Director of Geological Survey may impose, the right to enter any area that is not subject to a mining right, or undertake an aerial survey, for the purpose of reconnaissance operations for the location of minerals by geo-physical, geo-chemical and photo-geological survey or by the study of surface geology.

(3) A right granted by the Director of Geological Survey under subsection (2) shall not confer on the holder exclusive rights over the area to which it relates or any preference or priority in respect of an application for a mining right over that area.

(4) A person who contravenes subsection (1) commits an offence and is liable upon conviction —

(a) in the case of an individual, to a fine not exceeding one million penalty units or to imprisonment for a term not exceeding ten years, or to both; or

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

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

- (a) a prospecting licence;
- (b) a large-scale mining licence;
- (c) a large-scale gemstone licence;
- (d) a prospecting permit;
- (e) a small-scale mining licence;
- (f) a small-scale gemstone licence; and
- (g) an artisan's mining right.

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

- (a) a mineral processing licence; and
- (b) a gemstone sales certificate.

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

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

(a) an individual who—

- (i) is under the age of eighteen years;
- (ii) is or becomes an undercharged bankrupt, having been adjudged or otherwise

- declared bankrupt under any written law, or enters into any agreement or scheme of composition with creditors, or takes advantage of any legal process for the relief of bankrupt or insolvent debtors; or
- (iii) has been convicted, within the previous ten years, of an offence involving fraud or dishonesty, or of any offence under this Act or any other law within or outside Zambia, and been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding fifty thousand penalty units; or
- (b) a company—
- (i) which is in liquidation, other than liquidation which forms part of a scheme for the reconstruction of the company or for its amalgamation with another company;
- (ii) unless the company is incorporated under the Companies Act.
- (iii) which has not established an office in Zambia; or
- (iv) which has among its directors or shareholders any person who would be disqualified under sub- paragraphs (ii) or (iii) of paragraph (a).
- (3) A prospecting permit, small-scale mining licence, small-scale gemstone licence and an artisan's mining right shall not be granted to a person who is not a citizen of Zambia or a company which is not a citizen-owned company.
- (4) A mining right for industrial minerals shall only be granted to a citizen of Zambia and a citizen-owned company.
- (5) Any document or transaction purporting to grant a mining right to any person not entitled to hold the right shall be void and of no effect.
- (6) For the purposes of this Act, "citizen of Zambia" means
- (a) in relation to an individual, an individual who is a citizen of Zambia; and
- (b) in relation to a partnership, a partnership which is composed exclusively of persons who are citizens of Zambia.

8. A mining right or mineral processing licence, and the rights conferred by it, shall be

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

9. Subject to this Act, where more than one person apply for a mining right over the same area of land, the Director of Geological survey as the case may be shall dispose of the applications in the order in which they are received.

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

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

- (a) the minerals or metals applied for are different from those indicated on holder's licence or permit;
- (b) the geographical position of the minerals or metals applied for is different from the holder's ore body position indicated in the approved programmes of operations;
- (c) the geological position of the minerals or metals applied for is different from the position of the holder's plant and infrastructure indicated in the approved programme of operations; or
- (d) the mineral applied for is an industrial mineral and the holder is not eligible under the Act.

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

11. The Director or the Director of Geological Survey as the case may be, may before a mining right or mineral processing licence is issued, require that the land over which the mining right or mineral processing licence is to be issued be properly surveyed in accordance with the provisions of this Act.

12. (1) Subject to the other provisions of this Act, the Minister may, by notice in a newspaper of general circulation in the Republic, issue invitations for bids for mining rights over identified areas or mineral resources.

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

- (a) a description of the areas for which the bids are to be solicited;
- (b) the procedures and rules relating to the submission of the bids; and
- (c) the period within which the bids shall be submitted.

(3) Period referred to under paragraph (c) of subsection (2), refer all the bids submitted in accordance with this section to the Mining Advisory Committee for evaluation.

(4) The Mining Advisory Committee shall consider the following in evaluating the bids:

- (a) the investment and financial plan;
- (b) the environmental management plan;
- (c) in the case of a holder of a mining right, whether the holder has been compliant with the provisions of this Act and the terms and conditions of the right, as the case may be; and the Minister shall, within five days of the expiry of the
- (d) any other matter relevant for purposes of this Act.

(5) The Mining Advisory Committee shall, where a bid complies with the requirements of this Act, recommend to the Minister that the bidder be granted a mining right in accordance with the provisions of this Act.

(6) The Minister shall grant a licence to the holder with the best proposed programme and

in so doing shall take into account the recommendation of the Mining Advisory Committee.

13. (1) A holder of a mining right or a mineral processing licence issued under this Act, shall, in the conduct of operations under the mining right or mineral processing licence, and in the purchase, construction and installation of facilities, give preference, to the maximum extent possible to—

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

(2) A holder of a mining right or mineral processing licence shall, in all phases of the operations, give preference in employment to citizens of Zambia to the maximum extent possible.

(3) A holder of a mining right or mineral processing licence shall, in the mining operations, conduct training programmes, in consultation with the Minister, for the benefit of employees to enable the employees qualify for advancement.

PART III

LARGE SCALE MINING OPERATIONS

Division I - Prospecting Licence

14. (1) An application for a prospecting licence shall be made to the Director of Geological Survey in the prescribed form upon payment of the prescribed fee.

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

- (a) a full description, with geographical coordinates, of the area of land over which the licence is sought, but not exceeding twenty-nine thousand, nine hundred and forty cadaster units, and represented by complete and not partial cadaster units;
- (b) a statement of the minerals to be searched for;

- (c) an environmental management plan including the applicant's proposals for the prevention of pollution, the treatment of waste, the protection and reclamation of land and water resources, and for eliminating or minimizing the adverse effects on the environment of prospecting operations;
- (d) the proposed prospecting operations and an indication of the investment commitment in the proposed prospecting operations;
- (e) the applicant's proposals with respect to the employment and training of citizens of Zambia;
- (f) the applicant's proposals for the promotion of local business development;
- (g) a tax clearance certificate issued under the Income Tax Act; and
- (h) such further information as may be prescribed by the Minister by statutory instrument.

(3) A person and in the case of a company or its subsidiaries, shall not hold a number of licences whose accumulated total area is more than one hundred and forty-nine thousand, seven hundred cadaster units.

15. (1) The Director of Geological Survey shall, in considering an application made under section fourteen, take the following into account:

- (a) that the applicant has, or has secured access to, adequate financial resources, technical competence and experience to carry on effective prospecting operations;
- (b) that the proposed programme of prospecting operations is adequate and makes proper provision for environmental protection;
- (c) if the land is within the National Park, game management area, National Forest or local forest or is a bird sanctuary or land to which subsection (1) of section one hundred and twenty seven applies, the applicant has obtain the necessary written consent;
- (d) that the proposed prospecting area is not the same as, nor does it overlap an existing prospecting area, mining area or permit area; and
- (e) if the applicant is a holder, the applicant has not contravened any condition of the licence or permit as the case may be, or any provision of this Act.

(2) The Director of Geological Survey may cause such investigations to be made or such consultations to be carried on as the Director Geological Survey may consider necessary to assess whether or not the criteria in subsection (1) has been met.

(3) The Director of Geological of Survey shall not grant a licence to an applicant where -

- (a) the applicant is disqualified from holding a prospecting licence under section seven;
- (b) the applicant is the holder of another mining right and is in breach of any condition of that right or any provision of this Act;
- (c) the area of land for which the applicant has made the application, or a part of it, is subject to—
 - (i) another mining right and the holder thereof has not consented to the exercise of the right in respect of which the application is made; or
 - (ii) extends to or is included in, an area in respect of which the Director of Geological Survey has granted preliminary investigation rights on conditions which impose work or expenditure obligations, unless the applicant is the holder of that right; or
- (d) the area of land for which the application is made covers or includes an area of land for which an application has been made by another person who has priority over the applicant.

(4) The Director of Geological Survey shall, where the Director of Geological Survey rejects an application under subsection (3), inform the applicant of the rejection and give the reasons therefor.

(5) Where an application is made for a prospecting licence in respect of an area over which a previous prospecting licence has been held for seven years, a new prospecting licence shall not be granted before a period of two months has elapsed since the expiry of the previous licence.

16. (1) The Director of Geological Survey shall, within sixty days of receipt of an

application under section fourteen, grant a prospecting licence to the applicant, where the application meets the requirements of this Act.

(2) A prospecting licence shall—

- (a) state the date on which the licence shall commence the prospecting operation and the conditions on which it is granted;
- (b) specify the minerals in respect of which it is granted; and
- (c) include a description and plan of the prospecting area.

(3) There shall be attached to a prospecting licence the programme of prospecting operations as approved by the Director of Geological Survey, which shall form part of the conditions of the licence.

4) In determining the date for the commencement of a licence, the Director of Geological Survey shall take account of any period not exceeding six months from the date of the grant, which is required by the applicant to make any necessary preparations for prospecting operations.

17. (1) Subject to the other provisions of this Act, a prospecting licence shall be valid for a period of two years.

(2) A prospecting licence may, on its expiry, be renewed for a further two-year period but the total maximum period shall not exceed seven years.

18. Subject to the conditions of the licence, a prospecting licence confers on the holder of the licence exclusive rights to carry on prospecting operations in the prospecting area for the minerals specified in the licence, other than gemstones, and to do all such other acts and things as are necessary for or reasonably incidental to the carrying on of those operations.

19. (1) A holder of a prospecting licence shall —

- (a) commence prospecting operations within ninety days, or such further period as the Director of Geological Survey may allow, from the date of the grant of the licence;
- (b) give notice to the Director of Geological Survey of the discovery of any mineral deposit of possible commercial value within thirty days of the discovery;
- (c) expend on prospecting operations not less than the amount prescribed or required by the terms and conditions of the prospecting licence to be so expended;
- (d) carry on prospecting operations in accordance with the programme of prospecting operations;
- (e) notify the Director of Geological Survey of the discovery of the mineral to which the prospecting licence relates within a period of thirty days of such discovery;
- (f) backfill or otherwise make safe any excavation made during the course of the prospecting operations, as the Director Geological of Survey may specify;
- (g) permanently preserve or otherwise make safe any borehole in the manner directed by the Director of Geological Survey and surrender to Government, without compensation, the drill cores, other mineral samples and the boreholes and any water rights in respect therefor on termination;
- (h) unless the Director of Geological Survey otherwise stipulates, remove, within sixty days of the expiry or termination of the prospecting licence, any camp, temporary buildings or machinery erected or installed and repair or otherwise make good any damage to the surface of the ground occasioned by the removal, in the manner specified by the Director of Geological Survey;
- (i) keep and preserve such records as the Minister may prescribe, relating to the protection of the environment;
- (j) subject to the conditions of the prospecting licence and the approval of the Director of Geological Survey, expend on prospecting, in accordance with the prospecting

programme, not less than the amount specified in the prospecting licence; and
(k) submit to the Director of Geological Survey, at least quarterly, reports containing the information required under the licence and the Act.

(2) records at the holder's office, of the prospecting operations which shall indicate—

- (a) the boreholes drilled;
 - (b) the strata penetrated, with detailed logs of such strata;
 - (c) the minerals discovered;
 - (d) the results of any seismic survey or geo-chemical, geo- physical and remote sensing data analysis;
 - (e) the result of any analysis or identification of minerals removed under section twenty-two;
 - (f) the geological interpretation of the records maintained under paragraphs (a) to (e) inclusive;
 - (g) the number of persons employed;
 - (h) any other prospecting work;
 - (i) the costs incurred; and
 - (j) such other matters as may be prescribed by the Minister by statutory instrument;
- and shall furnish, at least once in every three months, digital and hard copies of the records to the Director, Director of Geological Survey and Director of Mines Safety.

(3) A person who—

- (a) fails to keep any record or information required to be kept under subsection (2);
- (b) fails to supply any record or mineral samples to the Director, Director of Geological Survey and Director of Mines Safety in accordance with subsection (2); or
- (c) supplies any false or misleading record or information; commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

20. (1) A holder of a prospecting licence shall apply to the Director of Geological Survey where the holder intends to make any amendments to the programme of prospecting

operations in the prescribed manner and form.

(2) The Director of Geological Survey may, where the holder intends to make any amendment of programme of prospecting operations and the Director receives an application under subsection (1)-

- (a) approve the proposed amendments with or without any modifications and on such terms and conditions as the Director of Geological Survey may determine; or
- (b) reject the proposed amendments and give the applicant the reasons therefor.

21. (1) Subject to subsections (2) and (3), a prospecting licence or any interest therein or any controlling interest in the holder thereof may be transferred to any other person.

(2) A holder of a prospecting licence who intends to transfer the prospecting licence or any interest therein shall notify the Minister not less than thirty days before the intended transfer.

(3) A holder of a prospecting licence shall, in the notification referred to' under subsection (2), give to the Minister such details of the transferee as would be required in the case of an application for a prospecting licence under section fourteen.

(4) Where the Minister is satisfied that the transferee is not disqualified under any provision of this Act from holding a prospecting licence, the Minister shall approve the transfer of the prospecting licence or an interest therein and notify the applicant accordingly.

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

(6) Any transaction purporting to transfer a prospecting licence in contravention of this section is void.

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

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

23. (1) A holder of a prospecting licence shall, where the holder in the course of exercising any rights under a prospecting licence, discovers any mineral not included in the prospecting licence apply to the Director of Geological Survey for an amendment of the prospecting licence to include the discovered mineral.

(2) An application for the amendment of a prospecting licence under subsection (1) shall-

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

(3) The Director of Geological Survey shall, subject to subsection (4) and where the applicant is not in default, permit the amendment of a prospecting licence to include the discovered mineral.

(4) A holder of a prospecting licence shall, where the mineral discovered under subsection (1) is a gemstone, apply for a large-scale gemstone licence in accordance with section thirty-six of this Act.

(5) A holder of an prospecting licence shall, where the holder discovers petroleum, report

to the Minister within twenty-four hours of making the discovery.

24. (1) A holder of a prospecting licence may, not later than three months before the expiry of the prospecting licence, apply to the Director of Geological Survey for the renewal of the licence in the prescribed manner and form upon payment of the prescribed fee.

(2) The Director of Geological Survey shall renew a prospecting licence for such period, not exceeding two years where the holder of the licence

(a) is not in breach of any condition of the licence or any provision of this Act;

(b) undertakes to carry out during the renewal period an adequate programme of prospecting operations; and

(c) relinquishes at least fifty per centum of the initial prospecting area on the first renewal and at least fifty per centum of the balance on the second renewal.

(3) The Director of Geological Survey may, where the Director of Geological Survey considers it necessary for the completion of a feasibility study commenced by a holder of a prospecting licence into the prospects for recovery of any mineral deposit and its commercial significance, renew the prospecting licence for a further period but not exceeding one year.

