

THE UNITED REPUBLIC OF TANZANIA

THE MINING ACT

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Dodoma,
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PART I

PRELIMINARY PROVISIONS

1. Short title.
2. Application.
3. Disapplication to petroleum.
4. Interpretation.

PART II

GENERAL PRINCIPLES

5. Ownership of minerals and government lien.
 - 5A. Declaration of mining controlled areas.
5. Authority required for prospecting or mining.
6. Mineral rights and exclusivity.
7. Restriction on grant of mineral rights.
8. Mineral rights transferable.
9. State participation.
10. Review and renegotiation of development agreements.
11. Repealed.
12. Joint and several obligations.
13. Priority between competing applications.
14. Applications for mineral rights by tender.
15. Exclusive areas for primary licensees.
16. Specified gemstone.
17. Offences relating to unauthorised trading of minerals.
- 18A Restriction on exportation or domestic use of minerals.

PART III

ADMINISTRATION

18. Role of Minister.
19. Commissioner for Minerals.
20. Establishment of Mining Commission.
21. Functions of Commission.
22. Committees of Commission.
23. Executive Secretary.

- 24. Appointment of staff of Commission.
- 25. Provisions relating to disclosure of information.
- 26. Mines Resident Officer.
- 27A. Geological survey of Tanzania.
- 27B. Geological survey, mapping and prospecting.
- 27C. Establishment of Tanzania Gem and Minerals Houses. 27D. Establishment of National Gold and Gemstone Reserve. 27E. Establishment of Government Minerals Warehouse.
- 27F. Establishment of National Mineral Resources Data Bank
- 27G. Mining Cadastre.
- 27H. Indemnity.

PART IV

MINERAL RIGHTS

DIVISION A

- 27. Application for prospecting licence.
- 28. Prospecting licence by tender.
- 29. Minimum expenditure.
- 30. Condition for grant of prospecting licence.
- 31. Grant, renewal and of prospecting licence.
- 32. Notification of grants.
- 33. Content of prospecting licence.
- 34. Rights of holder of prospecting licence.
- 35. Obligations of holder of a prospecting licence.
- 36. Repealed.
- 37. Repealed.

DIVISION B

Special Mining Licence and Mining Licence

ii) Applications for Special Mining Licence and Mining Licence

- 38. Applicants.
- 39. Repealed.

ii) Special Mining Licence

- 40. Application for special mining licence.

41. Grant of special mining licence.
42. Duration of special mining licence.
43. Content of special mining licence.
44. Renewal of special mining licence.
45. Rights of holder of special mining licence.
46. Obligations of holder of special mining licence.
47. Amendments of special mining licence by holder.

(iii) Mining Licence

48. Application for mining licence.
49. Grant of mining licence.
50. Rights of holder of mining licences.
51. Obligations of holder of mining licences.
52. Renewal of mining licence.

DIVISION C

Primary Licences

53. Application for primary mining licence.
54. Grant and validity of primary mining licence.
55. Renewal of primary mining licence.
56. Allocation of primary mining licences to mine in exclusive primary area.
57. Conversion of primary mining licences to mining licences.

DIVISION D

Mineral Processing, Smelting and Refining Licences

58. Mineral right holder to set aside minerals for processing, smelting or refining.
59. Application and grant of licence for processing minerals.
60. Application and grant of licence for smelting or refining minerals.

DIVISION E

Supplementary provisions affecting mineral rights

61. Surrender of land subject to mineral right.
62. Suspension and cancellation of mineral rights.
63. Abandonment of land subject to mineral rights.
64. Appeals.
65. Penalty for failure to pay royalty.

66. Extension of mineral rights during applications.
67. Enlargement of mineral right.
68. Holder of certain mineral right suspending mining operations.
69. Maximum area for mineral rights.
70. Allocation of mining licence by tender.
71. Termination of mining licence where production is insufficient.

PART V

LICENCES FOR DEALING IN MINERAL OR MINERALS

(i) Dealer licence

72. Application for dealer licence.
73. Grant of dealer licence.
74. Duration and renewal of dealer licence.
75. Rights of holder of dealer licence.
76. Holder to keep records and accounts.
77. Minimum turnover requirements.
78. Termination of dealer licence for default.

(ii) Broker Licence

79. Application for broker licence.
80. Grant of broker licence.
81. Duration and renewal of a broker licence.
82. Rights of holder of broker licence.
83. Holder to keep records and accounts.
84. Termination of broker licence for default.
85. Prohibition against dealing in certain minerals.

(iii) Minerals Import Permit

- 86A. Minerals Import Permit
- 86B. Regulations on importations of minerals

(iv) Lapidary Licencee

- 86C. Lapidary licence
- 86D. Application for large lapidary licence
- 86E. Grant of large lapidary licence
- 86F. Duration of large lapidary licence and renewal
- 86G. Rights and obligations of holder of large lapidary licence
- 86H. Termination of large lapidary licence

- 86 I. Application for small lapidary licence
- 86J. Grant of small lapidary licence
- 86K. Duration and renewal of small lapidary licence
- 86L. Rights and obligation of small lapidary licence
- 86M. Termination of small lapidary licence

PART VI

ROYALTIES, FEES AND OTHER CHARGES

- 86. Royalties.
- 87. Payment in lieu of royalties.
- 88. Provisional assessment of royalties.
- 89. Sorting fees.
- 90A. Clearance centres.
- 90. Prohibition on disposal of minerals.
- 91. Charges in respect of mineral rights and licences.
- 92. Recovery of fees.

PART VII

GENERAL PROHIBITIONS, RESTRICTIONS, REPORTS AND RIGHT OF ENTRY

- 93. Repealed.
- 94. Restriction of rights of entry of holder of mineral right.
- 95. Rights under mineral right to be exercised reasonably.
- 96. Compensation, relocation and resettlement.
- 97. Removal of minerals.
- 98. Wasteful practices.
- 99. Reports, records and information.
- 100A. Storage of raw minerals.
- 100B. Sorting and valuation.
- 100C. Control over removal of raw minerals.
- 100D. Handling of mineral concentrates.
- 100E. Regulation over use of stabilization clauses.
- 100F. Plough-back of profits from minerals sector.
- 99. Authorised officer's power of entry.

PART VIII

LOCAL CONTENT, CORPORATE SOCIAL RESPONSIBILITY AND INTEGRITY PLEDGE

- 100. Provision of goods and service by Tanzania entrepreneurs.
- 101. Training and employment of Tanzanians.
- 102. Training and technology transfer.
- 103. Corporate social responsibility.
- 104. Integrity pledge.

PART IX

ENVIRONMENTAL PRINCIPLES AND LIABILITIES

- 105. Compliance with environmental principles.
- 106. Pollution damage.
- 109. Liability of licence holder for pollution damage.
- 110. Liability for pollution damage caused without a licence
- 111. Claiming of damages.
- 112. Claiming compensation for pollution.
- 113. Jurisdiction.

PART X

FINANCIAL PROVISIONS

- 114. Funds of commission
- 115. Financial year.
- 116. Budget.
- 117. Accounts and audit.
- 118. Annual report.

PART XI

DISPUTES SETTLEMENT

- 119. Commission may decide disputes.
- 120. Enforcement of Commission orders.
- 121. Appeal to High Court.
- 122. Rules.

PART XII

REGISTRATION OF MINERAL RIGHTS

- 123. Registers of Mineral Rights.
- 124. Evidence provisions.

PART XIII

MISCELLANEOUS PROVISIONS

- 125. Radioactive minerals.
- 126. Listing with stock exchange.
- 127. Transfer of control over company.
- 128. Insurance and indemnities.
- 129. Regulations.
- 130. Obstruction of holder of mineral rights.
- 131. Miscellaneous offences.
- 132. Offences committed by body corporate.

PART XIV

REPEAL AND SAVINGS PROVISIONS

- 133. Repeal and savings.

SCHEDULE

THE MINING ACT

An Act to re-enact with substantial amendments the provisions that regulate the law relating to prospecting for minerals, mining, processing and dealing in minerals, to granting, renewal and termination of mineral rights, payment of royalties, fees and other charges and any other relevant matters.

1. This Act may be cited as the Mining Act.
2. This Act shall apply to Tanzania Mainland.
3. This Act does not apply to exploration for or production of petroleum
- 4.-(1) In this Act, unless the context otherwise requires-

"authorized officer" means the Commissioner, Chief Inspector, Inspector, or a public officer appointed under section 25 or a person designated as such by the Commissioner under subsection (2) of section 25;

"building materials" includes all forms of rock, stones, gravel, sand, clay, soils, volcanic ash or cinder, scoria, pumice, or other minerals being used for the construction of buildings, roads, dams, aerodromes, or similar works but does not include gypsum, limestone being burned for the production of lime, or material used for the manufacture of cement;

"Chief Inspector" means the Chief Inspector of Mines appointed by the Minister under section 25;

"Commission" means the Mining Commission established under section 21;

"Commissioner" means the Commissioner for Minerals appointed under section 20;

"company" means a company incorporated under the Companies Act;

"development agreement" means an agreement made between the Government and the

holder of a mineral right with intention to conduct mining operations under a special mining licence;

“dispute” means all disputes as referred to under section 119;

“energy minerals” means a group of minerals comprising of coal, peat, uranium, thorium and other radioactive minerals;

“entitled applicant” means an applicant to whom subsection of section 39 applies;

“Executive Secretary” means the Executive Secretary of the Commission appointed under section 24;

“free carried interest” means the interest derived from holding shares of which the holder enjoys all the rights of a shareholder but has no obligation to subscribe or contribute equity capital for the shares;

“gems” means cut and polished or engraved gemstone;

“gemstone” means-

- (a) diamonds, emerald and other gem varieties of beryl, opal,
- (b) ruby, sapphire, turquoise, chrysoberyl, spinel, topaz, tourmaline, zircon, obsidian, peridot, moonstone, chrysophase, amethyst;
- (c) other gem varieties of quartz, garnet, zoisite, tanzanite, cordierite and scapolite in rough and uncut form;
- (d) any other rough and uncut stone which may be declared to be a gemstone by the Minister by notice in the *Gazette*:

Provided that, prospecting operations, the primary purpose of which is to search for diamonds located in a kimberlite pipe, shall not be treated as prospecting for gemstones for the purpose of Part IV and diamonds located in, and recovered from, a kimberlite pipe shall not for the purpose of section 7 or Part IV be treated as gemstones;

“Geological Survey of Tanzania” means the Geological Survey of Tanzania as established under this Act;

“gold” means all gold other than refined gold and includes gold in the raw or natural state, gold in ore, gold at any stage of its extraction from its ores or other minerals including uriferous amalgam, gold slimes, pot scrapings and slags containing gold, gold-bearing concentrates and sweepings from gold reduction works;

“holder” means the person in whose name a Mineral Right is registered;

“in default” means in breach of the provisions of this Act or the regulations or any condition of a Mineral Right;

“industrial minerals” means a group of minerals comprising of phosphate, kaolin, lime, gypsum, dolomite, diatomite, bentonite, zeolite, trona, pozzollana, vermiculite, salt, beach sands and other minerals other than metallic minerals, normally used in industries;

“Inspector” means an Inspector of Mines appointed by the Minister under section 25;

“Integrity pledge” means a formal and concrete expression of commitment by mineral right holder to abide with ethical business practices and support a national campaign against corruption, prepared by the Commission;

“kimberlitic diamonds” means diamonds of gem or industrial quality formed and found in a primary rock intrusion or extrusion from the earth’s crust known as kimberlite pipe;

“land to which this Act applies” means-

- (a) land in Tanzania; (including land beneath the territorial sea and other territorial waters); and
- (b) the seabed and subsoil of the continental shelf;

“lawful occupier” in relation to any land means the lawful occupier of land in accordance with the Land Act, and the Village Land Act;

“licensed broker” means a person holding a broker licence granted under section 81;

“licensed dealer” means a person holding a dealer licence granted under section

“licensing activities” include receiving, processing and validating applications, and granting and issuing of mineral rights;

“licensing authority” means the Commission and includes any other person authorized by the Commission to perform licensing activities;

“licensing officer” includes a licensing authority or any other public officer authorized or appointed to perform licensing activities on behalf of the licensing authority;

“local content” means the quantum of composite value added to, or created in, the economy of Tanzania through deliberate utilization of Tanzanian human and material resources and services in the mining operations in order to stimulate the development of capabilities of indigenous of Tanzania and to encourage local investment and participation;

“metallic minerals” means a group of minerals comprising of gold, silver, copper, iron, nickel, cobalt, tin, tungsten, zinc, chromium, manganese, titanium, aluminium, platinum group of metals and other metallic minerals;

“mine” when used as a noun, means any place, excavation or working in or on which any operation connected with mining is carried on together with all buildings, premises, erections and appliances belonging or appertaining thereto, above or vertically below the ground within horizontal boundaries of the licence, the purpose of mining, treating or preparing minerals, obtaining or extracting any mineral or metal by any mode or method or for the purpose of dressing mineral ores but does not include a smelter or a refinery;

“mine” when used as a verb, means intentionally to mine minerals, and includes any operations directly or indirectly necessary therefore or incidental thereto, including such processing of minerals as may be required to produce a first saleable product, and “mining” shall be construed accordingly;

“mineral” means any substance, whether in solid, liquid or gaseous form, occurring

naturally in or on the earth, or in or under the seabed formed by or subject to a geological process, but does not include petroleum or surface water;

“Mineral Cadastral” means the Mineral Cadastre established pursuant to section 27G;

“Mineral Concentrate” means minerals or associated minerals won through the process of direct extraction of minerals from the ore which need further processes to extract metals and bi-product such as:

a) minerals in the category of precious and base metals-

(i) gold;

(ii) silver;

(iii) copper;

(iv) iron;

(v) nickel;

(vi) zinc and

(vii) lead;

b) minerals in the category of platinum group metals-

i) platinum;

ii) rhodium; and

iii) iridium;

c) minerals in the category rare earth elements, transition element which includes-

(i) ytterbium;

(ii) beryllium;

(iii) tantalum; and

(iv) lithium;

d) minerals in the category of non-metallic minerals-

(i) graphite; and

(ii) sulphur and bi-product from smelting;

d) minerals in the category of industrial and ceramic minerals –

(i) limestone, gypsum, clays and refractory minerals;

(ii) agro-minerals for fertilizers such as phosphate;

(iii) coal; and

(iv) soda ash;

e) minerals in the category of alloy metals-

(i) manganese;

(ii) chromium;

(iii) cobalt;

(iv) molybdenum; and

(v) vanadium;

f) minerals in the category of light metals-

(i) aluminium;

(ii) magnesium; and

(iii) titanium;

g) minerals in the category of gemstones-

(i) diamond;

(ii) tanzanite;

(iii) and all other gemstones; and

(iv) any other mineral found in the periodic table.

“Mineral and Gem Houses” means the Mineral and Gem Houses established under section 27C;

“Minerals Import Permit” means a Minerals Import Permit issued under section 86A;

“mineral processing” means the process of separating commercial value minerals from their ores;

“mineral ore” means the naturally occurring material in the form of rocks or sediments from which economically valuable minerals can be extracted;

“Mineral rights” means licences referred to in section 7;

“mining area” means an area of land subject to a special mining licence, a mining licence, or a primary mining licence;

“Mining Cadastre” means the central online system for processing applications for mining rights and mineral processing licences established pursuant to section 27G;

“mining licence” means a mining licence for medium scale mining operation, whose capital investment is between US\$100,000 and US\$ 100,000,000 or its equivalent in Tanzanian shillings;

“mining operations” means operations carried out in the course of undertaking mining activities;

“Minister” means the Minister responsible for mining affairs;

“Online transactional mining flexicadastre portal” means a web based service to facilitate submission of mineral right applications, online payments, administration of mineral rights and exchange of mineral rights information including communication of decisions electronically;

“person” means a natural person or a body corporate or other juridical person;

“petroleum” has the meaning ascribed to it in the Petroleum Act;

“prescribed form” means all forms applicable under this Act including an electronic forms available within the online transactional mining cadastre portal;

“Primary mining licence” means a licence for small scale mining characterized by minimal machinery or technology of an initial capital for investment which does not exceed US dollars 5 million or its equivalent in Tanzania Shilling;

“processing area” means an area whether within or outside the mining area used for the purpose of milling, beneficiating and dressing mineral ores, and including smelting and refining of minerals;

“prospect” means to search for any mineral by any means and to carry out any such works and remove such samples as may be necessary to test the mineral bearing qualities of land, and includes the conduct of reconnaissance operations;

“prospecting area” means an area of land subject to a prospecting licence;

“prospecting licence” means a prospecting licence granted under Division A of Part IV;

“prospecting operations” means operations carried out in the course of prospecting;

“raw minerals” means minerals which are not yet processed, beneficiated or value added, and this meaning shall be subject to regulations governing value addition and shall be without prejudice to the meaning contained in Mineral Development Agreements;

“regulations” means regulations made under this Act;

“reserved area” means-

(a)an area reserved in accordance with section 15 for applications for mineral rights by tender; or

(b)an area reserved in accordance with section 16 exclusively for the grant of primary licences to mine minerals under Division C of Part IV;

“resident mines officer” means an officer appointed as such under section 25

“small scale miner” means a holder of a primary mining licence;

“special mining licence” means a licence for large scale mining operation, whose capital investment is not less than US\$100,000,000 or its equivalent in Tanzanian shillings;

“specified gemstone” means gemstone specified under section 17;

“tailings” means materials left over after the mineral ore is crushed and

valuable minerals are extracted from it;

“Tax Authority” means the Tanzania Revenue Authority, established under the Tanzania Revenue Authority Act;

“tax expenditure” means the quantified value of tax incentives granted to a company by the Government.”

