

TANGANYIKA



No. 9 OF 1964

I ASSENT,

Julius K. Nyerere
President

5TH MARCH, 1964

An Act to amend the Mining Ordinance

[.....]

ENACTED by the Parliament of Tanganyika.

1. This Act may be cited as the Mining Ordinance (Amendment) Act, 1964, and shall be read as one with the Mining Ordinance (hereinafter called the Ordinance). Short title and construction
Cap. 123

2. Section 2 of the Ordinance is hereby amended as follows:—

Section 2 of
Cap. 123
amended

(a) in the definition "alluvial", by adding at the end thereof the words "or building minerals";

(b) by adding immediately below the definition "alluvial" the following new definition:—

"'building minerals' includes all forms of rock, stones, gravel, sand, clay, volcanic ash or cinder 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 materials used for the manufacture of cement;";

(c) by deleting the definition "disc claim" and substituting therefor the following new definition:—

"'disc claim' means a claim validated by the use of a mining disc in an area in which the use such disc has been prescribed under Part VI A of this Ordinance;";

(d) by inserting after the definition "minerals" the following:—

"'mining disc' means a metal disc issued by an officer of the Mines Division in accordance with Part VI A of the Ordinance;

'Minister' means the Minister for the time being responsible for mining affairs;";

- (e) by deleting the words "or precious stones", occurring at the end of the definition "non-precious minerals" and substituting therefor the comma and words ", precious stones or building minerals";
- (f) by inserting after the definition "notice" the following:-
"officer of the Mines Division' means an officer appointed under section 8 of this Ordinance, above the rank of Assistant Mining Warden;";
- (g) by inserting after the definition "owner or occupier" the following:-
"to peg' means to take possession of land for mining or prospecting purposes under the provisions of this Ordinance by demarcating the area with beacons, posts or cairns, as may be prescribed;";
- (h) by deleting the semi-colon at the end of the definition "to prospect", substituting a colon and adding thereto the following new proviso:-
"Provided that in areas where the use of a disc claim is prescribed for certain minerals persons wishing to test the mineral bearing qualities of the ground may only do so on or within a registered claim or disc claim."

Section 7 of
Cap. 123
amended

3. Section 7 of the Ordinance is hereby amended-

- (a) (i) by deleting the word "non-native" occurring in the first line of paragraph (b) thereof and substituting therefor the word "person";
- (ii) by deleting the words "dwelling house and appurtenances thereto for his own occupation" occurring in paragraph (b) thereof and substituting therefor the words and commas "dwelling houses, factories, workshops, stores, outbuildings and appurtenances thereto for the use of such person, his servants and employees";
- (b) by adding immediately below paragraph (c) the following new paragraph:-
"(d) any person engaged in construction of tunnels, roads, dams, airdromes and similar works of an engineering nature, from utilizing as building minerals any minerals derived from such other sources as the Commissioner may from time to time approve. All such excavations and sources of building materials approved by the Commissioner shall be mine for the purposes of Part VI of this Ordinance."

Section 12 of
Cap. 123
repealed
and
replaced

4. Section 12 of the Ordinance is hereby repealed and replaced by the following new section:-

- "Prospecting right 12.-(1) The Commissioner or other prescribed officer may issue to any individual in his own right or as agent for another individual or as agent for a partnership or company, a prospecting right in the prescribed form on receipt of an application in the prescribed form and on payment of the prescribed fees:

Provided that a prospecting right shall not be granted to any individual-

- (a) who is under eighteen years of age; or
 - (b) who is unable to read; or
 - (c) who is, in the opinion of the officer empowered to issue the prospecting right, incapable of understanding the Ordinance in such a way as to form a guide to and restriction on his actions.
- (2) (a) Notwithstanding the provisions of subsection (1), a prospecting right may be granted to a literate individual as agent for an illiterate individual, where such literate individual is, in the opinion of the issuing officer, competent to act as agent and where he shall have signified that he is willing to act and that he will be responsible for the observance of and compliance with the requirements of this Ordinance and the regulations made thereunder in respect of any prospecting carried out under the prospecting right, and in respect of any licence, claim or lease granted to his principal under the authority of the prospecting right.
- (b) No prospecting right shall be issued to any individual as agent for another individual, partnership or company, until the individual, partnership or company, as the case may be, submits with the application for the prospecting right, an undertaking to the Government signed by the individual as agent, or by all members of such partnership, or by the individual or individuals authorized to sign on behalf of a company, to be responsible for the acts and omissions of the applicant (who shall also be responsible for his own acts and omissions during the currency of the prospecting right).
- (3) A prospecting right and the rights thereunder shall not be transferable and shall be in force for a period of one year from the date of issue, but may be renewed for a period of one year from the date of expiration thereof or of the expiration of any renewal thereof, upon presentation of the prospecting right and payment of the prescribed fee at an office of the Mines Division, before the date of such expiry.
- (4) A prospecting right shall be produced whenever demanded by the owner or occupier of the private land on which the holder thereof is prospecting or by any administrative officer, officer of the Mines Division, or police officer not below the rank of Inspector.