Division II - Large-Scale Mining Licence

25. (1) A holder of a prospecting licence may apply for a large-scale mining licence for the mining of minerals within the prospecting area.

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

(3) An application for a large-scale mining licence shall include—

(a) a statement of the period for which the licence is sought;

(b) a statement of the minerals to be mined under the licence;

- (c) a comprehensive statement of the mineral deposits in the area over which the licence is sought, including details of all known minerals proved, estimated or inferred, ore reserves and mining conditions;
- (d) the proposed programme for mining operations, including a forecast of capital investment, the estimated recovery rate of ore and mineral products, and the proposed treatment and disposal of ore and minerals recovered;
- (e) the applicant's environmental management plan, including the proposals for the prevention of pollution, the treatment of waste, the protection and reclamation of land and water resources, and for eliminating or minimizing the adverse effects on the environment of mining operations;
- (f) details of expected infrastructure requirements;
- (g) the applicant's proposals with respect to the employment and training of citizens of Zambia;
- (h) the applicant's proposals for the promotion of local business development outlining how the applicant intends to promote —
 - (i) the participation of Zambian entrepreneurs in procurement and supply business opportunities with the applicant;
 - (ii) the setting up by Zambian entrepreneurs of import substitution, and repair and maintenance businesses locally;
 - (iii) partnership between the Zambian entrepreneurs and foreign suppliers and contractors; and
 - (iv) skills development to enable the Zambian entrepreneurs attain quality standards in contract works and supply;
- (i) a full description, with geographical coordinates, of the area of land for which the large-scale mining licence is sought, but not exceeding seven thousand, four hundred and eighty-five cadaster units and represented by complete and not partial cadaster units;
- (j) a tax clearance certificate issued under the Income Tax Act;
- (k) a plan of the proposed mining area prepared in such manner and showing such particulars as the Director may require; and
- (l) such further information as the Director of Geological Survey may require for

the disposal of the application.

(4) respect of radioactive minerals, the application shall contain the following additional information:

- (a) a plan and description of the mine, processing facilities and disposal sites;
- (b) a copy of the relevant licence issued under the Ionizing Radiation Protection Act;
- (c) a programme to educate persons living in the vicinity of the mine or processing facilities of the general nature and characteristics of anticipated effects on the environment, health and safety of persons;
- (d) programmes to assist authorities outside the mining area in planning and preparing to limit the adverse effects of an accidental release of radioactive substances;
- (e) the proposed programme for selecting, using and maintaining personal protective equipment;
- (f) the proposed training programme for workers in relation to radiation safety;
- (g) the proposed ventilation and dust control methods and associated equipment;
- (h) in relation to security, the proposed measures during storage and transportation of any radioactive mineral products and measures to alert the holder to acts of sabotage at the mine or processing facility;
- (i) the storage, transportation and marketing arrangements; and
- (j) other requirements that the Director may, by statutory instrument, specify.

(5) An applicant shall commission and produce to the Director an environmental impact study on the proposed mining operations approved by the Environmental Council of Zambia.

26. (1) The Director shall, in considering an application under section twenty-five, take the following into account:

- (a) whether or not there are sufficient deposits or reserves of minerals to justify their commercial exploitation;
- (b) that the area of land over which the licence is sought is not in excess of the area reasonably required to carry out the applicant's proposed programme for mining

- operations;
- (c) taking into account the recognized standards of good mining practice, the applicant's proposed programme for mining operations would ensure the efficient and beneficial use of the mineral resources of the area over which the licence is sought;
 - (d) that the applicant's environmental management plan conforms to specifications and practices established by national standards for the management of the environment as it is affected by mining operations;
 - (e) whether the applicant has, or has secured access to, adequate financial resources, technical competence and experience to carry out effective mining operations;
 - (f) if the land is within a national Park, game management area, national forest or local forest, or is a bird sanctuary or land to which subsection (1) of section one hundred and twenty-seven applies, the applicant has obtained the necessary consent;
 - (g) taking account of the size and nature of the proposed mining operations, the applicant's proposals for the employment and training of citizens of Zambia are adequate; and
 - (h) the applicant is not in breach of any condition of the prospecting licence or any provision of this Act.

(2) The Director may cause an investigation to be made or consultations to be carried out as the Director may consider necessary to enable the Director to assess whether or not the requirements of this section are met.

(3) The Director shall, where an application does not meet the requirements of this Act, reject the application and give the applicant the reasons therefor.

27. (1) Subject to the other provisions of this Act, the Director shall, within sixty days of the receipt of an application under section twenty-five, where the application meets the requirements of this Act, grant a large-scale mining licence in respect of such part of the prospecting area, on such terms and conditions as the Director may determine.

(2) A large-scale mining licence shall —

- (a) state the date of the grant of the licence, the period for which it is granted and the conditions on which it is granted; and
- (b) include a description and plan of the area of land over which it is granted.

(3) There shall be attached to a large scale mining licence

- (a) the programme of mining operations as approved by the Director;
- (b) the applicant's environmental management plan;
- (c) the applicant's proposals for the employment and training of citizens of Zambia;
- (d) the applicant's proposals for the promotion of local business development; and
- (e) the applicant's capital investment forecast; which shall form part of the conditions of the licence.

28. A large-scale mining licence shall, unless revoked earlier, be granted for a period not exceeding twenty-five years.

29. (1) Subject to the conditions of the licence, a large-scale mining licence confers on the holder exclusive rights to carry on mining and prospecting operations in the mining area, except gemstones, and to do all such other acts and things as are necessary for or reasonably incidental to the carrying on of those operations.

(2) Without limiting the generality of subsection (1), a holder of a large-scale mining licence may—

- (a) enter on to the mining area and take all reasonable measures on or under the surface for the purpose of mining operations;
- (b) erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered in the course of mining operations;
- (c) dispose of any mineral product recovered;
- (d) prospect within the mining area for any mineral except

gemstones; and

(e) stack or dump any mineral or waste products in accordance with the environmental management plan.

30. (1) A holder of a large-scale mining licence shall -

(a) develop the mining area, and carry on mining operations, with due diligence and in compliance with the programme of mining operations and the environmental management plan;

(b) take all reasonable measures on or under the surface to mine the mineral to which the licence relates;

(c) implement the local business development proposals attached to the licence;

(d) employ and train citizens of Zambia in accordance with the proposal as attached to the licence;

(e) comply with the proposed forecast of capital investment as attached to the licence; and

(f) demarcate the mining area, and keep it demarcated in the prescribed manner.

(2) A holder of a mining licence shall —

(a) maintain at the holder's office—

(i) complete and accurate technical records of the operations in the mining area;

(ii) copies of all maps and geological reports, including interpretations, mineral analyses, aerial photographs, core logs, analyses and test results obtained and compiled by the holder in respect of the mining area;

(iii) drill cores in respect of the mining area;

(iv) accurate financial records of the operations in the mining area and such other books of account and financial records as the Director may require; and

(v) where the holder is engaged in any other activity not connected with the operations under the mining licence, separate books of account from the operations under the licence;

- (b) permit an authorized officer at any time to inspect the books and records maintained in pursuance of paragraph (a) and deliver to the Director, without charge, copies of any part of the books and records as the Director may require;
- (c) keep and preserve, as the Minister may prescribe, records in relation to the protection of the environment;
- (d) submit to the Director such reports, records and other information as the Director may require concerning the conduct of the operations in the mining area; and
- (e) furnish the Director with a copy of the annual audited financial statements within three months of the end of each financial year showing the profit or loss for the year and the state of the financial affairs of the holder at the end of each financial year.

(3) A person who—

- (a) fails to keep any record or information required to be kept under subsection (2);
- (b) fails to supply any record to the Director in accordance with subsection (2); or
- (c) supplies any false or misleading record or information; commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

31. (1) A holder of a large-scale mining licence shall apply to the Director where the holder intends to make any amendments to the programme of mining operations, in the prescribed manner and form.

- (2) The Director may, where the Director receives an application under subsection (1) —
- (a) approve the proposed amendments with or without any modifications and on such terms and conditions as the Director may determine; or
 - (b) reject the proposed amendments and give the applicant the reasons therefor.

32. (1) A large-scale mining licence or any interest therein shall not be transferred, assigned, encumbered or dealt with in any other manner without the approval of the Director

(2) A holder of a large-scale mining licence who intends to transfer, assign, encumber or deal in any manner with the licence shall apply to the Minister giving such particulars concerning the proposed transferee, assignee, or other party concerned as would be required in an application for a large-scale mining licence.

(3) The Minister shall, where an application made under subsection (2) meets the requirements of this Act and the transferee is not disqualified under any provision of this Act from holding a large-scale mining licence, grant approval to the transfer, assignment, encumbrance or other dealing with the large-scale mining licence or interest therein.

(4) A right or interest transferred under this section is only for the unexpired period of the licence.

(5) Any transaction purporting to transfer a large-scale mining licence in contravention of this section is void.

(6) For the purposes of this section, "interest" in a large-scale mining licence means in the case of a holder who is a private company, a controlling interest in such holder.

33. (1) Subject to subsection (5), a holder of a large-scale mining licence shall, where in the course of exercising the rights under the licence, discovers any deposits of any mineral for which the holder of the large-scale mining licence is not licensed or any mineral not included in the large-scale mining licence, within thirty days after such discovery, notify the Director thereof, giving particulars of the mineral discovered and the site and circumstances of the discovery.

(2) A holder of a large-scale mining licence shall apply to the Director to have the mining of any deposit or mineral discovered included in the holder's large-scale mining licence, giving in the application, a proposed programme of mining operations in respect of that mineral.

(3) The Director shall, where the proposed programme of mining operations submitted under subsection (2) complies with the requirements of this Act, approve the application and amend the large-scale mining licence accordingly.

(4) The Director shall not reject an application under subsection (3) unless the Director gives the applicant an opportunity to amend the programme in such manner as the Director may determine.

(5) A holder of a large-scale mining licence shall, where the mineral discovered under subsection (1) is a gemstone, apply for a large-scale gemstone licence in accordance with section thirty- six.

(6) A holder of a large-scale mining licence shall, where the holder discovers petroleum, report to the Director within twenty- four hours of making the discovery.

34. (1) Subject to the other provisions of this section, a holder of a large-scale mining licence may suspend or curtail production for any of the following reasons:

- (a) an unsafe working environment;
- (b) uncontrolled pollution of the area resulting from the mining operations;
- (c) any force majeure; or
- (d) any labor disputes that disrupt the mining operations;

and shall give notice of the suspension of production from the mine to the Director and give reasons for the suspension.

(2) A holder of a large scale mining licence shall give notice to the Director:

- (a) at least ninety days in advance, where the holder without abandonment of the licence and for reasons other than those specified in paragraphs (a) to (d) of subsection (1), proposes to suspend production from the mine; and
- (b) at least thirty days in advance, where the holder proposes to curtail the production;

and shall, in either case, give reasons for the suspension or curtailment.

(3) The Director shall, where the Director receives notice under subsection (1), or becomes aware of any suspension or curtailment of production, cause the matter to be investigated and may —

(a) approve, on such terms and conditions as the Director may determine, including provision for the extension of any licence, the suspension or curtailment of production; or

(b) direct the holder to resume full production at the mine within such period as the Director may specify.

(4) In paragraph (c) of subsection (1), “force majeure” means an event which is beyond the reasonable control of a holder and which makes the mining operations under the licence impossible or impractical under the circumstances.

35. (1) A holder of a large-scale mining licence may, at any time not later than one year before the expiry of the licence, apply to the Director for the renewal of the licence in respect of all or any part of the mining area.

(2) An application for renewal shall be made to the Director in the prescribed manner and form upon payment of the prescribed fee.

(3) An application made under subsection (2) shall include —

(a) a statement of the period, not exceeding twenty five years, for which the renewal is sought;

(b) details of—

(i) the latest proved, estimated and inferred ore reserves;

(ii) the capital investment to be made in, and production costs and revenue forecasts in respect of, the period of renewal;

(iii) any expected changes in methods of mining and treatment; and

(iv) any expected increase or reduction in mining activities and the estimated life of the mine;

- (c) a proposed programme of mining operations for the period of renewal; and
- (d) where the renewal is sought in respect of part only of the mining area, a plan identifying that part.

(4) Subject to subsection (6), the Director shall, where an application for renewal of a large-scale mining licence meets the requirements of this Act, renew the large scale mining licence for a period not exceeding twenty five years.

(5) The Director may renew a large-scale mining licence with or without a variation of the conditions of the licence.

(6) The Director shall reject an application for renewal of a large-scale mining licence where—

- (a) the development of the mining area has not proceeded with reasonable diligence;
- (b) minerals in workable quantities do not remain to be produced;
- (c) the programme of the intended mining operations will not ensure the proper conservation and use in the national interest of the mineral resources in the mining area; or
- (d) the applicant is in breach of any condition of the licence or any provision of this Act.

(7) The Director shall not reject an application on any ground referred to in —

- (a) paragraph (a) of subsection (6), unless the Director has given the applicant the details of the default and the applicant has failed to remedy the default within three months of the notification;
- (b) paragraph (b) of subsection (6), unless the Director has given the applicant an opportunity to make written representations thereon to the Director; or
- (c) paragraph (c) of subsection (6), unless the Director has notified the applicant and the applicant has failed to propose amendments to the proposed programme of mining operations within three months of the notification.

(8) Subject to the other provisions of this Act, the period of renewal of a large-scale mining licence shall be such period, not exceeding twenty-five years, as is reasonably required to carry out the mining programme.

(9) The Director shall, on the renewal of a large-scale mining licence, attach to the licence the approved program of mining operations to be carried out in the period of renewal.

Division III -Large-Scale Gemstone Licence

36. (1) A person may apply for a large-scale gemstone licence for the prospecting and mining of gemstones.

