

THE MINING ACT, 1979

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THE UNITED REPUBLIC OF TANZANIA



No. 17 OF 1979

I ASSENT

Julius K. Nyerere
President

An Act to make provision with respect to searching for and mining minerals, and for purposes incidental to or connected with searching for or mining minerals

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY

1. This Act may be cited as the Mining Act, 1979. Short title
2. This Act shall come into operation upon such date as the Minister may, by notice in the Gazette, appoint. Commencement
3. This Act applies to and in respect of the sea-bed and sub-soil of the continental shelf. Application to continental shelf
4. No rights to search for or mine mineral oil (as defined in the Mining (Mineral Oil) Ordinance or any law replacing that Ordinance) shall be granted or exercised under this Act. Act not to apply to mineral oil Cap. 339
- 5.-(1) The entire property in and control over minerals in any land in Tanzania are vested in the United Republic; but without prejudice to any right to search for or mine any mineral granted, conferred, acquired or saved by or under this Act. Minerals vested in United Republic
- (2) Subject to sections 97 and 98, no person shall carry on in any land to which this Act applies reconnaissance, prospecting or mining operations, except under and in accordance with a Mineral Right, a prospecting right, or claim registered pursuant to section 74 or established pursuant to section 75.

(3) Any person who contravenes subsection (2) shall be guilty an offence and liable on conviction-

- (a) in the case of an individual, to a fine not exceeding 10,000 shillings or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment; or
- (b) in the case of company or a corporation, to a fine not exceeding 100,000 shillings.

Interpre-
tation

6.-(1) In this Act, unless the context otherwise requires-
"authorized officer" means a person designated as such under section 9 (2);

"building materials" 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 material used for the manufacture of cement;

"claim area" means an area of land which is, subject, to a claim registered pursuant to section 74 or established Pursuant to section 75;

Cap. 212

"Commissioner" means the Commissioner for Mines appointed pursuant to section 8;

"company" means a body corporate incorporated under the Companies Ordinance;

"conditions" includes terms, limitations and Stipulations;

"corporation" means a body corporate incorporated in or outside Tanzania, but does not include a company;

"designated area" means an area of land designated under section 69;

"holder', In relation to a claim, means-

- (a) the person who is for the time being registered Pursuant to this Act as being the holder of the claim; or
- (b) if the claim is not so registered, the person who, Pursuant to section 75, establishes the claim or any person who lawfully derives title from that person.

"in default" means in breach of any provision of this Act or the regulations, or, of any condition, of a Mineral Right. a prospecting right or a claim registered pursuant to section 74 or established pursuant to section 75'.

"land" includes water;

"land to which this Act applies" means-

- (a) land in Tanzania (including land beneath territorial waters);
- and

(b) the continental shelf

"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 building, premises, erections and appliances belonging or appertaining thereto, above or below the ground, for the purpose of mining, treating, or preparing minerals, obtaining or extracting any mineral or MOW by any mode or method or for the purpose of dressing mineral ores;

"mine" when used as a verb, Means intentionally to mine Minerals and includes any operations directly or indirectly necessary for or incidental to mining minerals;

"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 mineral oil (as defined in the Mining (Mineral Oil Ordinance) or water;

"Mineral Right" means a reconnaissance licence, a prospecting licence or a mining licence;

"mining area" means an area of land subject to a mining licence;

Cap. 399

"mining licence" means a licence granted under section 38;

"mining" operations" means operations carried out in the course of mining;

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

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

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

"prospecting operations" means operations carried out in the course of prospecting.

"prospecting right" means a right issued under section 70;

"radioactive mineral" means a mineral which contains by weight at least one-twentieth of one per centum (0.05 per centum), of uranium or thorium or any combination thereof, and includes but is not limited to the following-

(a) monazite, sand and other ores containing thorium: and

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

"reconnaissance area means an area of land subject to a reconnaissance licence;

"reconnaissance licence" means a licence granted under section 20;
 "reconnaissance operations" means the search for minerals by geophysical surveys, geochemical surveys and photo-geological surveys or other remote sensing techniques and surface geology in connection therewith;
 "registered holder", in relation to a Mineral Right, means the person whose name is for the time being recorded pursuant to section 58 or 60 as being the holder of the Mineral Right;
 "the regulations" means the regulations made under section 104;
 "the repealed Ordinance" means the Ordinance repealed by section 105;
 "working for profit" means producing a mineral for use or sale;

(2) In this Act, a reference to minerals in any land includes a reference to minerals on or under the land.

(3) In this Act-

- (a) a reference to the conditions of a Mineral Right, is a reference to the conditions on which the Mineral Right is granted, as from time to time varied;
- (b) a reference to the conditions of a claim, is a reference to the conditions on which the claim is registered or established, as from time to time varied.

(4) In this Act, the expression "Programme of reconnaissance operation"; "programme of prospecting operations" or "programme of mining operations" means a programme of that kind approved on the granting or renewal of a reconnaissance licence or, as the case may be, a prospecting licence or a mining licence, as from time to time varied.

(5) A reference in this Act to land subject to a Mineral Right is a reference to land in respect of which a Mineral Right has been granted and subsists.

Service of documents

7.-(1) A document or notice required or permitted to be served on or given to, a person under or for the purposes of this Act, may be served or given-

- (a) in the case of an individual (other than the Minister), by serving it personally upon the individual or by sending it by, post to him at his usual or last known place of abode or business or at the address kept pursuant to section 63 (2) (a);
- (b) in the case of the Minister, in the manner prescribed;
- (c) in the case of a body corporate-
 - (i) by leaving it at the registered or principal office of the body corporate with some individual apparently employed by the body corporate and apparently not less than 16 years of age;
 - (ii) by sending it by post to the body corporate at the registered, or principal office of the body corporate; or

(iii) by delivering it to some individual in the employment or acting on behalf of the body corporate who is authorized by the body corporate, or agrees, to accept service of or to receive the document or any document.

(2) For the purposes of subsection (1) (c), the principal office of a body corporate incorporated outside Tanzania is its principal office within Tanzania or the address kept pursuant to section 63 (2) (a).

(3) Where a person, has more than one place of abode or business a document or notice may be served on, or given to, the person under this section at any of those places.

(4) Where a document or notice is sent by post pursuant to this section service or notice shall be deemed to have been effected or given under this section, unless the contrary is proved, at the time of which the document or notice would be delivered in the ordinary course of post.

PART II

ADMINISTRATION

8. The President may appoint a person to be the Commissioner for Mines, and such other persons to be officers as he may consider necessary for the administration of this Act.

Commissioner for Mines

9.-(1) Anything required or permitted by or under this Act to be done by the Commissioner may be done by any officer who is authorized, either specifically or generally in that behalf in writing by the Commissioner, and for the purpose of doing so that officer is deemed to be the Commissioner.

Performance of Commissioner's functions, etc.

(2) The Commissioner may designate any person in the service of the United Republic to be an authorized officer for the purposes of this Act.

10.-(1) No person shall disclose any information obtained by him in, or in connection with, the administration of this Act, unless the disclosure is made-

Prohibition against disclosure of information

- (a) for or in connection with the administration of this Act;
- (b) for or in connection with the preparation of official statistics;
- (c) with the consent of the person from whom the information was obtained;
- (d) for the purpose of any legal proceedings;
- (e) for the purpose of any investigation or inquiry conducted under this Act; or
- (f) for, or in connection with, any purpose which may be prescribed.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding 10,000 shillings or to imprisonment for a term not exceeding two years, or to both that fine and imprisonment.

(3) In proceedings on a prosecution for an offence under this section, it is sufficient defence if the accused person proves that the information (to which the prosecution relates) disclosed was, even without the disclosure, generally known.

Public officers not to acquire or hold certain rights

11.-(1) Any instrument which purports to give to, or vest in, a person (in, his private capacity) who is a public officer a Mineral right or an interest in a Mineral Right is, to the extent that it purports to do so, of no effect.

(2) No public officer (in his private capacity) shall acquire, attempt to acquire, or hold-

- (a) a Mineral Right or an interest in a Mineral Right; or
- (b) a share in a company or a corporation that is carrying on reconnaissance, prospecting or mining operations in land to which the Act applies;

(3) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding 5,000 shillings or to imprisonment for a term not exceeding 12 months, or to both.

(4) In proceedings on a prosecution for an offence under this section of acquiring a share of a kind referred to in subsection (2) (b), it is a sufficient defence if the accused person proves-

- (a) that the share was acquired by operation of law; and
- (b) that all reasonable steps necessary to dispose of the share have been, and are continuing to be taken.

(5) In proceedings on a prosecution for an offence under this section of holding a right, interest or share of a kind referred to in subsection (2), it is a sufficient defence if the accused person proves-

- (a) that-
 - (i) the right, interest or share was acquired before he became a public officer; or
 - (ii) the interest or share was acquired before the company or corporation became entitled to carry on under this Act reconnaissance, prospecting or mining operations; and
- (b) that since he became a public officer all reasonable steps necessary to dispose of the right, interest or share have been, and are continuing to be, taken.

(6) For the purposes of this section, the acquisition or holding of a right, interest or share of a kind referred to in subsection (2) by a member of the family (not himself or herself being a public officer) or a public officer is deemed to be an acquisition or holding by the public officer.

(7) In this section-

"member of the family", in relation to a public officer, means--

- (a) the husband or wife, or reputed husband or wife; and

(b) the son or daughter, (being a minor), whether born In or outside wedlock, of the public officer;
 "Mineral Right", in addition to the meaning assigned to the expression by section 6, includes a prospecting right, and a claim registered pursuant to section 74 or established pursuant to section 75.

12. An officer or an authorized officer shall not incur any liability in respect of any thing done by him in good faith under, for the purposes of, or in connection with the administration -of this Act. Indemnity

PART III
MINERAL RIGHTS

(a)- General

13. When the Minister is satisfied that the most efficient and beneficial use of the mineral resources of Tanganyika requires, in the case of-

- (a) any particular area of land to which this Act applies;
- (b) any particular mineral; or
- (c) any particular mineral in any particular area of land to which this Act applies,

a programme of exploration and development involving substantial expenditure or the use of specialist technology, he may, subject to this Act, grant a Mineral Right. Condition precedent to grant of Mineral Right

14. No Mineral Right-

- (a) shall be granted to an individual unless he is a citizen of Tanzania;
- (b) being a reconnaissance licence or a prospecting licence, shall be granted to a body corporate unless it is-
 - (i) a company;
 - (ii) a corporation established by or under a law (other than the Companies Ordinance) in force in Tanzania; or
 - (iii) a corporation (not being a corporation of a kind referred to in sub-paragraph (ii) approved by the Minister, or
- (c) being a mining licence, shall be granted to a body corporate unless it is--
 - (i) a company,, or
 - (ii) a corporation established by or under a law (other than the Companies Ordinance) in force in Tanzania.

Restriction on person to whom Mineral Right may be granted

15. The Minister on behalf of the United Republic may enter into an agreement (not inconsistent with this Act) with any person with respect to all or any of the following matters namely-

- (a) the grant to that person, or to any person identified in the agreement, on the conditions (if any) specified in the agreement, of a prospecting licence or a mining licence,
- (b) the conditions to be included in the licence as granted or as renewed; or

Agreement with respect to grant of certain licences, etc.

(c) any matter incidental to or connected with the foregoing.