“vacant area” means an area of land which is not the subject of a mineral right, or an area subject to such a mineral right which the applicant has entered into an agreement to purchase, or in respect of which he has an enforceable option to purchase;

(a) a processing area;

(b) a pending application for a mineral right;

A reference in this Act to “land subject to a mineral right” is a reference to an area of land in respect of which a mineral right and or a licence for a Processing Area has been granted and subsists.

PART II GENERAL PRINCIPLES

5.-(1) The entire property in and control of all minerals in, and under or upon any land, rivers, streams, water courses throughout Tanzania, area covered by territorial sea, continental shelf or the exclusive economic zone is the property of the United Republic and shall be vested in the President in trust for the People of Tanzania.

(2) The Government shall have lien over any material, substance, product or associated products extracted from the mining operations or mineral processing.

5A.-(1) The President may, after consultation with the relevant local authorities through the Minister responsible for local government, and by Order in the *Gazette* declare any area of Tanzania which is subject to mining operations to be a controlled area.

(2)The Order made under this section shall prescribe conditions applicable to the controlled area, and upon such Order being made, the conditions specified in the order shall apply to the specified area and any contravention of such conditions shall be an offence.

(3)For the purpose of subsections (1) and (2), the Commission shall recommend to the Minister regulations applicable to mining operations and activities in the controlled areas.

6.-(1) A person shall not on or in any land to which this Act applies, prospect for minerals or carry on mining operations or processing operations except under the authority of a mineral right granted or deemed to have been granted, under this Act. The activities carried on by the Agency in the course of geological mapping shall not be treated for the purpose of subsection (1) as prospecting for minerals or mining operations.

(2)Any person who contravenes subsection (1), commits an offence and on conviction is liable-

(a)in the case of an individual, to a fine of not exceeding ten million shillings but not less than five million shillings or to imprisonment for a term not exceeding three years or both;

(b)in the case of a body corporate, to a fine of not less than fifty million shillings.

(3)Any minerals obtained in the course of unauthorized prospecting or mining or processing operations including equipment involved in such operations and any minerals possessed without a proper permit shall be forfeited to the Government by the Commission and auctioned through relevant Government Asset Auctioning Procedures.

7.-(1) The following mineral rights may be granted under this Act-

(a)under Division A of Part IV-

(i)a prospecting licence;

(ii)a gemstone prospecting licence;

(b)under Division B of Part IV-

(i)a special mining licence;

(ii)a mining licence;

(c) under Division C of Part IV- primary mining licence;

(d)under division D of Part IV-

(i)a processing licence;

(ii) a smelting licence;

(iii) a refining licence.

(2) The licensing authority may, upon consent of the mineral right holder, grant more than one mineral right over the same mining area as follows-

(a) a mining licence or primary mining licence for building materials may be granted in an area subject to a mineral right for minerals other than building materials;

(b) a primary mining licence for gemstones may be granted in an area subject to a prospecting licence for minerals other than gemstones.

(3) Notwithstanding the foregoing provision of this section, nothing in this Act shall prevent any person engaged in the construction of tunnels, road, dams, aerodromes and similar public works of an engineering nature from utilizing as building materials any minerals derived from a source approved by the Minister in writing.

(4) The Minister shall not, for the purposes of subsection (3), approve a source in a mining area.

(5) The Minister may, at any time withdraw the approval given under subsection (3).

8.-(1) Mineral rights shall not be granted to-

(a) an individual who-

(i) is under the age of eighteen years;

(ii) not being a citizen of the United Republic, has not been ordinarily resident in the United Republic for a period of four years or such other period as may be prescribed;

(iii) is an un-discharged bankrupt, having been adjudged or, otherwise declared bankrupt under any written law whether under the laws of the United Republic or elsewhere, or enters into any agreement or scheme of composition with creditors, or takes advantage of any law for the benefit of debtors; or

(i) has been convicted, within the previous ten years, of an offence of which dishonesty is an element, or of any offence under this Act, any related or similar Act, or any similar written law in force outside the United Republic and has been sentenced to imprisonment or to a fine exceeding twenty million shillings.

(a) a company-

(i) which has not established a physical and postal address in the United Republic for the purpose of serving legal notices and other correspondences;

(ii) unless, such company is incorporated under the Companies Act and intends to carry

out the business of mining under a mining licence;

(iii) which is in liquidation other than a liquidation that forms part of a scheme for the reconstruction or amalgamation of the holder;

(iv) which has among its directors or shareholders any person who would be disqualified in terms of paragraph (a)(iii) and (iv).

(2) A Primary Mining Licence for any minerals shall not be granted to an individual, partnership or body corporate unless-

(a) in the case of an individual, the individual is a citizen of Tanzania;

(b) in the case of a partnership, it is composed exclusively of citizens of Tanzania;

(c) in the case of a body corporate, it is a company and-

(i) its membership is composed exclusively of citizens of Tanzania;

(ii) its directors are all citizens of Tanzania;

(iii) control over the company, both direct and indirect, is exercised, from within Tanzania by persons all of whom are citizens of Tanzania.

(2) Notwithstanding subsection (2), the Commission may, on recommendation of the Resident Mines Officer and upon satisfying itself that a Primary Mining Licence holder needs a technical support which cannot be sourced within Tanzania, allow the Primary Mining licence holder to contract a foreigner for the technical support.

(3) The provisions of subsection (1)(a)(iii) and (iv) shall apply in relation to engagement of foreign technical support.

(4) A mining licence for mining gemstones shall only be granted to applicants who are Tanzanians.

(5) Notwithstanding subsection (5), where the Minister after consultation with the Commission determines that the development of gemstone resources in an area of land subject to a mineral right, is most likely to require specialized skills, technology or high level of investment, he may grant a mining licence for gemstones to the applicant, where he is satisfied that the licence will be held by that person together with a non-citizen whose undivided participating shares amount to not more than fifty percent either alone, in the case of one person or in the aggregate in the case of more than one person.

(6) A mineral rights shall not be granted to an individual who, or to any partnership or body corporate or to any one of the partners, shareholders or directors of the partnership or body corporate which is in default in another mineral rights or in an expired or cancelled mineral rights:

Provided that-

- (a) an individual who or partnership or body corporate which is in default; or
- (b) a partner, shareholder or director of a partnership or body corporate which is in default, may be granted a mineral right upon rectifying the default.

(7) A prospecting licence shall not be granted to an individual, partnership, body corporate, or any one of the partner, shareholders or directors of the partnership or body corporate who owns more than twenty other valid prospecting licences, unless the cumulative prospecting areas of such other prospecting licences do not exceed 2,000 square kilometres.

9.-(1) The holder of a mineral right, or where the holder is more than one person, every person who constitutes the holder of that mineral right, shall, subject to subsection (2), be entitled to assign the mineral right or, as the case may be, an undivided proportionate part thereof to another person.

(2) No Special Mining Licence, Mining Licence or any undivided proportionate part thereof shall be assigned to another person without a written consent of the licensing authority.

(3) Notwithstanding subsection (2), consent of the licensing authority shall not be required for an assignment to-

- (a) an affiliate, where the obligations of the affiliate are guaranteed by the assignor or by a parent company approved by the licensing authority; and, for the purposes of this paragraph, an affiliate means any company which directly or indirectly controls or is controlled by the applicant or which is controlled directly or indirectly by a company which directly or indirectly controls the applicant;
- (b) a bank or other financial institution by way of mortgage or charge given as security for any loan or guarantee in respect of mining operations;
- (c) another person who constitutes the holder of the special mining licence or, as the case may be, the mining licence.

(4) The consent of the licensing authority where it is required under subsection (2), shall not be given unless-

(a) there is a proof that substantial developments have been effected by the holder of mineral right in accordance with the programme of mining operations under sections 41(3) and 49(2);

(b) there is a Tax Clearance Certificate issued by the Tanzania Revenue Authority; and

(c) there is a proof that other charges, fees and payables have been cleared.

(2) Application for assignment or transfer of mineral rights shall be made in a prescribed form and accompanied by a prescribed fee.

10.-(1) In any mining operations under a mining licence or a special mining licence the Government shall have not less than sixteen percent non-dilutable free carried interest shares in the capital of a mining company depending on the type of minerals and the level of investment.

(2) In addition to the free carried interest shares, the Government shall be entitled to acquire, in total, up to fifty percent of the shares of the mining company commensurate with the total tax expenditures incurred by the Government in favour of the mining company.

(3) Acquisition by the Government of shares in the Company shall be determined by the total value of the tax expenditures enjoyed by the mining company.

11. Notwithstanding the provisions of this Act and any other written law, all development agreements concluded prior to the coming into force of this section shall, subject to the provisions of the Natural Wealth and Resources Contracts (Review and Renegotiation of Unconscionable Terms) Act, remain in force.

12. Repealed by Act No. 7 of 2017

13. Where a mineral right is granted to, or held by, more than one person, any obligation under this Act, the Regulations or a relevant development agreement which is to be observed and performed by the holder shall be a joint and several obligation of the persons who constitute the holder save where the terms and conditions of that mineral right or a relevant development agreement otherwise provide.

14.-(1) Where two or more persons, not acting together as partnership or joint venture, each make a specified application for the grant of a mineral right over the same area of land, or over areas of land, parts of which are the same area, the person whose application was first registered under this Act shall, if the circumstances in subsection (3) are satisfied, be granted the mineral right for which he has applied.

(2) Where two or more specified applications are received on the same day by an authorized officer or officers during the hours of business appointed by the Commission for the receipt of applications, those applications shall be deemed to have been received simultaneously and priority between them shall be determined by the licensing authority in such manner as may be prescribed in the regulations.

(3) The circumstances referred to in subsection (1) and (2) are that the applicant is –

(a) not disqualified for a grant of the mineral right by section 8;

(b) entitled, otherwise than as provided in this section, to a grant of the mineral right over the area of land for which application is made.

(4) For the purpose of this section, a specified application means an application for the grant of-

(a) a prospecting licence;

(b) a special mining licence or a mining licence by a person who is not an entitled applicant;

(c) a primary mining licence.

(d) a processing licence, smelting licence, or refining licence

15.-(1) Where the Minister considers that it is in the public interest to do so he may, by notice in the *Gazette* or in a local newspaper, designate any vacant area other than an area already forming part of a reserved area as an area for which he invites applications by tender for-

(a) a prospecting licence or licences;

(b) a mining licence or licences; or

(c) a special mining licence or licences.

(2) The area of a prospecting licence or part thereof which has been expired by the holder in accordance with section 32 shall, within a period of four months from the date of expiry, be deemed to have been designated under this section as an area for which the Minister may-

(a) invite application by tender,

(b) declare such an area to be exclusively reserved for allocation to small scale miners in accordance with the procedures stipulated under section 16, or on the expiry of the four months period, the area or areas shall fall vacant.

16. Where the Minister, after consultation with the Commission, determines that it would

be in the interests of the orderly development of the mining industry in Tanzania, he may, by order published in the *Gazette*

- (a) designate any vacant area; or
- (b) declare any area deemed to have been designated under paragraph (b) of subsection (2) of section 15, as an area exclusively reserved for prospecting and mining operations by persons holding primary mining licences issued under Division C of Part I

17. Where the Minister after consultation with the Commission, determines that it would be in the interests of the development of the gemstone industry in Tanzania, he may by order published in the *Gazette*, designate any gemstone to be a specified gemstone for special conditions on mining trading and disposal.

18.-(1) Subject to subsection (2), no person other than a mineral right holder, a licensed dealer, a licensed broker or a holder of Minerals Import Permit shall have in his possession, or dispose of, any mineral or minerals, unless as an employee, agent or contractor, he has acquired and holds the mineral or minerals for or on behalf of a mineral right holder, a licensed dealer, a licensed broker or a holder of Minerals Import Permit.

(2) Subsection (1) shall not be construed to restrict any member of the public to have in his possession, or dispose of common salt and building materials which are commonly used for domestic purposes.

(3) No person shall export from Tanzania any mineral or minerals unless he is a mineral right holder, or a licensed dealer, and-

- (a) in the case of a mineral right holder, has paid the royalty or provisional royalty due on such mineral or minerals;
- (b) has paid the inspection fee due on such mineral or minerals;
- (c) in the case of a licensed dealer has made the payment or provisional payment in lieu of royalty due on the export of the mineral or minerals; or
- (d) in any case, has given security to the satisfaction of the Commission for the payment of any such amount.

(3) Any person who contravenes the provisions of subsections (1) and (3) commits an offence and on conviction is liable-

- (a) in the case of an individual, to a fine of not less than five million shillings but not exceeding ten million shillings or to imprisonment for a term of not less than one year but not exceeding three years or to both;

(b) in the case of a body corporate, to a fine of not less than twenty million shillings but not exceeding fifty million shillings.

18A. Notwithstanding any provision of this Act, a person shall not remove or cause to be removed mineral or minerals from a mine for the purpose of export or domestic use unless that person fulfills the conditions specified under section 90A.

PART III ADMINISTRATION

19. The Minister shall be responsible for:

- (a) preparing policies, strategies and legislative framework for exploration and exploitation of mineral resources with special reference to establishing national priorities having due regard to the national economy;
- (b) monitoring the implementation of laid down government policies on minerals;
- (c) monitoring the operations of all bodies or establishments with responsibility for minerals and report to the Cabinet;
- (d) promoting mineral resources of Tanzania for research and exploitation;
- (e) monitoring the issuance by the Commission of licenses for mining activities in Tanzania; and
- (f) providing support for the creation of a favourable environment for private investment in the mining industry.

20. There shall be appointed by the President a suitably qualified public officer to be a Commissioner for Minerals who shall be responsible for advising the Minister on all matters relating to the mining sector.

21.-(1) There is established a Commission to be known as the Mining Commission.

(2)The Commission shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging or disposing of its movable and immovable property;
- (c) borrowing and lending;
- (d) entering into contracts; and
- (e) performing all such other things or acts for the proper execution of its functions which may lawfully be performed by a body corporate.

(3) Notwithstanding preceding provisions of this section, the Attorney General shall have the right to intervene in any suit or matter instituted by or against the Commission.

(4) Where the Attorney General intervenes in any matter pursuant to subsection (3), the provisions of the Government Proceedings Act, shall apply in relation to the proceedings of that suit or matter as if it has been instituted against the Government.

(5) The Commission shall have the duty to notify the Attorney General of any impending suit or intention to institute a suit or matter for or against the Commission.

(6) The common seal of the Commission shall be kept in such custody as the Commission may direct and shall not be used except by the order of the Commission.

(7) The Commission shall be composed of:

(a) the Chairman;

(b) the Permanent Secretary Treasury;

(c) the Permanent Secretary from the Ministry responsible for Lands;

(d) the Permanent Secretary from the Ministry responsible for Defence;

(e) the Permanent Secretary from the Ministry responsible for Local government;

(f) the Chief Executive Officer of the Federation of Miners Associations of Tanzania;

(g) Deputy Attorney General;

(h) two eminent persons who possess proven knowledge and experience in the mining sector one of whom shall be a woman.

(8) The Chairman and the Commissioners referred under paragraph (h) of subsection (7) shall be appointed by the President and shall serve on full time basis.

(9) Members referred to in paragraphs (b) (c), (d), (e), (f) and (g) shall discharge their responsibilities under this Act on part-time basis but they shall have equal rights with full-time members.

(10) The First Schedule shall have effect on the proceedings of the meeting of the Commission and other matters related to it.

22. The functions of the Commission shall be to:

(a) supervise and regulate the proper and effective carrying out of the provisions of this Act;

(b) issue licences under this Act;

(c) regulate and monitor the mining industry and mining operations in Tanzania;

(d) ensure orderly exploration and exploitation of mineral resources in Tanzania and the optimal utilization of mineral resources at all mining operations in accordance with the

- mining policies and strategy;
- (e) resolve disputes arising out of mining operations or activities;
 - (f) carry out inspections or investigations on health and safety issues related to mining operations or activities;
 - (g) advise the Government on, and ensure compliance with all applicable laws and regulations related to the health and safety of persons involved in mining operations or activities;
 - (h) monitor and audit environmental management, environmental budget and expenditure for progressive rehabilitation and mine closure;
 - (i) counteract minerals smuggling and minerals royalty evasion in collaboration with relevant Government authorities;
 - (j) advise the Government on all matters relating to the administration of the mineral sector with main focus on monitoring and auditing of mining operations to maximize Government revenue;
 - (k) promote and conduct research and development in the mineral sector that will lead to increased Government revenue;
 - (l) examine and monitor implementation of feasibility reports; mining programs and plans; annual mining performance reports; and environmental management plans and reports of mining companies;
 - (m) secure a firm basis of comprehensive data collection on national mineral resources and technologies of exploration and exploitation for national decision making;
 - (n) issue, suspend and revoke exploration and exploitation licences and permits;
 - (o) ensure general compliance with the laid down standards in mining operations, laws and the terms and conditions of mineral rights;
 - (p) monitor and audit quality and quantity of minerals produced and exported by large, medium and small scale miners; to determine revenue generated to facilitate collection of payable royalty;
 - (q) audit capital investment and operating expenditure of the large and medium scale mines for the purpose of gathering taxable information and providing the same to the Tanzania Revenue Authority (TRA) and other relevant authorities;
 - (r) sort and assess values of minerals produced by large, medium and small scale miners to facilitate collection of payable royalty;
 - (s) produce indicative prices of minerals with reference to prevailing local and international markets for the purpose of assessment and valuation of minerals and

assessment of royalty;

(t) verify the forecasted capital investment specified under section 41 for purposes of ascertaining mis-invoicing or any other form of malpractice in respect of mining licence and special mining licence holders and providing the same to the Tanzania Revenue Authority within twelve months after the issuance of such licences;

(u) supervise and monitor the implementation of local content plan and corporate social responsibility by a mineral right holder; and

(v) provide, upon request, information to a mineral right holder or any other person who is engaged in mining operations.

23.-(1) For the purpose of facilitating performance of the functions of the Commission, it may form such number of committees to advise on matters relating to mining and minerals.