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

(3) An application for a large scale gemstone licence shall include—

- (a) a statement of the period for which the licence is sought;
- (b) a statement of the gemstones to be prospected for and mined under the licence;
- (c) a comprehensive statement of the mineral deposits or probable deposits in the area over which the licence is sought, including details of all known minerals proved, estimated or inferred, ore reserves and mining conditions;
- (d) the proposed programme for prospecting and mining operations, including a forecast of capital investment, the estimated recovery rate of ore and gemstone products, and the proposed treatment and disposal of ore and gemstones recovered;
- (e) the applicant's environmental management plan, including the proposals for the prevention of pollution, the treatment of waste, the protection and reclamation of land and water resources, and for eliminating or minimizing the adverse effects on the environment of mining operations;
- (f) details of expected infrastructure requirements;

- (g) the applicant's proposals with respect to the employment and training of citizens of Zambia;
- (h) the applicant's proposals for the promotion of local business development outlining how the applicant intends to promote—
 - (i) the participation of *Zambian* entrepreneurs in procurement and supply business opportunities with the applicant;
 - (ii) the setting up by *Zambian* entrepreneurs of import substitution, and repair and maintenance businesses locally;
 - (iii) partnership between the *Zambian* entrepreneurs and foreign suppliers and contractors; and
 - (iv) skills development to enable the *Zambian* entrepreneurs attain quality standards in contract works and supply;
- (i) full description, with geographical coordinates, of the area of land for which the large scale gemstone licence is sought, but not exceeding seven thousand, four hundred and eighty-five cadaster units and represented by complete and not partial cadaster units;
- (j) a plan for cutting, polishing and faceting of gemstones in Zambia;
- (k) a tax clearance certificate issued under the Income Tax Act;
- (l) a plan of the proposed mining area prepared in such manner and showing such particulars as the Director may require; and
- (m) such further information as the Director may require for the disposal of the application.

(4) An applicant shall commission and produce to the Director an environmental impact study on the proposed mining operations approved by the Environmental Council of Zambia.

37. (1) The Minister shall, in considering an application under section thirty-six, take the following into account:

- (a) whether or not there are sufficient indications of probable deposits or reserves of gemstones to justify their commercial exploitation;

- (b) that the area of land over which the licence is sought is not in excess of the area reasonably required to carry out the applicant's proposed programme for mining operations;
- (c) taking into account the recognized standards of good mining practice, the applicant's proposed programme for mining operations would ensure the efficient and beneficial use of the mineral resources of the area over which the licence is sought:
- (d) that the applicant's environmental management plan conforms to specifications and practices established by national standards for the management of the environment as it is affected by mining operations;
- (e) whether the applicant has, or has secured access to, adequate financial resources, technical competence and experience to carry out effective mining operations;
- (f) if the land is within the National Park, game management area, national forest or local forest or is a bird sanctuary or land to which subsection (1) of section one hundred and twenty-seven applies, the applicant has obtained the necessary consent;
- (g) taking account of the size and nature of the proposed mining operations, the applicant's proposals for the employment and training of citizens of Zambia are adequate; and
- (h) the applicant is not in breach of any condition of the prospecting licence or any provision of this Act.

(2) The Director may cause an investigation to be made or consultations to be carried out as the Director may consider necessary to enable the Director to assess whether or not the requirements of this section are met.

(3) The Director shall, where an application does not meet the requirements of this Act, reject the application and give the applicant the reasons therefor.

38. (1) Subject to the other provisions of this Act, the Director shall, within sixty days of the receipt of an application under section thirty-six, where the application meets the

requirements of this Act, grant a large-scale gemstone licence on such terms and conditions as the Director may determine.

(2) A large-scale gemstone licence shall—

- (a) state the date of the grant of the licence, the period for which it is granted and the conditions on which it is granted; and
- (b) include a description and plan of the area of land over which it is granted.

(3) There shall be attached to a large-scale gemstone licence—

- (a) the programme of prospecting and mining operations as approved by the Director;
- (b) the applicant's environmental commitment plan;
- (c) the applicant's proposals for the employment and training of citizens of Zambia;
- (d) the applicant's proposal for the promotion of local business development; and
- (e) the applicant's capital investment forecast; which shall form part of the conditions of the licence.

39 . A large-scale gemstone licence shall, unless revoked earlier, be granted for a period not exceeding ten years.

40. (1) Subject to the conditions of the licence, a large-scale gemstone licence confers on the holder exclusive rights to carry on prospecting and mining operations in the mining area, and to do all such other acts and things as are necessary for or reasonably incidental to the carrying on of those operations.

(2) Without limiting the generality of subsection (1), a holder of a large-scale gemstone licence may—

- (a) enter on to the mining area and take all reasonable measures on or under the surface for the purpose of mining operations;
- (b) erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered in the course of mining operations;

- (c) dispose of any mineral product recovered;
- (d) prospect within the mining area for any gemstones; and
- (e) stack or dump any mineral or waste products in accordance with the environmental management plan.

41. (1) A holder of a large-scale gemstone licence shall—

- (a) develop the mining area, and carry on mining operations, with due diligence and in compliance with the programme of mining operations and the environmental management plan;
- (b) take all reasonable measures on or under the surface to mine the mineral to which the licence relates;
- (c) implement the local business development proposals attached to the licence;
- (d) employ and train citizens of Zambia in accordance with the proposal as attached to the licence;
- (e) comply with the plan for cutting, polishing, and faceting gemstones in Zambia;
- (f) comply with the proposed forecast of capital investment as attached to the licence;
- and
- (g) demarcate the mining area and keep it demarcated in the prescribed manner.

(2) A holder of a large-scale gemstone licence shall—

- (a) maintain at the holder's office —
 - (i) complete and accurate technical records of the operations in the mining area;
 - (ii) copies of all maps and geological reports, including interpretations, mineral analyses, aerial photographs, core logs, analyses and test results obtained and compiled by the holder in respect of the mining area;
 - (iii) drill cores in respect of the mining area;
 - (iv) accurate and systematic financial records of the operations in the mining area and such other books of account and financial records as the Director may require; and
 - (v) where the holder is engaged in any other activity not connected with the operations under the mining licence,

- (b) permit an authorized officer at any time to inspect the books and records maintained in pursuance of paragraph
- (c) and deliver to the Minister, without charge, copies of any part of the books and records as the Minister may require;
- (d) submit to the Director such reports, records and other information as the Director may require concerning the conduct of the operations in the mining area; and
- (e) furnish the Director with a copy of the annual audited financial statements within six months of the end of each financial year.

(3) person who—

- (a) fails to keep any record or information required to be kept under subsection (2);
- (b) fails to supply any record or mineral samples to the Director, Director of Geological Survey and Director of Mines Safety in accordance with subsection (2);
or
- (c) supplies any false or misleading record or information; commits an offence and is liable, upon conviction to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

42. (1) A holder of a large-scale gemstone licence shall apply to the Director where the holder intends to make any amendments to the programme of mining operations.

(2) The Director may, where the Director receives an application under subsection (1)—

- (a) approve the proposed amendments with or without any modifications and on such terms and conditions as the Minister may determine; or
- (b) reject the proposed amendments and give the applicant the reasons therefor.

43. (1) A large-scale gemstone licence or any interest therein shall not be transferred, assigned, encumbered or dealt with in any other manner without the approval of the Minister.

(2) A holder of a large-scale gemstone licence who intends to transfer, assign, encumber

or deal in any manner with the licence shall apply to the Minister giving such particulars concerning the proposed transferee, assignee, or other party concerned as would be required in an application for a large-scale gemstone licence.

(3) The Minister shall, where an application made under subsection (2) meets the requirements of this Act and the transferee is not disqualified under any provision of this Act from holding a large-scale gemstone licence, grant approval to the transfer, assignment, encumbrance or other dealing with the large-scale gemstone licence or interest therein for the unexpired period of the licence.

(4) Any transaction purporting to transfer a large-scale gemstone licence in contravention of this section is void.

(5) For the purposes of this section, " interest " in a large- scale gemstone licence means in the case of a holder who is a private company, a controlling interest in such holder.

44. (1) A holder of a large-scale gemstone licence shall, where in the course of exercising the rights under the licence, discovers any deposits of any gemstones for which the holder of the large- scale gemstone licence is not licensed, within thirty days from the date of the discovery, notify the director thereof, giving particulars of the mineral discovered and the site and circumstances of the discovery.

(2) A holder of a large-scale gemstone licence shall apply to the Director to have the mining of any gemstone discovered included in the holder's large-scale gemstone licence, giving in the application, a proposed programme of mining operations in respect of that mineral.

(3) The Director shall, where the proposed programme of mining operations submitted under subsection (2) complies with the requirements of this Act, approve the application and amend the large-scale gemstone licence accordingly.

(4) The Director shall not reject an application under subsection (3) unless the Director gives the applicant an opportunity to amend the programme in such manner as the Director may determine.

(5) A holder of a large-scale gemstone licence shall, where the holder discovers petroleum, report to the Director within twenty-four hours of making the discovery.

45. (1) Subject to the other provisions of this section, a holder of a large-scale gemstone licence may suspend or curtail production for any of the following reasons:

- (a) an unsafe working environment;
- (b) uncontrolled pollution of the area resulting from the mining operations;
- (c) any force majeure; or
- (d) any labour disputes that disrupt the mining operations; and shall give notice of the suspension of production from the mine to the Director and give reasons for the suspension .

(2) A holder of a large scale gemstone licence shall give notice to the Director—

- (a) at least ninety days in advance, where the holder without abandonment of the licence and for reasons other than those specified in paragraphs (a) to (e) of subsection (1), where the holder without abandonment of the licence, proposes to suspend production from the mine; and
- (b) at least thirty days in advance, where the holder proposes to curtail the production; and shall, in either case, give reasons for the suspension or curtailment.

(3) The Director shall, where the Director receives notice under subsection (1), or becomes aware of any suspension or curtailment of production, cause the matter to be investigated and may—

- (a) approve, on such terms and conditions as the Director may determine, including provision for the extension of any licence, the suspension or curtailment of production; or

(b) direct the holder to resume full production at the mine within such period as the Director may specify.

(4) In paragraph (d) of subsection (1), “force majeure” means an event which is beyond the reasonable control of a holder and which makes the mining operations under the licence impossible or impractical under the circumstances.

46. (1) A holder of a large-scale gemstone licence may, at any time not later than one year before the expiry of the licence, apply to the Director for the renewal of the licence in respect of all or any part of the mining area.

(2) An application for renewal shall be made to the Director in the prescribed form upon payment of the prescribed fee.

(3) An application made under subsection (2) shall include-

- (a) a statement of the period, not exceeding ten years, for which the renewal is sought;
- (b) details of
 - (i) the latest proved, estimated and inferred ore reserves;
 - (ii) the capital investment to be made in, and
 - (iii) any expected changes in methods of mining and treatment; and
 - (iv) any expected increase or reduction in mining activities and the estimated life of the mine;
- (c) a proposed programme of mining operations for the period of renewal; and
- (d) where the renewal is sought in respect of part only of the mining area, a plan identifying that part.

(4) Subject to subsection (6), the Director shall, where an application for renewal of a large-scale gemstone licence meets the requirements of this Act, renew the large scale mining licence for a period not exceeding ten years.

(5) The Director may renew a large-scale gemstone licence with or without a variation of

the conditions of the licence.

(6) The Director shall reject an application for renewal of a large-scale gemstone licence where—

- (a) the development of the mining area has not proceeded with reasonable diligence;
- (b) gemstones in workable quantities do not remain to be produced;
- (c) the programme of the intended mining operations will not ensure the proper conservation and use in the national interest of the mineral resources in the mining area; or
- (d) the applicant is in breach of any condition of the licence or any provision of this Act.

(7) The Director shall not reject an application on any ground referred to in—

- (a) paragraph (a) of subsection (6), unless the Director has given the applicant the details of the default and the applicant has failed to remedy the default within three months of the notification;
- (b) paragraph (b) of subsection (6), unless the Director has given the applicant an opportunity to make written representations thereon to the Director; or
- (c) paragraph (c) of subsection (6), unless the Director has notified the applicant and the applicant has failed to propose amendments to the proposed programme of mining operations within three months of the notification.

(8) Subject to the other provisions of this Act, the period of renewal of a large-scale gemstone licence shall be such period, not exceeding ten years, as is reasonably required to carry out the mining programme.

(9) The Director shall, on the renewal of a large-scale gemstone licence, attach to the licence the approved program of mining operations to be carried out in the period of renewal.

PART IV
SMALL-SCALE MINING OPERATIONS
Division I -Prospecting permit

47. (1) An application for a prospecting permit shall be made to the Director of Geological Survey in the prescribed manner and form upon payment of the prescribed fee.

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

- (a) a statement of the minerals, other than gemstones, for which the applicant wishes to prospect;
- (b) a description and sketch with geographical coordinates of the area of land for which the permit is sought, but not exceeding three hundred cadaster units and represented by whole numbers of cadaster units, sufficient to enable identification of the area and to provide a plan to be annexed to the permit;
- (c) an environmental management plan including the applicant's proposals for the prevention of pollution, the treatment of waste, the protection and reclamation of land and water resources, and for eliminating or minimizing the adverse effects on the environment of the prospecting operations; and
- (d) a statement of the sum the applicant intends to expend on the prospecting operations;
- (e) a description of any mining right which has previously been granted to the applicant or for which the applicant has previously made an application; and
- (f) a tax clearance certificate issued under the Income Tax Act.

48. (1) The Director of Geological Survey shall, in considering an application made under section forty-seven take the following into account:

- (a) that the applicant has, or has secured access to, adequate financial resources, technical competence and experience to carry on effective prospecting operations;
- (b) that the proposed programme of prospecting operations is adequate and makes

proper provision for environmental protection;

- (c) where consent is required for the area under any written law, the applicant has submitted evidence of the consent; and
- (d) where the area relates to a prospecting area or mining area or part thereof, the applicant has obtained the consent of the holder of the prospecting licence or other licence and the holder thereof will not be prejudiced by the grant of the prospecting permit.

(2) The Director of Geological Survey may cause such investigations to be made or such consultations to be carried on as the Director may consider necessary to assess whether or not the criteria in subsection (1) has been met.

(3) The Director of Geological Survey shall reject an application for a prospecting permit where—

- (a) the applicant is disqualified under section seven from holding the permit;
- (b) the area over which the applicant seeks a prospecting permit is already subject to a mining right; or
- (c) the applicant is in breach of any condition of any other mining right or any provision of this Act.

(4) The Director of Geological Survey shall, where the Director of Geological Survey rejects an application under subsection (3), inform the applicant of the rejection and give the reasons therefor.

49. (1) The Director of Geological Survey shall, within thirty days of receipt of an application under section forty-seven, where the application meets the requirements of this Act, grant a prospecting permit to the applicant on such terms and conditions as the Director may determine.

(2) A prospecting permit shall—

- (a) state the date of the grant of the permit, the period for which it is granted and the

- conditions on which it is granted;
- (b) specify the minerals in respect of which it is granted; and
- (c) include a description and plan of the prospecting area.

(3) There shall be appended to a prospecting permit the programme of prospecting operations, as approved by the Director of Geological Survey, which shall form part of the conditions of the permit.

(4) The area of a prospecting permit shall not exceed three hundred cadaster units.

50. A prospecting permit shall be granted for a period not exceeding five years and shall not be renewed.

51. (1) A prospecting permit confers on the holder exclusive rights to carry on prospecting operations in the prospecting area for the minerals, except gemstones, specified in the licence, and to do all such other acts and things as are necessary for or incidental to the carrying on of the operations.