Application to be made to the Minister, etc.

16. Any application under this Part-

- (a) shall be made to the Minister, or if it is so provided, to the Commissioner;
- (b) shall be in or to the effect of a form approved by the Minister; and
- (c) may be withdrawn by the applicant giving to the Minister or, in the case of an application made to the Commissioner to the Commissioner, a notice of withdrawal.

Power of Minister to obtain information

17.-(1) The Minister may, by instrument served on an applicant for the grant of a Mineral Right, require the applicant to furnish, in writing, within such reasonable time as is specified in the instrument —

- (a) such further information in connection with the application as the Minister may reasonably require; and
- (b) if the applicant, or any of the applicants, is a company or a corporation, such information as the Minister may reasonably require to enable him to ascertain to what extent the controlling power in the direction of the affairs of the company or corporation is a corporation incorporated outside Tanzania, or an individual resident outside Tanzania.

(2) To enable him to dispose of an application for the grant of a Mineral Right, the Minister may cause such investigations, negotiations or consultations to be made or carried on as he considers necessary.

Form of Mineral Right

18. A Mineral Right shall be in accordance with such form as the Minister approves.

(b)- Reconnaissance Licences.

Application of or reconnaissance licence

19. An application for the grant of a reconnaissance licence-

- (a) shall give in respect of the person or, if there is more than one person, of each person, making the application-
 - (i) in the case of an individual, his full name and nationality; or
 - (ii) in the case of a company or a corporation, its corporate name and in the case of a corporation the place where it was incorporated;
- (b) shall be accompanied by a plan of the area of land over which the licence is sought, drawn in such manner and showing such particulars as the Minister may require;
- (c) shall identify the minerals in respect of which the licence is sought;
- (d) shall give or be accompanied by a statement giving particulars of the financial and technical resources available to the applicant for the licence; and

(e) shall give or be accompanied by a statement giving particulars of the programme of work proposed to be carried out in the area of land over which the licence is sought, an estimate of the amount of money which it is proposed to spend and of the period required for completion of the programme.

20. (1) Subject to this Act, on application duly made, the Minister may grant on such conditions as he may determine, or refuse to grant, a reconnaissance licence over any area of land to which this Act applies

Disposal of application for reconnaissance licence

(2) The area of land over which a reconnaissance licence is granted shall be of such shape, orientation and dimensions, as may be, prescribed.

21. (1) No reconnaissance licence shall be granted over an area of land in, or which constitutes-

Restriction on grant of reconnaissance licence

(a) a prospecting area, if another person holds over that area a prospecting licence in respect of a mineral to which the reconnaissance licence relates;

(b) a mining area; or

(c) a claim area.

(2) Where an area of land is subject to a reconnaissance licence which gives, pursuant to section 23 (2), to the registered holder of the licence an exclusive right to carry on reconnaissance operations in the land, no other reconnaissance licence shall be granted over land in, or which constitutes, that area in respect of any mineral to which such exclusive right relates.

22. (1) The Minister shall give notice to an applicant for the grant of a reconnaissance licence of his decision on the application and, if he is prepared to grant the licence, he shall give in the notice details of the proposed licence.

Restriction on grant of reconnaissance licence

(2) If an applicant, within 60 days after he is given notice pursuant to subsection (1) that the Minister is prepared to grant a reconnaissance licence, fails to give notice to the Minister of his willingness to accept the proposed licence, his application lapses.

23. (1) A reconnaissance licence shall-

Content of reconnaissance licence

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

(b) include a description and plan of the area of land over which it is granted; and

(c) state the conditions on which it is granted; and

(d) specify the mineral in respect of which it is granted.

(2) A reconnaissance licence may in respect of any mineral to which the licence, relates confer on, the registered holder of the licence the exclusive right to, carry on reconnaissance operations in the reconnaissance area.

(3) There shall be appended to a reconnaissance licence the programme of reconnaissance operations which shall form part of the licence.

Period for which reconnaissance licence granted

24.-(1) The period for which a reconnaissance licence is granted is the period, not exceeding twelve months, stated in the licence.

(2) The period for which a reconnaissance licence is granted commences on and includes the date on which the licence is granted. as stated in the licence.

Miscellaneous provisions concerning reconnaissance licences

25.-(1) Subject to this section, where the registered holder of a reconnaissance licence applies for the grant of a prospecting licence over an area of land in the reconnaissance area and the application has not been finally dealt with before the date on which the reconnaissance licence would, but for this subsection, cease to have effect, the reconnaissance licence continues to have effect over the area of land until-

- (a) notice is given to the applicant pursuant to section 30 of the refusal to grant the prospecting licence; or
- (b) as the case may be, the date of the grant of the prospecting licence, as stated in the prospecting licence-

(2) Where a prospecting licence is granted to the registered holder Of a reconnaissance licence, the land subject to that prospecting licence ceases to be subject to that reconnaissance licence, but no other recon, nnaissance licence is affected by the grant of that prospecting licence.

(3) Where an area of land becomes a mining area, it ceases to be subject to any reconnaissance licence to which it was subject immediately before becoming a mining area.

(4) Subsection (1) shall not have effect-

- (a) to prevent the cancellation under this Act of a reconnaissance licence; or
- (b) if an application for the grant of a prospecting licence is withdrawn.

Right of registered holder of reconnaissance licence

26.-(1) A reconnaissance licence, while it has effect, confers on the registered holder of the licence, subject to this Act, the regulations and the conditions of the licence, the right, to carry on reconnaissance operations in the reconnaissance area, and for the purpose of the exercise of that right the registered holder may, in particular, either himself, or by way of employees or agents, enter the reconnaissance area, and erect camps and temporary buildings, erect installations in any waters forming part of the reconnaissance area.

(2) The registered holder of a reconnaissance licence shall not engage in drilling, excavation or other subsurface techniques, except where and to the extent that he is authorized by his licence to use any of those techniques.

(c)-Prospecting Licence

27. An application for the grant of a prospecting licence-

- (a) shall give information of the kind referred to in section 19 (a), and shall give or be accompanied by a statement giving particulars of the kind referred to in section 19 (d);
- (b) shall identify the minerals in respect of which the licence is sought;
- (c) shall be accompanied by a plan of the kind referred to in section 19 (b);
- (d) shall state the period for which the licence, is sought;
- (e) shall give or be accompanied by a statement giving particulars of the programme of prospecting operations proposed to be carried out in the area of land over which the licence is sought and an estimate of the cost of carrying out the programme; and
- (f) shall give or be accompanied by a statement giving particulars of the applicant's proposals with respect to the employment and training of citizens of Tanzania.

Application
for
prospecting
licence

28.(1) Subject to this act and to any relevant agreement of a kind referred to in section 15, on application duly made, the Minister may grant on such conditions as he may determine, or refuse to grant, a prospecting licence over any area of land to which this Act applies.

Disposal of
application
for
prospecting
licence

(2) The area of land over which a prospecting licence is granted shall be of such -shape, orientation and dimensions as may be prescribed.

29.-(1) No prospecting licence shall be granted over an area of land in, or which constitutes-

- (a) a mining area; or
- (b) a claim area.

Restriction on
grant of
prospecting
licence

(2) When an area of land is subject to a prospecting licence, no other prospecting licence shall be granted over land in, or which constitutes, that area in respect of any mineral to which the subsisting prospecting licence relates.

(3) Where an area of land is subject to a reconnaissance licence which gives, pursuant to section 23 (2), to the registered holder of the licence an exclusive right to carry on reconnaissance operations in the land, a prospecting licence shall not be granted in respect of any mineral to which such exclusive right relates over land in, or which constitutes, that area to a person other than the registered holder of the reconnaissance licence.

(4) No prospecting licence shall be granted to an applicant unless-

- (a) the applicant has adequate financial resources, technical competence and experience to carry on effective prospecting operations;
- (b) the applicant's programme of proposed prospecting operations is adequate;
- (c) the applicant's proposals for the employment and training citizens of Tanzania are adequate;

- (d) the applicant is not in default.
- Section 22 to apply to application for prospecting licence
30. The provisions of section 22 apply in relation to an application for the grant of a prospecting licence as they apply in relation to an application for the grant of a reconnaissance licence.
- 31.-(1) A prospecting licence shall-
- state the date of the grant of the licence and the period for which it is granted;
 - specify the mineral in respect of which it is granted;
 - include a description and plan of the area of land over which it is granted; and
 - state the conditions on which it is granted.
- (2) There shall be appended to a prospecting licence-
- the programme of prospecting operations; and
 - particulars of the licensee's proposals for the employment and training of citizens of Tanzania,
- which shall form part of the licence.
- (3) For the purpose of paragraph (a) of subsection (2), any provision with respect to the appending to a prospecting licence of a programme of prospecting operations contained in a relevant agreement of a kind referred to in section 15, shall have effect as if that provision were contained in this section, and that paragraph shall be read subject to the provision for the purpose of the appending of the programme to the prospecting licence concerned.
- United Republic may acquire interest in, mining ventures
32. There may be included in a prospecting licence a provision with respect to the exercise by the United Republic, or any agency thereof, of the right to acquire on stipulated terms, or on terms to be agreed, an interest in any mining venture which may be carried on in relation to land in, or which constitutes, the prospecting area.
- Period for which prospecting licence granted
- 33.-(1) The period for which a prospecting licence is granted is the period, not exceeding three years, stated in the licence.
- (2) The period for which a prospecting licence is granted commences on and includes the date of the grant of the licence, as stated in the licence.
- Miscellaneous provisions concerning prospecting licence
- 34.-(1) Subject to this section, where the registered holder of a prospecting licence applies for the grant of a mining licence over any area of land in, or which constitutes, the prospecting area, and the application has not been finally dealt with before the date on which the prospecting licence would, but for this subsection, cease to have effect, the prospecting licence continues to have effect over that area of land until-
- notice is given to the applicant pursuant to section 40 of the refusal to grant the mining licence; or
 - as the case may be, the date of the grant of the mining licence, as stated in the mining licence.

(2) Where a mining licence is granted over any area of land wholly or partly in one, or more than one, prospecting area-

- (a) the prospecting licence held by the registered holder to whom the mining licence is granted ceases to have effect in the mining area;
- (b) the prospecting licence held by any other registered holder-
 - (i) ceases to have effect if the prospecting area covered by the licence is within, or is constituted by the same area of land as, the mining area; or
 - (ii) continues to have effect only in relation to land outside the mining area.

(3) Subsection (1) shall not have effect-

- (a) to prevent the cancellation under this Act of a prospecting licence; or
- (b) if an application for the grant of a mining licence is withdrawn.

(4) A prospecting licence may continue to have effect pursuant to subsection 2 (a) or subsection (2) (b) (ii) notwithstanding that it has ceased to be in the shape or have the dimensions prescribed in respect of a prospecting licence.

35. A prospecting licence, while it has effect, confers on the registered holder of the licence, subject to this Act, the regulations and to the conditions of the licence, the exclusive right to carry on prospecting operations in the prospecting area for the mineral to which the licence relates, and for the purpose of the exercise of that right the registered holder may, in particular, either himself, or by way of employees or agents, enter the prospecting area and erect camps and temporary buildings, or erect installations in any water forming part of the prospecting area.

