

VOLUME 13

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CHAPTER 213

MINES AND MINERALS

Act No. 31 of
1995
41 of 1996
1 of 1997
8 of 1997
8 of 1998
5 of 1999
2 of 2000
5 of 2003
4 of 2006
Statutory
Instrument
166 of 1995

An Act to make provision with respect to prospecting for and mining minerals; to repeal the Mines and Minerals Act; and to provide for matters connected with or incidental to the foregoing.

[13th September, 1995]

PART I
PRELIMINARY

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

Short title and
commencement
Cap. 213

(2) This Act shall be come into operaion on 1st April, 2006.

(As amended by Act No. 5 of 2003 And No. 4 of 2006)

(3) Section *five* of this Act shall come into force on the 1st April, 2000.

(As amended by Act No. 2 of 2000)

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

Interpretation

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

"artisan's mining right" means an artisan's mining right granted under Part VII;

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

"building minerals" means minerals and rocks commonly used for building, road making or agricultural purposes and includes sand, clay, gravel, laterite, limestone, granite, phyllite and any other rock when so used;

"Commissioner-General" means the Commissioner-General appointed under the Zambia Revenue Authority Act; Cap. 321

"development agreement" means an agreement entered into under section *nine* in relation to a large-scale mining licence;

"Director" means the Director of Mines appointed under section *eighty-three*;

"gemstone licence" means a gemstone licence granted under Part IV;

"gemstone sales certificate" means a gemstone sales certificate granted under Part XIII;

"gemstones" means amethyst, aquamarine, beryl, corundum, diamond, emerald, garnet, ruby, sapphite, topaz, tourmaline and any other non-matelllic mineral substance, being a substance used in the manufacture of jewellery, that the Minister, by statutory instrument,

declares to be a gemstone for the purposes of this Act;

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

"large-scale mining licence" means a large-scale mining licence granted under Part III;

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

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

"mineral" means any material substance, whether in solid, liquid, or gaseous form, that occurs naturally in or beneath the surface of the earth, but does not include water, petroleum or any substance or thing prescribed by the Minister by regulation;

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

"Mining Advisory Committee" means the Mining Advisory Committee established by section *eighty-eight*;

"mining area" means an area of land subject to a licence or permit under this Act or an interim licence held under the Fourth Schedule that confers rights similar to the rights conferred by such a licence or permit;

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

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

"mining right" means a licence or permit, or an artisan's mining right, granted under this Act or any interim licence held under the Fourth Schedule;

"petroleum" has the meaning ascribed to it in the Petroleum Act but does not include coal or oil shale; Cap. 435

"preliminary investigation rights" means rights granted under the proviso to subsection (1) of section *five*;

"prospect" means to search for any mineral by any means and to carry

out such works, and remove such samples, as may be necessary to test the mineral-bearing qualities of any land;

"prospecting area" means an area of land subject to a prospecting licence, a prospecting permit or an interim licence held under the Fourth Schedule that confers prospecting rights;

"prospecting licence" means a prospecting licence granted under Part III;

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

"prospecting permit" means a prospecting permit granted under Part IV;

"retention licence" means a retention licence granted under Part IV;

"royalty" means royalty chargeable under Parts III and VIII on the produce of a large-scale mining licence;

"small-scale mining licence" means a small-scale mining licence granted under Part IV;

"ZCCM" means Zambia Consolidated Copper Mines Limited.

(As amended by No. 2 of 2000, Act No.5 of 2003 and Act No. 4 of 2006)

(2) A reference, in any provision of this Act, to an authorised officer is a reference to a public officer, designated under section *eight-three*, who is duly authorised to exercise and perform the powers and functions conferred or imposed by that provision on an authorised officer.

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

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

Rights to minerals
vested in the
President

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

PART II MINING RIGHTS GENERALLY

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

Acquisition of
mining rights

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

Authority required for prospecting or mining

Provided that the Director may, for a period not exceeding ninety days, grant in writing, subject to such conditions (including conditions relating to work and expenditure), as the director may impose, the right to enter any area that is not subject to a mining right, or undertake an aerial survey, for the purpose of reconnaissance operations for the location of minerals by geophysical, geochemical and photogeological survey or by the study of surface geology.