(2) The committees shall perform the functions assigned to it by the Commission upon such terms and restrictions as the Commission may determine.

(3) The provisions of the First Schedule shall apply with necessary modification to the proceedings of committees.

24.-(1) There shall be the Executive Secretary of the Commission who shall be appointed by the President.

(2) The Executive Secretary shall-

(a) exercise supervisory powers over the management of officers and staff of the Commission; and

(b) be responsible for the day to day management of the affairs of the Commission and carrying out directives of the Commission.

(3) The Executive Secretary shall be the Chief Executive Officer of the Commission and shall hold office for a term of five years and shall be eligible for re- appointment.

25.-(1) The Commission may appoint such officers and staff for the proper discharge of the functions of the Commission under such terms and conditions of the public service as the Commission may determine.

(2) The Minister in consultation with the Commission may appoint a Chief Inspector of Mines, Resident Mines Officers, Mines Resident Officers, Inspectors of Mines and other public officers as may be required for the better performance of functions under this Act.

(3) Officers and staff shall, in the performance of their functions be responsible to the

Commission.

26.-(1) No information furnished, or information in a report submitted, pursuant to section 100 by the holder of a mineral right shall, for so long as that mineral right or another mineral right granted to the holder has effect over the land to which the information relates be disclosed, except with the consent of the holder of the mineral right.

(2) Nothing in subsection (1) shall operate to 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 to receive such information;

(e) for or in connection with, the preparation by or on behalf of the Government of statistics in respect of prospecting or mining; or

(f) for purposes of measures taken in accordance with any written laws aimed at preventing or combating corruption, prevention of financing of terrorism or organized crimes.

(3) Any person who contravenes subsection (1) commits an offence and is liable on conviction-

(a) in the case of partnership or community group, to a fine not less than two hundred million shillings or to imprisonment for a period not exceeding twelve months, or to both; and

(b) in the case of a body corporate, to a fine not less than one billion shillings.

27.-(1) The Commission shall station in every mining site where mining operations take place a Mines Resident Officer who shall be responsible for:

(a) monitoring the day to day production process at the mining site;

(b) verifying records, information and production reports kept by the holder of mineral right;

(c) authorizing entry into the minerals storage facility at the mine on behalf of the Government; and

(d) oversight over mineral removals and transportation to Government Minerals Warehouse.

(2) For the purpose of the discharge of functions under this Act the Mines Resident Officer shall have all the powers conferred to authorized officers under section 101.

27A.-(1) There is established the Geological Survey of Tanzania.

(2) The Geological Survey of Tanzania shall be responsible for all matters related to geological activities other than prospecting, exploration and mining activities, and in particular shall-

- (a) advise the Minister on geological matters;
- (b) undertake the geological mapping of Tanzania, and may for that purpose, engage contractors;
- (c) provide data concerning the geology and mineral resources of Tanzania, and generally assist members of the public seeking information concerning geological matters;
- (d) maintain such laboratory, library and record facilities as may be necessary for the discharge of its functions;
- (e) provide geo-scientific advice, information and data to the Government;
- (f) acquire geo-scientific data and information;
- (i) maintain, process, archive and disseminate national geo-scientific data and information;
- (j) collect, arrange and maintain geo-scientific books, records, publications, rock or mineral or fossil or core samples for research, learning and future reference;
- (k) conduct geo-technical and geo-environmental studies;
- (l) monitoring and management of geo-hazard;
- (m) support large and small scale miners on geo- scientific services;
- (n) maintain laboratory, library and record facilities as may be necessary for the discharge of the functions;
- (o) provide geo-scientific laboratory services;
- (p) promote investment in mining industry through dissemination of geo-data, information and maps; and
- (q) perform any other function as may be assigned by the Government, this Act or any other written law.

(3) For an orderly discharge of duties and exercise of powers of the Geological Survey of Tanzania, there shall be the Chief Executive Officer who shall be appointed by the President.

(4) The Chief Executive Officer shall be responsible for the day to day discharge and

exercise of powers of the Geological Survey of Tanzania.

27B. The Geological Survey of Tanzania shall, for the purpose of carrying out the geological mapping of Tanzania-

- (a) enter upon any land for the purpose of carrying out such mapping;
- (b) take soil samples or specimens of rocks, concentrate, tailings or minerals from any licence or permit for purpose of examination or assay;
- (c) break up the surface of the land for the purpose of ascertaining the rocks or mineral within or under it;
- (d) dig up any land or fix any post, stone, mark or object to be used on the surface of that land; and
- (e) carry out any operations which may be carried out in accordance with this Act.

27C.-(1) The Commission shall establish such number of the Tanzania Mineral and Gem Houses, which shall comprise of the Minerals Auction Centre, the Minerals Exchange, and the Minerals Clearing House.

(2) A person who wishes to buy or dispose minerals shall buy or dispose minerals at the Mineral and Gem Houses established under subsection (1).

(3) Notwithstanding subsection (2), a holder of mining licence and special mining licence may dispose of mineral extracted from their respective licence areas at any market of choice.

(4) Where there is no Mineral and Gem Houses the Commission shall- establish buying stations whether mobile or stationed within the area where there is active mining activities;

(a) issue broker's licence in respect of specific buying station or stations.

(5) The Minister may, for the purpose of this section and by notice published in the Gazette, exempt certain minerals from the requirement of this section.

(6) The Minister shall, in consultation with the Commission and Minister responsible for finance, make regulations for the operation and running of the Minerals Auction Centre, the Minerals Exchange, and the Minerals Clearing House.

27D.-(1) The Minister responsible for finance shall, after consultation with the Commission and the Governor of the Bank of Tanzania and by order published in the *Gazette*, establish the National Gold and Gemstone Reserve into which shall be deposited:

- (a) all royalties required to be paid in refined minerals;
 - (b) all minerals impounded or otherwise confiscated in accordance with the law;
 - (c) minerals purchased by the Government in accordance with the provisions of this Act;
 - (d) dividend minerals paid under any arrangement or agreement; and
 - (e) any minerals otherwise acquired by the Government.
- (2) The National Gold and Gemstone Reserve established under this section shall be under the control of the Bank of Tanzania.

27E.-(1) The Minister responsible for finance shall after consultation with the Commission and the Governor of the Bank of Tanzania, establish the government Minerals Warehouse which shall be the central custodian of all the metallic minerals and gemstones won by mineral rights holders in Tanzania.

Provided that, for small scale miners the requirement of this section shall be optional.

(2) The Minister responsible for finance in consultation with the Minister shall make regulations for the transfer and deposit of minerals by the mineral right holders in the Government Minerals Warehouse, and for the attendant procedures and fees.

27F.-(1) The Geological Survey of Tanzania shall establish under it the National Mineral Resources Data Bank.

(2) All mineral data generated under this Act shall be owned by the Government.

(3) The mineral right holder shall submit to the Geological Survey of Tanzania the following accurate mineral data-

- (a) geological maps and plans;
- (b) geophysical and geochemical raw data;
- (c) processed and interpreted data or maps;
- (d) technical reports;
- (e) core samples and its mineral exploration data base; and
- (f) any other information as may be required.

(4) The mineral right holder shall give copies of data generated under subsections (2) and (3) to the Geological Survey of Tanzania free of charge.

(5) The Geological Survey of Tanzania may permit the mineral right holder to market the right of use of data on terms to be agreed.

(6) The mineral right holder shall not export any core, cuttings, rock samples, soil, fluid samples or any other data collected without the written authorisation of the Geological Survey of Tanzania.

(7) The Geological Survey of Tanzania shall prescribe rules for the better compliance with the requirements under this section, including the keeping of records and submission of reports and returns.

27G.-(1) There shall be established a Mining Cadastre which shall-

- (a) receive and process applications for mineral rights and mineral processing licences;
- (b) administer mineral rights and mineral processing licences; and
- (c) maintain public cadastral maps and cadastre registers.

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

(3) The Minister may after consultation with Minister responsible for lands, make regulations to prescribe the operationalization and management of the Mining Cadastre.

27H. An officer of the Commission or committee shall not be liable for anything done or omitted to be done in good faith in the performance or purported performance of any function vested in that officer by, or in accordance with an appointment made under this Act.

PART IV

MINERAL RIGHTS

DIVISION A:

Prospecting Licence

28.-(1) An application may be made under this Division of this Part for a prospecting licence for minerals falling under any of the following groups:

- (a) metallic minerals;
- (b) energy minerals;
- (c) gemstone excluding kimberlitic diamond;
- (d) kimberlitic diamond;
- (e) industrial minerals; or

(f) building materials.

(2) An application for a prospecting licence including an application in respect of land in an area reserved for applications by tender for prospecting licences shall be made to the Commission and shall be in the prescribed form and accompanied by the prescribed fee.

(3) An application for the grant of a prospecting licence-

(a) shall contain-

(i) in the case of an individual, his full name and nationality, physical and postal addresses, and attach his recent passport size photograph and a copy of his national identity card, passport, driving licence or voters registration card”;

(ii) in the case of a body corporate, its corporate name, place of incorporation, names and nationality of directors including copies of their identity cards;

(iii) in the case of more than one person, particulars referred in items (i) and (ii) of each of that person;

(b) shall state the type of minerals and its relevant group, as indicated in subsection (1);

(c) shall state the size of the area of land over which it is sought, which shall not exceed the maximum area prescribed as provided under section 70, and be accompanied by a plan of the area;

(d) shall contain a statement giving particulars of the financial and technical resources available to the applicant;

(e) shall contain a statement on the procurement plan of goods and services available in the United Republic;

(f) shall contain details of any Mineral Right previously granted to the applicant;

(g) a statement of integrity pledge in a prescribed form; and

(h) local content plan.

(4) Every application for a prospecting licence made in the prescribed form by an applicant who has tendered to the licensing authority the prescribed fee, shall be registered immediately in the register maintained for such applications under this Act.

(5) Each application registered under subsection (4) shall be assigned a number and the date on which it was received and shall be indicated on an official receipt handed to the applicant or his authorized agent or sent to the applicant by registered mail.

29.-(1) An application for a prospecting licence in an area designated as an area for

which applications for such a licence are invited by tender shall-

(a) be in the prescribed tender form and accompanied by the prescribed tender fee; and
(b) subject to the terms and conditions of the invitation to tender, include the matters required to be included in applications by section 28.

(2) Applications made under subsection (1) shall be submitted to the Commission.

(3) On receipt of a report from the Commission, the licensing authority shall consider the competing bids and shall select the bid which is most likely to promote the expeditious and beneficial development of the mineral resources of the area having regard to-

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

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

(c) the previous experience of the applicant in the conduct of prospecting and mining operations, and the successful application shall be treated as an application under section 14 which has priority over any other application and the applicant shall be notified accordingly.

30.-(1) The amount per square kilometre which the holder of a prospecting licence shall expend annually on prospecting operations shall be prescribed and for that purpose the Regulations may prescribe different amounts in respect of prospecting licences for building materials and gemstones mineral groups from those for prospecting licences for metallic, energy, kimberlitic diamonds or industrial minerals group.

(2) The expenditure per square kilometre specified in subsection (1) shall be different amounts for the different periods specified under subsection (1) of section 32 including making provision for a lump sum payment.

31. An applicant for a prospecting licence whose application was properly made under section 28 and an applicant whose application has been declared to be a successful application under section 29 shall be entitled to the grant of a prospecting licence for which he has applied unless-

(a) he is disqualified from holding a prospecting licence under section 8;

(b) he is the holder of another mineral right and is, in respect of that other mineral right, in default;

(c) the financial and technical resources available to the applicant are not adequate;

(d) the area of land for which he has made application or part thereof is subject to another mineral right;

(e) the area of land for which application has been made, or any part of it, covers or includes an area designated by the Minister under section 16 as an area reserved for prospecting and mining operations by persons holding primary mining licences;

(f) the area of land for which application has been made covers or includes an area of land for which application has been made by another person who has priority over the applicant under section 14;

(g) in a case to which section 29 applies, the area of land for which application has been made, or any part of it, covers or includes an area deemed to have been designated or designated by the Minister under section 15 as an area in respect of which applications for the grant of a mineral right shall be invited by tender.

32.-(1) Where an applicant is entitled to the grant of a prospecting licence under section 31, the licensing authority shall issue to the applicant the prospecting licence as provided in that section and the licence so issued shall subsist for the following periods-

(a) for the initial prospecting period for which the applicant has applied, a period not exceeding four years;

(b) where application for renewal has been made by the holder in the prescribed form, for the first period of renewal for which the applicant has applied, a period not exceeding three years;

(c) a prospecting licence shall not be renewable after the second period of renewal;

(d) where a prospecting licence is no longer renewable the prospecting area shall revert to the Government and thereafter a prospecting licence in respect of the said prospecting area shall be issuable to a local mining company to be designated by the Minister upon approval by the Cabinet; and

(e) any company desiring to carry out prospecting activities in respect of prospecting areas over which a prospecting licence has been issued to a local mining company, shall conclude an arrangement with the company after approval by the Cabinet.

(2) A holder of a licence who intends to renew the licence shall, within one month before the expiry date of the licence, submit an application for renewal of the prospecting licence.

33.-(1) The licensing authority shall, within four weeks from the date on which an

application under section 28 for the grant of a prospecting licence was registered in consideration of the application, notify the applicant that the application has been granted or rejected: Provided that where the application has been rejected under this section, the licensing authority shall, in notifying the applicant give reasons to that effect.

(2) The applicant shall, within four weeks of the date of notification under subsection (1) give notice to the licensing authority of his willingness to accept the proposed licence and pay the fees stipulated in the notification.

(3) Where, within the time specified under subsection (2) the applicant fails to inform the licensing authority of his acceptance of the proposed licence, the application shall be treated as having been withdrawn.

(4) The licensing authority shall, within four weeks from the notice given by the applicant, grant the application and cause the licence to be issued to the applicant.

(5) Not later than six weeks from the date on which application is made for the renewal of a prospecting licence, the licensing authority shall, in accordance with subsection of section 32, grant the application or-

(a) in a case of default, serve on the holder a notice of the kind referred to in paragraph

(a) of subsection (3) of section 32; or

(b) where the holder has failed to provide the licensing authority with a sufficient description of the areas he is relinquishing in order to satisfy the requirements of subparagraph (i), or (ii), of paragraph (b) of subsection (3) of section 32 serve a notice on the holder calling on him within a reasonable time to satisfy those requirements;

(c) where the holder has not satisfied the licensing authority as required under paragraph (b), require the holder to provide further description of the area for relinquishment; or

(d) in the case of an application under paragraph (d) of section 32, if the conditions for the grant of an extension in accordance with that provision have not been satisfied, serve a notice on the holder stating why.

34.-(1) A prospecting licence shall-

(a) state the names, postal and physical address and status of the licensee;

(b) state the date of the grant of the licence and the period for which it is granted;

(c) state the commencement and expiry dates;

- (d) include a description and plan of the area of land over which it is granted;
- (e) append the prospecting programme and its financial expenditure estimate;
- (f) state in the procurement plan of goods and services available in the United Republic;
- (g) state whether the licence applies to:
 - (i) metallic minerals group and the type of mineral;
 - (ii) energy minerals group and the type of mineral;
 - (iii) gemstone minerals group and the type of mineral;
 - (iv) industrial minerals group and the type of mineral;
 - (v) building materials group and the type of mineral;
 - (vi) kimberlitic diamonds.

(2) In determining the date for the commencement of the period for which the licence is granted, the licensing authority may 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.

35.-(1) Subject to the provisions of this Act and the Regulations, a prospecting licence confers on the holder the exclusive right, to carry on prospecting operations in the prospecting area for minerals to which the licence applies.

(2) In the exercise of the rights conferred by this section, the holder may, subject to section 95, either himself or by his employees or agents, enter upon the prospecting area and erect camps and temporary buildings and may erect installations in any water forming part of the prospecting area.

(3) The holder of a prospecting licence for gemstones, who in the course of carrying out prospecting operations under the prospecting licence recovers gemstones, may dispose of the gemstones by sale to a licensed dealer and shall promptly following any such sale submit particulars thereof to the Commission, showing the name and business address of the dealer, a description of the stones, their weight and a copy of a receipt given by the purchaser for the price received.

(4) The holder of a prospecting licence for gemstones who recovers gemstones in the course of prospecting operations shall for the purpose of holding the gemstones and selling them pursuant to subsection (3) be deemed to be a mineral right holder.

36.- (1) The holder of a prospecting licence shall-

- (a) commence prospecting operations within a period of three months, or such further

period as the licensing authority may allow, from the date of the grant of the licence or such other date as is stated in the licence on commencement period;

(b) give notice to the licensing authority of the discovery of any mineral deposit of potential commercial value;

(c) adhere to the prospecting programme appended to the prospecting licence; and

(d) expend on prospecting operations not less than the amount prescribed.

(2) A person who-

(a) contravenes any provision of subsection (1), shall be in default;

(b) makes false statement or presentation to the licensing authority regarding the obligations of the licensee under subsection (1) commits an offence, and on conviction is liable to a fine of not less than twenty million shillings.

37. Repealed by Act No. 7 of 2017 s. 16.

38. Repealed by Act No. 7 of 2017 s. 16.

DIVISION B:

Special Mining Licence and Mining Licence

(i) Applications for Special Mining Licence and Mining Licence

39.-(1) Subject to section 42 or 51, as the case may be, the holder of a prospecting licence hereinafter in this Division of this Part referred to as an “entitled applicant” is entitled-

(a) on application to the Commission, pursuant to section 41, to the grant of a special mining licence.

(b) on application to the Commission pursuant to section 50 to the grant of a mining licence, for the mining within the prospecting area of minerals to which the prospecting licence applies.

(2) Where a person who is not an entitled applicant has made an application to the licensing authority for a special mining licence or mining licence in the prescribed form and tendered the prescribed fee, the application shall be registered immediately in the

register maintained for such applications in accordance with this Act.