(5) A prospecting right may authorize the holder to prospect for all minerals or for such mineral or minerals, as may be specified in the right.

(6) The holder of a prospecting right shall be present and in control at the place at which the prospecting work is being carried out under the authority of his prospecting right.

(7) The Commissioner or other prescribed officer may refuse to grant or renew a prospecting right in the case of any person who has at any time been convicted of a felony or of an offence against any law for the time being in force relating to mining, employment, and trade in gold or precious stones, or the licensing of goldsmiths and silversmiths:

Provided that in the event of any such refusal, an appeal shall lie to the Minister whose decision shall be final.

(8) The holder of a prospecting right on his own behalf shall not work as an employee, partner, tributor or agent of the holder of any right, licence, authority, claim or lease unless he surrenders for cancellation the prospecting right in his own name or obtains the written permission of the Commissioner to retain such prospecting right."

Section 14 of Cap. 123 repealed and replaced

5. Section 14 of the Ordinance is hereby repealed and replaced by the following new section:-

"Land excluded from prospecting

14. (1) The following classes of land are excluded from prospecting or occupation under any prospecting right, licence or authority:-

Exclusive prospecting licenses, mines, Government quarries, etc.

(a) any area over which an exclusive prospecting licence or a mining lease or claim has been granted and is still subsisting; any area which is the subject of a valid application for registration as a claim; any area beaconed by a Government Department for the purpose of recovering mineral therefrom and any place, mine or deposit from which minerals are taken under subsection (a) of section 7 of the Ordinance;

Aerodromes

(b) any licensed or Government aerodrome and any Government landing ground and land within 1,000 yards of the boundaries thereof;

Rifle ranges

(c) any Government rifle range and land within 100 yards of the boundaries thereof;

Monuments

(d) any reserved area and any protected monument declared under the Monuments Preservation Ordinance;

Cap. 293

Drilling sites

(e) any lands within 400 feet of every point which has been notified to the Commissioner by a licensee under the Mining (Mineral Oil) Ordinance as a site for the drilling of a borehole in connection with the prospecting, searching or exploring for mineral oil;

Cap. 399

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| (f) any land in relation to which an oil prospecting licence or an oil mining lease has been granted under the Mining (Mineral Oil) Ordinance and is still subsisting; | Oil prospecting licences and leases |
| (g) any area which is a diamond area as defined in section 2 of the Diamond Industry Protection Ordinance, provided that the holder of an exclusive prospecting licence, lease or claim which has been granted or registered for the purpose of prospecting or mining for diamonds, or his agent, may prospect within the diamond area surrounding such exclusive prospecting licence, lease or claim; and | Diamond areas
cap. 129 |
| (h) any salt lick which has been or is being used for cattle. | Salt licks |
| (2) Subject to the provisions of this subsection, the following classes of land are excluded from prospecting under any prospecting right, licence or authority:- | |
| (a) any area in respect of which an application has been made within the prescribed time and in the prescribed manner for the grant of an exclusive prospecting licence or mining lease, except with the consent of the Minister; | Area under application for licences or leases |
| (b) any land dedicated or set apart for any public purpose certain (other than mining) or as a place of burial and any area which is the site of or is within one hundred yards of any building, reservoir or dam owned by Government, except with the consent of the Minister; | Certain public places |
| (c) any area within any city, municipality, township, Cities, minor settlement, demarcated trading settlement, except towns, with the consent of the owners or holders of surface etc. rights and of the Minister or the authority having control over such city, municipality, township, minor settlement or demarcated trading settlement; | Cities, towns, settlements, etc. |
| (d) any street, road or highway, and all lands within one hundred yards of any bridge, public ferry, culvert or drift in any street, road or highway, pipeline or power line except with the consent of the Minister or of the authority having the control of such street, road, highway, bridge, ferry, culvert or drift, pipeline or power line; | Streets, roads, highways, etc. |
| (e) any area reserved for the purpose of any railway or situate within one hundred yards of any railway, except with the consent of the Railway Administration: | Railways |
| (f) any national park declared under the National Parks Ordinance, any forest reserve declared under the Forests Ordinance, any game reserve declared Under the Fauna Conservation Ordinance and the conservation area established under the Ngorongoro Conservation Area Ordinance, except with the consent of the authority having control over such national park, forest reserve, game reserve and conservation area. | National Parks, Conservation Areas, Game and Forest Reserves
Cap.412
Cap.389
Cap. 302
cap. 413 |

(3) The following classes of land are excluded from prospecting under any prospecting right, licence, or authority, until such time and date as may be notified by the Commissioner in the *Gazette*:-

Application which is refused, etc.