(2) A right granted by the Director under the proviso to subsection (1) shall not confer on the holder exclusive rights over the area to which it relates or any preference or priority in respect of an application for a prospecting licence over any such area.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction-

(a) in the case of an individual, to a fine not exceeding fifty thousand penalty units or imprisonment for a term not exceeding two years, or to both; or

(b) in the case of a body corporate, to a fine not exceeding five hundred thousand penalty units.

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

Types of mining rights

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

7. (1) A mining right shall not be granted except to an individual or a company.

Certain persons disqualified from holding mining rights

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

- (a) an individual who-
- (i) is under the age of eighteen years;

(ii) is or becomes an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any written law, or enters into any agreement or scheme of composition with his creditors, or takes advantage of any legal process for the relief of bankrupt or insolvent debtors; or

(b) a company which is in liquidation, other than liquidation which forms part of a scheme for the reconstruction of the company or for its amalgamation with another company.

(3) An artisan's mining right shall not be granted to a person who is not a citizen of Zambia.

(4) Any document or transaction purporting to grant a mining right to any person not entitled to hold the right shall be void and of no effect.

8. (1) A mining right, and the rights conferred by it, shall be subject to the provisions of this Act and the regulations made under this Act, the conditions attached to it at the time it is granted and, to the extent that the amendment of such conditions during the currency of the mining right is permitted under this Act, to the conditions as amended from time to time.

Restrictions on mining rights

(2) In the case of large-scale mining licence, this section has effect subject to section *nine*.

9. (1) For the purpose of encouraging and protecting large-scale investments in the mining sector in Zambia, the Minister may, on behalf of the Republic, enter into an agreement relating to the grant of a large-scale mining licence.

Development agreements

(2) An agreement referred to in subsection (1) shall be known as a development agreement, and may contain provisions which notwithstanding the provisions of any law or regulation shall be binding on the Republic in relation to-

(a) mining operations under a large-scale mining licence, or the financing of any mining operations under such a licence;

(b) the circumstances or the manner in which the Minister or the director shall exercise any power or discretion conferred on them by this Act in respect of the licence; and

(c) the settlement of disputes arising out of or relating to the agreement, the administration of this Act, or the terms or conditions of a large-scale mining licence, including provisions relating to the settlement of any such dispute by international arbitration.

(d) the privatisation of the ZCCM and any matters specified in the

First Schedule in respect of which the Minister responsible for finance the Minister responsible for mines and minerals development may, after consultation with any Minister responsible for any relevant portfolios, make such stability commitments in relation to the said matters affecting the enforcement or effect of the relevant Development Agreement as the Ministers may consider necessary; and

(e) such other matters as the Minister may consider appropriate.

(As amended by Act No. 41 of 1996 and repealed and replaced by Act No. 2 of 2000)

9A. (1) In this section-

"environmental law" means any law regulations in force from time to time in the republic, including the common law, which have as a purpose or effect the protection of, or prevention of, pollution or harm to the environment, including man and his property, or to human health, resulting from pollution or harm to the environment, or the provision of remedies for harm or damage to the environment or to human health;

Assumption of liabilities

"environmental liability" means any liability to third parties incurred or arising out of or in connection with-

(a) any death, injury, disease or disability of any person; or

(b) any physical damage to or loss of enjoyment of property or assets of any person.

and which are or have been caused by acts or omissions regulated under or addressed by environmental law;

"environmental plan" means any environmental plan as amended from time made pursuant to any Development Agreement under section *nine* and agreed between the Government and any purchaser or transferee of any of the assets of ZCCM or of any of the equity or assets of its subsidiaries;

"liability" means any liability whether actual or contingent, present or future and whenever and howsoever incurred;

"manager" means any person who undertakes or has undertaken responsibility for the management or operation of any assets of ZCCM or of any assets of any subsidiary of ZCCM (including any management or operation pursuant to a security interest) where such assets have been transferred to a transferee;

"mine safety law" means the provisions contained in any law or regulations in force from time to time in the Republic which relate to mine safety or occupational safety;

"mine safety liability" means any liability to third parties incurred or arising out of or in connection with any death, injury, disease or disability of any worker or former worker which are or have been caused by acts or omissions regulated under or addressed by mine safety laws;

"third party" means any person (including State entities, ZCCM and any purchaser, transferee, manager or subsequent owner of any equity or assets of ZCCM or of any equity or assets of any subsidiary of ZCCM where applicable) who, but for the provisions of this section, would have rights of action against ZCCM or any purchaser, transferee, manager or subsequent owner of any ZCCM's assets, or any equity or assets of any subsidiary of ZCCM, in respect of any liabilities described herein;

"trade liability" means any liability to a third party incurred or arising in respect of, or, in connection with, supplies or purchases of goods or services to or by ZCCM or any of its subsidiaries;

"transferee" means-

(i) any person to whom any of the assets of ZCCM are transferred, and shall include any subsidiary of ZCCM are transferred;

(ii) any person to whom any of the assets or equity of any subsidiary of ZCCM are transferred; or

(iii) any person to whom assets or equity which were previously transferred under paragraphs (i) or (ii) are subsequently transferred.