(2) A prospecting permit or any interest therein shall not be transferred, assigned, encumbered or dealt with in any other manner without the approval of the Director of Geological Survey.

(3) A holder of a prospecting permit who intends to transfer, assign, encumber or deal in any manner with the permit shall apply to the Director of Geological Survey giving such particulars concerning the proposed transferee, assignee, or other party concerned as would be required in an application for a prospecting permit.

(4) The Director of Geological Survey shall, where an application made under subsection (3) meets the requirements of this Act and the transferee is not disqualified under any provision of this Act from holding a prospecting permit, grant approval to the transfer, assignment, encumbrance or other dealing with the exploration permit or interest therein

for the unexpired period of the permit.

(5) Any transaction purporting to transfer a prospecting permit in contravention of this Act is void.

(6) For the purpose of this section, "interest" in prospecting permit means in the case of holder who is a private company, a controlling interest in such holder.

52. A holder of a prospecting permit shall—

- (a) give notice to the local office of the discovery of any mineral deposit of possible commercial value in the prospecting area within thirty days of the discovery;
- (b) keep at the office of the holder, full and accurate records of the prospecting operations which shall show—
 - (i) the boreholes drilled;
 - (ii) the strata penetrated, with detailed logs of the strata;
 - (iii) the minerals discovered;
 - (iv) the results of any seismic survey or geo-chemical, geo-physical and remote sensing data analysis;
 - (v) the results of any analysis or identification of minerals;
 - (vi) the geological interpretation of the records maintained under items (i) to (v) inclusive;
 - (vii) the number of persons employed;
 - (viii) other work done in connection with the prospecting permit;
 - (ix) the costs incurred; and
 - (x) such other matters as may be prescribed by the Minister, by statutory instrument; and
- (c) keep and preserve for such period as the Minister may- prescribe by statutory instrument, records in relation to the protection of the environment.

53. (1) Except for the purposes of having the mineral analyzed or conducting tests on the

mineral, a holder of a prospecting permit shall not remove any mineral from the prospecting area without the written permission of the authorized officer at the local office and shall, when so removing any mineral, comply with such conditions as the authorized officer may specify in the written permission.

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

Division II -Small -Scale Mining Licence

54. (1) A holder of a prospecting permit may, at any time during the currency of the permit, apply to the Director for a small-scale mining licence over any part of the prospecting area, in the prescribed manner and form upon payment of the prescribed fee.

(2) An application made under subsection (1) shall include

- (a) an identification of the relevant prospecting permit;
- (b) a description and sketch of the area of land, not exceeding one hundred and twenty cadaster units, over which the small-scale mining licence is sought, sufficient to enable identification of the area;
- (c) a description of the proposed program of mining operations, which shall include a forecast of investment, the estimated recovery rate of ore and the applicant's proposal for its treatment and disposal;
- (d) a description to the best of the applicant's knowledge and belief of the mineral deposits in the area over which the licence is sought;
- (e) a statement of the duration, not exceeding ten years, for which the small-scale mining licence is sought;
- (f) a tax clearance certificate issued under the Income Tax Act; and
- (g) such other information as the Director may require for disposing of the application.

55. (1) The Director shall, in considering an application made under section fifty-four take the following into account:

- (a) that the applicant has, or has secured access to, adequate financial resources, technical competence and experience to carry on effective small-scale mining operations;
- (b) that the proposed programme of small-scale mining operations is adequate and makes proper provision for environmental protection; and
- (c) where consent is required for the area under any written law, the applicant has submitted evidence of the consent.

(2) The Director may cause such investigations to be made or such consultations to be carried on as the Director may consider necessary to assess whether or not the criteria in subsection (1) has been met.

(3) The Director shall reject an application for a small-scale mining licence where—

- (a) the applicant has, under section sixty-two, been required to apply for a large-scale mining licence;
- (b) the applicant is disqualified under section seven;
- (c) the area in respect of which a small-scale mining licence is sought is in excess of the area required to mine the deposits identified by the applicant;
or
- (d) the applicant is in breach of any condition of any other mining right or any provision of this Act.

(4) The Director shall, where the Director rejects an application under subsection (3), inform the applicant of the rejection and give the reasons therefor.

56. (1) The Director shall, within thirty days of receipt of an application under section fifty-four where the application meets the requirements of this Act, grant a small-scale mining licence to the applicant on such terms and conditions as the Director may

determine.

(2) A small-scale mining licence shall—

- (a) state the date of the grant of the licence, the period for which it is granted and the conditions on which it is granted;
- (b) specify the minerals in respect of which it is granted; and
- (c) include a description and plan of the mining area.

(3) There shall be appended to a small-scale mining licence the programme of mining operations, as approved by the Director, which shall form part of the conditions of the licence.

(4) The area of a small-scale mining licence shall not exceed one hundred and twenty cadastre units.

57. A small-scale mining licence shall be granted for a period not exceeding ten years.

58. (1) A small scale mining licence confers on the holder exclusive rights to carry on mining operations in the mining area for minerals other than gemstones, and to do all such other acts and things as are necessary for or reasonably incidental to the carrying on of those operations.

(2) Without limiting the generality of subsection (1), a holder of a small-scale mining licence may—

- (a) enter into or upon the mining area and take all reasonable measures on or under the surface for the purpose of the mining operations;
- (b) erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered in the course of the mining operations;
- (c) dispose of any mineral products recovered;
- (d) prospect within the mining area for any mineral; and

(e) stack or dump any mineral or waste product.

59. (1) A holder of a small-scale mining licence shall—

- (a) develop the mining area and commence and carry on mining operations, with due diligence and in accordance with the programme of mining operations;
- (b) demarcate the mining area, and keep it demarcated, in the prescribed manner;
- (c) maintain at the holder's office—
 - (i) complete and accurate technical records of the operations in the mining area, in such form as the Director may approve;
 - (ii) copies of all maps and geological reports, including interpretations, mineral analyses, aerial photographs, core logs, analyses and test results obtained and compiled by the holder in respect of the mining area;
 - (iii) accurate and systematic financial records of the operations in the mining area and such other books of account and financial records as the Director may require; and
 - (iv) where the holder is engaged in any other activity not connected with the operations under the mining licence, separate books of account of the operations under the licence;
- (d) permit an authorized officer at any time to inspect the books and records maintained in pursuance of paragraph (a) and deliver to the Director, without charge, copies of any part of the books and records as the Director may require;
- (e) keep and preserve, as the Minister may prescribe, records in relation to the protection of the environment;
- (f) furnish the Director with a copy of the annual audited financial statements within three months of the end of each financial year showing the profit or loss for the year and the state of the financial affairs of the holder at the end of each financial year; and
- (g) submit to the Director such reports, records and other information as the Director may require concerning the conduct of the operations in the mining area.

(2) A person who—

- (a) fails to keep any record or information required to be kept under subsection (1);
- (b) fails to supply any record to the Director in accordance with subsection (1); or
- (c) supplies any false or misleading record or information; commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

60. (1) A holder of a small-scale mining licence may apply to the Director at least sixty days before the expiry of the small-scale mining licence, for the renewal of the licence in the prescribed manner and form upon payment of the prescribed fee.

(2) Subject to subsection (3), the Director shall, where an application for the renewal of a small-scale mining licence complies with the requirements of this Act, renew the small-scale mining licence for a period not exceeding ten years, on such terms and conditions as the Director may determine.

(3) The Director shall reject an application for the renewal of a small-scale mining licence where-

- (a) the development of the mining area has not proceeded with reasonable diligence;
- (b) minerals in the workable quantities do not remain to be produced;
- (c) the programme of the intended mining operations will not ensure the proper conservation and use in the national interest of the mineral resources of the mining area; or
- (d) the applicant is in breach of any condition of the licence or any provision of this Act.

(4) The Director shall not reject an application on any ground referred to in—

- (a) paragraph (a) of subsection (3), unless the Director has given the applicant the details of the default and the applicant has failed to remedy the default within three months of the notification;

(b) paragraph (b) of subsection (3), unless the Director has given the applicant reasonable opportunity to make written representations thereon to the Director; or (c) paragraph (c) of subsection (3), unless the Director has notified the applicant and the applicant has failed to propose amendments to the operations within three months of the notification.

(5) The Director shall, on the renewal of a small-scale mining licence, attach to the licence the approved program of mining operations to be carried out in the period of renewal.

61. (1) A small-scale mining licence or any interest therein shall not be transferred, assigned, encumbered or dealt with in any other manner without the approval of the Director.

(2) A holder of a small-scale mining licence who intends to transfer, assign, encumber or deal in any manner with the licence shall apply to the Director giving such particulars concerning the proposed transferee, assignee, or other party concerned as would be required in an application for a small-scale mining licence.

(3) The Director shall, where an application meets the requirements of this Act and the transferee is not disqualified under any provision of this Act from holding a small-scale mining licence, grant approval to the transfer, assignment, encumbrance or other dealing with the small-scale mining licence or interest therein for the unexpired period of the small-scale mining licence.

(4) For the purposes of this section, " interest " in a small- scale mining licence means, in the case of a holder who is a private company, a controlling interest in such holder.

(5) Any transaction purporting to transfer a small-scale mining licence in contravention of this section shall be void and of no effect.

62. (1) The Director may require—

- (a) an applicant for a small-scale mining licence; or
- (b) the holder of a small-scale mining licence where the Director considers on reasonable grounds that the holder is engaged in mining operations on a substantial scale; to apply for a large-scale mining licence.

(2) Where the Director requires an applicant or holder of a small-scale mining licence to apply for a large-scale mining licence under subsection (1), the provisions of this Act shall apply to the applicant as if the applicant were the holder of a prospecting licence who applies for a large-scale mining licence.

63. Where over a continuous period of three years or longer, a holder of a small-scale mining licence has failed to carry on mining operations in accordance with the proposed plan of mining operation and over such period has in each year of production recovered less than fifty per centum of the ore which should have been recovered under the estimated recovery rate, the Director shall cancel the licence.

Division III - Small-Scale Gemstone Licence

64. (1) A person shall apply to the Director for a small-scale gemstone licence in the prescribed manner and form upon payment of the prescribed fee.

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

- (a) a description and sketch, with geographical coordinates of the area of land over which the gemstone licence is sought, but not exceeding one hundred and twenty cadaster units and with whole numbers of cadaster units, sufficient to enable the officers at the local office to identify the area and provide a plan to be annexed to the licence;
- (b) the proposed program of mining operations, including a forecast of investment and the estimated recovery rate of ore and gemstones;
- (c) a statement, to the best of the applicant's knowledge and belief, of the

- gemstone deposits in the area over which the licence is sought;
- (d) a tax clearance certificate issued under the Income Tax Act; and
- (e) such other information as the Director may require for disposing of the application.

65. (1) The Director shall, in considering an application made under section sixty-four take the following into account:

- (a) that the applicant has, or has secured access to, adequate financial resources, technical competence and experience to carry on effective small-scale gemstone mining operations;
- (b) that the proposed programme of gemstone mining operations is adequate and makes proper provision for environmental protection; and
- (c) where consent is required for the area under any written law, the applicant has submitted evidence of the consent.

(2) The Director may cause such investigations to be made or such consultations to be carried on as the Director may consider necessary to assess whether or not the criteria in subsection (1) has been met.

(3) The Director shall reject an application for a small-scale gemstone licence where—

- (a) the applicant has, under section seventy-two, been required to apply for large-scale gemstone licence;
- (b) the applicant is disqualified under section seven;
- (c) the area over which the applicant seeks a small-scale gemstone licence is already subject to a mining right and the holder has not granted consent;
- (d) the area in respect of which a small-scale gemstone licence is sought is in excess of the area required to mine the deposits identified by the applicant; or
- (e) the applicant is in breach of any condition of any other mining right or any provision of this Act.

(4) The Director shall, where the Director rejects an application under subsection (3),

inform the applicant of the rejection and give the reasons therefor.

66. (1) The Director shall, within thirty days of receipt of an application under section sixty-four, where the application meets the requirements of this Act, grant a small-scale gemstone licence to the applicant on such terms and conditions as the Director may determine.

(2) A small-scale gemstone licence shall —

- (a) state the date of the grant of the licence, the period for which it is granted and the conditions on which it is granted;
- (b) specify the minerals in respect of which it is granted; and
- (c) include a description and plan of the mining area.

(3) There shall be appended to a small-scale gemstone licence the programme of mining operations, as approved by the Director, which shall form part of the conditions of the small-scale gemstone licence.

(4) A small-scale gemstone licence shall not be granted over an area exceeding one hundred and twenty cadaster units.

67. A small-scale gemstone licence shall be granted for a period not exceeding ten years.

68. A small-scale gemstone licence confers on the holder the same exclusive rights as a prospecting permit and a small-scale mining licence, but only in relation to gemstones.

69. (1) A holder of a small-scale gemstone licence shall—

- (a) give notice to the Director of the discovery of any mineral deposit of possible commercial value within thirty days of the discovery;
- (b) keep and preserve, for such period as the Minister may prescribe, by statutory instrument, the records in relation to the protection of the environment.

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

70. (1) A holder of a small-scale gemstone licence may apply to the Director at least sixty days before the expiry of the licence, for the renewal of the licence in the prescribed manner and form upon payment of the prescribed fee.

(2) Subject to subsection (3), the Director shall, where an application for the renewal of a small-scale gemstone licence complies with the requirements of this Act, renew the small-scale gemstone licence for a period not exceeding ten years, on such terms and conditions as the Director may determine.

(3) The Director shall reject an application for renewal of a small-scale gemstone licence where—

- (a) the development of the mining area has not proceeded with reasonable diligence;
- (b) minerals in workable quantities do not remain to be produced;
- (c) the programme of the intended mining operations will not ensure the proper conservation and use in the national interest of the mineral resources of the mining area; or
- (d) the applicant is in breach of any condition of the licence or any provision of this Act.

(4) The Director shall not reject an application on any ground referred to in—

- a) paragraph (a) of subsection (3), unless the Director has given the applicant the details of the default and the applicant has failed to remedy the default within three months of the notification;
- (b) paragraph (b) of subsection (3), unless the Director has given the applicant reasonable opportunity to make written representations thereon to the Director; or
- (c) paragraph (c) of subsection (3), unless the Director has notified the applicant

and the applicant has failed to propose amendments to the operations within three months of the notification.

(5) The Director shall, on the renewal of a small-scale gemstone licence, attach to the licence the program of mining operations to be carried out in the period of renewal.

71. (1) A small-scale gemstone licence or any interest therein shall not be transferred, assigned, encumbered or dealt with in any other manner without the approval of the Director.

(2) A holder of a small-scale gemstone licence who intends to transfer, assign, encumber or deal in any manner with the licence shall apply to the Director giving such particulars concerning the proposed transferee, assignee, or other party concerned as would be required in an application for a small-scale gemstone licence.