(a) any area in respect of which a valid application has been made for the grant of an exclusive prospecting licence or mining lease, and such application has been refused, withdrawn or abandoned;

Expired claims, leases, etc.

(b) any area in relation to which any exclusive prospecting licence, mining lease or claim (other than a precious metals alluvial claim) has expired or has been forfeited, abandoned or surrendered;

Areas under Geological Survey

(c) any land reserved for examination by the Commissioner for Geological Survey, the boundaries of which have been defined on a plan lodged with the Commissioner.

Should any question arise as to whether any particular land is excluded from prospecting under this section it shall be referred to the Minister whose decision shall be final and conclusive."

Section 15 of Cap. 123 repealed and replaced

6. Section 15 of the Ordinance is hereby repealed and replaced by the following new section:-

"Rights under prospecting right

15. Subject to the exceptions in section 14 and to the provisions of section 16 and section 26 of the Ordinance, the holder of a prospecting right may-

(1) prospect for any minerals for which prospecting is allowed under such prospecting right on any land;

(2) whilst prospecting, erect on any unoccupied land such buildings and machinery as may be necessary for the purpose of prospecting;

(3) sink shafts or Wells and dig trenches;

(4) take timber for domestic and prospecting purposes:

Provided that-

Cap. 389

(a) he shall not cut or use any tree which has been declared under section 17 of the Forests Ordinance to be a reserved tree, unless licensed in that behalf under the provisions of that Ordinance;

(b) he shall tender to the owner of private land from which such timber is taken, a reasonable sum in payment therefor;

(5) take water from any lake, stream or water course subject to the provisions of any law as to the regulation of water supplies, for domestic and prospecting purposes:

Provided that he shall not erect buildings or machinery for the purpose of abstracting water from any lake, river, stream or water course or divert water from any river, stream or water course without the consent of the authority having control of such water;

- (6) graze horses or other animals as may be necessary for his subsistence and for carrying operations:
 Provided that when grazing on private land he shall tender to the owner a reasonable sum in payment therefor;
- (7) apply for exclusive prospecting licences and mining leases, peg claims, and use mining discs in the prescribed manner."

7. Section 31 of the Ordinance is hereby amended by substituting a colon for the fullstop at the end of subsection (2) thereof and adding thereto the following proviso:-

Section 31
of Cap. 123
amended

"Provided that the Commissioner may refuse to register such claim if the applicant fails within a specified time to furnish him with satisfactory evidence of the existence of the mineral for which the claim is pegged, within the area of such claim."

8. Section 33 of the Ordinance is hereby repealed and replaced by the following new section:-

Sections 33
of Cap. 123
repealed
and
replaced

"Transfer of
claims,
creation of
shares, etc.

33. (1) (a) The holder of a registered claim may, in the prescribed manner, divide his interest in the claim into such shares as he shall think fit, and may allot shares, or may transfer the claim or create or transfer any interest therein;
- (b) the holder shall register such transfer, allocation or interest with the Commissioner in the prescribed manner within thirty days of such transfer, allocation or division of interest;
- (c) where any interest in a registered claim vests in or devolves upon any person by way of testamentary disposition or otherwise (whether absolutely or as security only), such person shall within thirty days thereafter register such interest with the Commissioner in the prescribed manner:
 Provided that the Commissioner may for good and sufficient reasons extend the period under this subsection within which the application may be made, on payment of a prescribed additional fee;
- (d) for the avoidance of doubts it is hereby declared that the transferor shall be liable for compliance with the requirements of the Ordinance and regulations made thereunder and for the payment of fees until such transfer is effected, when liability shall pass to the transferee.

(2) Notwithstanding the provisions of subsection (1), the Commissioner may refuse to register the transfer of a claim, or of any rights or interest thereunder, to any person to whom the issue or renewal of a prospecting right could be refused under the provisions of subsections (1) and (6) of section 12 of the Ordinance."

Section 36 of Cap. 123 amended

9. Section, 36 of the Ordinance is hereby amended by deleting the full stop at the end thereof and adding the following:-

"so that the total working obligation on each of the claims so amalgamated may be performed on any one or more claims, and so that the prescribed return may be an, aggregate in respect of all such amalgamated claims."

