



SOUTHERN RHODESIA.

ACT

To consolidate certain laws relating to mines and minerals.

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BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice of the Legislature of the Colony of Southern Rhodesia, as follows:—

Short title
and date of
commencement.

1. This Act may be cited as the Mines and Minerals Act, 1951, and shall come into operation on a date to be fixed by the Governor by proclamation in the *Gazette*.

This Act is a
consolidation
of the laws
mentioned in
the First
Schedule.

2. This Act shall not be held to operate as a new law but shall be construed and have effect as a consolidation and continuation without interruption, to the extent indicated in the second column of the First Schedule to this Act, of the laws mentioned in such Schedule and as being declaratory to the extent aforesaid of the provisions of such laws:

Provided that the provisions of this Act shall be conclusive evidence to the extent aforesaid of the provisions of the laws consolidated in this Act.

Rights to
minerals
vested in
Governor.

3. The dominium in and the right of searching and mining for and disposing of all minerals, mineral oils and natural gases, notwithstanding the dominium or right which any person may possess in and to the soil on or under which such minerals, mineral oils and natural gases are found or situated, is hereby vested in the Governor, subject to the provisions of this Act.

Acquisition
of mining
rights.

4. Except where otherwise provided under any title deed to land granted prior to the 1st September, 1935, rights can be acquired in the manner hereinafter in this Act set out and in such manner only to all minerals, mineral oils and natural gases.

Savings.

5. Every prospecting licence, mining location or other mining right whatsoever legally acquired before the 1st September, 1935, and legally held at such date, and every special grant made before such date and legally held as aforesaid, is hereby confirmed, but shall from and after such date be held under and subject to the provisions of this Act:

Provided that—

- (i) whenever, prior to the promulgation of the "Mines and Minerals Ordinance, 1895," any mining location has been registered without a discovery point being established and a discovery notice posted, or whenever prior to the promulgation of the "Mines and

Minerals Ordinance, 1903," any mining location has been registered and the discovery reef thereof is unascertainable from the documents in the possession of the mining commissioner, or cannot otherwise be proved, the expression "discovery reef" in regard to such location shall mean the main or principal reef discovered, exposed or opened up in such location;

- (ii) whenever the width of any mining location has been extended under the provisions of the "Mining Laws Defining Regulations, 1896," the date of acquisition of title to such extended width shall, if the ground covered by such extended width was open to prospecting at the time when such extended width was pegged, be deemed to be the same as the date of acquisition of title to such mining location;
- (iii) in the case of a special grant made before the 1st September, 1935, the terms of this Act shall only apply when not inconsistent with any of the provisions in such grant; and
- (iv) nothing in this Act contained shall be deemed to deprive the holder of any block of precious metal reef claims, which was legally registered prior to the 1st September, 1935, of any extra-lateral right legally existing at such date.

6. In this Act, unless inconsistent with the context— Interpretation
of terms.
"alluvial deposit" means—

- (a) in relation to precious stones, any deposit, either non-coherent or consolidated, of any geological age, which has been formed by the agency of water or wind;
- (b) in relation to any other mineral, any accumulation of sand, gravel or clay deposited by surface water containing valuable minerals;

"aqueduct" means any artificial work, appliance or structure, other than a pipe-line, for the conveyance of water, wherever situated;

"arbitration" means arbitration in terms of the Lands and Arbitrations Clauses Act [*Chapter 14*]:

Provided that the arbitrators shall be one person nominated by each of the parties to the dispute, together with a third person appointed by such arbitrators;

"base minerals" means all minerals and mineral substances other than precious metals, precious stones, mineral oils and natural gases, coal, and includes all such slimes, concentrates, slags, tailings and residues as are valuable and contain base minerals as hereinbefore defined;

"block" means a claim or a group of claims which may be registered in terms of this Act under one certificate of registration;

"Board" means the Mining Affairs Board established under Part I;

"coal" means anthracite, bituminous coal, brown coal, shale, lignite, and every other mineral used for fuel;

"course of a reef" means a line on the surface marking the intersection of the centre of a reef with such surface; in cases where the whole or any portion of a reef is situated below the surface of the ground, the course of such reef shall be ascertained by projecting vertically to the surface the various points at which the centre of such reef approaches nearest to the surface, when the various points thus obtained shall be deemed to constitute the course of such reef;

"dam" means any works permitting of the artificial storage or accumulation of water, together with the water and all land submerged at high flood level;

"diamonds" means rough and uncut diamonds;

"Director of Mines" means the person appointed as such by the Minister:

Provided that during any time when no person is appointed as Director of Mines, any reference in this Act to the Director of Mines shall be read as a reference to the Chief Government Mining Engineer;

"Disputes Board" means a board appointed by the Governor in terms of section *two hundred and seventy*;

"dump" means any aggregate of rock fragments or tailings which contain valuable minerals and have been accumulated by mining on a mining location;

"excess area," when used in relation to a block, means the area by which such block exceeds—

(a) in the case of a precious metal or precious stones block, ten claims; and

(b) in the case of a base mineral block, thirty claims;

“extra-lateral right” means the right of following a reef on its dip beyond the limits of the vertical block;

“flood water” means any flow of water occurring elsewhere than in a public stream which is directly caused by rainfall;

“Government land” means any land of which the ownership is vested in the Governor, except any such land which is included in the term “private land”;

“holder,” in relation to a registered mining location, means the person in whose name such location is registered with the mining commissioner or with the Secretary and, in the case of a deceased person or of a company in liquidation, or of any person under a legal disability, means the executor, administrator, liquidator, trustee, tutor, curator or other person who has the administration or control of the property of the person in whose name such location is registered;