(3) The application registered under subsection (2) shall be assigned a number, date and time at which it was received shall be indicated on an official receipt and handed to the applicant or his authorized agent or sent to the applicant by registered mail.

(4) Every applicant applying for a special mining licence or a mining licence under the provisions of this Act shall submit copies of his application to such persons as the Minister may prescribe in the Regulations.

40. Repealed Act No. 23 of 2015 s. 41.

(i) Special Mining Licence

41.-(1) An application for a special mining licence shall be in the prescribed form and shall be accompanied by the prescribed fee.

In addition to the requirements in subsection (3), an application for a special mining licence shall identify the relevant prospecting licence and provide a full description of the land within the prospecting area for which the special mining licence is sought and a plan of the proposed mining area drawn in the manner and showing particulars as the Commission may reasonably require.

(2) Every application for a special mining licence shall include or be accompanied by:-

- (a) a statement of the period for which the licence is sought;
- (b) a comprehensive statement by the applicant, so far as he knows, of the mineral deposits in the proposed area, and details of all known minerals proved, estimated or inferred, ore reserves and mining conditions;
- (c) 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;
- (d) proposed plan for relocation, resettlement and compensation of people within the mining areas in accordance with the Land Act;
- (e) the applicant's environmental certificate issued in terms of the Environment Management Act;
- (f) details of expected infrastructure requirements;
- (g) the procurement plan of goods and services available in the United Republic;

- (h) proposed plan with respect to the employment and training of citizens of Tanzania and succession plan for expatriate employees, if any as may be required by the Employment and Labour Relations Act;
 - (i) a statement of integrity pledge in a prescribed form;
 - (j) local content plan; and
 - (k) such other information as the Minister may reasonably require for the disposal of the application.
- (3) An application under this section shall be submitted to the Commission.

42.-(1) Where upon satisfying itself that the applicant for special mining licence complies with all requirements, the Commission shall submit the application with all relevant documents to the Minister for tabling to the Cabinet for approval.

(2) Upon approval by the Cabinet, the Commission shall grant a special mining licence to the applicant of the minerals licence in respect of the area of the land requested in application if –

- (a) it is established, or may be reasonably inferred, that there are sufficient deposits or reserves of minerals proposed to be mined to justify their commercial exploitation;
- (b) 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 and shall cover only that area required for surface mining and treatment facilities, and proved, indicated and inferred reserves;
- (c) judged by international 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) taking account of the size and nature of the proposed mining operations, the applicant’s proposals for the employment and training of citizens of Tanzania and succession plan on expatriate employees and plan for procurement of goods and services available in the United Republic are adequate;
- (e) the applicant is not in default in respect of any of the obligations under his prospecting licence.

(2) Notwithstanding paragraph (e) of subsection the Commission shall not reject an application for the grant of a special mining licence on the grounds that the applicant is in default without first serving on the applicant a notice giving particulars of the default

and requiring the applicant within a reasonable time specified in the notice to remedy the default or, where a default is not capable of remedy, the applicant has not offered in respect thereof reasonable compensation.

(3) In the event that an application for a special mining licence made by an applicant is rejected by the Commission on the grounds that the application does not satisfy one or more of the requirements set forth in subsection (2), the Commission shall cause a notice to be served on the applicant giving full particulars of the respects in which the applicant fails to satisfy those requirements.

(4) The Commission shall give notice to an applicant to which subsection (2) refers of his decision on the application, and, if he intends to grant it, on the terms and conditions of the special mining licence.

(5) Where within sixty days of the service of such notice, the applicant fails to inform the Commission of his acceptance of the proposed special mining licence, his application shall be deemed to have lapsed.

43. A special mining licence granted to an entitled applicant shall be for the estimated life of the ore body indicated in the feasibility study report, or such period as the applicant may request whichever period is shorter.

44. A special mining licence shall-

- (a) state names, physical and postal address, and status of the licence holder;
- (b) state the date of the grant of the licence and the period for which it is granted;
- (c) include a description and plan of the area of land over which it is granted;
- (d) state conditions on-
 - (i) the programme of mining operation;
 - (ii) the environmental management plan;
 - (iii) the employment and training of citizens of Tanzania and succession plan, as required by the Employment and Labour Relations Act;
 - (iv) other matters as may be required; and
 - (v) the procurement plan of goods and services available in the United Republic.

45.-(1) The holder of a special mining licence may, at any time not later than one year before the expiry of that licence, apply to the Commission for the renewal of his licence in respect of all or any part of the mining area.

(2) An application for renewal shall be in the prescribed form, and shall be accompanied by the prescribed fee and shall include-

(a) a statement on the implementation of the conditions of licence;

(b) a statement of the period not exceeding the estimated life of the ore body for which the renewal is sought;

(c) 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;

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

(v) a proposed programme of mining operations for the period of renewal.

(d) an environmental certificate, issued under the Environment Management Act; in respect of operations to be conducted during the renewal period;

(e) if the renewal is sought in respect only of part of the mining area, a plan identifying that part.

(2) An application for renewal shall be referred to the Commission.

(3) Save as provided in subsection (5), on an application duly made under this section, a special mining licence shall be renewed by the Commission for a period not exceeding the estimated life of the remaining ore body and the Commission may, subject to any relevant development agreement and after consultation with the applicant, renew the licence with variation of conditions of the licence.

(4) The Commission may reject an application for renewal after taking account of any relevant stipulation in a development agreement if-

(5) the applicant is in default, provided that the Commission shall not reject an application on the grounds that the applicant is in default without first serving on the applicant a notice giving particulars of the default and requiring the applicant within a reasonable time specified in the notice to remedy the default or, where a default is not capable of remedy, requiring the applicant to offer in respect thereof reasonable

compensation;

(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 intended mining operations will not ensure the proper development of the mineral resources of the mining area and their recovery in accordance with good mining practice.

(d) the applicant has not included in his application for renewal the relevant environmental certificate issued under the Environment Management Act in respect of operations to be conducted during the period of renewal.

46. A special mining licence confers on the holder the exclusive right, subject to this Act and the Regulations, to carry on mining operations in the mining area for minerals as specified in the licence, and for that purpose the holder, his servants and agents may, in particular-

(a) enter on the mining area and take all reasonable measures on or under the surface for the purpose of facilitating and undertaking his mining operations;

(b) erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered by him in the course of mining operations;

(c) subject to the payment of royalties in accordance with this Act and the Regulations, dispose of any mineral product recovered;

(d) stack or dump any mineral or waste products in a manner provided for in his environmental management plan and the regulations, and may prospect within the mining area for any mineral specified in the licence.

47. Subject to the provisions of this Act and the regulations, the holder of a special mining licence shall, as a condition of the licence-

(a) commence mining activities within eighteen months or such other further period as the licensing authority may allow from the date of grant of a licence and carry on mining operations in substantial compliance with the programme of mining operations and an environmental management plan;

(b) employ and train citizens of Tanzania and implement succession plan on expatriate

employees in accordance with his proposals as appended to the special mining licence;
(c) demarcate and keep demarcated in the prescribed manner the mining area;
(d) prepare and update mine closure plans for making safe the mining area on termination of mining operations in a manner as prescribed in the relevant regulations;
(e) implement proposed plan for relocation, settlement and payment of compensation to people within the mining area in accordance with the Land Act;

(f) the Minister shall, after consultation with the Commission, provide for the posting of a rehabilitation bond, as provided for in the regulations, to finance the costs of rehabilitating and making safe the mining area on termination of mining operations where the holder of the special mining licence has failed to meet his obligations under paragraph (d) relating to the mine closure plan or updated mine closure plan, as the case may be.

48.-(1) The holder of a special mining licence may make amendments to-

(a) the programme of mining operations;
(b) the programme for the employment or training of citizens of the United Republic of Tanzania.

(2) Particulars of the amendments, including, where appropriate, particulars of any significant impacts to the environment that any amendment could endanger, shall be served on the Minister and, subject to subsections (3) and (4), the amendment shall have effect when so served.

(3) An amendment which substantially alters any provision which forms part of the conditions of the licence, shall not take effect without the express approval of the Minister and where any such amendment appears to the Minister to make such a substantial alteration, he shall refer the amendment to the Commission for its advice.

(4) On receiving the advice of the Commission, the Minister shall within thirty days and, subject to any relevant development agreement, determine whether or not to approve the amendment and, if he decides to approve the amendment, the terms and conditions if any, on which such approval is granted, shall be complied with.

(iii) Mining Licence

49.-(1) An application for a mining licence for minerals shall be made to the commission in the prescribed form and shall be accompanied by the prescribed fee.

(2) Every application under this section shall-

- (a) identify the relevant prospecting licence;
- (b) describe the area, not exceeding the maximum area prescribed over which a mining licence is sought, and shall be accompanied by a sketch plan in sufficient detail to enable the Commission to identify the area;
- (c) describe the mineral deposits in the proposed area;
- (d) include a feasibility study which should set out-
 - (i) the proposed programme of mining operations including such measures as the applicant proposes to take in relation to any adverse impacts to the environment;
 - (ii) the estimated recovery rate of ore and the applicant's proposals for its treatment and disposal;
 - (iii) the applicant's estimate of the quantity of minerals to be produced for sale annually;
- (e) state the duration, not exceeding ten years, for which the mining licence is sought;
- (f) append a plan on employment and training of Tanzanians and succession plan on expatriate employees in accordance with the Employment and Labour Relations Act as appended to the special mining licence;
- (g) include a statement giving particulars of financial and technical resources available to the applicant;
- (h) submit a procurement plan of goods and services available in the United Republic.
- (i) include a statement of integrity pledge in a prescribed form;
- (j) include a local content plan; and
- (k) include such further information as the Commission may required for disposing of the application.

50.-(1) The Commission shall grant an application for a mining licence for minerals which has been properly made under section 49 and a successful application for a mining licence made under section 71 unless-

- (a) the applicant is a person to whom section 8 applies;
- (b) the area in respect of which a mining licence is sought is in excess of the area required to mine the deposits identified by the applicant;

(c) employment and training programme for citizens of Tanzania and succession plan on expatriate employees in accordance with his proposals is not satisfactory;

(d) the applicant is or was in default in respect of any other mineral right and has failed to rectify such fault;

(e) the applicant is not an entitled applicant and-

(i) the area of land for which the applicant has made application or part of it is subject to another mineral right, other than a prospecting licence for building materials or gemstones;

(ii) the area of land for which application has been made, or part of it, covers or includes an area designated by the Minister under section 16 as an area reserved for prospecting and mining operations by persons holding primary licences to mine minerals;

(iii) the area of land for which application has been made covers or includes an area of land for which application has been made by another person who has priority over the applicant under section 14;

(iv) except in a case of an application made in accordance with section 71, the area of land for which application has been made, or part of it, covers or includes an area designated by the Minister under section 15 as an area in respect of which applications for the grant of a mineral right have been or will be invited by tender;

(v) financial and technical resources available to the applicant are not adequate for the conduct of mining operations;

(vi) the applicant has not included an application for mining licence the relevant environmental certificate issued under the Environment Management Act.

(2) The maximum initial period for which a mining licence may be granted is ten years but the licence may be renewed as provided in section 53.

51. A mining licence confers on the holder the exclusive right, subject to this Act and the Regulations, to carry on mining operations in the mining area for the stated minerals, and for that purpose the holder, his servants and agents may, in particular-

(a) enter on the mining area and take all reasonable measures on or under the surface for the purpose of facilitating and under taking his mining operations;

(b) erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered by him in the course of mining

operations;

(c) subject to payment of royalties in accordance with this Act and the Regulations, dispose of any mineral product recovered;

(d) stack or dump any mineral or waste product in a manner provided for in the applicable Regulations; and

(e) employ and train citizens of Tanzania and implement succession plan on expatriate employees in accordance with the Employment and Labour Relations Act, and may prospect within the mining area for any minerals other than gemstones.

52.-Subject to the provisions of this Act and the Regulations the holder of a mining licence shall-

(a) commence mining operations within eighteen months and develop the mining area in substantial compliance with the programme of mining operations with due diligence;

(b) demarcate and keep demarcated in the prescribed manner the mining area;

(c) take all appropriate measures for the protection of the environment in accordance with the Environment Management Act;

(d) implement the proposed plan for relocation, resettlement of, and payment of compensation to people within the mining areas in accordance with the Land Act;

(e) employ and train citizens of Tanzania and implement the succession plan on expatriate employees in accordance with the Employment and Labour Relations Act; and

(f) implement plan for procurement of goods and services available in the United Republic.

53.-(1) The holder of a mining licence may, not later than six months prior to expiry date of the licence, apply to the Commission for a renewal of his licence.

(2) an application for renewal shall be in the prescribed form and shall be accompanied by the prescribed fee and tax clearance certificate issued by the Tax Authority in respect of operations to be conducted during the renewal period.

(3) On an application made under this section, the Commission shall renew the mining licence for the period for which application has been made, but not exceeding ten years, unless-

(a) the applicant is in default;

Provided that, the licensing authority shall not reject an application to renew a mining licence on the grounds that the holder is in default, without first serving on the holder a notice specifying particulars of the default and requiring the holder to remedy the default time specified in the notice;

(b) the development of the mining area has not proceeded with reasonable diligence;

(c) minerals in workable quantities do not remain to be produced; or

(d) the applicant has failed to conduct mining operations in the mining area in strict compliance with the applicable Regulations relating to safety and environmental management.

DIVISION C:

Primary Mining Licences

54. (1) Any person not disqualified under section 8, may apply to the Commission for the grant of a primary mining licence.

(2) Every such application shall-

(a) be in the prescribed form and accompanied by the prescribed fee;

(b) describe the area not exceeding the prescribed maximum area over which a primary mining licence is sought, and shall be accompanied by a sketch plan with sufficient details to enable the Commission to identify the area;

(c) include a statement of integrity pledge in a prescribed form; and

(d) include a local content plan.

(3) An application for a primary mining licence shall contain:

(a) in the case of an individual, his full name and nationality, physical and postal addresses and attach an identification card such as his national identity card, passport, driving licence or voter's registration card;

(b) in the case of a body corporate, its corporate name, place of incorporation, names and the nationality of its directors including copies of their identity cards;

(c) in the case of more than one person, the particulars referred in paragraphs (a) and (b);

(d) environmental investigations and social study and an environmental protection plan as described in the relevant regulations.

(4) primary mining licence shall confer on the holder the right to prospect for and mine minerals as provided for in this Division of this Part.

55.-(1) The Commission shall grant an application for a Primary Mining Licence which has been properly made under section 54 unless-

(a) the applicant is or was in default in respect of any other mineral right and has failed to rectify such default;

(b) the area for which application has been made or part of it covers or includes an area which is:

(i) subject to another mineral right or an area which subsection (3) of section 7 relates;

(ii) an area designated by the Minister under section 16 as an area reserved for prospecting and mining operations by persons holding primary mining licences;

(iii) an area designated by the Minister under section 15 (2) (a) as an area in respect of which applications for the grant of a mineral right have been, or will be, invited by tender.

(2) A primary mining licence granted under this section shall be valid for a period of seven years and may be renewed under section 56.

(3) A primary mining licence to mine minerals granted under this section shall confer on the holder the exclusive right, subject to this Act and the Regulations including the Regulations applicable to safety and the protection of the environment, to carry on prospecting and mining operations in the mining area, and for that purpose the holder, his servants and agents (being persons not disqualified under subsection (2) of section 8 from holding a primary mining licence) may, in particular-

(a) enter on 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 purpose of mining, transporting, dressing or treating the minerals recovered by him in the course of mining operations;

(c) subject to payment of royalties in accordance with this Act and the regulations dispose of any mineral recovered to a holder of a dealer's or broker's licence

(d) stack or dump any mineral or waste product in compliance with the applicable regulations;

(e) carry on prospecting operations in the mining area.

(4) Notwithstanding subsection (2), a primary mining licence issued for mining, sand and other fast depleting building materials shall be valid for a period of one year and may be renewed in accordance with section 56.

56.-(1) Not later than three months before the expiry

date of primary mining licence, the holder may apply to the Commission for renewal of the licence.

(2) The Commission shall renew the licence on an application made under subsection (1) and accompanied by the prescribed fee.

(3) An application for renewal of the licence under this section may be refused if-

(a) the applicant is in default;

(b) the development of the mining area has not proceeded with due diligence;

(c) minerals in workable quantities do not remain to be produced;

(d) the applicant has failed to conduct mining operations in the mining area in strict compliance with the applicable Regulations relating to safety and environmental management;

Provided that, the licensing authority shall not reject an application to renew a primary mining licence on the grounds that the holder is in default, without first serving on the holder a notice specifying particulars of the default and requiring the holder to remedy the default time specified in the notice.

57.-(1) primary mining licences in an area designated under section 16 shall be allocated in accordance with a scheme of allocation provided for by the regulations and no application for any such licence may be made under section 54.

(2) A scheme of allocation made under the regulations pursuant to this section, shall make provision for the renewal amalgamation and conversion of such primary mining licences in the designated area.

58.-(1) The holder of one or more primary mining licences may-

(a) at any time before the licences expire;

(b) if the holder has tendered the prescribed fee, is not in default and has provided particulars which would be required in an application under sections 49 as the case may be, apply to the Commission to convert the licence or licences to a mining licence.

(2) An application made in accordance with subsection (1) shall be processed by the Commission and the mining licence shall be granted by the Commission.

(3) When granting the licence under this section the remaining period of the former

licences shall not be taken into account.

DIVISION D:

Mineral Processing, Smelting and Refining

59. The mineral right holder shall be required to set aside certain amount of minerals at such percentage as the Minister may, after consultation with the mineral right holder and the Commission, determine for processing, smelting or refining within the United Republic.

60.-(1) A person who is not entitled to process minerals in any area within or outside the area subject to a mineral right may apply to the Commission for a licence for processing minerals.