(3) The Director shall, where an application meets the requirements of this Act and the transferee is not disqualified under any provision of this Act from holding a small-scale gemstone licence, grant approval to the transfer, assignment, encumbrance or other dealing with the small-scale gemstone licence or interest therein for the unexpired period of the licence.

(4) For the purposes of this section, " interest " in a small- scale gemstone licence means in the case of a holder who is a private company, a controlling interest in such holder.

(5) Any transaction purporting to transfer a right in contravention of this section is void and of no effect.

72. (1) The Director may require—

(a) an applicant for a small-scale gemstone licence; or

(b) the holder of a small-scale gemstone licence where the Minister considers on reasonable grounds that the holder is engaged in mining operations on a

substantial scale; to apply for a large-scale gemstone licence.

(2) Where the Minister requires an applicant or holder of a small-scale gemstone licence to apply for a large-scale gemstone licence under subsection (1), the provisions of this Act shall apply, with any necessary modifications, to the applicant as if the applicant were the holder of a prospecting licence who applies for a large-scale mining licence.

73. Where a holder of a small-scale gemstone licence has failed to carry on mining operations in accordance with the proposed plan of mining operations and the gross proceeds of sale of minerals from an area subject to the small-scale gemstone licence in each of any three successive years is less than half of the deemed turnover applicable to that licence in each of those years, the Director shall cancel the licence.

PART V

ARTISANAL MINING

74. (1) Any citizen of Zambia who has identified a mineral deposit may apply to the Director for an artisan's mining right.

(2) An application for an artisan's mining right shall be made in the prescribed manner and form upon payment of the prescribed fee.

75. (1) Subject to this section, the Director shall, within thirty days of receipt of an application under section seventy-four, and on the recommendation of the Mining Cadaster Office, grant an artisan's mining right to the applicant, to explore and mine the deposit referred to in the application.

(2) An artisan's mining right shall—

- (a) identify the minerals in respect of which it is granted; and
- (b) be granted over an area not exceeding two cadaster units, not being an area that is already subject to a mining right, which shall be delineated on a plan attached to

the right.

(3) The Director shall, where the Director is satisfied that in a particular area, mining operations are being carried on a community basis in accordance with customary practices, authorize such operations by the grant of an artisan's mining right to the chief of the area or such other person as the Minister may, by statutory instrument, prescribe.

(4) The Director shall not grant an artisan's mining right to any person disqualified by section seven or who has been convicted of an offence under this Act.

(5) The Director shall, where the Director rejects an application under this Part, give the applicant the reasons therefor.

76. An artisan's mining right shall be valid for a period of two years.

77. (1) A holder of an artisan's mining right may apply to the Director at least sixty days before the expiry of the artisan's mining right, for the renewal of the artisan's mining right in the prescribed manner and form upon payment of the prescribed fee.

(2) Subject to subsection (3), the Director shall, where an application for the renewal of an artisan's mining right complies with the requirements of this Act, renew the artisan's mining right for a period not exceeding two years, on such terms and conditions as the Director may determine.

(3) The Director shall reject an application for renewal of an artisan's mining right where—

- (a) the development of the mining area has not proceeded with reasonable diligence;
- (b) minerals in workable quantities do not remain to be produced;
- (c) the programme of the intended mining operations will not ensure the proper conservation and use in the national interest of the mineral resources of the mining area; or

(d) the applicant is in breach of any condition of the right or any provision of this Act.

(4) The Director shall not reject an application on any ground referred to in—

(a) paragraph (a) of subsection (3), unless the Director has given the applicant the details of the default and the applicant has failed to remedy the default within three months of the notification;

(b) paragraph (b) of subsection (3) unless the Director has given the applicant reasonable opportunity to make written representations thereon to the Director; or

(c) paragraph (c) of subsection (3) unless the Director has notified the applicant and the applicant has failed to propose amendments to the operations within three months of the notification.

(5) The Director shall, on the renewal of an artisan's mining right, attach to the licence the approved program of mining operations to be carried out in the period of renewal.

78. An artisan's mining right shall confer on the person to whom it is granted, or in the case of a right granted in accordance with subsection (3) of section seventy five, on the community concerned, exclusive rights to mine according to its terms in respect of the mineral specified in the permit within the area for which it is granted.

79. The Director may suspend or cancel an artisan's mining right where—

(a) the holder of the right has been disqualified under section seven;

(b) the holder has been convicted of an offence under this Act; or

(c) the holder contravenes this Act or any condition of the right.

80. (1) Except as otherwise provided by statutory instrument made under this Act, nothing in this Act shall prevent—

(a) the taking, by the owner or occupier of any land that is not subject to a mining right, of limestone or other building materials ordinarily used for building, road

making or agricultural purposes, from the land, where—

- (i) the materials so taken are for use on the land; and
 - (ii) such owner or occupier is the holder of a permit from the Director authorising such taking;
- (b) the taking, by the holder of a mining right in respect of any land, of such materials from the land for use on the land;
- (c) the taking, by the owner or occupier of any land that is subject to a mining right, of such materials from the land with the consent of the holder of the mining right and for use on the land; or
- (d) the taking by the Republic, any local authority, a highway authority, or any person duly authorised by any such authority and acting under the Public Roads Act, of such materials for public purposes.

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

81. (1) A holder of an artisan's mining right shall—

- (a) maintain at the holder's office—
 - (i) complete and accurate technical records of the operations in the mining area, in such form as the Director may approve;
 - (ii) copies of all maps and geological reports, including interpretations, mineral analyses, core logs, analyses and test results obtained and compiled by the holder in respect of the mining area;
 - (iii) accurate and systematic financial records of the operations in the mining area and such other books of account and financial records as the Director may require; and
 - (iv) where the holder is engaged in any other activity not connected with the operations under the artisan's mining right, separate books of account from the operations under the licence;
- (b) permit an authorized officer at any time to inspect the books and records

- maintained in pursuance of paragraph (a) and deliver to the Director, without charge, copies of any part of the books and records as the Director may require;
- (c) keep and preserve, as the Minister may prescribe, records in relation to the protection of the environment;
 - (d) submit to the Director such reports, records and other information as the Director may require concerning the conduct of the operations in the mining area; and
 - (e) furnish the Director with a copy of the financial statements within three months of the end of each financial year showing the profit or loss for the year and the state of the financial affairs of the holder at the end of each financial year.

(2) A person who—

- (a) fails to keep any record or information required to be kept under subsection (1);
- (b) fails to supply any record to the Director in accordance with subsection (1); or
- (c) supplies any false or misleading record or information; commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

PART VI

MINERAL PROCESSING LICENCE

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

(2) An application referred to in subsection (1) shall include—

- (a) a full description of the area of land over which the licence is sought, including its surrounding settlements or developments and plans of the area prepared in such a manner and showing such particulars as the Director of Geological Survey may require;
- (b) a statement of the minerals to be processed;

- (c) a copy of the applicant's title to the land or written consent from a surface right holder or mining right holder;
- (d) the proposed programme for mineral processing operations including a forecast of plant capacity, capital investment, facilities, mineral processing methods and the estimated mineral recoveries;
- (e) an environmental management plan including the applicant's proposals for the prevention of pollution, the treatment of waste, the protection and reclamation of land and water resources, and for eliminating or minimizing the adverse effects on the environment of the mineral processing operations;
- (f) a tax clearance certificate issued under the Income Tax Act; and
- (g) such further information as may be prescribed by the Director of Geological Survey by statutory instrument.

(3) The applicant shall commission and produce to the Director of Geological Survey an environmental impact study on the proposed mineral processing operations approved by the Environmental Council of Zambia.

83. (1) The Minister shall, in considering an application under section eighty-two take the following matters into account:

- (a) that the applicant has, or has secured access to, adequate financial resources, technical competence and experience to carry on effective mineral processing operations;
- (b) that the applicant has title to the land over which the application is made;
- (c) that the proposed program of mineral processing operations is adequate and makes proper provision for environmental protection; and
- (d) that the applicant is not in default.

(2) The Minister may cause such investigations to be made or such consultations to be carried on as the Minister may consider necessary to assess whether or not the criteria in subsection (1) is met.

- (3) The Minister shall reject an application for a mineral processing licence where—
- (a) the Minister considers that the applicant has not met the requirements under section eighty-two;
 - (b) the applicant is disqualified from holding a mineral processing licence under section seven: or
 - (c) the applicant is the holder of another mineral processing licence and is in breach of any condition of that licence or any provision of this Act.

(4) The Director of Geological Survey shall, where the Minister rejects an application under subsection (3) inform the applicant of the rejection and give the reasons therefor.

84. (1) The Director of Geological Survey shall, within sixty days of receipt of an application under section eighty-two, where the applicant meets the requirements of this Act, grant a mineral processing licence to the applicant, on such terms and conditions as the Director of Geological Survey may determine.

- (2) A mineral processing licence shall—
- (a) state the date of the grant of the licence, the period for which it is granted and the conditions on which it is granted;
 - (b) specify the minerals in respect of which it is granted; and
 - (c) include a description and plan of the mineral processing area.

(3) There shall be attached to a mineral processing licence a programme of mineral processing operations as approved by the Director of Geological Survey, which shall form part of the conditions of the licence.

(4) In determining the date for the commencement of the activities under the licence, the Director of Geological Survey shall take account of the period not exceeding twelve months from the date of the grant, which is required by the applicant to make any necessary preparation for mineral processing operations.

85. Subject to the other provisions of this Act, a mineral processing licence shall be valid for a period of fifteen years.

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

87. (1) A holder of a mineral processing licence shall—

- (a) commence mineral processing operations within twelve months, or such further period as the Director of Geological Survey may allow from the date of the grant of the licence;
- (b) carry on the mineral processing operations in accordance with the programme of mineral processing approved by the Director of Geological Survey;
- (c) give notice to the Director of Geological Survey of mineral recoveries within thirty days of the recovery;
- (d) expend on mineral processing operations not less than the amount prescribed or required by the terms and conditions of the licence to be so expended; and
- (e) submit reports to the Director of Geological Survey on—
 - (i) sources of ore, concentrates, tailings, slimes or any other mineral substances fed to the plant;
 - (ii) quantities and grade of feed to the plant;
 - (iii) compliance with safety and environmental standards;
 - (iv) labor and production returns as submitted by the holder of a mining right; and
 - (v) any other records, reports and other information as the Director of Geological Survey may require concerning the operations of the mineral processing operations.

(2) Where there is a disparity between the amount prescribed or required by the terms and conditions of the licence to be so expended and what is actually expended, the holder of

the mineral processing licence shall account for the disparity.

(3) A person who—

- (a) fails to keep any record or information required to be kept under subsection (2);
- (b) fails to supply any record or mineral samples to the Director, Director of Geological Survey and Director of Mines and Safety in accordance with subsection (2); or
- (c) supplies any false or misleading record or information; commits an offence and is liable, upon conviction to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

88. (1) A holder of a mineral processing licence shall apply to the Director of Geological Survey where the holder intends to make any amendments to the programme of mineral processing operations.

(2) The Director of Geological Survey may, where a holder of a mineral processing licence applies to the Director of Geological Survey under subsection (1)—

- (a) approve the proposed amendments with or without any variations, on such terms and conditions as the Director of Geological Survey may determine; or
- (b) reject the application and give the applicant reasons therefor.

89. (1) Subject to this section, a mineral processing licence or any interest therein or any controlling interest in the holder therefor may be transferred to any other person.

(2) A holder of a mineral processing licence who intends to transfer the mineral processing licence or any interest therein shall-

- (a) apply to the Minister at least thirty days before the intended transfer; and
- (b) give to the Minister such details of the transferee as would be required in the case of an application for a mineral processing licence.

(3) Where the Minister is satisfied that the transferee is not disqualified under any

provision of this Act from holding a mineral processing licence, the Minister shall notify the applicant of the approval of the transfer of the mineral processing licence or an interest therein.

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

(5) Any transaction purporting to transfer any rights under the mineral processing licence in contravention of this section is void and of no effect.

90. (1) A holder of a mineral processing licence may, not later than ninety days before the expiry of the mineral processing licence, apply to the Director of Geological Survey for the renewal of the licence in the prescribed manner and form upon payment of the prescribed fee.

(2) The Director of Geological Survey shall renew a mineral processing licence for such period, not exceeding fifteen years where the holder of the licence—

- (a) undertakes to carry out during the renewal period, an adequate programme of mineral processing operations; and
- (b) is not in breach of any condition of the licence or any provision of this Act.

91. Where any holder of a mineral processing licence has failed to carry out mineral processing operations in accordance with that holder's proposed programme of mineral processing operations and for a period of three successive years has recovered less than fifty per centum of the minerals which should have been recovered under that holder's estimated recovery rate, the Director of Geological Survey shall cancel that holder's mineral processing licence.

PART VII

GEMSTONE SALES CERTIFICATE

92. (1) A person shall not—

- (a) carry on the business of trading in gemstones unless the person holds a gemstone sales certificate;
- (b) in the case of a non-Zambian, conduct gemstone trade on behalf of a Zambian who is the holder of a gemstone sales certificate; or
- (c) in the case of a Zambian who is a holder of a gemstone certificate, sub-contract a non-Zambian to conduct the business of trading in gemstones.

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

(3) A person who is not a holder of a valid gemstone sales certificate commits an offence if that person is found in possession of uncut and unpolished gemstones.

(4) A court shall not convict a person under subsection (3) where the person satisfies the court that—

- (a) the person is a holder of a large scale or small-scale gemstone licence under which gemstones are produced; or
- (b) the person acquired possession of the gemstones lawfully and holds them otherwise than for the purposes of trade.

(5) A person convicted of an offence under subsection (3) is liable to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

93. A person may apply for a gemstone sales certificate to the Director in the prescribed manner and form upon payment of the prescribed fee.

94. (1) The Director shall, where an application meets the requirements of this Act, grant

a gemstone sales certificate on such terms and conditions as the Director may determine.

(2) A gemstone sales certificate shall be valid for one year and may be renewed for a further year on payment of the prescribed renewal fee.

(3) A gemstone sales certificate shall not be granted to a non- Zambian.

95. A holder of a gemstone sales certificate shall, in respect of any purchase of uncut and unpolished stones located in Zambia—

- (a) keep such records as may be prescribed and shall make the records available at all times for inspection by an authorized officer; and
- (b) submit monthly returns to the Director.

PART VIII

GENERAL PROVISIONS RELATING TO LICENCES AND PERMITS

96. (1) A holder of a mining right other than a holder of a prospecting licence or a prospecting permit or mineral processing licence shall apply to the Director of Mines Safety for an annual operating permit in the prescribed manner and form upon payment of the prescribed fee.