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

- (a) shall commence prospecting operations within three months, or such further period as the Minister may allow, of the date of the grant of the licence, as stated in the licence;
- (b) shall, subject to subsection (2) and section 54, carry on prospecting operations in accordance with his programme of prospecting operations;
- (c) shall give notice to the Minister of the discovery-
 - (i) of the mineral to which the licence relates; and
 - (ii) of any mineral deposit of possible commercial value, within thirty days of the discovery;
- (d) shall, subject to subsection (2), and section 54, expend on prospecting operations an amount not less than the amount required by the licence or otherwise to be so expended;

Duties of
registered
holder of
prospe-
cting
licence

- (e) shall, subject to subsection (2), employ and train citizens of Tanzania in accordance with the proposals in that connection particulars of which have been appended to the licence; and
- (f) shall carry on prospecting operations in accordance with the requirements of this Act and the regulations.

(2) The Minister may, on application made to him by the registered holder of a prospecting licence, limit, reduce, vary or suspend any obligation arising pursuant to subsection (1) (b), (d) or (e), either conditionally or unconditionally.

(3) Any amount required to be expended on prospecting operations which is not expended is a debt due to the United Republic and is recoverable in a court of competent jurisdiction.

(4) A certificate of the Minister certifying that a debt of a specified amount is payable by a specified person shall, in any proceedings instituted pursuant to this section against that person for the recovery of any such debt be received as evidence of that fact, but without prejudice to the right to adduce evidence in rebuttal.

(d)- Mining Licences

Application
for mining
licence

37.-(1) An application for the grant of a mining licence shall be made-

- (a) only by the registered holder of a prospecting licence;
- (b) only in respect of land subject to the prospecting licence;
- (c) only if the registered holder has given notice to the Minister of the discovery in commercial quantities of any mineral to which his licence relates; and
- (d) not later than two months, or such further period as the Minister may allow, after that notice was given to the Minister.

(2) An application for the grant of a mining licence-

- (a) shall give information of the kind referred to in section 19 (a);
- (b) shall identify the minerals which it is proposed to mine;
- (c) shall state the number of the prospecting licence held by the applicant;
- (d) shall be accompanied by a plan of the kind referred to in section 19 (b);
- (e) shall state the period for which the licence is sought;
- (f) shall give or be accompanied by a statement giving details of the mineral deposits in the area of land over which the licence is sought, including details of all known minerals proved, estimated or inferred, ore reserves and mining conditions;
- (g) shall be accompanied by a technological report on mining and treatment possibilities and the intention of the applicant in relation thereto;

- (h) shall give or be accompanied by a statement giving particulars of the programmes of proposed mining operations, including a statement of-
- (i) the estimated date by which the applicant intends to work for profit;
 - (ii) the estimated capacity of production and mineral products;
 - (iii) the estimated Overall recovery of ore and mineral products;
 - (iv) the nature of the products',
 - (v) proposals for the prevention or treatment of pollution, the safeguarding of fishing and navigation' (if relevant), the progressive reclamation and rehabilitation of any land disturbed by mining, and for the minimization of the effects of mining on water areas (if relevant) and adjoining lands; and
 - (vi) proposals (if relevant) for the elimination of any special risks associated with the mining or treatment of radioactive minerals;
- (i) shall give or be accompanied by a statement giving a detailed forecast of capital investment, operating costs and revenues and the anticipated type and source of financing.
- (j) shall be accompanied by a report on the goods and services required for the mining operations which can be obtained within the United Republic and the applicant's proposal with respect to the procurement of those goods and services;
- (k) shall give or be accompanied by a statement giving particulars of the application proposals with respect to the employment and training of citizens of Tanzania-, and
- (l) shall be accompanied by a statement giving particulars of expected infrastructure requirements.

38.-(1) Subject to this section, section 39 and to any relevant agreement of a kind referred to in section 15, on application duly made, the Minister shall grant, on such conditions as he may determine, the mining licence applied for.

(2) To enable him to dispose of an application for the grant of a mining licence, the Minister may, by notice given to the applicant, require the applicant, at his own expense, to commission an independent study by consultants acceptable to the Minister for the purpose of

- (a) assessing the feasibility of the programme of mining operations proposed in his application by the applicant; or
- (b) assessing, or making recommendations about, such other matters arising out of, or connected with, the application, as the Minister may specify in the notice.

39.-(1) No mining licence shall be granted over an area of land on which, or which constitutes-

Restriction
on grant of
mining
licence

- (a) a mining area; or
 - (b) a claim area.
- (2) Where more than one prospecting licence subsists wholly or partly over the same area of land, no mining licence shall be granted to the registered holder of any such prospecting licence over the area of land unless-
- (a) the Minister is satisfied that-
 - 0) the public interest requires that the mining licence should be granted; or
 - (ii) the rights of the registered holder of any other prospecting licence would not be substantially prejudiced by the grant Of the mining licence;or
 - (b) every registered holder of such a prospecting licence (other than the applicant) consents in writing to the grant of the mining licence to the applicant.
- (3) Subject to any relevant agreement of a kind referred to m section 15, no mining licence shall be granted to an applicant unless-
- (a) the programme of proposed mining operations-
 - (i) takes proper account of environmental and safety factors; and
 - (ii) will ensure the cost efficient and beneficial use of the mineral resources concerned;
 - (b) the area of land over which the licence is sought is not in excess of the area reasonably required to carry out that programme;
 - (c) the applicant has adequate financial resources, technical competence and experience to carry on effective mining operations;
 - (d) the applicant's proposals for the employment and training of citizens of Tanzania are adequate;
 - (e) the applicant's proposals with respect to the procurement of goods and services obtainable within the United Republic are satisfactory;
 - (f) any relevant option given pursuant to section 32 has been exercised and given effect to or satisfactory arrangements have been made for that purpose; and
 - (g) the applicant is not m default,
- (5) The Minister shall not refuse an application for the grant of a mining licence on a ground referred to m subsection (4), (a), (b), (d), (e), (f) or (g) unless he has-
- (a) given notice to the applicant of his intention to refuse to grant the licence on that ground (giving particulars);
 - (b) specified in the notice a date before which the applicant may make appropriate proposals to remove the ground for refusal or, as the case may be, remedy the default, or make representations in relation thereto, and the applicant has not, before that date-

- (c) given notice to the Minister containing proposals or representations which he accepts; or
- (d) remedied the default.
- 40.** The provisions of section 22 apply in relation to an application for the grant of a mining licence as they apply in relation to an application for the grant of a reconnaissance licence. Sec 22 to apply to application for mining
- 41.**(1) A mining licence shall-
- (a) state the date of the grant of the licence and the period for which it is granted;
- (b) specify the mineral in respect of which it is granted,
- (c) include a description and plan of the area of land over which it is granted; and
- (d) state the conditions on which it is granted. Content of mining licence
- (2) There shall be appended to a mining licence-
- (a) the programme of mining operations; and
- (b) particulars of the licensee's proposals for the employment and training of citizens of Tanzania,
- which shall form part of the licence.
- (3) There may be included in a mining licence conditions with respect to the processing, disposal or sale of the minerals to be mined.
- (4) For the purpose of paragraph (a) of subsection (2), any provision with respect to the appending to a mining licence of a programme of mining operations contained in a relevant agreement of a kind referred to in section 15, shall have effect as if that provision were contained in this section, and that paragraph shall be read subject to the provision for the purpose of the appending of the programme to the mining licence concerned.
- 42.**-(1) The period for which a mining licence is granted is the period not exceeding twenty-five years, or the estimated life of the ore body which it is proposed to mine, whichever is shorter, stated in the licence. Period for which mining licence granted
- (2) The period for which a mining licence is granted commences on and includes the date of the grant of the licence, as stated in the licence.
- 43.**-(1) A mining licence, while it has effect, confers on the registered holder of the licence, subject to this Act, the regulations and to the conditions of the licence, the exclusive right to carry on prospecting and mining operations in the mining area and for the purpose of the exercise of that right the holder may, in particular-
- (a) use employees and agents. Right of registered holder of mining licence

- (b) take all reasonable measures in that area, including the use of necessary equipment and the erection of necessary installations, plant and buildings for mining, and transporting, dressing, treating, smelting or refining any mineral recovered; and
 - (c) dispose of any mineral product recovered, and stack or dump any mineral or waste products in a manner, approved by the Minister.
- (2) The registered holder of a mining licence-
- (a) shall not intentionally carry on prospecting in mining operations for a mineral unless it is a mineral to which his licence relates; and
 - (b) shall not mine any mineral deposit, particulars of which have not been given pursuant to section 37 (f) in his application, or in a statement accompanying his application, for the grant of the licence, without the approval of the Minister given under subsection (3).
- (3) Where in the exercise of his rights, the registered holder of a mining licence discovers any mineral deposit particulars of which were not given pursuant to section 37 (f) in his application, or in a statement accompanying his application, for the grant of the licence, the holder-
- (a) shall, within the period of thirty days after the discovery, give notice and particulars of the mineral deposit and the circumstances in which it was made; and
 - (b) may, in the notice, request the Minister to give his approval to the mining of the mineral deposit in accordance with a programme of mining operations stated in the notice.
- (4) On a request made pursuant to subsection (3) (b), the Minister —
- (a) may refuse to give the approval requested; or
 - (b) may give by instrument in writing served on the registered holder of the licence-
 - (i) his approval to the request as made; or
 - (ii) his approval to the request as amended with the agreement of that holder,
 unconditionally or subject to such conditions as are agreed by that holder.
- (5) The instrument in which the Minister gives an approval under subsection (4) (b) is deemed to form part of the mining licence concerned.

Duties of
registered
holder of
mining
licence

- 44.** (1) The registered holder of a mining licence-
- (a) shall, subject to subsection (2) and section 54, carry on mining and development operations in accordance with his programme of mining operations and commence production in accordance with that programme;

- (b) shall, subject to subsection (2), employ and train citizens of Tanzania in accordance with the instrument containing proposals in that connection appended to the licence;
- (c) shall demarcate, and keep demarcated, in the manner Prescribed the area of land subject to the licence; and
- (d) give notice to the Minister when he begins to work for profit;

(2) The Minister may, on application made to, him by the registered holder of a mining licence, limit, reduce, vary or suspend any obligation arising pursuant to subsection (1) (a) or (b) either conditionally or unconditionally.

45. (1) Where the Minister considers that the registered holder of a mining licence is using wasteful mining or treatment practices, he may give notice to the holder accordingly (giving in the notice particulars of the practices) and require the holder to show cause, by notice given to the Minister, within such period as the Minister shall specify in the notice given to the holder, why he should not cease to use those practices.

Use of
wasteful
practice

(2) Where, within the period specified in a notice given to the registered holder of a mining licence pursuant to subsection (1), the holder fails, by notice given to the Minister, to satisfy the Minister that he is not using the wasteful practices concerned, or that the use of those practices is justified, the Minister 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 so.

46. (1) The registered holder of a mining licence shall give notice to the Minister-

- (a) one year in advance, if he proposes to cease production from a mine in the mining area concerned;
- (b) six months in advance, if he proposes to suspend production from any such mine; or
- (c) three months in advance, if he proposes to curtail production from any such mine,

Cessation
etc., of
production
from time

and shall give in the notice the reason for the cessation, suspension or curtailment.