(2) An application under subsection (1) shall be made in the prescribed form and accompanied by-

- (a) prescribed fee;
- (b) environment management plan as described in relevant regulations;
- (c) process plant layout;
- (d) procurement, haulage and processing inputs plan;
- (e) compensation, relocation and resettlement plan, if required; and
- (f) such other documents and information as may be required by the licensing authority.

(3) The Commission shall, if satisfied with the content of the application under subsection (2), register the applicant and issue the licence upon such terms and conditions as may be prescribed in the licence.

(4) The Processing Licence issued under this section shall be valid for a period not exceeding ten years and shall be subjects to renewal.

(5) Procedures for application and granting of licence for processing minerals under this section shall be prescribed in the regulations.

61.-(1) A person who wishes to smelt or refine minerals shall submit an application to that effect to the Commission for a smelting licence or as the case may be, a refining licence.

(2) The application under subsection (1) shall be made in the prescribed form and shall

be accompanied by-

- (a) prescribed fee;
- (b) environment management plan as prescribed in relevant regulations;
- (c) smelter or refinery plant layout;
- (d) waste disposal management plan;
- (e) compensation relocation and resettlement plan; and
- (f) such other documents or information as may be required by the licensing authority.

(3) The smelting licence or a refining licence issued under this section shall be valid for a period not exceeding twenty five years and shall be subject for renewal.

DIVISION E:

Supplementary Provisions Affecting Mineral Rights

62.-(1) The holder of a mineral right who wishes to surrender all or any part of the land subject to his licence, shall apply to the licensing authority not less than three months before the date on which he wishes the surrender to have effect, for a certificate of surrender, and, subject to subsection (3) and any relevant stipulation in a development agreement, the licensing authority shall issue to the applicant a certificate of surrender either unconditionally or subject to such conditions relating to the surrendered land as the licensing authority may determine.

(2) An application under this section-

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

- (3) The licensing authority shall not issue a certificate of surrender-
- (a) to an applicant who is in default;
 - (b) to an applicant who fails to comply with the reasonable requirements of the licensing authority under subsection (2);
 - (c) if the licensing authority is not satisfied that the applicant will leave the land to be surrendered and on which prospecting or mining operations have been carried on in a condition which is safe, which accords with good mining practice, and, as applicable, conforms to the requirements of the environmental management plan or the applicable Regulations relating to safety and environmental management;
 - (d) in respect of any part of the land subject to the licence if the licensing authority is not satisfied that the land which remains subject to the licence is capable of being efficiently used or developed according to the terms of the licence.
- (4) A certificate of surrender shall take effect on the date on which it is issued to the applicant.
- (5) Where the certificate relates to the whole of the land subject to the holder's licence, the licence shall be cancelled with effect from the same date; in any other case, the licence shall be amended to take account of the surrender.
- (6) Notwithstanding the issue of a certificate of surrender, the surrender of any land shall not affect any liability incurred before the date on which the surrender had effect in respect of the land, and any legal proceedings that might have been commenced or continued in respect of any liability against the holder of the licence may be commenced or continued against the holder or, as the case may be, the former holder.

63.-(1) Subject to this section where the holder of a mineral right-

- (a) fails in a material respect to comply with any requirement of this Act or the Regulations which are binding on him;
- (b) fails to comply with a condition of the licence (not being exempted under this Act or the Regulations from doing so);
- (c) fails to comply with a direction lawfully given under this Act or the Regulations or with a condition on which any certificate of surrender is issued or on which any exemption or consent is given under this Act or the Regulations;
- (d) fails to comply with the conditions relating to the exercise of his rights under his licence which are contained in a relevant development agreement, the licensing authority may, on that ground but subject to subsection (2) and the provisions of any relevant

development agreement, by notice in writing served on the holder of the licence, suspend or cancel the licence.

(2) The licensing authority shall not suspend or cancel a licence on a ground referred to in subsection (1) unless-

(a) he has first served on the holder a default notice specifying the grounds on which, under subsection (1), the licence is liable to be suspended or cancelled;

(b) the holder has failed within a period of thirty days from the date on which the default notice was served or such longer period as the licensing authority may allow to remedy the default specified or, where such default is not capable of being remedied, has failed to offer in respect thereof reasonable compensation;

(c) for matters related to licences other than primary licences the matter has been referred to the Commission for advice.

(3) The Licensing Authority may, by notice in writing to the holder of a mineral right, cancel the relevant licence on the occurrence of an event which, as provided under subsection (1) of section 8, would render that person ineligible to be granted a mineral right.

(4) Where two or more persons constitute the licensee and-

(a) an event occurs of a kind referred to in section 8 in respect of one or more but not all of those persons; or

(b) one or more, but not all, of those persons fails to comply with an obligation which, under the terms and conditions of the licence or a relevant development agreement, is a several obligation, the Licensing Authority shall not suspend or cancel the licence, but may serve on any such person (in this section referred to as an “affected person”) a notice of compulsory assignment requiring the affected person unconditionally, without consideration and free from any encumbrance, to assign to the licence holders who are not affected persons (in this section referred to as “unaffected persons”) the entire interest in the licence held by the affected person.

(5) For the purposes of subsection (4), the affected person shall make such assignment to the unaffected persons in undivided shares in proportion to the undivided shares in which the unaffected persons hold the licence, and the unaffected persons shall be obliged to accept such assignment;

(6) The provisions of subsections (2) and (3) shall apply to a proposal to serve on an affected person a notice of compulsory assignment as they apply to a notice suspending

or cancelling a licence.

(7) On the cancellation of a licence or a compulsory assignment under this section, the rights of the holder, or as the case may be the affected person, cease, but the cancellation or compulsory assignment does not affect any liability incurred before the cancellation or assignment and any legal proceedings that might have been commenced or continued against the former holder may be commenced or continued against him.

64.-(1) The holder of a mineral right who wishes to abandon all or any part of the land subject to licence shall apply to the Chief Inspector, not later than ninety days before the date on which he wishes the abandonment to have effect, for a certificate of abandonment.

(2) Subject to this section, the Chief Inspector shall issue to the applicant a certificate of abandonment either unconditionally or subject to such conditions relating to the abandoned land as the Chief Inspector may determine.

(3) An application under this section shall -

(a) identify the land to be abandoned and, if the application applies to only a part of the land subject to the licence, shall include a plan clearly identifying both the part to be abandoned and the part to be retained;

(b) state the date on which the applicant wishes the abandonment to take effect;

(c) give particulars of the operations which have been carried on under the licence on the land to be abandoned; and

(d) be supported by such record and reports in relation to those operations as the Chief Inspector may reasonably 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, the licence shall be cancelled with effect from the same date; and

(b) in any other case, the licence 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 continue against that applicant.

65.-(1) A person who is aggrieved by a decision of the Commission for suspension or cancellation of mineral rights may, within sixty days from the date of the decision, file an application for judicial review to the High Court.

(2) Procedures for lodging complaints and appeals under this Act shall be prescribed in the regulations.

66.-(1) Where the holder of a mineral right fails to pay annual rent, royalty or to make payment in lieu of royalty payable by him under this Act or the regulations, shall, after ninety days from the date upon which such amount becomes due, in addition to the amount payable by him, pay a penalty-

(a) in case of an individual person, twenty five *per centum* of the amount which is due; and

(b) in case of a body corporate, fifty *per centum* of the amount which is due.

(2) The liability to pay penalties under this section shall not exempt any person from any other liability under this Act.

(3) Any unpaid annual rent, royalty or payment in lieu of royalty, shall be a debt which shall be recovered in a court of competent jurisdiction.

67. Where the holder-

(a) of a mineral right applies, during the currency of that mineral right for a renewal of the licence in respect of that mineral right;

(b) of a prospecting licence applies, during the currency of that licence, for a

(c) mineral right to which he is entitled, the current licence shall remain in force until-

(i) the date of the renewal or grant of the licence for which application is made; or

(ii) the application is refused, as the case may be.

68.-(1) The holder of mineral right may apply to the licensing authority for the enlargement of the area for which his licence is granted and the licensing authority may, subject to subsections (2) and (3) and any relevant development agreement, approve the application or refuse to do so.

(2) Subject to the provisions of subsection (1), the licensing authority shall not approve an application under this section unless the land in respect of which the application is made is a vacant area which is not part of a reserved area and the relevant area shall not, as enlarged, exceed the maximum area prescribed in accordance with section 70.

(3) An approval under this section may be given unconditionally or subject to such conditions as the licensing authority may determine and any such conditions shall be specified in the document signifying the licensing authority's approval.

(4) 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.

69.-(1) The holder of a mineral right other than a mineral right under Division A shall, within two weeks prior to the date of suspension notify the licensing authority if he intends to suspend production from the mining area.

(2) Such notification shall be accompanied by a report giving details of the intended suspension, the reasons therefor and the duration of such suspension.

(3) On receiving notification under subsection (1) or, if he otherwise becomes aware of a cessation or suspension, the licensing authority shall cause the matter to be investigated and-

(a) in any case in which the cessation or suspension has been caused by an event beyond the reasonable control of the holder, shall give his approval to the cessation or suspension for so long as that event continues to affect mining operations or processing operations, as the case may be;

(b) in any other case, after reference to the Commission and subject to any relevant stipulations in a development agreement, shall-

(i) if it is fair and reasonable to do so, give his approval to the cessation or suspension;

(ii) otherwise direct the holder to continue mining operations in substantial compliance with the programme of mining operations or processing operations as the case may be.

(4) A person who fails to comply with the requirement or direction given under this section shall be deemed to be in default, and the licensing authority may, in addition to other penalties under this Act, cancel the licence in accordance with the provisions of this Act.

70. The maximum area for which a mineral right may be granted shall be prescribed and for that purpose the regulations may prescribe different maximum areas for different minerals and in respect of different mineral rights.

71.-(1) An application for a mining licence in an area designated as an area in which applications for the relevant licence are invited by tender shall be-

- (a) in the prescribed tender form;
 - (b) accompanied by the prescribed tender fee; and
 - (c) subject to the terms and conditions of the invitation to tender, shall include the matters required to be included in applications of Division B of this Part.
- (2) All applications under this section shall be referred to the Commission for its advice.
- (3) On receipt of a report from the Commission, the Minister shall consider the competing bids and shall select the bid which in his opinion will be most likely to promote the expeditious and beneficial development of the mineral resources of the area having regard to-

- (a) the programme of prospecting or as the case may be, mining operations which the applicant proposes to carry out and the commitments as regards expenditure which the applicant is prepared to make;
- (b) the financial and technical resources of the applicant; and
- (c) the previous experience of the applicant in the conduct of prospecting and mining operations.

(2) The successful application under this section shall be treated as an application under section 49, which has priority over any other application.

72.-(1) Where over a continuous period, not being less than three years, the holder of a mining licence has in each year of production recovered less than fifty per centum of-

- (a) in the case of the holder of a mining licence for minerals specified in the licence the quantity of minerals which should have been recovered under the estimated recovery rate specified in his feasibility study submitted in accordance with section 49; or
- (b) the shortfall in the quantities recovered has not been caused by events beyond the reasonable control of the holder and the continuous period does not include any period during which the Commission under section 69, has approved the cessation or suspension of production, the Commission may, terminate the licence.

2. The Commission shall, upon termination of the mining licence under section (1) notify the licence holder in writing requiring him to cease the operations with effect from the date specified in the notification, and pay all liabilities, including employees entitlement, mine closure and environmental rehabilitation costs as may be necessary for the termination of mining operations.

PART V

LICENCES FOR DEALING IN MINERAL OR MINERALS

(i) Dealer licence

73.-(1) An application for a dealer licence shall be addressed to the Commission in the prescribed form and be accompanied by the prescribed fee.

(2) The applicant under subsection (1) shall state the type of mineral or minerals for which the licence is sought.

(3) A dealer licence shall not be granted to or held by a person who by reason of subsection (1) or (2) of section 8 is not qualified to be granted a primary mining licence unless the dealer licence is held by such person in undivided participating shares with a person or persons qualified to hold the licence under subsection (1) or (2) of section 8 and whose undivided participating share or shares amount to not less than twenty five per centum either alone, in the case of one person, or in the aggregate, in the case of more than one person.

(4) For the purpose of this section, dealer licence shall be applied for any of the following mineral or minerals-

- (a) gold;
- (b) metallic minerals;
- (c) coloured gemstones;
- (d) diamond;
- (e) coal;
- (f) industrial minerals; and
- (g) building materials.

74.-(1) An applicant for a dealer licence whose application was properly made as provided in section 73 shall be entitled to the grant of a dealer licence for which he has

applied unless-

(a) he has previously held a dealer licence and-

(i) he is not entitled to renew that dealer licence as provided in subsection (4) of section 75; or

(ii) he has surrendered his dealer licence without sufficient reason for so doing;

(b) he has been convicted of a criminal offence relating to the buying and selling or possession of mineral or minerals.

75.-(1) A dealer licence granted under section 74 shall be valid for a maximum period of twelve months from the date of issue, and shall expire on 30th June of each year.

(2) A holder of a dealer licence may, not less than one month from the date on which his licence or any renewal thereof would expire, apply in the prescribed form, accompanied by the prescribed fee, for a renewal of the licence.

(3) Any application made under subsection (2) shall be accompanied by evidence of turnover for the last ten months or less immediately following the date of the application made or issued in the form of official receipt for the making of payment instead of payment of royalty.

(4) The holder of a dealer licence who applies in the proper manner shall be granted a renewal of his licence for a maximum period of twelve months unless:-

(a) he is in default;

(b) he is disqualified from holding or renewing a dealer licence under subsection (3) of section 73 or subsection (2) of section 78.

76. Subject to the provisions and the regulations made under this Act, a dealer licence shall authorize the holder-

(a) to buy or otherwise acquire minerals from the Mineral and Gem Houses or to sell or otherwise dispose of minerals as specified in the licence, and for the purpose of carrying on business as a dealer, to have possession thereof;

(b) to export minerals specified in the licence.

77. The holder of a dealer licence shall keep full and accurate records and accounts of all transactions undertaken by him as a dealer and such records and accounts shall-

- (a) be kept in such form and shall include details as may be prescribed; and
- (b) be submitted to a Commission on a monthly basis.

78.-(1) The Minister, after referring the matter to the Commission, may by notice in the *Gazette*, publish minimum turnover requirements for the holder of a dealer licence.

(2) A holder of a dealer licence who in three successive years of his licence fails to disclose, by production of official receipts for payments in lieu of royalty, evidence of a turnover of not less than fifty per centum of the minimum turnover requirement referred to in subsection (1) shall be disqualified from obtaining a renewal of his licence.

79. Where the holder of a dealer licence is in default the Commission may serve on the holder a default notice specifying the nature of the default and if within thirty days from the date of receipt of the default notice, the default has not been corrected the Commission shall, by notice to the holder terminate the dealer licence.

(ii) Broker Licence

80.-(1) An application for the grant of a broker licence shall be addressed to the Commission in the prescribed form and be accompanied by the prescribed fee.

(2) The application shall-

- (a) state the names and physical address of the applicant;
- (b) state the mineral or minerals sought;
- (c) specify the buying stations from which the applicant may buy minerals; and append two recent passport size photographs.

(3) A broker licence shall not be granted to or held by a person who by reason of subsection (1) or (2) of section 8 is not qualified to be granted a primary mining licence.

81.-(1) An applicant for a broker licence whose application was properly made as provided under section 80 shall be entitled to the grant of a broker licence unless-

- (a) he is disqualified from holding a broker licence under subsection (3) of section 80;
- (b) he previously held a broker licence and was disqualified from obtaining a renewal of that licence under section 82;
- (c) he has been convicted of a criminal offence relating to the buying, possession, export or selling of mineral or minerals.

(2) A broker licence granted under this section shall be valid for a maximum period of

twelve months from the date of issue, and shall expire on the 30th June of each year.

82.-(1) Any holder of a broker licence may, not less than one month from the date on which his licence or any renewal would expire, apply in the prescribed form and on payment of the prescribed fee for a renewal of the licence.

(2) A holder of a broker licence who applies in the proper manner shall be granted a renewal of his licence unless-

(a) he is in default;

(b) he is disqualified from holding a broker licence under subsection (1) of section 81.

83.-(1) A broker's licence shall authorize the holder to buy or acquire gold or gemstones in a designated buying station as the licence may specify and to sell or dispose of minerals so acquired to a licensed dealer at the Mineral and Gem House.

(2) A broker licence shall not authorize the holder to export any mineral or minerals.

84. The holder of a broker licence shall keep full and accurate records and accounts of all transactions undertaken by him as a broker and such records and accounts shall-

(a) be kept in such form and shall include details as may be prescribed; and

(b) be submitted to the Commission on expiry of his licence.

85.-(1) Where the holder of a broker licence is in default, the Commission may serve on the holder a default notice specifying the nature of the default.

(2) If within such reasonable time as the default may specify in the notice, the default has not been corrected, the Commission may, by notice to the holder terminate the broker licence.

86. A person shall not be eligible for grant of a licence as a broker or a dealer in uranium

minerals.

(iii) Minerals Import Permit;”

86A.-(1) A person importing metallic minerals, gemstones except tanzanite shall make a declaration in a prescribed form at the Mineral and Gem Houses or at the buying stations indicating the type and quantity of minerals intended to be imported and the purpose for importation.

(2) A person importing diamonds, radioactive minerals, tin, tungsten, tantalum, shall obtain an import permit upon making a declaration in a prescribed form and upon proof of compliance to international conventions and obligations.

(3) The importer shall, upon disposal of minerals imported, pay royalties and inspection fees at the rate applicable.

(4) The importer shall comply with laws and regulations governing the importation of minerals.

86B.-(1) The Minister may make regulations prescribing-

(a) rights and obligations of the holder of a Minerals Import Permit;

(b) declaration forms for minerals to be imported;

(c) format and content of the Minerals Import Permit;

(d) such other matters as may be required for purposes of Minerals Import Permit.”