(2) A holder who conducts mining or mineral processing operations without an annual operating permit issued under subsection (1) commits an offence and is liable, upon conviction—

- (a) to a fine of one million penalty units or to imprisonment for a period not exceeding ten years, or to both; and
- (b) to a fine of fifty thousand penalty units for each day that the offence continues.

(3) The Director of Mines Safety may, where a holder of a mining right or mineral processing licence makes an application under subsection (1)—

- (a) grant an annual operating permit to the holder, where the application meets the requirements of this Act; or
- (b) reject the application if the holder is in breach of any condition of the licence or permit or any provision of this Act.

(4) The Director of Mines Safety may, where the Director rejects an application under paragraph (b) of subsection (3), require the holder of the mining right or mineral processing licence to remedy any defaults within a specified period before the grant of the annual operating permit.

97. (1) A holder of a mining right or mineral processing licence shall maintain an office in Zambia to which communications may be sent and shall give notice to the Director, the Director of Mines Safety and the Director of Geological Survey of that address and of any changes of that address.

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

98. (1) A holder of a prospecting licence or prospecting permit may, at any time during the currency of the licence or permit re orientate the prospecting area.

(2) Where a holder re-orientates the prospecting area—

- (a) no part of the re orientated area shall overlap any area already subject to another mining right; and
- (b) at least twenty five per centum of the re orientated area shall consist of land that was included in the prospecting area as it was before the re-orientation.

(3) At any time during the currency of a prospecting licence or prospecting permit, the holder may, with the permission of the Director of Geological Survey and subject to such conditions as the Director of Geological Survey may impose in relation to the prospecting

operations to be carried on, increase the size of the prospecting area: Provided that the prospecting area, as so increased, shall not exceed the maximum prescribed under this Act.

(4) The rights given under subsections (1) and (3) may be exercised once during the total period of the currency of the permit or licence and any renewals thereof.

99. (1) A holder of a large-scale mining licence, large-scale gemstone licence, small-scale mining licence or small-scale gemstone licence may, at any time during its currency, apply to the Director for the alteration of the mining area and the Director may, subject to this section, approve or reject the application; and

(2) An application under this section shall not be approved where to do so would prejudice neighbouring mining rights.

(3) An alteration of a mining area shall not fall below the minimum set by regulation for safe and productive mining operations.

(4) An approval under this section may be given unconditionally or subject to such conditions as Director of Geological Survey or the Director may determine, and any such conditions shall be specified in the document signifying approval under this section.

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

100. (1) If, after inquiry, the Minister considers that the best interest of the Republic or of the holders of mining licences covering contiguous or neighboring mining areas will be served with regard to the economic exploitation of minerals by the merging or co-ordination of all or part of the operations of such holders, the Minister may direct the holders to effect such merger or co-ordination within such time and on such terms as the

Minister shall specify and the holders shall comply with such directions.

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

101. (1) A holder of a licence or permit who wishes to abandon all or any part of the land subject to the licence or permit shall apply to the Director or the Director of Geological Survey, as the case may be; not later than ninety days before the date on which the holder wishes the abandonment to have effect, for a certificate of abandonment.

(2) Subject to this section, the Director or the Director of Geological Survey, as the case may be; shall issue to the applicant a certificate of abandonment either unconditionally or subject to such conditions relating to the abandoned land as the Director or the Director or the Director of Geological Survey, as the case may be; may determine.

(3) An application under this section—

- (a) shall identify the land to be abandoned and, if the application applies to only a part of the land subject to the licence or permit, shall include a plan clearly identifying both the part to be abandoned and the part to be retained;
- (b) shall state the date on which the applicant wishes the abandonment to take effect;
- (c) shall give particulars of the operations which have been carried on under the licence or permit on the land to be abandoned; and
- (d) shall be supported by such records and reports in relation to those operations as the Director or the Director of Geological Survey, as the case may be; may require.

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

- (a) where the certificate relates to the whole of the land subject to the holder's

licence or permit, the licence or permit shall be cancelled with effect from the same date; and

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

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

102. (1) Subject to this section, the Director or the Director of Geological Survey, as the case may be; shall cancel a mining right or non-mining right where the holder of the mining right or non- mining right—

- (a) contravenes a condition of the mining right or non-mining right;
- (b) fails to comply with any requirement of this Act relating to the mining right or non-mining right;
- (c) fails to comply with a direction lawfully given under this Act;
- (d) fails to comply with a condition on which any certificate of abandonment is issued or on which any exemption or consent is given under this Act;
- (e) is convicted on account of safety, health or environmental matters;
- (f) in the case of a large-scale mining licence or large-scale gemstone licence, the holder has failed to carry on mining operations in accordance with the proposed plan of mining operations and the gross proceeds of sale of minerals from an area subject to such licence in each of any three successive years is less than half of the deemed turnover application to that licence in each of those years; and;
- (g) is convicted on giving of false information on recovery of ores and mineral products, production costs or sales.

(2) The Director or Director of Geological Survey, as the case may be; may, before cancelling a mining right or non-mining right, suspend the mining right or non-mining

right on such terms and conditions as the Director or Director of Geological Survey, as the case may be; may determine.

(3) The Director or Director of Geological Survey, as the case may be; shall not suspend or cancel a mining right or non-mining right on grounds referred to in any of paragraphs (a) to (c) of subsection (1) unless—

- (a) the Director or Director of Geological Survey, as the case may be; has first served on the holder a default notice specifying the grounds on which the mining right or non-mining right may be suspended or cancelled; and
- (b) the holder has failed within a period of sixty days from the date on which the default notice was served, or such longer period as the Director or Director of Geological Survey, as the case may be; may allow, to remedy the default specified, or where such default is not capable of being remedied, has failed to pay such compensation therefor as the Director or Director of Geological Survey, as the case may be; may determine.

(4) The Director or Director of Geological Survey, as the case may be; shall not suspend or cancel a mining right or non-mining right on the ground referred to in paragraph (d) of subsection (1) if, within a period of sixty days from the date on which the default upon which the default notice was served, or such longer period as the Director or Director of Geological Survey, as the case may be; may allow the holder, in addition to paying the amount overdue, pays interest on that amount at the prescribed rate.

(5) The Director or Director of Geological Survey, as the case may be; may, by notice in writing to a holder of a mining right or non-mining right, cancel the mining right or non-mining right on the occurrence of an event which, as provided by section seven renders the holder ineligible to hold a mining right or non-mining right.

(6) On the cancellation of a mining right or non-mining under this section, the rights of the holder thereunder cease, but the cancellation does not affect any liability incurred before cancellation, and any legal proceedings that might have been commenced or

continued against the holder may be commenced or continued against that holder.

103. Where-

- (a) the holder of a mining right or non-mining right applies, during its currency, for a renewal of the mining right or non-mining right;
- (b) the holder of a prospecting licence applies, during the currency of the licence, for a large scale mining licence over all or part of the prospecting area; or
- (c) the holder of a prospecting permit applies, during the currency of the permit, for a small scale mining licence over all or part of the prospecting area; the current mining right or non-mining right shall continue in force until the date of the renewal or grant for which application is made or until the application is refused.

104. (1) A company that holds a mining right or a mineral processing licence shall not, after the date of the grant of the right or licence, without the written consent of the Minister—

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

(2) On an application for consent under this section, the Minister may call for and obtain such information as is reasonably necessary, but such consent shall not be unreasonably withheld.

(3) For the purposes of this section—

- (a) a person is deemed to have control of a company—
 - (i) if the person or that person's nominee holds, or the person and that person's nominee together hold, a total of fifty per centum or more of the equity shares of the company; or

- (ii) if the person is entitled to appoint, or to prevent the appointment of, half or more than half of the number of Directors of the company; and

(b) " equity shares " has the meaning assigned to it in the Companies Act.

105.(1) Where—

- (a) a mining right terminates by abandonment, curtailment, suspension, cancellation or other action under this Act; or
- (b) the term of a licence granted under Part III expires; the person who was the holder of the mining right immediately before the termination or expiration shall deliver to the Director or Director of Geological Survey and Director of Mines Safety—
 - (i) all records which the former holder maintained under this Act with respect to the licence;
 - (ii) all plans or maps of the area of land that was subject to the mining right and which were prepared by or on the instructions of the former holder; and
 - (iii) such other documents as the Director or Director of Geological Survey and Director of Mines Safety may, by notice given to the former holder, require the former holder to so deliver.

(2) Except as provided by sub-section (1), where a mining right granted under this Act terminates or expires, the person who was the holder of the right shall deliver to the local office all records which the person was required to keep under this Act and all plans or maps of the prospecting or mining operations on such area.

106. (1) A person shall not import or export through the Republic any mineral, ore or mineral product without a permit issued by the Director.

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

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

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

(4) The Director shall consider the following in evaluating an application for an import or export permit:

- (a) production by the applicant of a mineral analysis certificate issued by the Director of Geological Survey;
- (b) a verification report from the Commissioner-General of the payment of the mineral royalty made by the source of the mineral, ore or mineral product;
- (c) security clearance by the Zambia Police Force;
- (d) the production returns made in respect of the mineral, ore and mineral products by the holder;
- (e) the validity of the mining right or mineral processing licence which is the source of the mineral, ore or mineral product; and
- (f) any other requirement or information that the Director may consider necessary.

(5) The Director shall consider—

- (a) the applicants compliance with the requirements of theologizing Radiation Protection Act; and
- (b) such matters as the Minister may, by statutory instrument prescribe in considering an application to import or export minerals, ore or mineral products.

107. (1) A person shall not acquire, store, transport, sell or export any radioactive mineral

except under and in accordance with the terms and conditions of a consent granted by the Minister or in accordance with a large-scale mining licence to mine radioactive minerals.

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

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

(2) The Minister shall, where an application made under subsection (1) meets the requirements of this Act, give consent to the acquisition, storage, transportation, selling or export of the radioactive minerals in respect of which the application is made, on such terms and conditions as the Minister may determine.

(3) The Minister shall reject an application made under subsection (1) where it does not meet the requirements of this Act.

(4) The Minister shall not give consent to the application under this section unless the applicant is in possession of a licence issued by the Radiation Protection Authority under the Ionizing Radiation Protection Act.

109. (1) A holder of a mining right or mineral processing licence shall-

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

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

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

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

(4) A holder of a mining right or mineral processing licence shall indemnify, defend and hold the Republic harmless against all actions, claims, demands, injury, losses or damages of any nature whatsoever, including, without limitation, claims for loss or damage to property or injury or death to persons, resulting from any act or omission in the conduct of mining operations or mineral processing operations by or on behalf of the holder.

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

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

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

111. (1) The Director, the Director of Mines Safety or the Director of Geological Survey

may direct a holder of a mining right or mineral processing licence, at a reasonable time and place specified in the direction, to make available to, or to produce for inspection by, themselves or an authorized officer at the local office any books, accounts, vouchers, documents or records of any kind relating to the mining right or mineral processing licence, and the holder of the mining right or mineral processing licence shall comply with the direction.

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

(a) in the case of an individual—

(i) to a fine of five hundred thousand penalty units or to imprisonment not exceeding five years, or to both; and

(ii) to an additional fine of ten thousand penalty units for each day that the contravention continues; and

(b) in the case of a body corporate—

(i) to a fine of one million penalty units; and

(ii) to an additional fine of fifty thousand penalty units for each day that the contravention continues.

(3) Where the Director, the Director of Mines Safety or the Director of Geological Survey has reason to believe that a person is capable of giving information or producing or making available books or documents relating to minerals obtained, or the value of minerals obtained, the Directors may, by notice in writing served on that person, require that person—

(a) to furnish to them in writing, within the period and in the manner specified in the notice, any such information;

(b) to attend before them or a person specified in the instrument, at a time and place so specified, and there to answer questions relating to minerals obtained or the value of minerals obtained; or

(c) to make available to a person specified in the instrument, at a time and place so specified, books or documents in that person's custody or power relating to

minerals obtained or the value of minerals obtained.

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

(5) A person who contravenes subsection (3) to the extent to which the person is capable of complying with it, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

112. (1) The Director shall maintain or cause to be maintained a Register showing—

- (a) the details of the holders of mining rights and non-mining rights under this Act;
- (b) the type of mining rights and non mining rights granted to persons under this Act;
- (c) the full description, with geographical coordinates, of the areas of land over which mining rights are granted;
- (d) the date of issue and duration of mining rights and non- mining rights;
- (e) the minerals for which the mining rights and non-mining rights are granted;
- (f) any amendments to, transfer or termination of mining rights and non-mining rights;
- (g) every programme of prospecting, mining or mineral processing operations and every amendment thereto;
- (h) every renewal of mining rights and non-mining rights and the conditions of the renewal;
- (i) every certificate of abandonment issued under this Act;
- (j) every local business development plan submitted under this Act; and
- (k) every employment and training plan submitted under this Act.

113. Any person may, upon payment of the prescribed fee, inspect the Register kept

under section one hundred and twelve and may obtain certified copies of any document contained therein.

114. (1) Subject to subsection (2), the Minister may, by statutory order, close to prospecting, any area described in the order in respect of all minerals, or in respect of the minerals named in the order.

(2) The Minister shall not close to prospecting any area covered by a mining right in respect of the minerals to which the mining right relates.

(3) The Director shall enter in the Register a record of any area closed to prospecting.

PART IX

SAFETY, HEALTH AND ENVIRONMENTAL PROTECTION

115. The Director or Director of Geological Survey shall, in deciding whether or not to grant any mining right or mineral processing licence, take into account—

(a) the need to conserve and protect—

(i) the air, water, soil, flora, fauna, fish, fisheries and scenic attractions; and

(ii) the features of cultural, architectural, archaeological, historical or geological interests; and

(b) the need to ensure that any mining or mineral processing activity prevents any adverse socio-economic impact or harm to human health; in or on the land over which the right or licence is sought, and the Director or Director of Geological Survey may, in consultation with the Environmental Council of Zambia, cause such environmental impact studies and other studies to be carried out as the Director or Director of Geological Survey considers necessary to enable such a decision to be made.

116. (1) The conditions subject to which the mining right is granted or renewed shall

include such conditions as may be prescribed by the Minister, by statutory instrument, or as the Minister may, in a particular case, otherwise determine, in relation to

- (a) the conservation and protection of
 - (i) the air, water, soil, flora, fauna, fish, fisheries and scenic attractions;
and
 - (ii) the features of cultural, architectural, archaeological, historical or geological interest; in or on the land subject to the right or licence;
- (b) the protection of human health, in consultation with the Minister responsible for health;
- (c) the rehabilitation, levelling, re grassing, re foresting or contouring of such part of the land over which the right or licence has effect as may have been damaged or adversely affected by prospecting operations, mining operations or mineral processing operations; and
- (d) the filling in, sealing or fencing off of excavations, shafts and tunnels.