(2) Where, for any reason beyond his control, the registered holder of a mining licence ceases, suspends or curtails production from a mine in the mining area concerned he shall, within fourteen days after the cessation, suspension or curtailment, give notice thereof to the Minister.

47. (1) Where, pursuant to section 46 (1) or (2), notice is given to him or if he otherwise becomes aware of any cessation suspension or curtailment of production from, a mine, the Minister shall cause the matter concerned to be investigated and thereafter-

Power of
Minister on
cessation
etc.

- (a) he shall give his approval, conditionally or unconditionally, to the cessation, suspension or curtailment by notice to the registered holder of the, mining licence; or
- (b) he shall direct the holder of the mining licence by notice given to the registered holder of the mining licence to resume full production, or production at such level as is specified in the notice, by such date as is so specified, and the holder shall do so;
- (e) Restriction on exercise of rights under Mineral Rights.

Restriction
on exercise
of rights

48.-(1) The registered 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 100 yards 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 yards of the boundaries thereof;
 - (v) any land on which there is a military installation, or on land which is within 100 yards of the boundaries thereof;
 - or
 - (vi) any reserved area, or any protected monument declared under the Antiquities Act 1964;
- (b) except with the written consent of the lawful occupier thereof in respect of-
 - (i) any land which is the site of, or which is within 200 yards of, any inhabited, occupied or temporarily unoccupied house or building;
 - (ii) any land within 50 yards 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; or
 - (iv) any land forming part of an aerodrome, other than an aerodrome referred to in paragraph (a) (iv),

but where any consent so required is, in the opinion of the Minister 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 requires the consent of the lawful occupier to be given;
- (c) in respect of land in a national park declared under the National Parks Ordinance, in any forest reserve declared under the Forests Ordinance, in any game reserve declared under the Wildlife Con-

Cap. 550

Cap. 412
Cap. 389

ervation Act, 1974, in a range development area declared under the Range Development and Management Act, 1964, or in the Ngorongoro Conservation Area ordinance, except with the written consent of the, authority having control over the part, reserve or area;

Acts, 1974
No. 12
Cap. 569
Cap. 430

- (d) in respect of any land reserved for the purpose of any railway, or which is within 100 yards 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 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 or demarcated settlement;
- (f) in respect of any street, road or highway, and any land within 100 yards 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 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, except with the written consent of the, Minister;
- (h) in respect of any land over which an oil Prospecting licence or an oil mining lease has been granted under the Mining (Mineral oil) Ordinance and is still subsisting, except with the written consent of the Minister; or
- (i) in respect of any area of land which is a diamond area, as defined in section 2 of the Diamond Industrial Protection Ordinance, except in the case of reconnaissance licence, prospecting licence or mining licence which relates to diamonds.

Cap. 399

Cap. 399

Cap. 129

(2) Any dispute as to whether or not subsection (1) (b) applies in respect of any land shall be decided by the Minister whose decision is final.

(3) 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.

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

(f)- Renewal and Amendment of Mineral Rights

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

Application
for renewal
of re-
connaissance
licence

- (2) An application under subsection (1)-
 - (a) shall state the period for which renewal of the licence is sought;
 - (b) shall be accompanied-
 - (i) by a report on reconnaissance operations then carried out; and
 - (ii) by a statement giving particulars of the programme of work proposed to be carried out in the period of renewal and an estimate of the amount of money which it is proposed to spend; and
 - (c) shall, if renewal of the licence is sought in respect of part only of the reconnaissance area, be accompanied by a plan identifying that part of the reconnaissance area.

(3) On application duly made for the renewal of a reconnaissance licence, the Minister —

- (a) may, if he is satisfied that it would be in the public interest to do so, renew the licence, with or without variation of the conditions of the licence for a period not exceeding twelve months; and
- (b) if not so satisfied, shall refuse to renew the licence.

(4) The area of land over which a reconnaissance licence is renewed shall be of such shape as may be prescribed.

Application
for
renewal of
prospecting
licence

50.-(1) The registered holder of a prospecting licence may, not later than three months before the expiration of the licence, apply for the renewal of the licence in respect of an area of land-

- (a) of such shape as may be prescribed; and
- (b) which is not greater in extent than half of the prospecting area as at the date of the grant of the licence, unless the Minister otherwise permits.

- (2) An application under subsection (1)-
 - (a) shall state the period for which renewal of the licence is sought;
 - (b) shall be accompanied-
 - (i) by a report on prospecting operations then carried out and the costs incurred in carrying them out; and
 - (ii) by a statement giving particulars of prospecting operations proposed to be carried out in the period of renewal and an estimate of the cost which will be incurred in carrying out those operations; and
 - (c) shall be accompanied by a plan identifying the area of land in respect of which renewal of the licence is sought.

(3) Subject to subsection (4), on application duly made for the renewal of a prospecting licence, the Minister shall renew the licence for a period not exceeding two years.

- of the mining area, be accompanied by a plan identifying that
 - (a) if-

- (i) the applicant is in default;
 - (ii) the programme of prospecting operations proposed to be carried out is not satisfactory; or
 - (iii) the area of land in respect of which renewal of the licence is sought does not meet the requirements, of subsection (1) (a) and (b);
- (b) if he considers it in the public interest to do so may, by instrument refuse to renew the licence—
- (i) giving in the notice particulars of the ground for the intended refusal; and
 - (ii) stating a date before which the applicant may take appropriate action or make representations in relation to that ground; and
- (c) if the applicant has not, before that date, remedied the default or, in a notice given to the Minister, made appropriate amendments to his application, or made representations, which, in the opinion of the Minister, remove the ground for the intended refusal.

(5) An application under subsection (1) for the renewal of a prospecting licence may be made on not more than two occasions and, accordingly, the power under subsection (3) may be exercised in relation to any prospecting licence on not more than two occasions.

(6) Where a prospecting licence is renewed pursuant to subsection (3), the Minister-

- (a) on the request of the registered holder of the licence; and
- (b) if he considers it in the public interest to do so,

may, by instrument in writing, extend the term of the licence on the expiration of the period of renewal for such period, and on such conditions, as are specified in the instrument.

51. (1) The registered holder of a mining licence may, not later than twelve months before the expiration of the licence, apply for the renewal of the licence in respect of all or any part of the mining area.

- (2) An application under subsection (1)-
- (a) shall state the period for which renewal of the licence is sought;
 - (b) shall be accompanied by a statement giving particulars of mining operations proposed to be carried out in the period of renewal;
 - (c) shall be accompanied by a statement giving details of —
 - (i) the latest proved, estimated or inferred reserves;
 - (ii) the capital investment to be made in, and production costs and revenue forecasts in respect of, the period of renewal;
 - (iii) any expected changes in methods of mining and treatment; and
 - (iv) any expected increase or reduction in mining activities and the estimated life of the mine; and
 - (d) shall, if renewal of the licence is sought in respect of part only of the mining area, be accompanied by a plan identifying that part of the mining area.

Application
for renewal
of mining
licence

(3) Subject to subsection (4), on application duly made for the renewal of a mining licence, the Minister shall renew the licence, with or without variation of the conditions of the licence, for a period not exceeding fifteen years.

(4) The Minister shall refuse to renew mining licence-

(a) if-

- (i) the applicant is in default;
- (ii) the development of the mining area has not proceeded with reasonable speed; or
- (iii) minerals in reasonable quantities do not remain to be produced; or
- (iv) the programme of mining operations proposed to be carried out is not satisfactory;

(b) if the Minister has given to the applicant notice of his intention to refuse to renew the licence-

- (i) giving in the notice particulars of the ground for the intended refusal; and
- (ii) stating a date before which the applicant may take appropriate action or make representations in relation to that ground; and

(c) if the applicant has not, before that date, remedied the default or, in a notice given to the Minister, made appropriate amendments to his application, or made representations which, in the opinion of the Minister, remove the ground for the intended refusal.

(5) In determining whether or not to vary the conditions of a mining licence on renewal, the Minister shall have regard and give effect to any relevant agreement of a kind referred to in section 15.

(6) The area of land over which a mining licence is renewed shall be of such shape as may be prescribed.

Notice of disposal application for renewal licence

52. (1) The Minister shall give notice to an applicant for the renewal of a reconnaissance licence, a prospecting licence or a mining licence of his decision on the application and, if he renews the licence, the notice-

- (a) shall state the period of renewal;
- (b) shall set out any variation in the conditions of the licence;
- (c) shall include a plan of the area of land in respect of which the licence is renewed if that area differs from the area of land subject to the licence immediately before the renewal of the licence; and
- (d) shall have appended to it a programme of reconnaissance, prospecting or mining operations, as the case may be, to be carried out in the period of renewal.

(2) For the purpose of paragraph (d) of subsection (1), any provisions, with respect to the appending to a licence of a programme of reconnaissance, prospecting or mining operations, on the renewal of the licence contained in a relevant agreement of a kind referred to in section 15,

shall have effect as if that provision were contained in this section, and that paragraph shall be read subject to the provisions for the purpose of the appending of the programme to the licence concerned.

53.- (1) Subject to this section, where an application under this Part for the renewal of a licence is not finally dealt with before the date on which the licence would, but for this subsection, cease to have effect, the licence continues to have effect over the area of land over which renewal of the licence is sought until notice is given pursuant to section 52 of the refusal to renew or, as the case may be, of the renewal of the licence.

Licence to have effect pending disposal of application for renewal

(2) The period for which a licence is renewed commences on and includes the date on which the licence would have ceased to have effect if an application for the renewal of the licence had not been made.

(3) Subsection (1) shall not have effect-

- (a) to prevent the cancellation under this Act of a licence; or
- (b) if an application for the renewal of a licence is withdrawn.

54.- (1) The registered holder of a prospecting licence or a mining licence may amend his Programme of prospecting or mining operation and, subject to subsection (2), the amendment has effect when particulars of the amendment are given in a notice served on the Minister.

Amendment of mining programme

(2) An amendment which substantially alters a programme of prospecting or mining operations does not have effect unless application has been made pursuant to section 36 (2) or 44 (2) to the Minister and the Minister has, under section 36 (2) or 44 (2), agreed to the amendment.

(g) Surrender, Cancellation and Suspension of Mineral Rights

55.- (1) The registered holder of a reconnaissance licence, a prospecting licence or a mining licence who wishes to surrender all or part of the land subject to the licence shall apply to the Commissioner for a certificate of surrender, in respect of the land, not less than three months before the date on which he wishes the surrender to have effect.

Surrender

(2) An application under subsection (1)-

- (a) shall state the date on which the applicant wishes the surrender to have effect;
- (b) shall, if part only of the land subject to the licence is to be surrendered, identify the land to be surrendered, identify the land to be surrendered by providing a plan thereof in the case of land in a reconnaissance area of a prospecting area, or a diagram thereof in the case of land in a mining area;
- (c) shall give particulars of reconnaissance, prospecting or mining operations carried on in respect of the land to be surrendered; and
- (d) shall be supported by such records and reports in relation to those operations as the Commissioner may reasonably require.

(3) Subject to subsections (4) and (5), on application duly made under subsection (1) the Commissioner shall issue a certificate of surrender either unconditionally, or subject to such conditions as are specified in the certificate, in respect of the land to which the application relates.

(4) Where an application is Made, under subsection (1) the commissioner shall consult with the Minister.

(5) The Commissioner shall not issue a certificate of surrender.