(2) The Minerals Import Permit issued under this section shall be valid for such time as may be stated in the permit.

(iv) Lapidary License

86C.-(1) A person shall not carry out lapidary activities without a licence issued under this sub-part.

(2) A lapidary licence shall be issued in the following categories-

(a) large lapidary licence; and

(b) small lapidary licence.

(2) A large or small lapidary licence shall apply to gemstones only.

86D.-(1) An application for a large lapidary licence shall be made to the Commission in a prescribed form and shall be accompanied by the prescribed fee

(2) An application for a large lapidary licence shall contain-

- (a) names, place of business and physical address;
- (b) the type of minerals for which the licence is sought; and
- (c) any other information as may be determined by the commission,

and shall be appended with two recent passport size photographs of the applicant

(3) A large lapidary licence shall not be granted to or held by a person who, by reason of subsection (1) or (2) of section 8, is not qualified to be granted a primary mining license unless the large lapidary mining licence is held by such person in undivided participating shares with a person or persons qualified to hold the licence under subsection (1) or (2) of section 8 and whose undivided participating share or shares amount to not less than twenty five *per centum* either alone, in the case of one person, or in aggregate, in the case of more than one person.

(4) An applicant for a large lapidary licence shall show possession of knowledge or experience in lapidary activities or has employed a person of the requisite knowledge or experience for at least two years.

86E.-(1) Subject to subsection (2), a successful applicant for a large lapidary licence under section 86B shall be entitled to the grant of a large lapidary licence for which he has applied.

(2) Notwithstanding subsection (1), a successful applicant shall not be granted a large lapidary licence if-

- (a) he has not surrendered any licence which previously entitled him to carry out lapidary activities;
- (b) he previously held a large lapidary licence and was disqualified from holding such licence; or
- (c) he has been convicted of a criminal offence in relation to buying, selling or possession of minerals or unlawfully carrying out lapidary activities.

86F.-(1) A large lapidary licence shall be valid for a period of five years from the date of issue.

(2) A holder of a large lapidary licence may, not less than six months from the date of expiry of the licence, apply for renewal in the prescribed form and accompanied by the prescribed fees.

(3) The holder of a large lapidary licence who has failed to show evidence of transfer of lapidary skills to Tanzanians, quantity and types of equipment and an annual minimum turnover prescribed in the regulations shall be disqualified from obtaining a renewal of his licence.

86G.-(1) The holders of a large lapidary licence may-

(a) buy or acquire minerals specified in the licence from mineral and gem houses or import gemstones for value addition;

(b) cut, polish, engrave or enhance gemstones through heat treatment for the purpose of value addition; and

(c) sell, disposed of or export gems after value addition.

(2) The holders of a large lapidary licence shall-

(a) where the holder is a Tanzania, acquire and utilise ten lapidary machines and where the holder is a foreigner, acquire and utilise thirty lapidary machines for conducting lapidary activities;

(b) where the holder is a foreigner, transfer lapidary skills and expertise to Tanzanias;

(c) conduct lapidary activities at the place of business specified in the licence; and

(d) keep and maintain accurate records and accounts of all transactions undertaken by him and such records and accounts shall-

(i) be kept in such form and include such details as may be prescribed in the regulations; and

(ii) be submitted to the Commission on quarterly basis.

86H.-(1) Where a holder of a large lapidary licence is in default of any conditions for which the licence was issued, the Commission may serve on the holder a notice stating the nature of default and require him to rectify the default within thirty days from the date of receipt of the notice.

(2) Where the default has not been rectified within the time prescribed in the notice, the Commission shall terminate the large lapidary licence and notify the holder in writing.

86I.-(1) An application for a small lapidary licence shall be made to the Commission in the prescribed form and shall be accompanied by a prescribed fee.

(2) An application for a licence under this section shall contain-

(a) names, place of business and physical address;

(b) the type of minerals for which the licence is sought; and any other information as may be determined by the Commission, and shall be appended with two recent passport size photographs of the applicant.

(3) An applicant for a small lapidary licence shall show possession of knowledge or experience in lapidary activities or has employed a person of the requisite knowledge or experience

86J.-(1) Subject to subsection (2), a successful applicant for a small lapidary licence under section 86I shall be entitled to the grant of a small lapidary licence for which he has applied.

(2) Notwithstanding subsection (1), a successful applicant shall not be granted a small lapidary licence if-

(a) he has not surrendered any licence which previously entitled him to carry out lapidary activities;

(b) he previously held a small lapidary licence and was disqualified from holding such licence; or

(c) he has been convicted of a criminal offence in relation to buying, selling or possession of minerals or unlawfully carrying out lapidary activities

(3) A small lapidary Licence shall not be issued to a foreigner

86K.-(1) A small lapidary licence shall be valid for a maximum period of twelve months from the date of issue, and in any case, shall expire on 30th June of each year.

(2) A holder of a small lapidary licence may, not less than one month from the date expiry of the licence, apply for renewal in the prescribed form and accompanied by the prescribed fees.

(3) In determining an application for renewal, the Commission shall consider whether the applicant-

(a) has been in default of conditions of the licence; or

(b) is disqualified from holding a small lapidary licence under section 86J,

86L.-(2) The holder of a small lapidary licence may-

(a) buy or acquire minerals specified in the licence from minerals and gem houses and buying centers;

(b) cut, polish, engrave minerals or enhance minerals through heat treatment for the purposes of value addition; and

(c) sell or dispose gems to local markets within Tanzania.

(2) The holder of a small lapidary licence shall-

(a) where the holder is a Tanzanian, acquire and utilise three lapidary machines for lapidary activities;

(b) conduct lapidary activities at the place of business specified in the licence; and

(c) keep and maintain accurate records and accounts of all transactions undertaken by him and such records and accounts shall-

(i) be kept in such form and include such details as may be prescribed in the regulations; and

(ii) be submitted to the Commission on a quarterly basis.

86M.-(1) where a holder of a small lapidary licence is in default of any condition for which the licence was issued, the Commission may serve on the holder a notice stating the nature of default and require him to rectify the default within thirty days from the date of receipt of the notice.

(2) Where the default has not been rectified within the time prescribed in the notice, the Commission shall terminate the small lapidary licence and notify the holder in writing.

PART VI

ROYALTIES, FEES AND OTHER CHARGE

87.-(1) Every authorized miner shall pay to the Government of the United Republic a royalty on the gross value of minerals produced under his licence at the rate

(a) in the case of uranium, of five *per centum*;

(b) in the case of gemstone and diamond, of six *per centum*;

(c) in the case of metallic minerals such as copper, gold, silver, and platinum group minerals, of six *per centum*;

(d) in the case of gem, of one per centum; and

(e) in the case of other minerals, including building materials, salt, all minerals within the

industrial minerals group, of three *per centum*.

(2) Notwithstanding the provisions of subsection (1), where an authorized miner of any mineral elects to sell his production to a licensed dealer or licensed broker, the royalties of such minerals shall be paid by the licensed dealer or broker in accordance with the provisions of this Act.

(3) The Minister where he considers that the realised price does not correspond to the price which would have been paid for the minerals if they had been sold on similar terms in a transaction at arm's length between a seller and a buyer, may give notice to that effect to the licence holder.

(4) Where such notice has been given under subsection (3) the amount of the market value shall be settled by agreement between the Minister and the licence holder or, if no agreement is reached, the matter shall be referred for determination by an independent expert appointed in a manner prescribed by the Regulations.

(5) Subject to this section, samples of minerals acquired for the purposes of assay, analysis or other technical examination shall be exempt from royalty payment if the market value of such samples of minerals is not more than shillings fifty thousand.

(6) In this section-

“gross value” means the market value of minerals as determined through valuation pursuant to section 100B of this Act:

Provided that-

(a) for the purposes of calculating the amount of royalties payable, the Government shall be entitled to reject the valuation if such value is steeply low on account of deep negative volatility, unless the raw minerals are disposed of for beneficiation within the United Republic; and

(b) where the Government rejects the valuation, it shall have the option to buy the minerals at the low value ascertained.

88.-(1) Every person who is a licensed dealer shall, in accordance with the terms and conditions of his licence and this Act, make to the Government payment in lieu of royalty on the gross value of any mineral specified in subsection (1) of section 87-

(a) exported by him;

(b) in the case of gold or any metallic minerals, sold to a smelter or refinery in Tanzania;

(c) in the case of gemstones, sold to a duly authorized lapidary or jewellery maker in Tanzania; or

(d) in the case of industrial minerals, energy minerals and building materials groups, sold

to any user in Tanzania.

(2) One-third of the royalty payable shall be paid to the Government by depositing refined minerals equivalent to the ascertained royalty into the National Gold and Gemstone Reserve.

(3) This section shall not apply where the licensed dealer is a mineral right holder who has paid royalty on the minerals in accordance with the provisions of subsection (1) of section 87;

(4) For the purpose of subsection (1), “gross value” has the meaning attributed to those words in subsection (6) of section 87 and that provision shall apply, with the necessary variations, to the export or a sale of minerals by a licensed dealer as they apply under section 87 to the payment of royalty by a mineral right holder.

89.-(1) The Minister may, where for any reason, it is impractical to assess the amount of any royalty, or payment in lieu of royalty, assess, and the mineral right holder or as the case may be, the licensed dealer, shall be liable to pay, a provisional royalty, or make a provisional payment in lieu of royalty.

(2) When, in any such case, the amount of the royalty or payment in lieu of royalty is ascertained, the mineral right holder or the licensed dealer shall be liable for any balance or, as the case may be, repay any excess sum paid by him on such provisional assessment.

90.-(1) There shall be a sorting and valuation fee prescribed in the regulations, which shall be payable to the Government by a mineral right holder who sells gemstones produced or acquired by such mineral right holder

(2) The Minister shall, by notice published in the *Gazette*, prescribe the fees to be payable for purposes of sorting and valuation of gemstones produced or acquired by the mineral right holder.

90A.-(1) The Minister shall, for the purposes of regulating the transportation or domestic use of mineral or minerals, establish mineral clearance centres.

(2) Save as provided in subsection (1), clearance centres shall be established within mining areas, ports, airports, border posts and any other areas as the Minister may prescribe.

(3) There shall be clearance fee payable to the Government by any person in possession

of mineral or minerals prior to clearance for domestic use or export

(4) The clearance fee shall be one percentum of the gross value of mineral or minerals.

(5) In this section, “gross value” means the market value of mineral or, minerals at the point of refining or sale or, in the case of consumption within Tanzania, at the point of delivery within Tanzania.

(6) This section shall not apply to salt producers.

91.-(1) Where an authorized miner or a licensed dealer fails to pay any royalty or provisional royalty, or make any payment or provisional payment in lieu of royalty on or before the due date, or any extension allowed by the Minister, the Minister may-

(a) in the case of any such mineral right holder, by order served on him, prohibit the disposal of any mineral from the mining area concerned, or from any other mining area held by that person; or

(b) in the case of a licensed dealer, prohibit the disposal of any mineral by that dealer until all outstanding royalties or payments in lieu of royalties have been paid or until an arrangement has been made acceptable to the Minister for the payment thereof.

(2) A mineral right holder, or licensed dealer, who contravenes or fails to comply with an order given under subsection (1), and any person who, knowing of such order and receives any mineral the disposal of which has been prohibited, commits an offence and is liable on conviction-

(a) in the case of an individual, to a fine not exceeding ten million shillings or to imprisonment for a period not exceeding two years, or to both;

(b) in the case of a body corporate, the fine not exceeding fifty million shillings;

(c) in the case of a person receiving minerals knowing their disposal have been prohibited, to forfeiture of the minerals, or where the Court is satisfied that the minerals so obtained by the defendant are no longer in his possession or under his control, to a penalty payable to the Government in an amount equal to the estimated market value of the minerals for which the defendant and the mineral right holder or dealer shall be jointly and severally liable.

92.-(1) In addition to any application fee there shall be payable to the Government in respect of every mineral right, dealer’s licence or broker’s licence granted under this Act an annual charge payable on the grant of the mineral right or dealer’s or broker’s licence

and thereafter annually on the anniversary of the grant so long as the mineral right subsists.

(2) The annual charges referred to in subsection (1) shall be of such amount as may be calculated and prescribed in the regulations.

93. The Commission may demand, sue for, recover and receive all fees, charges, dues, rents, royalties or payments which may become due in respect of any mineral right or any licence, or otherwise due under the provisions of this Act.

PART VII

GENERAL PROHIBITIONS, RESTRICTIONS, REPORTS AND RIGHT OF ENTRY

94. Repealed by Act No. 7 of 2017 s. 25(b).

95.-(1) The holder of a mineral right shall not exercise any of his rights under his licence or under this Act-

(a) except with the written consent of the responsible Minister, in respect of:

(i) any land dedicated or set apart for any public purpose other than mining;

(ii) any land dedicated as a place of burial;

(iii) any land which is the site of or is within 200 metres of any building, reservoir or dam owned by the Government;

(iv) any land forming part of a licensed or Government aerodrome or of any Government landing ground, or which is within 1,000 metres of the boundaries thereof;

(v) any land on which there is a military installation, or on land which is within 200 metres of the boundaries thereof; or

(vi) any reserved area, or any protected monument declared under the Antiquities Act;

(b) except with thorough consultation with the relevant Local Government Authority, including the Village Council, and thereafter, the written consent of the lawful occupier, in respect of:

(i) any land which is the site of, or which is within 200 metres of, any inhabited, occupied or temporarily unoccupied house or building;

(ii) any land within 100 metres of land which has been cleared or ploughed or otherwise

prepared in good faith for the growing of agricultural crops or upon which agricultural crops are growing;

(iii) any land from which, during the year immediately preceding, agricultural crops have been reaped;

(iv) any land forming part of an aerodrome, other than an aerodrome referred to in paragraph (a) (iv); or

(v) land use plan, compensation, relocation and resettlement matters involved,

where any consent so required is, in the opinion of the Minister and on the advice of the Commission being unreasonably withheld, the Minister may, on such conditions if any as he may impose, direct that the need for the consent

shall be dispensed with, and in that event this paragraph shall not have effect in so far as it required the consent of the lawful occupier to be given;

(c) in respect of land in a national park declared under the National Parks Act, in any forest reserve declared under the Forests Act, in any game reserve declared under the Wildlife Conservation Act, in a range development area declared under the Range Development and Management Act or in the Ngorongoro Conservation Area Act, except with the written consent of the authority having control over the park, reserve or area;

(d) in respect of any land reserved for the purpose of any railway, or which is within 100 metres of the boundaries of any land so reserved, except with the written consent of the responsible railway authority;

(e) in respect of any land within any city, municipality, township registered villages or demarcated settlement, except with the written consent of holders of surface rights and of the responsible Minister or the authority having control over the city, municipality, township registered villages or demarcated settlement;

(f) in respect of any street, road or highway, and any land within 100 metres of any bridge, public ferry, culvert or drift in any street, road or highway, pipeline or power line, except with the written consent of the responsible Minister or of the authority having the control of the street, road, highway, bridge, ferry, culvert, drift, pipeline or power line;

(g) in respect of any land within 100 metres of every point which has been notified to the Commission by a licensee under the Petroleum Act, as a site for the drilling of a well in connection with exploring for petroleum, except with the written consent of the Minister;

(h) in respect of any land over which an exploration licence or a development and production licence has been granted under the Petroleum Act, except with the written

consent of the Minister;

(i) in respect of any land occupied by any installations or works used in the course of prospecting operations by the holder of a prospecting licence who has prospecting rights over the same area of land as the holder of the first mentioned mineral right.

(2) Any consent by the Minister or the responsible Minister under this section may be given unconditionally or subject to such conditions as are specified in the instrument of consent.

(3) In this section, "the responsible Minister", in relation to any matter, means the Minister for the time being having responsibility for that matter.

96.-(1) The rights conferred by a mineral right shall be exercised reasonably and shall not be exercised so as to affect injuriously the interest of any owner or occupier of the land over which those rights extend.

(2) The lawful occupier of land in a mining area shall not erect any building or structure in the area without the consent of the registered holder of the mineral rights concerned but if the Minister considers that the consent is being unreasonably withheld, he may give his consent to the lawful occupier to do so.

(3) Where, in the course of prospecting or mining operations, any disturbance of the rights of the lawful occupier of any land or damage to any crops, trees, buildings, stock or works thereon is caused, the registered holder of the mineral right by virtue of which the operations are carried on, is liable to pay the lawful occupier fair and reasonable compensation in respect of the disturbance or damage according to the respective rights or interest of the lawful occupier in the property concerned.

(3) Where the amount of compensation to be paid pursuant to subsection (3) in any particular case is in dispute, either party may refer the matter to the Commission who shall, subject to section 119, deal with the matter in accordance with Part XI.

97.-(1) Where the rights conferred by a mineral right cannot reasonably be exercised without affecting injuriously the interest of any owner or occupier of the land over which those rights extend as required under section 96, the mineral right holder shall -

(a) advise the owner or occupier of the land to vacate the area, and consult the relevant local government authority on amendment of the land use plan;

(b) submit a proposed plan on compensation, relocation and resettlement of the owner or occupier of the land as per the Land Act.

(2) The procedures established under the Land Act and the Village Land Act with regard to establishing the market value of land shall apply in determining fair and reasonable compensation of land referred in this section and section 96.

98. The holder of a prospecting licence shall not, without the written permission of the Commission, and subject to such conditions as the Commission may specify in the instrument of permission, remove any mineral from the prospecting area, except for the purpose of having the mineral analysed, determining the value of the mineral or conducting tests on the mineral.

99.-(1) Where the Commission considers that a holder of a mineral right is using wasteful mining practices he shall give notice to the holder accordingly (giving in the notice particulars of the practices) and require the holder to show cause, by notice within such period as the Commission shall specify in the notice, why he should not cease to use those practices.