(2) Any conditions of the kind referred to in subsection (1)—

- (a) shall conform to specifications and practices established by national standards for the management of the environment as it is affected by mining or mineral processing operations; and
- (b) shall include requirements for the lodgment, by an applicant for the grant or renewal of a licence or permit, of one or more cash deposits for securing the performance by such applicant of all or any such conditions.

117. (1) The Director of Mines Safety in consultation with the Environmental Council of Zambia may cause to be served on a person who is or has been a holder of a mining right or mineral processing licence, a written notice directing the person to take specified steps within a specified time, to give effect to any conditions included in an environmental management plan, or otherwise attaching to the right, for the protection of the environment.

(2) Any person who fails to comply with a direction served under subsection (1) commits

an offence and is liable, upon conviction, to a fine not exceeding one million penalty units.

118. (1) The Director of Mines Safety may, where a person to whom a direction is given under section one hundred and seventeen fails to comply with the direction, cause the necessary steps to be taken to execute it, and the costs thereof and incidental thereto shall be a debt due to the Republic from the person to whom the direction was given and shall be recoverable in any court of competent jurisdiction on behalf of the Republic.

(2) A certificate signed by the Director of Mines Safety stating that a specified amount is the amount of the debt so due shall be admissible as evidence in all courts for the recovery of debts due to the Republic under subsection (1).

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

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

(a) may, within the prescribed period; and

(b) shall, if directed to do so by the Director of Mines Safety by notice in writing, within the period specified in the notice; cause to be removed from the land any mining or mineral processing plant brought onto, or erected upon that land in the course of mining or mineral processing operations carried out under the mining right or mineral processing licence.

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

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

120. (1) Where any mining plant or mineral processing plant is removed under section one hundred and nineteen, the Director of Mines Safety may direct that the mining plant or mineral processing plant be sold by public auction.

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

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

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

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

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

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

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

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

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

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

(2) The Director of Mines Safety shall, where a holder fails, within the time specified in the notice, to cease using the wasteful mining practices or to remedy any damage caused by the wasteful mining practice, cancel the licence.

122. (1) There shall be an Environmental Protection Fund, which shall be administered and managed in such manner as the Minister may, by statutory instrument, prescribe.

(2) There shall be paid into the Fund the amount of any cash deposit referred to in section one hundred and sixteen.

(3) Moneys from the Fund may be applied —

- (a) at the expiry or termination of a licence or permit by way of refund to the holder thereof of the amount of any cash deposits referred to in section one hundred and sixteen that were paid by the holder, to the extent that such moneys are not appropriated under paragraph (b); or
- (b) to the payment of any debt due under subsection (1) of section one hundred and eighteen or under subsection (6) of section one hundred and twenty to the extent that the debt is not paid by or recovered from, the person from whom it is due, and regardless of whether proceedings have been taken against that person for

an offence under this Part or for the recovery of the debt:

Provided that, in the case of any particular debtor, the amount of any moneys expended under this paragraph for or toward the satisfaction of the person's debts shall not exceed the amount of any cash deposits referred to in section one hundred and sixteen that were lodged by that person.

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

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

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

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

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

(5) Liability shall also extend to—

- (a) any harm or damage caused directly or indirectly by the mining operations or mineral processing operations to the economy or social cultural conditions;
- (b) any negative impact on the livelihood or indigenous knowledge systems or technologies of any community;
- (c) any disruption or damage to any production or agricultural system;

- (d) any reduction in yields of the local community;
- (e) any air, water or soil contamination or damage to biological diversity;
- (f) my damage to the economy of an area or community; or
- (g) any other consequential disorder.

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

- (a) the time the harm or damage may take to manifest itself; and
- (b) the time that it may take to correlate the harm with the mining operations, having regard to the situation or circumstance of the person or community affected.

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

- (a) in that persons or group of person's interest;
- (b) in the interest of or on behalf of, a person who is, for practical reasons, unable to institute such proceedings;
- (c) in the interest of, or on behalf of, a group or class of person whose interests are affected;
- (d) in the public interest; and
- (e) in the interest of protecting the environment or biological diversity.

(8) No costs shall be awarded against any of the persons specified under subsection (7) who fail in any action if the action was instituted reasonably out of concern for the public interest or the interest of protecting human health, biological diversity and in general, the environment.

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

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

PART X

GEOLOGICAL SERVICES AND MINERAL ANALYSIS

124. (1) The Director of Geological Survey shall—

- (a) advise the Minister on geological matters;
- (b) undertake the geological mapping of Zambia;
- (c) undertake prospecting and exploration operations on behalf of the Republic;
- (d) be responsible for—
 - (i) granting preliminary investigation rights, prospecting permits, prospecting licences and mineral processing licences;
 - (ii) promotion of value addition to minerals and metals; and
 - (iii) regulating, prospecting, mineral processing and value addition activities;
- (e) provide data concerning the geology and mineral resources of Zambia, and generally assist members of the public seeking information concerning geological matters; and
- (f) maintain such laboratory, library and record facilities as may be necessary for the performance of the functions under this Act.

(2) The Director of Geological Survey shall be responsible for analyzing minerals and mineral products and issuing mineral analysis certificates and valuation certificates in respect of—

- (a) applications for the import or export of minerals, mineral products or samples;
- (b) minerals or mineral products in storage within the Republic; and

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

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

125. The Director of Geological Survey or an authorized officer may, for the purpose of carrying out the geological mapping of Zambia or any part thereof—

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

Provided that:

- (i) the Director of Geological Survey or authorized officer shall not fix any object, post, stone or mark with any walled or fenced garden or orchard without the consent of the owner or occupier thereof;
- (ii) notice in writing of the intention to exercise any of the powers conferred by this subsection shall be given in the Gazette and in a newspaper of general circulation in the area where the land is situated, at least fourteen days before the exercise of the powers, unless the land is State land that has been alienated by the President in accordance with the Lands Act;
- (iii) as little damage and inconvenience as possible shall be caused by the exercise of any of the powers conferred by this subsection; and

(iv) before abandoning any land, all excavations opened shall be backfilled.

126. (1) A person shall not operate -

- (a) a mineral analysis laboratory without an annual mineral analysis laboratory permit granted by the Director of Geological Survey; and
- (b) a geological or mining consultancy firm without an annual consultancy permit granted by the Director of Geological Survey.

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

(3) A person shall apply for a permit under this section in the prescribed manner and form upon payment of the prescribed fee.

(4) In evaluating an application for a permit, the Director of Geological Survey shall take into account—

- (a) the professional qualifications and membership of the key personnel of the laboratory or firm;
- (b) the registration of the firm under the relevant laws;
- (c) the conduct of the firm and its personnel;
- (d) the quality of services to be offered by the laboratory or firm; and
- (e) the applicant's compliance with the relevant requirements of this Act or regulations made under it or any other written law.

PART XI

MINING RIGHTS AND SURFACE RIGHTS

127. (1) A holder of a licence or permit shall not exercise any right under this Act or the licence or permit –

- (a) without the written consent of the appropriate authority, upon

- (i) any land dedicated as a place of burial whether in use or not;
 - (ii) any land containing any ancient monument or national monument, as defined in the National Heritage Conservation Commission Act;
 - (iii) any land which is the site of or within ninety meters of any building or dam owned by the Republic; or
 - (iv) any land forming part of a Government aerodrome as defined in the Air Navigation Regulations made under the Aviation Act;
- (b) without the written consent of the owner or legal occupier thereof or the duly authorized agent—
- (i) upon any land which is the site of or which is within one hundred and eighty meters of any inhabited, occupied or temporarily uninhabited house or building;
 - (ii) within forty five meters of any land which has been cleared or ploughed or otherwise prepared in good faith for growing of farm crops or upon which farm crops are growing;
 - (iii) upon any land which is the site of or is within ninety meters of any cattle dip, tank, dam or any private water as defined in the Water Act; or
 - (iv) upon any land forming part of an aerodrome, other than an aerodrome referred to in sub paragraph (iv) of paragraph (a):
Provided that where any consent required under this subsection is unreasonably withheld, the Director may arrange for arbitration of the matter in accordance with section one hundred and thirty-one;
- (c) upon land occupied as a village, without the written consent of the chief and the local authority for the district in which the village is situated;
- (d) without the written consent of the railway administration, upon any land reserved for the purposes of any railway track or within one hundred meters of any railway track;
- (e) without the written consent of the appropriate authority or the local authority concerned, upon any land within, or within sixty meters of the boundaries of, any city, municipality or district for which a council is established under the

provisions of the Local Government Act;

(f) without—

(i) the written consent of the appropriate authority, upon any land used as a forest nursery or plantation or as a timber depot, sawmill or other installation for working a forest; and

(ii) due compliance with the relevant provisions of the Forests Act, upon any land declared to be a national forest or local forest, as defined in that Act;

(g) upon any street, road or highway, without the written consent of the appropriate authority or the public body which has the control thereof;

(h) upon any land comprised in a National Park or game management area without complying with the Zambia Wildlife Act;

(i) upon any land that, under the Town and Country Planning Act, cannot be developed without permission, unless the requisite permission is first obtained.

(2) Any consent given for the purposes of this section by the Director or the appropriate authority may be given unconditionally or subject to such conditions as are specified in the terms of the written consent.

(3) In this section, "appropriate authority", in relation to any matter, means the Minister responsible for that matter or such public officer as the Minister may authorize to give the requisite consent in that behalf.

128. Subject to the terms of any access agreement, the rights conferred by a licence or permit shall be exercised reasonably and, except to the minimum extent necessary for the reasonable and proper conduct of the operations, shall not be exercised so as to prejudice the interest of any owner or occupier of the land over which those rights extend.

129. Subject to the terms of any access agreement, the owner or occupier of any land within the area of a licence or permit shall retain the right to use and access water and to graze stock upon or to cultivate the surface of the land in so far as such use, grazing or

cultivation does not interfere with the proper working in the area for mining, prospecting or other operations to be carried on under the licence or permit, but shall not erect any building or structure thereon without the consent of the holder of the licence or permit: Provided that where such consent is unreasonably withheld, the Director may grant it.

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

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

131.(1) Where there is any dispute as to—

- (a) whether or not paragraph (b) of subsection (1) of section one hundred and twenty-seven applies in respect of any land, or the withholding of any consent under that subsection;
- (b) the withholding of any consent under section one hundred and twenty-seven; or
- (c) any other matter arising under this Part that is prescribed by the Minister by statutory instrument;

any party to the dispute may by consent of both parties, apply to the Director to determine the dispute or the Director may, require the parties to enter into a submission within the meaning of the Arbitration Act.

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

132.(1) A holder of a mining right shall, on demand being made by the owner or lawful occupier of any land subject to the mining right, promptly pay the owner, or occupier fair

and reasonable compensation for any disturbance of the rights of the owner or occupier and for any damage done to the surface of the land by the operations and shall, on demand being made by the owner of any crops, trees, buildings or works damaged during the course of the operations, pay compensation for the damage.

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

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

(4) No demand made in terms of this section shall entitle the owner or lawful occupier to prevent or hinder the exercise by the holder of rights under the mining right pending the determination of compensation to be paid.

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

(a) upon land that has been declared a local forest or a national forest under the provisions of the Forests Act; or

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

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

(7) A claim for compensation under the provisions of subsection (1) shall be made within

a period of three years from the date when such claim has accrued, failing which, notwithstanding the provisions of any other written law, such claim shall not be enforceable.

PART XII

ROYALTIES AND CHARGES

133. (1) A holder of a large-scale mining licence, large-scale gemstone licence, small-scale mining licence, small-scale gemstone licence or an artisan's mining right shall pay a mineral royalty at the rate of —

- (a) three per centum of the norm value of the base metals produced or recoverable under the licence;
- (b) three per centum of the gross value of the industrial minerals produced or recoverable under the licence;
- (c) three per centum of the gross value of the energy minerals produced or recoverable under the licence;
- (d) five per centum of the norm value of the precious metals produced or recoverable under the licence; or
- (e) five per centum of the gross value of the gemstones produced under the licence.

(2) The Commissioner-General shall charge a mineral royalty against a person who extracts minerals or any person in possession of minerals extracted in the Republic, whether extracted under a mining right or not; and

(3) In this section—

" gross value " means the realized price for a sale free-on-board, at the point of export from Zambia or point of delivery within Zambia:

Provided that if the Commissioner-General considers that the realized price does not correspond to the price that would have been paid for the minerals if they had been sold

on similar terms in a transaction at arm's length, between a willing seller and a willing buyer, a notice may be given to that effect to the licensee, and the amount of the gross value shall be determined in accordance with the mechanism contained in sections ninety-seven A to ninety-seven D of the Income Tax Act; and "norm value" means—

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

134. Subject to section one hundred and forty the mineral royalty payable under this section is due and payable within fourteen days after the end of the month in which the sale of minerals is done.

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

136. The Minister responsible for finance shall, in consultation with the Minister, establish a mineral royalty sharing mechanism for distributing royalty revenues.

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

138. The Income Tax Act shall, with the necessary modification, apply to the collection, assessment, penalizing, enforcement of, and right of appeal with respect to any royalty

imposed under section one hundred and thirty-three of this Act.

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

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

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

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

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

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

(3) In this section—

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

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

- (i) capital expenditure or any expenditure of a capital nature;
- (ii) provision for depreciation;
- (iii) financing charges, including interest on loans and fees and related charges in respect thereof; or
- (iv) agency fees or any other fees or charges not directly or necessarily related to the production and disposal of minerals from the mining area; and "revenue" means the gross value of all sales or other disposal of minerals.

141.(1) Where, for any reason, it is impractical to assess the amount of any royalty due, the Commissioner General may assess, and the holder of the licence shall be liable to pay, a provisional royalty.

(2) Where provisional royalty is assessed under this section, and the amount of the royalty is ascertained at the end of any period of adjustment prescribed under this Act, the holder of the licence shall be liable for any balance or, as the case may require, shall be re-paid any excess sum paid by that holder on the provisional assessment.

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

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

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

143. (1) There shall be payable to the Republic by a holder of licence or permit, an annual fee of such amount as may be prescribed, or as may be calculated in the manner prescribed, by the Minister, by statutory instrument.

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

PART XIII ADMINISTRATION

144. (1) There shall be a Director of Mines, who shall be a public officer and who shall have and may exercise and perform the powers and functions conferred or imposed upon the Director by or under this Act or any other written law, and who shall generally supervise and regulate the proper and effectual carrying out of the provisions of this Act.

(2) There shall be a Director of Mines Safety, who shall be a public officer and who shall have and may exercise and perform the powers and functions conferred or imposed upon the Director of Mines Safety by or under this Act or any other written law, and who shall have general responsibility for matters concerning the safety of prospecting, exploration, mineral processing and mining operations.