- (a) to ail applicant who is in default;
- (b) to an applicant who fails to comply with any reasonable requirement of the Commissioner for the purposes of subsection (2) (d);
- (c) if the Commissioner is not satisfied that the applicant will leave land to be surrendered and on which prospecting or mining operations have been carried on in a condition which is safe and which accords with good mining operations; or
- (d) in respect of any land if the remaining reconnaissance area, or prospecting area, as the case may be, after the surrender would be of a shape or dimension prescribed with respect to any such area.

Effect of
Certificate of
surrender

56.-(1) Where, pursuant to section 55 (3), a certificate of surrender is issued, the Commissioner-

- (a) shall, if part only of the land subject to a reconnaissance licence, a prospecting licence or a mining licence is surrendered, amend the licence accordingly; or
- (b) shall in any other case, cancel the licence,

and in either case the Commissioner shall give notice to the applicant for the certificate of surrender of the amendment or, as the case may be the cancellation, and of the issue Of the certificate Of surrender.

(2) Land in respect of which a certificate of surrender is issued shall be treated as having been surrendered with effect from the date on which notice of the surrender is given pursuant to subsection (1) to the applicant for the certificate.

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

Suspension
or
cancellation
of Mineral
Right

57.-(1) Subject to this section, where the registered holder of a reconnaissance licence, a prospecting licence or a mining licence-

- (a) fails to use in good faith the land subject to the licence for the purpose for which the licence was granted;
- (b) uses that land for any purpose other than the purpose for which the licence was granted-,
- (c) fails to comply with any requirement of this Act or the regulations (not been exempted under this Act from doing so) with which he is bound to comply;

(d) fails to comply with a condition of the licence (not being exempted under this Act from doing so);

(e) fails to comply with a direction lawfully given under this Act or the regulations of 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 regulation;

(f) fails to comply with the conditions, relating to the exercise of his rights under his licence, which are contained in a relevant agreement of a kind referred to in section 15; or

(g) fails to pay any amount payable by him under this Act or the regulations within one month after the amount becomes due,

the Minister may, on that ground, by notice in writing served on the registered holder of the licence, suspend or cancel the licence.

(2) The Minister shall not, under subsection (1), suspend or cancel a licence on a ground referred to in that subsection unless-

- (a) he has, by notice in writing served on the registered holder of the licence, given not less than thirty days notice of his intention to so, suspend or cancel the licence on that ground;
- (b) he has, in the notice, specified a date before which the registered holder of the licence may, in writing, submit any matter which he wishes the Minister to consider; and
- (c) he has taken into account-
- (i) any action taken by the registered holder of the licence to remove that ground or to prevent the recurrence of similar grounds; and
 - (ii) any matters submitted to him by the registered holder of the licence pursuant to paragraph (b).

(3) The Minister shall not, under subsection (1), suspend or cancel a licence on a ground referred to in paragraph (g), if, before the date specified in a notice referred to in that subsection, the registered holder of the licence pays the amount of money concerned together with an amount of interest (if any) which the Minister considers reasonable in all the circumstances of the case.

(4) The Minister may, by notice in writing served on the registered holder of a reconnaissance licence, a prospecting licence or a mining licence, cancel the licence-

- (a) if the holder (being an individual) is-
- (i) adjudged bankrupt; or
 - (ii) enters into any agreement or scheme of composition with his creditors or takes advantage of any law for the benefit of debtors; or
- (b) if, in the case of a holder that is a company or corporation, an order is made or a resolution is passed winding up the affairs of the company or corporation, unless the winding up is for the purpose of amalgamation or reconstruction and the Minister has been given notice thereof.

(5) Where two or more persons constitute the registered holder of a reconnaissance licence, a prospecting licence or a mining licence, the Minister shall not, under subsection (4), cancel the licence on the occurrence in relation to one or some only of the persons constituting the registered holder, of an event entitling the Minister to so cancel the licence, unless he is satisfied that any other person or persons constituting the registered holder would be unable to continue to carry out the duties and obligations of the registered holder of the licence.

(6) On the cancellation of a reconnaissance licence, a prospecting licence or a mining licence, the rights of the registered holder of the licence thereunder cease, but the cancellation does not affect any liability incurred before the cancellation and any legal proceedings that might have been commenced or continued against the former registered holder of the licence may be commenced or continued against him.

(h) *Transfers and Registration*

Records **58.**(1) The Commissioner shall cause a record to be kept of every Mineral Right granted and of any dealings with, or affecting, a Mineral Right.

(2) When a Mineral Right is granted the Commissioner shall cause the name of the person to whom the Mineral Right is granted to be recorded as the registered holder of the Mineral Right.

Interest in Mineral Right to be created by instrument in writing **59.**(1) A legal or equitable interest in, or affecting, a Mineral Right, is not capable of being created, transferred, assigned, affected or dealt with, whether directly or indirectly, except by instrument in writing.

(2) The creation of a legal or equitable interest in, or affecting, a Mineral Right, does not affect the liability of the registered holder of the Mineral Right for any breach of the conditions of the Mineral Right or of any of the provisions of this Act or the regulations.

Transfer of Mineral Right to be approved by Minister etc. **60.**(1) Unless the Minister approves-

(a) the transfer of a Mineral Right; or

(b) an instrument by which a legal or equitable interest in, or affecting, a Mineral Right is created, assigned, effected or dealt with, whether direct or indirectly,

the transfer, or the instrument (in so far as it operates as provided in paragraph (b)), is of no effect.

(2) An application for the approval by the Minister under subsection (1) of a transfer or an instrument shall be made to the Commissioner in accordance with the regulations.

(3) Subject to subsections (4) and (5), on application duly made under subsection (2), the Minister may give, or refuse to give, his approval, or give his approval subject to such conditions as he deems necessary in the circumstances to impose.

(4) The Minister shall not give his approval to the transfer Of, or to any instrument operating as Provided in subsection (1) (b) in relation to, a reconnaissance licence.

(5) The Minister shall give his approval to the transfer of a prospecting licence or a mining licence when the transferee-

- (a) is a person controlling, controlled by, or under common control with, the transferor;
- (b) is not a person disqualified under any provision of this Act from holding a Mineral Right.

(6) If the Minister gives his approval to the transfer of a Mineral Right the Commissioner shall cause the name of the transferee to be recorded as the registered holder of the Mineral Right, but legal proceedings that might have been commenced or continued against the former registered holder may be commenced or continued against him notwithstanding the transfer,

(7) The reference in subsection (1) (a) to the transfer of a Mineral Right includes transfer of a Mineral Right by operation of law

61. The Minister may require any person making application under section 60 to the Commissioner to furnish to the Commissioner such information as the Minister may reasonably require to enable him to dispose of the application, and the applicant shall comply with the requirement.

Minister may require information

62.-(1) The Commissioner may give a certificate with respect to any matter referred to in subsection (2).

Evidentiary provision

(2) A certificate of the Commissioner-

- (a) that a Mineral Right was granted, transferred, suspended or cancelled on, or with effect from, a date specified in the certificate;
- (b) that any land, identified in the certificate, is, or was on a date specified in the certificate, subject to a Mineral Right;
- (c) that a mineral specified in the certificate is a mineral to which a Mineral Right relates;
- (d) that any condition specified in the certificate, is or was on a date so specified, a condition of a Mineral Right;
- (e) that a certificate of surrender was issued in respect of land identified, on a date specified. in the certificate given by the Commissioner;
- (f) that 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; or
- (g) that a person named in the certificate is, or was on a date specified in the certificate, the registered holder of a Mineral Right,

shall be received in proceedings before any court or tribunal as evidence of that fact, but without prejudice to the right to adduce evidence in rebuttal.

*(i)- Miscellaneous Duties with Respect to Submitting Reports, etc.*First
Schedule

63. (1) The First Schedule to this Act applies with respect to the duty of the registered holder, or former registered holder, of a Mineral Right to furnish information, submit reports or keep records.

(2) The registered holder of a Mineral Right —

- (a) shall establish immediately after the grant of the licence, and keep established while the licence subsists, an address in Tanzania; and
- (b) shall give notice of that address to the Minister, and of any variation of the address which may be made from time to time.

*(j) Miscellaneous*Application
for
inclusion of
additional
minerals in
licence

64. (1) This section applies where-

- (a) the registered holder of a prospecting licence or mining licence, in the course of searching for or mining the mineral to which his licence relates, finds another mineral (in this section called an "additional mineral"); and
- (b) in the circumstances it would be impossible to mine the mineral to which the licence relates without also mining that additional mineral.

(2) Where this section applies, the registered holder of the prospecting or mining licence concerned may make application to the Minister for the inclusion in the licence of the additional mineral and the Minister subject to this section, if satisfied that this section applies approve the application.

(3) The Minister is not required to approve an application referred to in subsection (2) if the applicant is unwilling to make such alterations to his programme of prospecting or mining operations as are reasonably necessary to cover adequately the additional mineral.

(4) Where the Minister approves an application referred to in subsection (2) he shall do so subject to the condition that the exclusive right to search for or mine the additional mineral shall arise only where that mineral is found together with a mineral to which the licence otherwise relates in such circumstances that it would not be possible to mine such last-mentioned mineral without also mining the additional mineral.

(5) Notice of the Minister's decision under subsection (2) shall be given to the registered holder of the prospecting licence or, as the case may be, mining licence concerned; and in the event that the Minister approves the application, the licence is subject to subsection (4), deemed to relate to the mineral concerned.

Enlarge-
ment of
prospe-
cting
area or
mining
area

65.-(1) The registered holder of a prospecting licence or a mining licence may apply to the Minister to have his prospecting area or, as the case may be, mining area enlarged in the manner specified in the application and the Minister may, subject to subsection (2), approve the application or refuse to do so.

(2) The Minister shall not approve an application made under subsection (1)-

- (a) unless he is satisfied that to do so would ensure the most efficient and beneficial use of the mineral resources of Tanzania; or
- (b) if, by reason of this Act, the Minister could not then grant to the registered holder making the application a prospecting licence or, as the case may be, mining licence, over the area of land by the addition of which the prospecting area or mining area is to be enlarged, or could only do so subject to any condition which could not be satisfied.

(3) The approval of the Minister under subsection (1) may be given unconditionally, or subject to such conditions as the Minister may determine and specify in a notice given pursuant to subsection (4).

(4) Notice of the Minister's decision under subsection (1) shall be given to the registered holder of the prospecting licence or, as the case may be, mining licence concerned, and in the event that the Minister approves the application, the prospecting or mining area is deemed to have been enlarged accordingly.

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

Removal of minerals

67.-(1) The Minister may grant to any person a permit to export any radioactive mineral on conditions determined by the Minister and specified in the permit; but the grant of such a permit to any person does not exempt the person from complying with the requirement of any other law relating to the export of radioactive minerals.

Export of radioactive minerals

(2) Any person who, exports any radioactive mineral otherwise than under and in accordance with a permit grant under subsection (1) shall be guilty of an offence and liable on conviction-

- (a) in the case of an individual, to a fine not exceeding 10,000/- shillings or to a term of imprisonment not exceeding two years, or to both such fine and imprisonment; or
- (b) in the case of a company or a corporation, to a fine not exceeding 100,000/- shillings.

68.-(1) Subject to section 60 (5), where a mining licence is granted to a company, the company shall not, after the date of the grant of the licence, without the written consent of the Minister-

Control over company not to be given without consent of Minister

- (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 to the particular person control of the company.