(2) Where, within the period specified in the notice given under subsection (1), the holder fails to satisfy the Commission that he is not using the wasteful practices concerned, or that the use of those practices is justified, the Commission may give notice to the holder directing him to cease using all of those practices, or the practices specified in the notice, by such date as is specified in the notice, and the holder shall do as directed.

(3) Where the holder of a mineral right is aggrieved by a notice given by the Commission under subsection (2) he may appeal to the Minister against the directions given in the notice.

100.-(1) The holder of a mineral right shall keep records within the Mining areas or at the mineral rights holders' office located in Tanzania for as long as the mineral right subsist, and shall submit reports and furnish such information as required in the Second Schedule.

(2) The holder of a mineral right shall maintain an address in Tanzania to which communications may be sent and shall give notice to the Commission of that address and of any changes of such address.

(3) The Commission may direct the holder of a mineral right, at a reasonable time and place specified in the direction, to make available to, or to produce for inspection by, the Commission or any public officer specified in the direction any books, accounts, vouchers, documents or records of any kind concerning the mineral right, and the holder of the mineral right shall comply with the direction.

(4) Without prejudice to subsection (3), the provisions of Second Schedule shall apply with regard to the obtaining of information relating to minerals obtained, or the value of minerals obtained, in exercise of a mineral right.

100A.-(1) Every mineral right holder shall construct a secure storage facility for storing of won raw minerals.

(2) Access to the raw minerals storage shall be procured from joint authorisation by an appointed official of the mining company and the Mines Resident Officer and shall be entered in special logbook showing date and time of entry and the purpose for the entry.

(3) Any won raw minerals shall be stored at the mine for not more than five days before they are moved to the Government Minerals Warehouse to await disposal for home refining, authorized mineral dealers or, where so permitted, for export.

(4) The Minister shall by rules published in the *Gazette* prescribe procedures and standards for storage of minerals.

100B.-(1) All won raw minerals shall be mined, sorted and valued in the presence of Mines Resident Officer, an Officer from the Tanzania Revenue Authority and the relevant institutions of state organ for that purpose before being entered for storage at the mine storage facility.

(2) All minerals won from the mines shall be beneficiated within the United Republic before they can be dealt with in any way.

(3) Reports on the mining, sorting and valuation of raw minerals shall be made and verified by both an authorized official of the mineral right holder and the Mines Resident Officer and submitted to the Commission.

(4) The report referred to under subsection (3) shall be used for the purpose of calculating Government royalties.

100C.-(1) Raw minerals shall only be removed from the mine under the supervision of the Government and shall be kept secured in the Government Minerals Warehouse established in accordance with the regulations.

(2) It shall be an offence to remove minerals stored at the Mine without Government authorisation and by means of transportation not approved by the Government.

(3) For avoidance of doubt, no licence or permit shall be issued under this Act or any other written law for exportation of raw minerals and mineral concentrates.

(4) Raw minerals shall only be withdrawn from the Government Minerals Warehouse for beneficiation within the United Republic or for use by authorized mineral dealers.

(5) Where Government authorisation is given for the exportation of raw minerals, any benefits given under any law for the promotion of Tanzanian products in external markets shall not be extended to such exportation of raw minerals.

(6) Subject to the regulations prescribed by the Minister, all minerals shall be processed within the United Republic.

(7) For purposes of subsections (3), (4), (5) and (6) any raw minerals impounded during or after an attempted illegal exploration or handling shall be confiscated by the Government and shall forthwith be deposited as part of the National Gold and Gemstone Reserve.

100D.-(1) The Government shall subject to the provisions of section 5A, have lien in all mineral concentrates.

(2) Mineral concentrates shall be stored in a secure yard within the mines in a manner prescribed in the regulations.

(3) Mineral concentrates shall not, after being analysed and valued by the Commission, be disposed for mineral processing within Tanzania as trading commodity.

(4) The provisions relating to removal and transportation of raw minerals shall apply to transportation of minerals.

100E.-(1) In any negotiations for the provision of a stabilization regime in the extractives sector, it shall be prohibited to use stabilization arrangements that entail the freezing of laws or contracting away the sovereignty of the United Republic.

(2) Stabilization arrangement shall be specific and time bound and it shall be unlawful to conclude stabilization arrangement or agreement guaranteed to last for a lifetime of any

mine.

(3) Stabilization arrangements shall make provision for renegotiation from time to time as may be necessary and, as much as possible, be based on the economic equilibrium principle.

(4) Any stabilization arrangement involving tax expenditures by the Government shall provide for the quantification of the value of the tax expenditures and how the mining company shall recompense the Government for the foregone revenues.

(5) The Government shall have the option to convert the quantified values into equity holdings in the mining company.

100F.-(1) Any mineral right holder shall undertake to participate in the growth of the Tanzanian economy by investing a portion of the returns from the exploitation of the country's mineral wealth.

(2) The mineral right holder shall file annual returns showing the efforts undertaken to enhance the performance of the Tanzanian economy and the value of such annual returns.

(3) In considering any extension or renewal or permission to transfer any mineral right, the Government shall take into account the extent of ploughed back returns into the Tanzanian economy.

(4) Any mineral right holder may agree with the Commission on planned investments to enhance the Tanzanian economy.

101.-(1) The Commission or an authorised officer may at any time, enter upon any area over which a Mineral Right has been granted or any premises or working places other than a dwelling house for the purpose of-

(a) inspecting that area, premises or working places 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 Regulations, or the conditions of a mineral right, are being complied with;

(c) ascertaining whether any nuisance exists upon that area, premises or working places;
(d) giving directions, and taking steps, to enforce any provision of this Act or the Regulations, or to abate or remove any nuisance;

(e) taking soil samples or specimens of rocks, ores concentrates, tailings or minerals situated upon that area, premises or working places 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 he may deem necessary for the administration of this Act.

(2) The Commission or an authorised officer may, at all reasonable times, inspect and take copies of any book of accounts, vouchers, documents, maps, drilling logs or records of any kind, kept by the holder of a mineral right, dealer's or broker's licence pursuant to the provisions of this Act and Regulations made there under.

(3) The holder of the mineral right shall provide such reasonable assistance (including the provision of necessary means of transport) as is required to enable the Commission or an authorised officer to exercise or perform any power or function under this section.

(4) Any person who, without reasonable excuse, hinders or obstructs the Commission or an authorised officer in carrying out any function under subsection (1) or (2) commits an offence and on conviction is liable to a fine not exceeding twenty five million shillings or to imprisonment for a term, not exceeding twelve months, or to both such fine and imprisonment.

(5) Where the Commission or authorized officer has reasonable grounds to believe that evidence relating to the commission of an offence under this Act may be located in any premises, vehicle, vessel or aircraft, he may, without warrant enter the premises, vehicle, vessel or aircraft in question and search for such evidence.

PART VIII

LOCAL CONTENT, CORPORATE SOCIAL RESPONSIBILITY AND INTEGRITY PLEDGE

102.-(1) A mineral right holder shall give preference to goods which are produced or available in Tanzania and services which are rendered by Tanzanian citizens and or local companies.

(2) Where goods required by the mineral right holder are not available in Tanzania, the goods shall be provided by a local company which has entered into a joint venture with a foreign company.

(3) The local company referred to in subsection (2) shall own share of at least twenty five percent in the joint venture or otherwise as provided for in the regulations.

(4) For purposes of subsections (1) and (2), every mineral right holder shall prepare and submit to the Commission a procurement plan for a duration of at least five years indicating among others, use of-

(a) local services in insurance, financial, legal, accounts, security, cooking, catering, health and others services provided or available in Tanzania; and

(b) Works, goods and equipment manufactured, produced or available in Tanzania.

(5) A mineral right holder shall ensure that entities referred to in subsection (4) notify the Commission on-

(i) quality, health, safety and environment standards required by mineral right holder;

(ii) upcoming contracts as early as practicable; and

(iii) compliance with the approved local content plans.

(6) The entities referred to in subsection (1) shall-

(a) have capacity to add value to meet health, safety and environment standards of mining operations carried out by mineral right holder; and

(b) be approved in accordance with criteria prescribed in the regulations.

(c) Within sixty days after the end of each calendar year, the mineral right holder shall submit to the Commission a report of its achievements in utilising Tanzanian goods and services during that calendar year.

(8) The mineral right holder shall submit to the Commission:

(a) a report on the execution of a programme prescribed in the regulations; and

(b) a detailed local supplier development program in accordance with approved local content plans.

(8) For the purpose of this Act-

“local company” means a company or subsidiary company incorporated under the Companies Act, which is one hundred percent owned by a Tanzanian citizen or a company that is in a joint venture partnership with a Tanzanian citizen or citizens whose participating shares are not less than fifty one percent.

103.-(1) A mineral right holder shall, within twelve months after the grant of a licence, and on each subsequent anniversary of that grant, submit to the Commission for approval, a detailed programme for recruitment and training of Tanzanians in accordance with an approved local content plans.

(2) The programme shall provide training and recruitment of Tanzanians in all phases of mining operations and take into account gender, equity, persons with disabilities, host communities and succession plan in accordance with the Non-Citizens (Employment Regulation) Act.

(3) For purposes of subsections (1) and (2) and for the promotion of equality and fairness in the treatment of employees at the workplace, it is prohibited to practice discrimination including payment of salaries to employees of the same cadre irrespective of colour, faith and nationality.

(4) Where a programme or a scholarship proposed to be awarded under this section is approved by the Commission, it shall not be varied without permission of the Commission.

(5) The mineral right holder shall submit to the Commission annually, a report on the execution of the programme in a manner prescribed in the regulations.

104.-(1) A report referred to under subsection (4) of section 103 shall include:

(a) a clearly defined training programme for the Tanzanian employees of the mineral right holder, which may be carried out within or outside Tanzania and may include scholarships and other financial support for education;

(b) a commitment by the mineral right holder to maximize knowledge transfer to Tanzanians and establish management and technical capabilities and any necessary facilities for technical work, including interpretation of data; and

(c) a commitment to reserve adequate practical training opportunities to students from local training institutions.

(2) The technology transfer required under sub section (1) shall be a shared responsibility between the Government and mineral right holder.

(3) A mineral right holder shall be required to provide a report on the progress made by Tanzanians on training program and steps taken by licensee to close any identified learning gaps.

(4) The Minister may make regulations prescribing requirements for mineral right holder to provide technology transfer and skills relating to mining operations to Tanzanians who are employed in that sector.

105.-(1) A mineral right holder shall on annual basis, prepare a credible corporate social responsibility plan jointly agreed by the relevant local government authority or local government authorities in consultation with the Minister responsible for local government authorities and the Minister responsible for Finance.

(2) The plan prepared under subsection (1) shall take into account environmental, social, economic and cultural activities based on local government authority priorities of host community.

(3) The corporate social responsibility plan referred to under subsection (1) shall be submitted by a mineral right holder to a local government authority for consideration and approval.

(4) Subject to the provision of this section, every local government authority shall-

(a) prepare guidelines for corporate social responsibility within their localities;

(b) oversee the implementation of corporate social responsibility action plan;and

(c) provide awareness to the public on projects in their areas.

(5) In this section “host communities” means inhabitants of the local area in which mining operations activities take place.

106.-(1) A mineral right holder who undertakes mining shall be required to comply with the integrity pledge.

(2) The integrity pledge referred to under sub-section (1) implies the following national requirements-

(a) the conduct of mining operation or activities with utmost integrity;

(b) desist to engage in any arrangement that undermines or is in any manner prejudicial

to the country's financial and monetary systems, in particular, all earnings, payments or receivables derived from or in respect of mining operations or activities shall be received in, and accounted for in Tanzania;

(c) desist to engage in any arrangement that undermines or is otherwise prejudicial to Tanzania's tax system;

(d) disengage in arrangement that is inconsistent with the country's economic objectives, policies and strategies;

(e) maintenance of satisfactory and effective insurance coverage against losses, injuries or damage to environment, communities, individuals and properties, that may be occasioned in the course of carrying out mining operations or activities; or

(f) disengage in arrangement that undermines or is otherwise prejudicial to Tanzania's national security.

(3) The Minister may make regulations guiding compliance with the integrity pledge.

(4) Any person who fails to comply with integrity pledge shall breach the conditions of licence or permission to engage in mining operation or activity and such licence or permission shall be deemed to have been withdrawn or cancelled and the Government shall exercise the right of takeover facilities provided for under this Act.

PART IX

ENVIRONMENTAL PRINCIPLES AND LIABILITIES

107.-(1) The licence holder and any other person who exercise or perform functions, duties or powers under this Act in relation to mining operations shall comply with environmental principles and safeguards prescribed in the Environmental Management Act and other relevant laws.

(2) The licence holder and contractor shall ensure that the management of production, transportation, storage, treatment and disposal of waste arising out of mining operations is carried out in accordance with environmental principles and safeguards prescribed under the Environmental Management Act and other relevant written laws.

(3) The licence holder shall contract a separate and competent entity to manage transportation, storage, treatment or disposal of waste arising out of mining operations.

(4) The licence holder shall be responsible for activities referred to under subsection (3).

(5) The National Environmental Management Council in consultation with the

Commission may, grant a licence for management, transportation, storage, treatment or disposal of waste arising out of mining operations to an entity contracted by a licence holder under subsection (3) on terms and conditions prescribed in the licence.

(6) A person contracted by the licence holder under subsection (3) shall not carry out mining operations without having a licence issued by the Minister responsible for environment.

(7) A person who carries on management of productions transportation, storage, treatment or disposal of waste arising out of mining operations without a licence or fails to comply with the terms and conditions prescribed in the licence, commits an offence and shall be liable on conviction to a fine of not less than five million shillings or to imprisonment for a term of not less than six months.

108.-(1) This Part applies in relation to damage caused by pollution from a facility if the damage occurs in Tanzania or affects a Tanzanian vessel or facility in adjacent areas.

(2) The Minister may, make regulations relating to liability for pollution or damage caused by mining operations with agreement with a foreign State.

(3) Regulations made under subsection (2) shall not restrict the right to compensation in accordance to this Act and relevant written laws in respect of any injury, death or damage of property under Tanzania Jurisdiction.

109.-(1) The licence holder shall be liable for pollution damage without regard to fault.

(2) Where it is demonstrated that an inevitable event of nature, act of war, exercise of relevant Commission or a similar event of act of God has contributed to a considerable degree to the damage or its extent under circumstances, which are beyond the control of the licence holder or contractor, the liability may be reduced to the extent that is reasonable, with particular consideration to the-

(a) scope of the activity;

(b) situation of the party that has sustained the damage; and

(c) opportunity for taking out insurance on both sides.

110.-(1) Where pollution or damage occurs during mining operations and the operation has been conducted without a licence, the party conducted the mining operations is liable for the damage, regardless of fault.

(2) The liability shall be applied to any other person who has taken part in the mining operations, and who knew, or should have known that the activity was conducted without a licence.

111.-(1) The liability of a licence holder and contractor for pollution damage may be claimed in accordance with this Act and any other applicable law.

(2) Liability for pollution damage may not be claimed against-

(a) any person other than a licence holder and contractor who undertakes measures to avert, limit pollution damage, save life or rescue values which have been endangered in connection with the mining operations, unless the measure taken conflict with prohibitions imposed by the Commission or express prohibition by the law values threatened; or

(b) any person employed by a licence holder or person referred to in paragraph (a).

(3) Where the licence holder and contractor have been ordered by court to pay compensation for pollution damage, but fail to pay within the time stipulated in the judgment, the party that has sustained damage may bring an action against the party that has caused the damage to the same extent as the licence holder and contractor may bring an action for recourse against the party who caused the damage.

(4) The licence holder and contractor may claim compensation from the party who caused pollution damage to the licence holder and contractor to the same extent as the licence holder and contractor may bring action for recourse against the party caused the damage.

112.-(1) The licence holder and contractor may not claim compensation for damage caused by pollution against a person exempted from liability, except where such person acted wilfully or negligently.

(2) Recourse liability may be mitigated to the extent that it is considered reasonable in view of manifested conduct, economic ability and the circumstances in general.

(3) Any agreement on further recourse in respect of a person against whom liability is imposed contrary to subsection (1) shall be invalid and not claimable for damages.

113. A legal action for compensation for pollution damage shall be brought before a competent court in the area where the effluence or discharge of mining operations takes place or where damage is caused.

PART X

FINANCIAL PROVISION

114.-(1) The funds of the Commission shall consist

- (a) moneys appropriated by Parliament for the purposes of the Commission;
- (b) grants received by the Commission; and any other moneys legally acquired and received by the Commission for the execution of its function.

(2) The funds of the Commission shall be used for payment of-

- (a) salaries and allowances of staff members of the Commission; and
- (b) any other expenses incurred by the Commission in the execution of its functions.

115. The financial year of the Commission shall be the period of one year ending on the 30th June.

116.-(1) The Commission shall, before the end of each financial year, prepare a budget for the following financial year showing estimates of its receipts and expenditure for the following year.

(2) The Commission shall, submit to the Minister the annual budget and every supplementary budget for approval.

117.-(1) The accounts of the Commission shall, at the end of each financial year, be audited by the Controller and Auditor-General.

(2) The Commission shall cause to be kept proper books and audited records of accounts of the income, expenditure and assets.

(3) Within a period of three months after the end of each financial year, the Commission shall submit to the Controller and Auditor-General the accounts of the Commission together with-

- (a) a statement of income and expenditure during the previous year; and

(b) a statement of assets and liabilities of the Commission on the last day of that year.

118.-(1) The Commission shall, on or before the 30th December of each year, prepare an annual report in respect of that financial year up to immediately preceding 30th June, and submit the report to the Minister who shall lay the report before the National Assembly.

(2) The annual report shall consist of-

(a) detailed information regarding the activities of the Commission during the year to which it relates;

(b) a copy of the audited accounts; and

(c) any other information as the Commission may be required to provide by this Act.