(3) There shall be a Director of Geological Survey, who shall be a public officer and who

shall have and may exercise and perform the powers and functions conferred or imposed by or under this Act or any other written law.

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

(5) The Director may, by statutory notice, designate any public officer to be an authorized officer for the purpose of the exercise and performance of all or any of the functions conferred on an authorized officer by any of the provisions of this Act.

(6) Every authorized officer who, by virtue of the authorized officer's designation as such, has power to enter any land or demand production of any records or documents shall be provided with a certificate of appointment, which shall be prima facie evidence of the officer's designation.

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

(8) The Minister may attach the Director, Director of Mines Safety or Director of Geological Survey or any authorized officer to prospecting, mining or mineral processing operations, border posts or mineral product trading centers in order to enforce the provisions of this Act.

145. There shall be—

- (a) a Central Mining Cadaster Office which shall be responsible for receiving and processing applications for mining rights; and
- (b) regional mining cadaster offices in the Provinces responsible for receiving applications for mining rights and forwarding the applications for processing by the Central Mining Cadaster Office.

146. (1) Where any office referred to in subsection (1), (2) or (3) of section one hundred and forty-four is vacant or the holder of the office is, owing to absence or inability to act from illness or other cause, unable to exercise or perform the powers and functions of office, another person shall be appointed to exercise or perform the powers and functions of that officer.

(2) A holder of any office referred to in subsection (1) may, by statutory notice, and subject to such conditions, qualifications or exemptions as may be prescribed therein, delegate to any public officer the exercise or performance of any of the powers and functions conferred or imposed on the holder by this Act:

Provided that the office-holder may exercise or perform a power or function notwithstanding that the office-holder has delegated the exercise or performance thereof to some other person.

147. (1) The Director, the Director of Mines Safety, the Director of Geological Survey or an authorized officer may, at any time enter upon any prospecting area or mining area, or any premises or working thereon or thereunder, for the purpose of—

- (a) generally inspecting the area, premises or workings and examining prospecting or mining operations or the treatment of minerals being performed or carried out;
- (b) ascertaining whether or not the provisions of this Act or the conditions of a mining right or non-mining right are being complied with;
- (c) ascertaining whether or not any nuisance exists upon the area, land or mine or in the premises or workings;
- (d) giving directions, and taking steps, to enforce any provision of this Act or to abate or remove any nuisance;
- (e) taking soil samples or specimens of rocks, ore concentrates, tailings or minerals situated upon the area, premises or workings for the purpose of examination or assay;
- (f) examining books, accounts, vouchers, documents, maps, drilling logs, or records of any kind; or

(g) obtaining any information which the Director may consider necessary for the administration of this Act.

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

(3) Nothing in subsection (2) shall authorize any person to enter upon any land referred to in subsection (1) of section one hundred and twenty-seven without obtaining any consent required to be obtained under that section.

(4) The Director, the Director of Mines Safety, the Director of Geological Survey or an authorized officer may, at any reasonable time, inspect and take copies of any books, accounts, vouchers, documents, maps, drill logs or records of any kind, kept by a holder of a mining right or non-mining right, under or for the purposes of this Act or the mining right or non-mining right.

(5) A holder of a mining right or non-mining right shall provide such reasonable assistance, as is required to enable the Director, the Director of Mines Safety, the Director of Geological Survey or an authorized officer to exercise or perform any power or function under this section.

148. Any person who, without reasonable excuse, hinders or obstructs the Director, the Director of Mines Safety, the Director of Geological Survey or an authorized officer in the exercise or performance of any power or function under this section commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

149. The Attorney General may demand, sue for, recover and receive all royalties, fees, dues, rents or payments which may become due in respect of any mining right or mineral

processing licence or otherwise under the provisions of this Act.

150. (1) There shall be a Mining Advisory Committee, which shall advise the Minister, the Director or the Director of Geological Survey in relation to the matters prescribed by or under this Act and such other matters in connection with the administration of this Act as may be referred to it by the Minister.

(2) The provisions of the First Schedule shall apply to the composition, and the powers and functions, of the Committee.

(3) The Minister, the Director or the Director of Geological Survey shall, prior to exercising any power conferred upon them under this Act—

- (a) to refuse to grant or renew a licence or permit;
- (b) to terminate, suspend or cancel a licence or permit;
- (c) to amend the terms or conditions of any licence or permit;
- (d) to determine any appeal that lies to the Minister; or
- (e) to grant a mining right or non-mining right; as the case may be, refer the matter to the Mining Advisory Committee for its advice.

(4) The Mining Advisory Committee, shall in considering a matter submitted to it under subsection (3), consult any person, party or other stakeholder in the area to which the mining right or non-mining right relates who may be affected by the grant, termination, suspension, cancellation or renewal of the mining or non-mining right.

(5) Where the Mining Advisory Committee advises the Minister, Director or the Director of Geological Survey pursuant to subsection (3) and the Minister, Director or the Director of Geological Survey proposes to dispose of that matter other than in accordance with the advice of the Committee, the Minister, Director or the Director of Geological Survey shall before disposing of the application, furnish the Committee with a statement in writing of the Minister's, the Director's or the Director of Geological Survey's reasons for doing so.

(6) Where a matter referred to in subsection (3) is an application for the grant or renewal of a licence or permit, a copy of any statement of the Minister or the Director under that subsection shall be furnished to the applicant.

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

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

- (a) for or in connection with the administration of this Act;
- (b) for the purpose of any legal proceedings;
- (c) for the purpose of any investigation or inquiry conducted under this Act;
- (d) to any person being a consultant to the Government or public officer who is authorized by the Minister to receive such information; or
- (e) for, or in connection with, the preparation by or on behalf of the Government of statistics in respect of prospecting or mining:

Provided that a disclosure authorized by this paragraph shall be no more specific in detail than is necessary for the purpose of the statistics concerned.

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

PART XIV

APPEALS

152. (1) Any person aggrieved by the decision of the Director—

- (a) to refuse the grant or renewal of a licence or permit granted under this Act;
- (b) as to the conditions imposed on any licence or permit held by the person;
- (c) to cancel or suspend any licence or permit held by the person;
- (d) to refuse to consent to the transfer of any licence or permit held by the person;
- (e) to refuse to grant or renew a gemstone sales certificate;
- (f) to refuse the grant of an artisan's mining right for which the person has applied, or the conditions imposed on an artisans mining right held by the person; or
- (g) on any matter prescribed by the Minister by statutory instrument; may appeal to the Minister, who shall determine the appeal, consistent with the provisions of this Act and the circumstances of the case.

(2) A determination of the Minister under this section may include such directions to the Director or Director of Geological Survey as the Minister considers appropriate for the disposal of the matter, and the Director or Director of geological Survey shall give effect to the directions.

153. (1) Any person aggrieved by the decision of the Minister may appeal to the High Court, which shall determine the appeal, having regard to the provisions of this Act and the circumstances of the case.

(2) A determination of the High Court under this section may include such directions to the Minister as the Court considers appropriate for the disposal of the matter, and the Minister shall give effect to the directions.

154. (1) A holder of any mining right or non-mining right who is aggrieved by any obligation imposed by a direction of the Director under section one hundred and nine may appeal to the Minister, who shall determine the appeal, consistent with the provisions of this Act and the circumstances of the case.

(2) A determination of the Minister under this section may include such directions to the Director as the Minister considers appropriate for the disposal of the matter, and the Director shall give effect to the directions.

155. Whenever the Minister, the Director or any authorized officer makes a decision against which an appeal lies by virtue of a provision of this Part, the licensee or applicant affected by the decision shall be informed by notice in writing of the decision and of the reasons therefor and any such notice shall inform the person so notified of that person's right of appeal.

PART XV GENERAL PROVISIONS

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

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

157. (1) Any person who—

- (a) in any application under this Act;
- (b) in any report, return or affidavit submitted for the purposes of this Act; or
- (c) in purported compliance with a requirement under this Act to furnish any information, make any statement or answer any question; furnishes information or makes any statement that is false or misleading in a material particular, commits an offence.

(2) Any person who, in pursuance of a requirement under this Act, produces or makes available a document or any books, that the person knows to be false or misleading in a

material particular commits an offence.

(3) Any person who, with intent to deceive—

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

(4) A person convicted of an offence under this section shall be liable—

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

158. If a body corporate or un-incorporate body is convicted of an offence under this Act, every person who

- (a) is a director of, or is otherwise concerned with the management of, the body corporate or un-incorporate body; and
- (b) knowingly authorized or permitted the act or omission constituting the offence; shall be deemed to have committed the same offence and may be proceeded against and punished accordingly.

159. From the commencement of this Act, the Minister shall not enter into any agreement relating to the grant of a large-scale mining licence or any other mining right.

160. (1) A development agreement which is in existence before the commencement of this Act shall, notwithstanding any provision to the contrary contained in any law or in the development agreement, cease to be binding on the Republic from the commencement of this Act.

(2) For purposes of subsection (1)—

" development agreement " means an agreement relating to the grant of a large-scale mining licence entered into between the Government and a mining company under section nine of the repealed Act.

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

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

- (a) any matter which, in accordance with the provisions of this Act, may be provided for by statutory instrument or may be prescribed;
- (b) the proper and efficient working of prospecting areas, mining areas and mines;
- (c) the avoidance of wasteful mining practices or wasteful metallurgical practices;
- (d) the inspection of books and documents;
- (e) the regulation of all work and machinery connected with prospecting, mineral processing or mining so far as safety and the protection of life are concerned;
- (f) the regulation of all matters relating to sanitation and health, including the establishment of cemeteries, in regard to mining areas;
- (g) the reporting of cases of accident and death occurring on any prospecting area or mining area in connection with prospecting, mining or mineral processing operations;
- (h) the demarcation of prospecting and mining areas;
- (i) the circumstances and procedures for referring any matter for determination by an expert;
- (j) the manner of making and dealing with applications under this Act;
- (k) fees to be paid by a holder of a mining right or non-mining right;
- (l) the making of applications for permits for mineral analysis laboratories and geological or mining consulting firms and the regulation of the laboratories

and firms; and

(m) fees and annual charges to be specified under this Act.

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

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

162. (1) The Mines and Minerals Act, 1995, is hereby repealed.

(2) Notwithstanding subsection (1), the Second Schedule applies in relation to the savings and transitional provisions.

(3) The Minister may, by statutory instrument, amend the Schedules to this Act.

FIRST SCHEDULE
(Section 150)
MINING ADVISORY COMMITTEE

1. (1) The Mining Advisory Committee shall consist of the following members appointed by the Minister:

- (a) the Director, who shall be the Chairperson;
- (b) the Director of Geological Survey;
- (c) the Director of Mines Safety;
- (d) the head of the cadaster unit, who shall be the Secretary and ex-officio member of the Committee; and
- (e) one representative each from—
 - (i) the Ministry responsible for the environment;
 - (ii) the Ministry responsible for land;
 - (iii) the Ministry responsible for finance;
 - (iv) the Ministry responsible for labor;
 - (v) the Ministry responsible for community development;
 - (vi) the Attorney General's Chambers; and
 - (vii) the Zambia Development Agency;
 - (viii) the Citizen Economic Empowerment Commission;
 - (ix) the Environmental Council of Zambia; and
 - (x) the Geological Society of Zambia.

(2) The members of the Committee shall elect the Vice- Chairperson from among their number;

(3) The Minister shall in appointing the members of the Committee ensure that—

- (a) thirty percent of the members are women; and
- (b) where the Chairperson is a man, the Vice-Chairperson shall be a woman.

2. (1) The Minister shall nominate an alternate member for each of the members referred

to in clauses (a), (b), (c) and (d) of subparagraph (1) of paragraph 1.

(2) The Ministers responsible for the environment, land, finance, labor, community development and the Attorney General, shall each nominate an alternate member for the members nominated to represent them.

(3) An alternate member shall act in place of the substantive member where the member is for any reason unable to attend a meeting.

3. (1) Subject to the other provisions of this Act, a member of the Committee, other than the members referred to in clauses (a) to (c), shall hold office for a period of three years from the date of appointment and may be re-appointed for a further period of three years.

(2) Subject to the other provisions of this Part, a member shall, on the expiration of the period for which the member is appointed, continue to hold office until another member is appointed to succeed that member.

(3) The office of a member becomes vacant—

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

(4) A member may resign from office by giving not less than one month's notice in writing to the Minister.

(5) The Minister shall, where the office of a member becomes vacant, appoint another member in place of the member who vacates office, and such member shall hold office for the remainder of the term.

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

(2) The Committee shall meet for the transaction of business, at least once in every three months at such places and times as the Chairperson may determine.

(3) The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Committee and shall call a meeting upon receiving a written request from at least five members of the Committee.

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

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

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

(a) the Chair person;

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

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

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

(8) Except for the members referred to in clauses (a) to (f) of paragraph 1, where a member is for any reason unable to attend any meeting of the Committee, the member may, in writing, nominate another person from the same organization to attend such meeting in that member's stead and such person shall be considered to be a member for the purpose of that meeting.

(9) The Committee may invite any person whose presence in its opinion is desirable to attend and to participate in the deliberations of a meeting of the Committee but such person shall have no vote.

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

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

5. (1) The Committee may, for the purpose of performing its functions under this Act, constitute any sub-committee and delegate to any such sub-committee such of its functions as it thinks fit.

(2) The Committee may appoint as members of a sub- committee constituted under subparagraph (1), persons who are or are not members of the Committee and such persons shall hold office for such period as the Committee may determine.

(3) A sub-committee of the Committee may regulate its own procedure.

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

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

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

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

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

(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of sub-paragraph (1), unlawfully publishes or communicates the information to any other person, commits an offence and is liable,

upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

SECOND SCHEDULE

(Section 162 (2))

SAVINGS AND TRANSITIONAL PROVISIONS

- 1.** In this Schedule— " repealed Act" means the Mines and Minerals Act, 1995.

- 2.** (1) A holder of a mining right or a non-mining right shall, within a period of one year from the commencement of this Act, apply for a mining right or non-mining right, as the case may be, in accordance with the provisions of this Act: Provided that the Minister or Director, as the case may be, shall only grant a licence for the unexpired period for which it was granted under the repealed Act.

(2) For the avoidance of doubt, all mining rights and non-mining rights granted under the repealed Act shall cease to be valid one year after the commencement of this Act.

- 3.** A holder of a mining right or mineral processing licence who, at the commencement of this Act, is carrying on mining operations or mineral processing operations shall, within ninety days from the commencement of this Act, apply to the Director of Mines Safety for an annual operating permit in accordance with the provisions of this Act.

- 4.** A person operating any mineral analysis laboratory or a geological or mining consultancy firm shall, within six months from the commencement of this Act, apply for a permit in accordance with the provisions of this Act.