(2) On application made to him for his consent under this section the Minister shall give his consent if he considers that the public interest would not be prejudiced, but otherwise shall refuse to give his consent; and for the purpose of considering any such application the Minister may call for and obtain such information as he considers necessary.

(3) For the purposes of this section-

(a) a person is deemed to have control of a company-

(i) if the person or his nominee holds, or the person and his nominee hold a total of, 20 per centum or more of the equity shares in the company; or

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

(a) "equity shares", in relation to a company, means shares in the company other than preference shares; and

(c) "preference shares" means shares which carry the right to payment of a dividend of a fixed amount, or not exceeding a fixed amount, in priority to payment of a dividend on another class or other classes of shares, whether with or without other rights.

PART IV

CLAIMS

Designated
area

69.-(1) Where the Minister considers that it would be in the public interest to encourage prospecting and mining for minerals in any area of land by methods not involving substantial expenditure or the use of specialist technology he may, by notice in the *Gazette*, designate that area and, in the notice, prescribe any mineral in relation to the area.

(2) The Minister may, by notice in the *Gazette*, vary or revoke any notice published pursuant to this section.

Prospecting
Right

70. (1) Subject to this section, the Commissioner may issue to any person a prospecting right.

(2) No prospecting right-

(a) shall be issued to an individual unless he is a citizen of Tanzania;

(b) shall be issued to a company unless it is a company whose entire share capital is beneficially owned by citizens of Tanzania, or by a corporation which, in the opinion of the Minister, has been established for a public purpose by or under a law in force in Tanzania, or partly by such citizens and partly by such a corporation; or

(c) shall be issued to a corporation unless it is a corporation incorporated by or under a law (other than the Companies Ordinance) in force in Tanzania.

(3) No prospecting right shall be issued to a person unless the Commissioner is satisfied that person intends, within the limits of his competence and resources, to undertake prospecting operations.

(4) The power to issue a prospecting right is subject to the regulations-

71. (1) A prospecting right may authorize the holder of the right to prospect in all designated areas, or in any designated area or areas identified in the right, for all minerals prescribed in relation to any designated area to which the right applies, or for any such mineral specified in the right.

Rights
under pros-
pecting
right

(2) The holder of a prospecting right may, subject to this Act, the regulations and the conditions of the prospecting right, enter on any land in which he is authorized to prospect and carry on prospecting operations for any mineral to which his right relates.

(3) The holder of a prospecting right shall not prospect-

(a) in land-

(i) in a reconnaissance area for any mineral in respect of which the holder of the reconnaissance licence has been granted exclusive rights pursuant to section 23 (2) (c);

(ii) in a prospecting area for any mineral to which the prospecting licence relates; or

(iii) in a mining area;

(b) in land in a claim area, unless he is the holder of the claim; or

(c) in land to which section 48 applies unless any consent required to be given under that section in respect of the land is given.

(4) For the purpose of the exercise of the right referred to in subsection (2), the holder of a prospecting right may, in particular, erect camps and temporary buildings, or erect installations on any waters forming part of the land on which he is authorized to prospect.

72. (1) A prospecting right has effect for the period of twelve months from and including the date of the issue of the licence.

Term and
renewal of
prospe-
cting
right

(2) Subject to subsections (3), (4) and (5) and the regulations, the Commissioner on application duly made may renew a prospecting right for a period of twelve months from the date on which it would cease to have effect if not renewed.

(3) The Commissioner shall not renew a prospecting right in respect of any area which has ceased to be, or to be in, a designated area or in respect of a mineral which has ceased to be a prescribed mineral for the purposes of the designated area concerned.

(4) The Commissioner shall not renew a prospecting right unless he is satisfied-

(a) that the applicant has undertaken, in good faith, within the limits of his competence and resources during the period for which he has held the right, prospecting operations; and

(b) intends, within those limits, to undertake in good faith further prospecting operations.

(5) The Commissioner shall not renew a prospecting right if the applicant is in default.

Mining discs

73. The Commissioner may, by notice in the *Gazette*, authorize the use of mining discs in any designated area, or in any part of a designated area, identified in the notice, for all minerals prescribed in relation to the designated area or for any 'such mineral specified in that notice.

Pegging of claims other than disc claims

74.-(1) Subject to this Act and the regulations, the holder of a prospecting right may peg a claim or claims in accordance with regulations.

(2) Where the holder of a prospecting right, pursuant to subsection (1), pegs a claim, he shall, within 30 days of doing so, apply in accordance with the regulations for registration, in the manner prescribed, of the claim.

(3) Subject to this Act and the regulations, on application duly made for the registration Of a claim, the claim shall be registered.

(4) This section does not apply with respect to a claim established pursuant to section 75.

Disc claim

75.-(1) Subject to this Act and the regulations, the holder of a prospecting right may, in respect of each mining disc held by him, peg a claim in accordance with the regulations.

(2) Where the holder of a prospecting right, pursuant to subsection (1), pegs a disc claim, he shall, instead of applying for registration of the claim, affix, in the manner prescribed, the mining disc in the area of the claim.

Restriction on registration or establishment of claim

76.-(1) A claim shall not be registered pursuant to section 74 or established pursuant to section 75 in respect of land in which the person applying for registration of, or establishing, the claim, is not entitled to prospect.

(2) The Commissioner shall refuse to register a claim –

- (a) if he has reasonable grounds to believe that minerals in payable quantities have not been discovered within the proposed claim area;
- (b) if he has reasonable grounds to believe that the applicant does not intend to carry on, in good faith, within the limits of his capacity and resources, mining operations in the proposed mining area;
- (c) if the proposed claim area has ceased to be in a designated area or if the mineral which it is proposed to mine has ceased to be prescribed in relation to the designated area in which the proposed mining area is situated; or
- (d) if the applicant is in default and the Commissioner is not prepared, under this paragraph, to waive the default.

(3) Where the Commissioner has refused to register a claim on a ground referred to in subsection (2) (a), (b), or (d), the applicant may appeal against the decision to the Minister whose decision is final.

(4) The Commissioner may refuse to register a claim if the applicant fails, within a reasonable period specified by the Commissioner, to furnish the Commissioner with satisfactory evidence of the existence of the mineral for which the claim is pegged, within the area of the claim.

77.(1) Subject to this Act, a claim registered pursuant to section 74-

- (a) is valid from the day when the claim was pegged until the 31st March next following that day; and
- (b) on application made to the Commissioner in accordance with the regulations, may be renewed for further periods of twelve months each, commencing on the 1st April in each year.

Period of
validity
and renewal
of claim

(2) Subject to this Act, a disc claim established Pursuant to section 75-

- (a) is valid until the 31st December in the year in which the mining disc affixed in the area of the claim was issued; and
- (b) on application made to the Commissioner in accordance with the regulations, may be renewed for further periods of twelve months by affixing, in the manner prescribed, a mining disc for each such year.
- (3) A claim shall not be renewed pursuant to subsection (2) or (3)-
 - (a) if the land in the claim area has ceased to be in a designated area;
 - (b) in respect of any mineral which has ceased to be prescribed in relation to the designated area in which the claim area is situated;
 - (c) unless the Commissioner is satisfied that minerals in payable quantities remain in the claim area;
 - (d) unless the Commissioner is satisfied that the applicant has carried on, in good faith, within the limits of his competence and resources, mining operations in the claim area and intends to continue doing so; or
 - (e) if the applicant is in default and the Commissioner is not prepared, under this paragraph, to waive the default.

(4) Where the Commissioner has refused to renew a claim on a ground referred to in subsection (3) (c), (d) or (e), the applicant may appeal against the decision to the Minister whose decision is final.

78.-(1) The holder of a claim has the right to enter a claim area and, subject to this Act, the regulations and the conditions of the claim, the exclusive right, while the claim is registered or remains established, to prospect and mine therein, and to remove therefrom and dispose of, the minerals in respect of which the claim is registered pursuant to section 74 or established pursuant to section 75.

Rights and
duties of
holder of
claim

(2) The holder of a claim shall-

- (a) within the limits of his competence and resources carry on, in good faith, in the claim area mining operations;

- .(b) furnish the Commissioner with such information relating to his mining or prospecting operations carried on in the claim area as the Commissioner may reasonably require or as may be prescribed; and
- (c) carry out promptly any directions relating to his mining or prospecting operations which may be given to him by the Commissioner for the purpose of ensuring safety or good mining practice.

Cancellation
of claim

79.-(1) where the holder of a claim-

- (a) fails to use, in good faith, the land in the claim area for mining operations;
- (b) uses the land in the claim area for any purpose other than mining operations;
- (c) fails to comply with any requirement of this Act or the regulations (not being exempted under the regulations from doing so) with which he is bound to comply;
- (d) fails to comply with a condition of the claim (not being exempted under the regulations from doing so);
- (e) fails to comply with a **direction** lawfully given under this Act or the regulations or with a condition on which any exemption or consent is given under this Act or the regulations; or
- (f) fails to pay any amount payable under this Act or the regulations by him within one month after the amount becomes payable,

the Commissioner may, on that ground, by notice in writing served on the holder of the claim cancel the claim.

(2) The Commissioner may, by notice in writing served on the holder of a claim, cancel the claim-

- (a) if the holder (being an individual) is-
 - (i) adjudged bankrupt; or
 - (ii) enters into any agreement or scheme of composition with his creditors or takes advantage of any law for the benefit of debtors;
- (b) if, in the case of a holder that is a company or a corporation, an order is made or a resolution is passed winding up the affairs of the company or corporation unless the winding up is for the purpose of amalgamation or reconstruction and the Commissioner has been given notice thereof.

(3) Where, pursuant to a notice of a kind referred to in section 69(2)-

- (a) a claim area ceases to be wholly or partly in a designated area; or
- (b) a mineral mined in a claim area ceases to be a mineral prescribed in relation to the designated area in which the claim area is situated,

then-

- (c) in a case referred to in paragraph (a), the claim is deemed to be wholly cancelled or, as the case may be, cancelled with respect to the part of the claim area which has ceased to be in a designated area; or
- (d) in a case referred to in paragraph (b), the claim is deemed to be cancelled or, as the case may be, if more than one mineral is mined in the claim area, cancelled with respect to the mineral which has ceased to be so prescribed.

(4) Where the Commissioner has, cancelled a claim under subsection (1) or (2), the person who was the holder of the claim may appeal against the cancellation to the Minister whose decision is final.

(5) Where, under subsection (3), a claim is deemed to be wholly or partly cancelled, or cancelled with respect to a mineral, the Minister may authorize payment to the holder or former holder of the claim of such amount of compensation as he considers the circumstances of the case and the public interest requires; if any person is dissatisfied with the amount of compensation so authorized to be paid to him, he may appeal to the President whose decision is final.

PART V SURFACE RIGHTS

80. (1) The lawful occupier of any land in a reconnaissance area, a prospecting area, a mining area or a claim area retains any right which he may have to graze stock upon or to cultivate the surface of the land except in so far as the grazing or cultivation interferes with reconnaissance, prospecting or mining operations in any such area.