“holding,” in relation to private land, means the whole area of land which is held by an owner under one title or one agreement with the Crown:

Provided that, if the owner of a holding has leased any portion thereof to any other person under an agreement of lease which is registered at the Deeds office, such portion shall be deemed to be a separate holding;

“land surveyor” means a land surveyor duly admitted to practise within the limits of the Colony, and at the time of the performance by him of any acts under this Act in such capacity, entitled so to practise in the Colony;

“mine” includes any place, excavation or working whereon, wherein or whereby any operation in connection with mining purposes is carried on;

“miner” means the person actually carrying on the work of mining on any mining location, whether he is the holder or the lessee or assign of the rights of such holder;

“mine surveyor” means a person who possesses, at the time of the performance by him of any acts under this Act required or permitted to be performed by a mine surveyor, such qualifications as may from time to time be prescribed by the Minister by notice in the *Gazette*;

“minerals” means all minerals and mineral substances other than—

- (a) mineral oils and natural gases;
- (b) sand, clay and stone (other than limestone) *bona fide* required and used for—
 - (i) building;
 - (ii) the manufacture of bricks and tiles;
 - (iii) the construction of monuments;
 - (iv) road making;
 - (v) the construction of dams, reservoirs, weirs, canals or other irrigation works;

“miners’ phthisis” means silicosis of the lungs;

“mining commissioner” means the mining commissioner of the mining district within which the land or claims concerned, as the context may require, are situated;

“mining location” means a defined area of ground in respect to which mining rights, or rights in connection with mining, may have been acquired under this Act or under any law relating to mines and minerals and in force on the 31st August, 1935;

“mining purposes” means the purpose of obtaining or extracting any mineral by any mode or method, or any purpose directly or indirectly connected therewith or incidental thereto;

“Minister” means the Minister of Mines or any other Minister to whom the Governor may assign the administration of this Act;

“occupier” means the person lawfully and actually using or possessing any land under and by virtue of any grant or agreement, other than an agreement provided for by any law controlling the establishment of native locations on private land;

“ore” means all forms of minerals or mineral aggregates which in the abstract are of economic value;

“output” means—

- (a) in respect of precious stones, precious stones which have been recovered from any mining location;
- (b) in respect of any other mineral, ore which has been mined and reduced to a saleable form or which is in a saleable form on being mined;

“owner,” as applied to land, means the registered owner of such land or any person lawfully holding land

in accordance with the provisions of an agreement with the Crown which entitles such person to obtain title thereto on the fulfilment by him of the conditions prescribed by such agreement and the duly authorised representative of any such person;

“Part” means Part of this Act;

“peg” means an artificial post or rod which shall, unless otherwise prescribed, be of a height of not less than four feet above the ground nor less than three inches in diameter:

Provided that a metal peg may be used if it is not less than one-third of an inch in diameter;

“placer deposit” means any form of mineral deposit which does not fall within the definitions of “reef,” “alluvial deposit” or “rubble deposit”;

“point of departure” means any point at which the course of a reef crosses a boundary of a mining location;

“precious metals” means gold, silver, platinum and platinumoid metals in an unmanufactured state, and includes all such slimes, concentrates, slags, tailings, residues and amalgams as are valuable and contain such precious metals;

“precious stones” means beryls, diamonds, emeralds, rubies and any other substances which the Governor may by proclamation in the *Gazette* declare to be precious stones for the purposes of this Act;

“prescribed” means prescribed by this Act;

“primary purposes” means domestic purposes and the support of animal life;

“private land” means any land the ownership of which has by law, grant or title deed become vested in any person, and includes any land held by any person under any agreement whereby such person is entitled to obtain from the Governor title thereto on the fulfilment by him of the conditions prescribed by such agreement;

“reef” means any form of ore deposit contained within defined boundaries occurring in the earth’s crust that has been deposited in the enclosing country rocks, and includes a true fissure vein, contact vein, segregated vein, gash vein, bedded vein, metalliferous banket, and all such deposits as conform generically to the above classification and any bed of any

mineral, such as ironstone or limestone, but does not include alluvial deposits, placer deposits, rubble deposits or coal;

“regulations” means regulations made under this Act;

“rubble deposit” means any natural deposit of rock fragments accumulated at or near the surface of the ground;

“Secretary” means the Secretary, Department of Mines, appointed in terms of section *two hundred and forty-five*;

“section” means section of this Act;

“special grant” means any mining right or any right in connection with mining which may be acquired under the provisions of section *one hundred and eighty-four*, or which was acquired prior to the 1st September, 1935, and was registered in terms of section 86 of the “Mines and Minerals Ordinance, 1903”;

“strike” means a horizontal line drawn at right angles to the dip of a reef;

“this Act” includes the regulations;

“town lands” means any land reserved for the purpose of any municipality, town or village and includes any outspan adjoining such land;

“vertical block or site” means, with reference to any block or site, all such ground or space as is comprised within vertical planes passing through the boundary lines of such block or site on surface and projected indefinitely downwards;

“water, public,” “water, private,” have the same meanings as are given to these terms in the Water Act [*Chapter 251*].

PART I.

ESTABLISHMENT AND FUNCTIONS OF THE MINING AFFAIRS BOARD.

Establishment
and functions
of Mining
Affairs Board.

7. (1) As from the 1st January, 1950, there shall be established a board to be known as the Mining Affairs Board which shall exercise and perform the powers, functions and duties conferred and imposed upon it by this Act and by any other law.

(2) The Board shall, in addition, perform such other functions and duties as may from time to time be required of it by the Minister.