(2) Notwithstanding any other law or regulation or any other provision of this Act, the State shall assume the liabilities set out in subsection (3) and the liabilities shall vest in the State immediately upon transfer pursuant to this section and shall be recoverable against the State as a civil debt and the purchaser, transferee, manager or subsequent owner shall have no liability or obligation in respect thereof where any assets of, or equity or assets of subsidiaries of ZCCM are transferred in part or in whole whether to a subsidiary of ZCCM, prior to the disposal by ZCCM of its interest in such subsidiary or to the disposal by such subsidiary of any of its assets in whole or in part, or to a purchaser or other transferee.

(3) The following are the liabilities referred to in subsection (2) that the State shall assume-

(a) any environmental liability, or mine safety liability incurred or arising out of or relating to:

- (i) the operations of ZCCM or any of its subsidiaries; or
- (ii) the condition of the assets of ZCCM or of any of its subsidiaries;

in each case in the period prior to the date on which any of the assets thereof are transferred to the purchaser or transferee;

(b) any trade liability in respect of goods or services supplied to or purchased by ZCCM in the period prior to the date on which the first transfer occurs pursuant to the privatisation of ZCCM of-

- (i) assets or any interest in any such assets of ZCCM; or
- (ii) assets or equity of its subsidiaries or any interest in such assets or equity;

Provided that the State shall, upon assumption of such trade liability, acquire a claim against ZCCM in an amount equal to the trade liability assumed;

(c) subject to the exclusions in subsection (4), any environmental liability, or mine safety liability relating to the assets previously held ZCCM or by any of its subsidiaries whensoever they accrue to the extent that they arise from or relate to the operations of the purchaser or transferee thereof after the transfer thereto.

(4) Notwithstanding subsection (3) the liabilities assumed by the State under paragraph (c) of subsection (3) shall not include-

(a) any environmental liability to the extent that the liability arises from, or relates to, acts or omissions which constitute an unremedied failure by the purchaser or transferee of any asset of ZCCM or by any equity in or assets of any of its subsidiaries, to comply with the purchaser's or transferee's environmental plan;

(b) any environmental liability which arises out of operations of the purchaser or transferee in the period after the last date provided in the Development Agreement made under this Act by which the purchaser's or transferee's operations are due to achieve full compliance with the environmental requirements applicable under the environmental plan and with any environmental law;

(c) any mine safety liability which-

(i) is otherwise covered by any statutory compensation scheme or is recoverable under any insurance held by the purchaser or

transferee;

(ii) arises other than out of a breach of statutory duty or negligence of the purchaser or transferee which breach or negligence relates to the condition at the date of transfer of the assets transferred to the purchaser or transferee;

(iii) is attributable to any act or omission which constitutes an unremedied failure by the purchaser or transferee to comply with the environmental plan or mine safety law in circumstances where the purchaser or transferee holds no applicable exemption or safety letter; or

(iv) arises out of operations after the expiry of the period specified for completion of the remedial safety programmes contained in the environmental plan.

(5) Notwithstanding any other law, regulation or any other provisions of this Act, any transfer by ZCCM or any subsidiary of ZCCM of its property, assets or equity (or any interest in property, assets, or equity) made under an agreement executed by ZCCM or any of its subsidiaries shall confer good title on the purchaser or transferee and such property, assets or equity (or any interest in property, assets or equity) shall not be capable of seizure or attachment to satisfy any claim, order or judgement of a court, tribunal or arbitration arising out of any monies due and owing or trade liabilities arising and attaching in each case prior to the vesting of such assets in the purchaser or transferee:

Provided that any monies due and owing or trade liability referred to in this section shall by virtue of this Act vest in the State and shall be recoverable as a civil debt against the State.