Right to
graze stock

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

(3) The rights conferred by a Mineral Right, a prospecting right, or a claim registered pursuant to section 74 or established pursuant to section 75, shall be exercised reasonably and so as to affect as little as possible the interest of any lawful occupier of the land subject to the Mineral Right or claim or on which rights under the prospecting right are exercised, consistent with the reasonable and proper conduct of operations pursuant to the Mineral Right, claim or prospecting right.

81.-(1) Where, in the course of reconnaissance, 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 Mining Right or the holder of the prospecting right or claim, by virtue of which the operations are carried on, is liable to pay to the lawful occupier fair

Compensa-
tion
for distur-
bance of
rights, etc

and reasonable compensation in respect of the disturbance or damage according to the respective rights or interests (if any) of the lawful occupier in the property concerned.

(2) Where the value of any land has been enhanced by reconnaissance, prospecting, or mining operations, compensation payable pursuant to subsection (1), in respect of the land shall not exceed any amount which would be payable if the value had not been so enhanced.

(3) Where the amount of compensation to be paid pursuant to subsection (1) in any particular case is in dispute, either party may refer the matter to the Commissioner who shall, subject to section 83 (2), deal with the matter in accordance with Part VI.

Rights over
unalienated
land

82. The President may, if he is satisfied that it is necessary to do so for mining purposes or for purposes ancillary to mining, grant, upon such conditions as he may think fit, to the registered holder of a Mineral Right-

- (a) a right of occupancy of any unalienated land; or
- (b) rights over any unalienated land.

PART VI
DISPUTES

Commissioner
May decide
dispute

83.-(1) The Commissioner may inquire into and decide all disputes between persons engaged in reconnaissance, 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 reconnaissance area, prospecting area, mining area or claim area;
- (b) any act committed or omitted, or alleged to have been committed or omitted, in the course of, or ancillary to, reconnaissance, prospecting or mining operation;
- (c) 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;
- (d) the assessment and payment of compensation pursuant to this Act; or
- (e) any other matter which may be prescribed.

(2) The Commissioner may, in his discretion, refuse to decide any dispute referred to him under this Part.

(3) The Commissioner may make any decree or order which may be necessary for the purpose of giving effect to his 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.

84.-(1) The Commissioner may send a copy, certified under his hand of any decree or order made by him, to any Civil Court within the local limits of whose jurisdiction the subject-matter of the decree or order is situated, and the Civil Court shall enforce the decree or order of the Commissioner in the same manner in which it would enforce its own decrees or orders.

Enforcement of Commissioner's decree and orders

(2) The fees payable upon the enforcement of a decree or order are those which would be payable upon the enforcement of a like decree or order made by the Civil Court concerned.

85.-(1) Any person aggrieved by a decision, decree or order of the Commissioner made or given pursuant to this Part may appeal to the High Court within the period of 30 days after the decision, decree or order is given or made.

Appeal to High Court

(2) No appeal lies to a court against a decision of the Commissioner under section 84 (2).

86. No person shall commence proceedings in a court in respect of any dispute of a kind referred to in section 83 unless the Commissioner has refused pursuant to subsection (2) of that section to decide the dispute.

Jurisdiction of courts excluded

87. The Regulations may provide for the initiation and conduct of proceedings under section 83, and the keeping of records and notes with of evidence concerning any such proceedings.

Regulations with respect to proceedings

PART VII

FINANCIAL

88. Subject to this Act, the registered holder of a mining licence shall, in accordance with his licence, this Act and the regulations, pay to the United Republic, royalty in respect of minerals obtained by him in the mining area.

Royalty on minerals obtained under mineral licence

89. Subject to this Act, the holder of a claim shall, in accordance with this Act and the regulations, royalty to the United Republic in respect of minerals obtained by him in the claim area.

Royalty on minerals obtained under claim

(1) For the purposes of this Act, "diamond levy" means the levy payable under this section in respect of diamonds.

Diamond levy

(2) Subject to this section, there shall be charged, levied and paid on all diamonds mined in Tanzania a diamond levy at the rate of five per centum of the gross value of those diamonds.

(3) The diamond levy shall be paid by the holder of a mining area or claim area on which the diamonds are mined, and shall be paid to and collected by the Commissioner in the same manner as royalties payable under section 89.

(4) Notwithstanding subsections (2) and (3), no diamond levy shall be chargeable on diamond from any mining area or claim area if the gross value of all the diamond mined in that area in the current year is less than ten million shillings, and diamond levy collected shall be refunded at the end of the year.

(5) For the purposes of subsection (4), mining area and mining claim includes two or more mining areas or mining claim held by the same person where the mining areas or mining claims are contiguous but not otherwise.

Prohibition
on disposal
of minerals

91. If the registered holder of a mining licence fails to pay any royalty payable by him on or before the due date or any extension thereof allowed by the Minister, the Minister may, by order served on the registered holder of the mining licence, prohibit the disposal of any mineral from the mining area concerned, or from any other mining area held by that holder, until all outstanding royalties have been paid or until an arrangement has been made, acceptable to the Minister, for the payment of the royalties, and the registered holder shall comply with the order.

Remission of
royalties,
etc.

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

(2) The Minister may exempt from liability with respect to royalty samples of mineral acquired for the purpose of assay, analysis or other examination.

(3) The Minister may, on application made to him by the registered holder of a mining licence, defer payment of any royalty due from the holder for such period and subject to such conditions as he may determine.

Annual
charges in
respect of
Mineral
Rights

93.-(1) There shall be payable to the United Republic by the registered holder of any Mineral Right an annual charge of such amount as may be prescribed, or as may be calculated in such manner as may be prescribed.

(2) The annual charge payable pursuant to subsection (1) is payable on the grant of a Mineral Right and thereafter annually on the anniversary of the grant until the termination of the Mineral Right.

Security for
compliance

94. The Minister may, from time to time, make such arrangements as appear appropriate to him to secure that the registered holder of a Mineral Right complies with this Act, and in particular may accept guarantees, whether from shareholders or otherwise, in respect of that compliance.

95.-(1) Where the Minister 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 instrument in writing served on that person, require that Person-

minister
may
require
information
to be
furnished

- (a) to furnish to him in writing, within the period and in the manner specified in the instrument, any such information;
- (b) to attend before him or a person specified in the instrument 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 instrument 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.

(2) A person is not excused from furnishing information, answering a question or making available books or documents when required to do so under this section 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 is not admissible in evidence against him in any proceedings other than proceedings for an offence against this section-

(3) Where books or documents are made available pursuant to a requirement under subsection (1) (c) the person to whom the books or documents are made available may make copies of, or take extracts from, the books or documents.

(4) A person shall not-

- (a) refuse or fail to comply with a requirement under subsection (1) to the extent to which 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 before the Minister or any person in pursuance of such a requirement, knowingly make a statement or produce a document that is, or produce books that are, false or misleading in a material particular; or
- (d) when making available books or documents in pursuance of such a requirement, knowingly make available books which are, or a document which is, false or misleading in a material particular.

(5) Any person who contravenes subsection (4) shall be guilty of an offence and liable on conviction to a fine not exceeding 5,000 shillings or to a term of imprisonment not exceeding twelve months, or to both such fine and imprisonment'

Recovery
of royalty,
etc.

96.-(1) Royalty payable under section 88, 89, or 90, and any annual charge payable under section 93, are debts due to the, United Republic and are recoverable in a court of competent jurisdiction.

(2) A certificate of the Minister certifying that a specified amount, of royalty, or an annual charge of a specified amount, is payable by a specified person shall, in any proceeding instituted against that person for the recovery of any such royalty or charge be received as evidence of that fact, but without prejudice to the right to adduce evidence in rebuttal.

PART VIII

MISCELLANEOUS

Right to
building
materials

97.-(1) Subject to subsection (2) and the regulations, nothing in this Act shall operate to prevent-

- (a) a citizen of Tanzania from taking, to the extent and in the manner which custom permits, minerals of any kind from land from which it has been customary to take minerals of that kind;
- (b) a person from taking from land over which he holds a right of occupancy building minerals for the purpose of construction on the land of any dwelling house, factory, workshop or store, including the outbuildings or appurtenances thereof;
- (c) any village registered under the Villages and Ujamaa Villages (Registration, Designation and Administration) Act, 1975, or any member thereof, from taking from land within the demarcated boundaries of the village building materials for any purpose, referred to in paragraph (b), in relation to the land; or
- (d) 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.

Acts, 1975
No.....

(2) Nothing in subsection (1) shall be construed as authorizing any person to take pursuant to paragraph (a), (b) or (c) of that subsection, any mineral from a mining area or a claim area.

(3) The Minister shall not, for the purposes of subsection (1) (d), approve a source in a mining area or a Claim area.

(4) The Minister may at any time withdraw any approval given for the purposes of subsection (1) (d).

Authority to
carry out
geological
mapping, etc

98. -For, the purpose of carrying out on behalf of the United Republic geological mapping, or research into the geology, of land to which this Act applies, the Minister may, by instrument in writing, authorize, any person named in the, instrument to, carry on, reconnaissance operations in that land, or in any part of that land identified in the instrument, subject to the conditions (if any) specified in the instrument; and for the; purpose of so doing, that person has all the rights of the registered holder of a reconnaissance licence (including the right to engage

in drilling, excavation and other sub-surface techniques), except in so far as those rights are restricted, excluded or regulated by conditions specified in the instrument.

99.-(1) The Commissioner or an authorized officer may, at all possible times, enter upon any reconnaissance area, prospecting area, entry mining area, claim area, land subject to a prospecting right, or mine, or any premises or working thereon or thereunder (other than a dwelling-house), for the purpose of-

- (a) generally inspecting any such area, land, mine, premises or workings and examining prospecting or mining operations or the treatment of minerals being performed or carried out;
- (b) ascertaining whether or not the provisions of this Act or the regulations, or the conditions of a Mining Right or claim, are being complied with;
- (c) ascertaining whether or not any nuisance exists upon any such area, land or mine or in any such premises or workings;
- (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 any such area, land, mine, premises or workings for the purpose of examination or assay;
- (f) examining books, accounts, vouchers, documents, maps, drilling logs, or records of any kind; or
- (g) obtaining any information which he may deem necessary for the administration of this Act.

(2) The Commissioner or an authorized officer may, at all reasonable times, inspect and take copies of any book accounts, vouchers, documents, maps, drilling logs or record of any kind, kept by the registered holder of a Mining Right or the holder of a claim, pursuant to or for the purpose of this Act, the regulations or the Mining Right or claim.

(3) The registered holder of a Mineral Right, or the holder of a claim or prospecting right, shall provide, such renewable assistance (Including the provision of necessary means of transport) as is required to enable the Commissioner or an authorized, officer to carry out any function under subsection (1).

(4) Any person who, without reasonable excuse, hinders or obstructs the Commissioner or an authorized officer in carrying out any function under subsection (1) or (2) shall be guilty of an offence and liable on conviction to a fine not exceeding 5,000/- shillings or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

100. The Minister may, direct the registered holder of a Mineral at a reasonable time and place specified in the direction to available to, or to produce for inspection by, the Commissioner

Production of books, etc.

or an authorized officer, any books, accounts, vouchers, documents or records of any kind, concerning the Mineral Right, and the registered holder shall comply with the direction.

Obstruction of holder of Mineral Right, etc.