Section 37 of Cap. 123 repealed

10. Section 37 of the Ordinance is hereby repealed.

Section 39 of Cap. 123 amended

11. Section 39 of the Ordinance is hereby amended-

(a) in subsection (2) by deleting in line six thereof the word "discovery" and substituting therefor the word "location"; and
(b) by adding immediately below subsection (2) thereof the following new subsection: -

"(3) Subsections (1) and (2) hereof shall apply *mutatis mutandis* to exclusive prospecting licences."

Section 56 of Cap. 123 amended

12. Section 56 of the Ordinance is hereby amended by deleting in the first line thereof the word and figures "and 26" and substituting therefor the figures, commas and word ", 26, 33 (1) and 39".

Section 80 of Cap. 123 amended

13. Section 80 of the Ordinance is hereby amended-

(a) by renumbering item (vi) to read (vii);
(b) by inserting immediately below (v) the following new paragraph:-
" (vi) take samples of all materials and substances where-soever found within the area the subject of a claim, lease or licence;

Section 81 of Cap. 123 amended

14. Section 81 of the Ordinance is hereby amended-

(a) in subsection (1) by deleting the words "his agent" occurring in the sixth line thereof and substituting therefor the words "the person";
(b) in subsection (2) by deleting the words "his agent" occurring in the second line thereof and substituting therefor the words "the person in charge"

Section 83 of Cap. 123 amended

15. Section 83 of the Ordinance is hereby amended by deleting the words "his agent" occurring in the first line thereof and substituting therefor the words "the person in charge"

New Part added to Cap. 123

16. The Ordinance is hereby amended by inserting immediately after Part VI the following new part:-

"PART VI A-DISC CLAIMS

Commis-sioner may authorize use of discs

86A-(1) (a) The Commissioner may, by notice in the *Gazette*, authorize the use of a mining disc in such areas and for such mineral or minerals as may be specified in the notice, and any person who is the holder of a prospecting right may purchase such discs from the officer authorized in such notice on payment of the prescribed fee and may peg one disc claim with such disc.

Pegging disc claims

(b) The procedure for pegging a disc claim shall be that prescribed for pegging a claim, except that the mining disc shall be affixed to the

location beacon in place of the registered number of the claim, and the claim shall thereby be valid.

- (c) The holder of a disc claim may apply for registration of such claim in the manner prescribed for claims, and upon such registration being effected, shall remove the mining disc from the location beacon and paint thereon the registered number.
- (d) A mining disc shall not be transferable from one individual to another. Transfers
- (e) The holder of a disc claim shall during each calendar month-
- (i) execute one-twelfth of the annual working obligation as may be prescribed for claims of the same class;
 - (ii) submit mining returns in the prescribed manner;
 - (iii) submit information regarding the location of his claim, and such other matters as may be required by an officer of the Mines Division for the purpose of carrying out the officer's duties under this Ordinance and the regulations made thereunder.
- (f) In the event of the holder of a disc wishing to mine minerals on a disc claim other than those allowed for such disc claim, he shall first notify an Inspector of Mines, who may authorize such work, or direct that such disc claim shall be registered. Additional minerals
- (2) (a) When it appears to an officer of the Mines Division that -the prescribed conditions for a disc claim have not been complied with, he may remove the mining disc, and affix in its place a disc marked "Warning Disc" and bearing the date of affixing. Confiscation of discs
- (b) The owner of the mining disc shall thereupon cease all work on the claim, and shall within thirty days of such date claim the confiscated disc in person from the officer of the Mines Division and give an explanation of his failure to comply with the prescribed conditions.
- (c) Should the mining disc owner fail to do this or should the officer of the Mines Division be dissatisfied with the explanation offered, the officer may declare the mining disc forfeited and the provisions of section 39 (2) of the Ordinance shall then apply to such disc claim. Otherwise the officer shall return the disc to the owner.

(d) The officer of the Mines Division shall report all such forfeitures to the Commissioner, and the owner of the mining disc may appeal against such forfeiture to the Commissioner, whose decision shall be final. Such appeal shall be lodged within 60 days of the date on the Warning Disc."

Section 91
of Cap. 123
repealed and
replaced

17. Section 91 of the Ordinance is hereby repealed and replaced by the following new section:—

"Protection
of estate
of deceased
person

91. In any case where the holder of any licence or claim or any lessee dies, the obligation imposed upon such holder or lessee by the Ordinance, or by any regulations made thereunder, shall be suspended and the rights conferred on such holder or lessee by such Ordinance, or by such regulations, shall be preserved for one year from the date of death:

Provided that the Commissioner may for good and sufficient cause extend such period of time."

Section 96
of Cap. 123
amended

18. Section 96 of the Ordinance is hereby amended by inserting after the word and comma "beacon," occurring in line three of paragraph (d) thereof, the words and commas "mining disc, warning disc,".

Passed in the National Assembly on the eighteenth day of February, 1964.


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Clerk of the National Assembly