PART XI

DISPUTES SETTLEMENT

119.-(1) The Commission may inquire into and decide all disputes between persons engaged in prospecting or mining operations, either among themselves or in relation to themselves and third parties other than the Government not so engaged, in connection with-

(a) the boundaries of any area subject to a mineral right;

(b) the claim by any person to be entitled to erect, cut, construct or use any pump, line of pipes, flume, race, drain, dam or reservoir for mining purposes, or to have priority of water taken, diverted, used or delivered, as against any other person claiming the same;

(c) the assessment and payment of compensation pursuant to this Act; or

(d) any other matter which may be prescribed.

(2) The Commission may make any order which may be necessary for the purpose of giving effect to the decision in proceedings pursuant to this Part, and may order the payment, by any party to a dispute, of such compensation as may be reasonable, to any other party to the dispute.

120.-(1) The Commission may file for execution any order made under section 119(2) to a court presided over by a Resident Magistrate within the local limits of whose jurisdiction the subject matter of the order is situated.

(2) On receiving the order under subsection (1), the court shall cause the order to be enforced as if that order was made by the court.

(3) The fees payable upon the enforcement of an order shall be those which would be payable upon the enforcement of the like order made by the court concerned.

121. Any person aggrieved by a decision or order of the Commission made or given pursuant to this Part may appeal to the High Court within the period of thirty days from the date on which the decision or order is given or made.

122. The Commission may make rules providing for the initiation and conduct of proceedings under section 119 and the keeping of records and notes of evidence concerning any such proceedings.

PART XII

REGISTRATION OF MINERAL RIGHTS

123.- (1) The Commission shall -

(a) maintain a central register of all mineral rights which shall include a record of all applications, grants, variations and dealings in, assignments, transfers, suspension and cancellation of the rights;

(b) cause similar registers to be maintained in every regional mines office with regard to all mineral rights.

(2) A register required to be maintained under this section shall be open for public inspection on payment of the prescribed fee.

124. A certificate of the Commission that-

(a) a mineral right was granted, transferred, suspended or cancelled on, or with effect from, a date specified in the certificate;

(b) any land identified in the certificate is, or was, on a date specified in the certificate the subject of a specified mineral right;

(c) a mineral specified in the certificate is a mineral of which a mineral right relates;

(d) any condition specified in the certificate is, or was, on a date so specified a condition of a mineral right;

- (e) a certificate of surrender was issued in respect of land identified, and on a date specified, in the certificate;
- (f) any condition specified in the certificate is a condition on which a certificate of surrender was issued or on which any consent or approval so specified was given;
- (g) a person named in the certificate is, or was, on a date specified in the certificate the holder of a specified mineral right, may be received in proceedings before any court as evidence of that fact, but without prejudice to the right to adduce evidence in rebuttal.

PART XIII

MISCELLANEOUS PROVISIONS

- 125.**-(1) A person shall not export or import any radioactive mineral except in accordance with the terms and conditions as stipulated under the Atomic Energy Act.
- (2) An application for a permit to export or import radioactive minerals shall be submitted to the Commission in the prescribed form and shall be accompanied by the prescribed fee and such other information as the Commission may require or as may be prescribed.
- (3) Any person who exports or imports or attempts to export or import any radioactive mineral otherwise than required by the preceding provisions of this section shall be proceeded against in accordance with the provisions of the Atomic Energy Act.
- (4) In this section, "radioactive mineral" means a mineral which contains by weight at least one-twentieth of one per centum of uranium or thorium or any such combination and includes-
- (a) monazite sand and other ores containing thorium;
 - (b) carbonite, pitchblende and other ores containing uranium.
- (5) The Minister shall make special regulations for the purpose of ensuring public safety and-
- (a) regulating mining, processing, hauling, transporting, conveying, marketing and disposition of radioactive minerals; and
 - (b) such regulations shall not be inconsistent with the Atomic Energy Act and its regulations made there under.

126. The Minister shall, in consultation with holders of special mining licence, make regulations prescribing the minimum shareholding requirement and procedure for selling shares to the Tanzania nationals, in accordance with the provisions of the Capital Market and Securities Act, offering shares to the public through listing with the stock exchange.

127.-(1) Where a mineral right or dealer's licence is granted to a company, or other body corporate, the company, or such body corporate, shall not, after the date of the grant of the right, without the written consent of the licensing authority-

(a) register the transfer of any share or shares in the company to any particular person or his 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 or other body corporate.

(2) On an application for consent under this section, the Licensing Authority shall require the applicant to submit document and information which are necessary for the purpose of obtaining a consent.

(3) For the purpose of this section-

(a) a person is deemed to have control of a company or other body corporate-

(i) if the person or his nominee holds, or the person and his nominee 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;

(b) "equity shares" means shares other than preference shares;

(c) "preference shares" means shares which carry the right to the payment of a dividend of a fixed amount or not exceeding a fixed amount in priority to another class or classes of shares, whether with or without other rights.

(4) The consent of the licensing authority under this section shall not be unreasonably withheld.

128.-(1) The holder of a mineral right under Division A, B or D of Part IV and his contractors shall-

(a) obtain and at all times during the subsistence of the mineral right maintain in respect of mining operations insurance coverage of such amounts and against such risks as are

customarily or prudently insured in the international mining industry in accordance with good international mining industry practice; and

(b) furnish to the Minister certificates evidencing that such coverage is in effect and provide copies of any policies requested.

(2) The insurance under paragraph (a) shall cover-

(a) loss or damage to all installations, equipment and other assets for so long as they are used in or in connection with mining operations;

(b) loss of property damage or bodily injury suffered by any third party, incurred in the course of or as a result of mining operations;

(c) pollution and environmental damage, caused in the course of or as a result of mining operations for which the holder or the United Republic may be held responsible;

(d) liabilities of the holder to indemnify the United Republic pursuant to subsection (4); and

(e) the holder's liability to its employees engaged in mining operations.

(3) The holder of a mineral right granted under Division C of Part IV shall-

(a) if so directed by the Commission 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 Commission may consider reasonably necessary in the public interest:

(b) where the holder of any such mineral right considers that any obligation imposed under this subsection, is onerous or unreasonable, he may appeal against the direction of the Commission to the Minister.

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

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

129.-(1) The Minister may, on recommendation of the Commission, make regulations for

any matter which, in accordance with this Act, is to be provided for by the regulations or which may be prescribed.

(2) In particular, but without limiting the generality of subsection (1) such regulations may provide for-

(a) the making of applications and the fees to be paid on applications and issuances of licences, whether or not provided for in the foregoing provisions of this Act;

(b) any other fee, charge, rent, due, royalty or other sum which may be charged under this Act or the regulations and the manner of calculation of the same;

(c) the procedures for inviting tenders and the conditions for tendering in response to such invitations;

(d) the allocation of primary mining licences within areas declared to be reserved for such primary licences and for the regulation of Mineral Rights in such areas;

(e) the demarcation of prospecting and mining areas;

(f) the standard model of development agreement and other various forms to be used under this Act;

(g) the proper and efficient working of prospecting areas, mining areas and mines;

(h) the avoidance of wasteful practices as described in this Act or otherwise;

(i) prescribing safety standards for work and machinery connected with prospecting and mining;

(j) the avoidance of pollution to the air, surface and ground waters and soils and the regulation of all matters relating to the protection of the environment and the minimisation of all adverse impacts to the environment including the restoration of land on which mining operations have been conducted;

(k) the regulation of all matters relating to sanitation and health, including the establishment of cemeteries, as regards mining areas;

(l) the reporting of accidents and deaths occurring on any prospecting area or mining area in connection with prospecting or mining;

(m) making safe any land, works or machinery over or with which prospecting or mining operations have been conducted;

(o) procedures for renewal, suspension and cancellation of licences issued under this Act;

(p) procedures for termination, of mining operations and closure of mines;

(q) procedures for lodging complaints, handling complaints and appeals;

- (r) such further matters as may be necessary or expedient for the security of operations for the mining, recovery, treatment, storage and transport of raw gold or gemstones;
- (s) the circumstances and procedures for referring matters for determination of an expert, and the procedures for selecting and appointing an expert;
- (t) the inspection of records, accounts, books and documents;
- (u) operationasation of inspection of mineral or minerals as required under this Act;
- (v) local content principles including the requirements for provision of goods and services by Tanzanian entrepreneurs, training and employment of Tanzanians and technology transfer;
- (w) principles relating to corporate social responsibility;
- (x) principles and procedures relating to integrity pledge; and
- (y) conduct of mineral auctions and mineral houses.

(2) Regulations made under this Act may-

- (a) make separate provision in respect of mineral rights granted under Divisions A, B and D of Part IV;
- (b) empower the Minister, the Commission, the authorized officers or the Resident Mines Officer to give directions.

(3) Where any matter is to be provided for by Regulations relating to royalties, fees or other charges, the Minister shall, before making such Regulations, consult the Minister responsible for financial matters.

(4) Where any matter is to be provided for by Regulations relating to protection of environment and rehabilitation bond, the Minister shall, before making such Regulations, consult the Minister responsible for environment matters.

(5) Any regulations made under this Act may prescribe for any breach thereof a fine not exceeding two million shillings or imprisonment for a period not exceeding twelve months or both such fine and imprisonment.

130. Any person who, without reasonable excuse, obstructs or hinders the holder of a mineral right from doing any act which that holder is authorised to do by this Act, the regulations or his mineral right commits an offence and on conviction is liable to a fine not exceeding ten million shillings or imprisonment for a period not exceeding twelve months or to both. Any person who-

- (a) in any application under this Act knowingly makes any statement which is false or misleading in a material particular;

(b) in any report, return or affidavit submitted in pursuance of any provision of this Act, knowingly includes or permits to be included any information which is false or misleading in a material particular;

(c) places or deposits, or is accessory to the placing or depositing of, any material in any place with the intention of misleading any other person as to the mineral possibilities of that place;

(d) 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 with the intention to cheat, deceive or defraud, commits an offence and on conviction is liable –

(i) in the case of an individual, to a fine not exceeding ten million shillings or to imprisonment for a period not exceeding twelve months or to both; or

(ii) in the case of a body corporate, to a fine not exceeding fifty million shillings.

Where an offence which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or of any person who was purporting to act in any such capacity, he, as well as the body corporate, commits an offence and shall be punished accordingly.

PART XIV

REPEALS AND SAVINGS PROVISIONS

133.-(1) Repeals Cap.123 R.E.2002.

(2) Notwithstanding the repeal of the Mining Act, under subsection (1) any subsidiary legislation made under the repealed Act shall continue to have effect as if made or done under this Act until they are revoked or replaced.

(3) Notwithstanding the repeal of the Mining Act, under subsection (1), all mineral rights, licences, permits and authorisations granted or issued and Agreements entered in accordance with the provisions of the repealed Act shall be deemed to have been granted, issued or authorised under this Act, subject to the modifications as may be determined under this Act in respect of the particular grant or authorisation.

(4) All Agreements made and entered in terms of the repealed Act, all appointments and decisions made under the repealed Act shall be deemed to have been made under this Act, until terminated, surrendered, reviewed, removed, cancelled or expired.

FIRST SCHEDULE

(Made under section 21)

PROCEDURES RELATING TO MINING COMMISSION

1.-(1) Subject to the provisions of this Schedule, every member of the Commission shall hold office for the period of three years from the date of his appointment but may be eligible for re- appointment for one more term.

(2) Notwithstanding subparagraph (1), a member may resign at any time by giving notice in writing to the appointing authority and from the date specified in the notice or, if no notice is specified in the notice, from the date of receipt of the notice by the appointing authority he shall cease to be a member.

(3) A person who is a member by virtue of his holding some other office shall cease to be a member upon ceasing to hold the office by virtue of which he is a member.

2. Where any member of the Commission absents himself from three consecutive meetings of the Commission without reasonable excuse, the Commission shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of such a member and appoint a new member in his place.

3. Where a member of the Commission ceases to be such a member by resignation, or death or is unable to perform his functions as such member by reason of his absence from the United Republic or by reason of any infirmity of the body or mind or where the appointing authority terminates his appointment under paragraph 2, the appointing authority may appoint another member in his place and a member so appointed shall subject to the provisions of this schedule, hold office for the remainder of the term of his predecessor.

4. The Commission shall elect one of its members to be a Vice Chairman and any member elected as a Vice Chairman shall, subject to his continuing to be a member hold office of Vice Chairman for a term to be fixed by the Commission and shall be eligible for re-election at the end of that period.

5.-(1) The Chairman shall preside at all meetings of the Commission, and where at any meeting of the Commission the Chairman is absent then the Vice Chairman shall preside.

(2) In the absence of both the Chairman and Vice Chairman at any meeting of the

Commission the members present may form amongst their number elect a temporary chairman who shall preside at that meeting.

(3) The Chairman, Vice Chairman or temporary chairman presiding at any meeting of the Commission shall have a vote and in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.

6.-(1) Subject to any general or specific directions of the Chairman the Commission shall meet not less than four times during every financial year and at such additional times as may be fixed by the Chairman or if he is absent or unable for any reason to act, the Vice Chairman.

(2) The Secretary to the Commission shall give to each member of the Commission fourteen days notice of the time and place of every meeting of the Commission

7. One half of the total number of members shall form a quorum for the meeting of the Commission.

8.-(1) Subject to the provisions relating to casting of votes, all questions at the meeting of the Commission shall be determined by the majority of the votes of the members present and if any members refuses or fails to vote on any question, he shall be deemed to have casted a negative vote.

(2) Notwithstanding subparagraph (1), the decision may be made by the Commission without the meeting by circulation of relevant papers among the members and the expression of the views of the majority thereof in writing shall be deemed to be the decision of the Commission.

(3) Any member of the Commission shall be entitled to require that any decision of the Commission made under subparagraph (2).

9. Subject to the provisions of this Act, the Commission shall have power to regulate its own procedures.

SECOND SCHEDULE

(Made under section 100)

REPORTS AND RECORDS

1.-(1) Subject to subparagraph (2), the holder of a prospecting licence shall-

(a) keep at the address referred to subsection (2), of section 100, full and accurate records of his prospecting operations which indicate:

- (i) boreholes drilled;
- (ii) aerial photographs;
- (iii) strata penetrated with detailed logs of the strata;
- (iv) minerals discovered;
- (v) the results of any seismic survey or geochemical or geophysical analysis;
- (vi) the results of any analysis or identification of minerals;
- (vii) the geological interpretations of the records maintained under items (i) to (vi) inclusive;

(viii) the number of persons employed;

(ix) other work done in connection with the prospecting licence;

(x) costs incurred; and

(xi) such other matters as may be prescribed.

(b) submit within the first month of every calendar quarter to the Commission copies of records of his prospecting operations together with any records prepared as a result of those records.

(2) The Commission may, on the application of the holder of a prospecting licence, modify any of the requirements of subparagraph (1).

2. The holder of a special mining licence shall-

(a) keep at the address referred to in subsection (2) of section 100 –

(i) complete and accurate technical records of his operations in the mining area, including the implementation of his environmental management plan, in such form as the Commission may approve;

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

(iii) accurate and systematic financial records of his operations in the mining area and such other books of account and financial records as the Commission may require; records of the production of minerals from the mining area; records of the number of persons employed by the holder in the mining area and the capacity in which they are employed and of the employment and training of citizens of Tanzania;

(b) submit within the first month of every calendar quarter to the Commission such

reports, records and other information concerning the conduct of operations;

(c) furnish the Commission with a copy of every annual financial report within three months of the end of each financial year showing the profit and loss for the year and the state of the financial affairs of the holder at the end of each financial year.

3. The holder of a mining licence or a primary mining licence shall keep the address referred to in section 100(2) such of the records, and shall furnish to the licensing authority, within the first month of every calendar quarter such of the reports specified in paragraph 2 of this Schedule.

4. Where-

(a) a mineral right terminates in accordance with provisions of this Act; or

(b) the term of a prospecting licence or a special mining licence expires, the person who was the holder of the Mineral Right immediately before the termination or expiration shall deliver to the licensing authority concerned-

(i) all records which the former holder maintained in accordance with this Act with respect to the Mineral Right;

(ii) all plans or maps of the area of land that was subject to the Mineral Right and which were prepared by or on the instructions of the former holder;

(c) such other documents as the licensing authority concerned may, by notice in writing given to the former holder, require him to so deliver.

5. Where the term of a mining licence, gemstone mining licence or primary mining licence expires, the person who was the holder of the Mineral Right immediately before the expiration shall deliver to the licensing authority concerned, all records that he was required to keep under this Schedule and all plans or maps of the prospecting operations or mining operations on the area.

6. Where the Commission 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, he may, by notice in writing served on that person, require that person-

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

(b) to attend before him or a person specified in the notice at such time and place as is 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 notice at such time and place as is so specified books or documents in his custody or power relating to minerals obtained or the value of minerals obtained.

7. A person is not excused from furnishing information, answering a question or making available books or documents when required to do so under this Part of this Schedule on the ground that the information so furnished, the answer to the question, or the production of; or making available, any books or documents might tend to incriminate him or make him liable to a penalty, but the information so furnished shall not be admissible in evidence against him in any proceedings other than proceedings for a contravention of paragraph 9.

8. Where books or documents are made available in accordance with paragraph 6, the person to whom they are made available may make copies of, or take extracts from, the books or documents.

9.-(1) A person shall not-

(a) refuse or fail to comply with a requirement under paragraph 6 to the extent that he is capable of complying with it;

(b) in purported compliance with such a requirement, knowingly furnish information that is false or misleading in a material particular;

(c) when attending the Commission or any other person in accordance with such a requirement, knowingly make a statement or produce a book or document that is false or misleading in a material particular; or

(d) when making available books or documents in accordance with such a requirement, knowingly make available a book or document that is false or misleading in a material particular.

(2) Any person who contravenes subparagraph (1) of paragraph 9 Commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a period not exceeding six months or to both.