101. Any person who, without reasonable excuse, obstructs or hinders the registered holder of a Mineral Right, the holder of a prospecting right, or the holder of a claim, from doing any act which that holder is authorized to do by this Act or the regulations, shall be guilty of an offence and liable on conviction to a fine not exceeding 5,000 shillings or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

Offence committed by company or corporation

102. When an offence which has been committed by a company or corporation 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 company or corporation, or any person who was purporting to act in any such capacity, he, as well as the company or corporation, shall be guilty of that offence and liable to be proceeded against and punished accordingly.

Miscellaneous offences

103. 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 mineral 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,

shall be guilty of an offence and liable on conviction-

- (e) in the case of an individual to imprisonment for a term not exceeding 3 years; or
- (f) in the case of a company or corporation, to a fine not exceeding 100,000 shillings.

PART IX

REGULATIONS

Regulations

104.-(1) The Minister may make regulations prescribing all matter that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, but without limiting the generality of subsection (1), the regulations may include provision for or with respect to-

- (a) prospecting for minerals and the carrying on of operations, and the execution of works, for that purpose, the methods which may not be used for that purpose and the duties of specified persons in relation to prospecting operations;
 - (b) mining for minerals and the carrying on of operations, and the execution of works, for that purpose, the methods which may or may not be used for that purpose and the duties of specified persons in relation to mining operations;
 - (c) the functions of officers acting in the administration of this Act;
 - (d) the regulation of matters relating to sanitation and health;
 - (e) the reporting of cases of accident or death occurring in the course of prospecting or mining operations, or in any related operations;
 - (f) the demarcation of reconnaissance, prospecting or mining areas;
 - (g) the manner of the payment and collection of royalty;
 - (h) the circumstances in which fees or rents may be charged and the amount thereof;
 - (i) the making of searches in connection with claims or Mineral Rights, or interests created therein, the granting of certificates in connection therewith, and the effect of any such certificate-;
 - (j) the issue and conditions of a prospecting right and the exercise of the rights thereunder;
 - (k) the pegging of claims (including the number and class of claims which may be pegged), and the registration or establishment of claims;
 - (l) the sale of mining disc, the conditions thereof and the period of the validity of mining discs;
 - (m) the exercise of rights in, and the duties to be performed (including work obligations) in relation to, land subject to a claim or carrying on prospecting or mining operations;
 - (n) the transfer of, and the creation 'of shares in, a claim, and the respective rights of the transferor and transferee',
 - (o) the amalgamation, surrender or cancellation of claims. whether in respect of all or some only of the land in claim areas;
 - (p) the payment of royalties on any mineral obtained in the claim area, the amount of the royalty and its determination; or
 - (q) amending the First Schedule to this Act.
- (3) Regulations made pursuant to subsection (2) (9)-
- (a) may prohibit the export of any mineral unless or until the royalty payable thereon has been paid or secured:
 - (b) May specify the person or persons by whom the royalty shall be paid, and may specify whether two or more persons are jointly and severally liable to pay the royalty;

- (c) may provide for the examination of mineral consignments and the issue of export permits in respect thereof;
 - (d) may provide for the performance by , persons identified in the regulations of functions with respect to the royalty and its collection.
- (4) The power under this section to make regulations may be exercised-
- (a) either in relation to all cases to which the power extends, or in relation to all of those cases subject to specified exceptions, or in relation to any specified cases or class of cases; and
 - (b) so as to make, as respects the cases in relation to which it is exercised-
 - (i) the same provision for all those cases, a different provision for different cases or classes of cases, or different provisions as respects the same case or class of case for different purposes of this Act; or
 - (ii) any such provision either unconditionally or subject to any specified condition.

PART X

TRANSITIONAL PROVISIONS, REPEAL AND SAVINGS

105. The Mining Ordinance is hereby repealed.

106. The transitional provisions and savings in the Second Schedule shall have effect.

Repeal of certain provisions Transitional provisions and Savings

FIRST SCHEDULE (Sections 63)

RECORDS AND REPORTS

Duties of registered holder of reconnaissance licence

- 1.**(1) The registered holder of a reconnaissance licence-
- (a) shall furnish such information in connection with the programme of reconnaissance operations as the Minister may, from time to time, require; and
 - (b) shall, at half-yearly intervals commencing six months after the grant of the licence submit to the Minister reports on the progress of reconnaissance operations.
- (2) Upon the expiration of the term of a reconnaissance licence, the person who was the registered holder of the licence immediately before the expiration shall, not later than three months thereafter, submit to the Minister a report setting forth his evaluation of the mineral prospects of the former reconnaissance area.
- (3) A report submitted pursuant to sub-paragraph (2) shall be accompanied by the negatives of all aerial photographs taken in the course of carrying on the programme of reconnaissance operations, together with-
- (a) all geological, geochemical and geophysical maps, profiles, tapes, diagrams and charts made by or for the former registered holder;
 - (b) copies of all tests and analyses made by or for that holder;
 - (c) copies of all reports made by or for that holder, including interpretations concerning the mineral prospects in the reconnaissance area; and
 - (d) a statement of the costs incurred by that holder in the performance of the reconnaissance programme.

2.-(1) subject to sub-paragraph (2), the registered holder of a prospecting licence-

(a) shall keep, at the address referred to in section 63 (2) (a), to the satisfaction of the Minister, full and accurate records of his prospecting operations which shall show-

- (i) boreholes drilled;
- (ii) strata penetrated, with detailed logs of the strata;
- (iii) minerals discovered;
- (iv) the results of any seismic survey geochemical or geophysical analysis;
- (v) the results of any analysis or identification of minerals removed under section 66;
- (vi) the geological interpretation of the records maintained under sub-paragraphs (i) to (v) inclusive;
- (vii) the number of persons employed;
- (viii) other work done in connection with the prospecting licence;
- (ix) costs incurred; and
- (x) such other matters as may be prescribed; and

(b) shall submit, at least once in every three months of the term of the licence, copies of those records to the Minister, together with any reports prepared as a result of those records.

(2) The Minister may, on application made to him by the registered holder of a prospecting licence, dispense with or modify all or any of the requirements of sub-paragraph (1).

3. The registered holder of a mining licence shall-

- (a) keep, at the address referred to in section 63 (2) (a), complete and accurate technical records of his operations in the mining area, in such form as the Minister may approve;
- (b) keep at that address 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 registered holder in respect of the mining area;
- (c) keep at that address accurate and systematic financial records of his operations in the mining area and such other books of accounts and financial records as the Minister may require; and if the registered holder is engaged in any other activity not connected with his mining operations he shall maintain separate books of account in respect of his mining operations;
- (d) submit to the Minister such reports, records and other information as the Minister may, from time to time, require concerning the conduct of operations in the mining area; and
- (e) furnish the Minister with a copy of every annual financial report within three months of the end of each financial year showing the profit or loss for the year and the state of financial affairs of the registered holder at the end of each financial year.

4. Where-

- (a) a Mineral Right terminates pursuant to section 56 (1) (b) or 57; or
- (b) the term of a prospecting licence or mining licence expires,

the person who was the registered holder of the Mineral Right or the licence immediately before the termination or expiration shall deliver to the Minister-

- (c) all records which the former holder maintained pursuant to this Act with respect to the licence;
- (d) all plans or maps of the area of land that was subject to the licences and which were prepared by or on the instructions of that the former holder; and
- (e) such other documents as the Minister may, by notice given to the former holder require him to so deliver.

Duties of registered holder of prospecting licence

Duties of registered holders of mining licence

Duty on termination of mineral right, etc.

SECOND SCHEDULE

(Section 106)

TRANSITIONAL PROVISIONS AND SAVII-4GS

Definition	1. In this Schedule, "the commencement" means the date on which this Act comes into operation.
General savings	<p>2. Except insofar as the context or subject-matter otherwise indicates or requires, nothing in this Schedule shall affect-</p> <p>(a) anything duly done or commenced to be done under the repealed Ordinance;</p> <p>(b) any liability incurred wider the repealed Ordinance;</p> <p>(c) any penalty, -forfeiture or punishment incurred in respect of any offence committed against any provision of the repealed Ordinance; or</p> <p>(d) any. investigation, inquiry, legal proceedings or remedy in respect of any such liability, penalty, forfeiture or punishment as aforesaid,</p> <p>and any such investigation may be continued or enforced, and any such penalty, forfeiture or punishment may be imposed and enforce, as if this Act had not been enacted.</p>
Prospecting licence	<p>3.-(1) An authority to prospect issued under section 12 of the repealed Ordinance that is in force immediately before the commencement is deemed to be a prospecting right issued oil the same conditions under this Act on the commencement--</p> <p>(a) for the unexpired term (as at the commencement) of the authority issued under section 12; and</p> <p>(b) authorizing the holder of the right to prospect in all designated areas for any mineral for which he is authorized by virtue or the right to prospect,</p> <p>and the provisions of this Act and the regulations apply accordingly,</p> <p>(2) This paragraph is subject to paragraph 7.</p>
Exclusive prospecting-licence	<p>4.-(1) An exclusive prospecting licence granted under section 18 of the repealed Ordinance that is in force immediately before the commencement is deemed to be prospecting licence issued on the same conditions under this Act on the commencement-</p> <p>(a) for the unexpired term (as at the commencement) of the licence; and</p> <p>(b) authorizing the holder to prospect in the area of land identified in the licence for any mineral specified in the licence,</p> <p>and the provisions of this Act and the regulations apply accordingly.</p> <p>(2) The Commissioner shall cause the name of the person who, immediately before the commencement, was the holder of an exclusive prospecting licence granted under section 18 of the repealed Ordinance to be recorded as the registered holder of the prospecting licence.</p> <p>(3) This paragraph is subject to paragraph 7.</p>
Claim	<p>5.-(1) A claim that was registered or established under the repealed Ordinance, and subsists immediately before the commencement, is deemed to be a claim registered or established on the same conditions under this Act, and the provisions of this Act apply accordingly.</p> <p>(2) The period of validity of a claim to which sub-paragraph (1) applies is the same as it would have been if this Act had not been enacted, but without prejudice to any right of renewal under this Act.</p>
Mining leases	<p>6.-(1) A mining lease granted under section 42 of the repealed Ordinance that is in force immediately before the commencement is deemed to be a mining licence granted on the same conditions under this Act on the commencement-</p> <p>(a) for the unexpired term (as at the commencement) of the lease; and</p> <p>(b) over the area of land subject to the lease in respect of the minerals to which the lease relates,</p>

and the provisions of this Act and regulations apply accordingly.

(2) The commissioner shall cause the name of the person who, immediately before the commencement, was the holder of a mining lease granted under section 42 of the repealed Ordinance to be recorded as the registered holder of the mining licence.

7.-(1) This paragraph applies to any prospecting right or exclusive prospecting licence issued or granted under the repealed Ordinance, designated by the Minister in rules made under sub-paragraph (2).

Designated
rights or
licences

(2) The Minister may make rules with respect to the operation of this Act in relation to any right or licence to which this section applies, and those rules shall have effect notwithstanding any other provision in this Schedule.

8. Where an agreement, of a kind referred to in section 15, which was entered into before the commencement is designated by the Minister by notice in the *Gazette*, the agreement is deemed to be an agreement for the purposes of that section.

Agreements

9. The Minister may, by rules under this paragraph, make whatever provision seems necessary or desirable for a smooth transition from arrangements under the repealed Ordinance to arrangements under this Act.

Rules

Passed in the National Assembly on the twenty-third day of October, 1979.