(6) Subject to subsection (5), but withstanding any other law or regulation or any other provisions of this Act, any person with a claim in relation to any liability which arises out of the acts or omissions of ZCCM or any of its subsidiaries or which arises out of the condition of any assets of ZCCM or of any of its subsidiaries prior to the date on which any such assets of ZCCM or the assets or equity of any of its subsidiaries were transferred to the purchaser or transferee shall institute any action against-

(a) the State, if such liabilities fall within subsection (3) of this section; and

(b) against ZCCM or any of its subsidiaries, if such liabilities fall outside subsection (3) of this section;

and in each case no action shall lie against the purchaser, any transferee,

manager or any subsequent owner of any such assets of ZCCM or any equity in or assets of its subsidiaries.

(7) Subject to the provisions of subsections (2), (3) and (6), any person with a claim in relation to any liability arising out of acts or omissions occurring after, or both before and after, the date on which any assets of ZCCM or any assets or equity of any subsidiary were transferred may bring an action against the purchaser, transferee or subsequent owner but only in respect of damage or injury which is caused by acts or omissions occurring after such transfer and which does not relate to a liability falling within subsection (3) (c) in respect of which action shall lie against the State only.

(8) In hearing any action referred to in subsection (6) or subsection (7), the court shall, where applicable, determine the proportion of damage attributable to the period after such transfer and, subject to the provisions of subsections (2), (3), (6) and (7), shall make an order against the purchaser, transferee or any subsequent owner of the assets of ZCCM or any equity or assets of any of its subsidiaries in respect of that proportion of the damage only for which it may be liable hereunder.

(9) This section shall apply only in relation to those transfers of assets of ZCCM or any transfers of any equity in or any assets of any subsidiary of ZCCM and any related liabilities, which transfers are completed on or after 1st February, 2000; and the first transfer referred to in subsection (3) (b) shall be the first transfer which is completed after 1st February, 2000.

9B. (1) Whenever any property, equity, assets (or any interest in any property, equity or assets) rights, liabilities and obligations are transferred to the purchaser or transferee of of any part of or the whole of the equity or assets of ZCCM or part of or the whole of the assets of any of its subsidiaries in respect of which transfer a written law provides for registration, the transferee shall make an application in writing to the appropriate authority for registration of the transfer.

(2) The registration authority referred to in subsection (1) shall make such entries in the appropriate register and shall give effect to such transfer and where applicable issue to the purchaser or transferee concerned a certificate of title in respect of the property or make necessary amendments to the register as the case may be and shall make endorsement on the Deed relating to the title, rights or obligations concerned and no registration fees or other duties shall be payable in respect thereof.

(As amended by Act No. 2 of 2000)

Waiver of fees in relation to transfer of property assets, etc.

10. (1) Subject to this Act, where more than one application for a mining right over the same area of land is duly lodged and received, the applications shall be disposed of in the order in which they are received.

Priority of applications for mining rights

(2) Every application for a mining right duly made by an applicant who has tendered any fee as prescribed by or under this Act shall be registered immediately in a register maintained for the purpose, and each application so registered shall be assigned a number, and the date and time when the application was received shall be indicated on an official receipt handed to the applicant or his authorised agent or sent to the applicant by registered mail.

11. Before a mining right is issued, the Director may require that the land over which the mining right is to be issued be properly surveyed in accordance with legal requirements

Survey of land

PART III

LARGE-SCALE MINING OPERATIONS

Prospecting Licences

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

Rights conferred by prospecting licence

13. (1) An application for a prospecting licence shall be made to the Minister in the prescribed form and shall be accompanied by the prescribed fee.

Application for prospecting licence

(2) The application shall include-

(a) in the case of an applicant who is an individual, his name, address and nationality and in respect of a company that is an applicant,

its registered name and address and the names, addresses and nationalities of the directors and of any shareholder who is the beneficial owner of more than five per centum of the issued capital;

(b) a full description of the area of land over which the licence is sought and a plan of the area prepared in such manner and showing such particulars as the Minister may reasonably require;

(c) a statement of the minerals to be searched for;

(d) details of any mining right previously granted to the applicant; and

(e) such further information as may be prescribed by the Minister by statutory instrument.

14. (1) The Minister shall, within sixty days of receipt of an application duly made, grant a prospecting licence to the applicant, unless-

Grant of
prospecting licence

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

(b) he is the holder of another mining right and is in breach of any condition of that right or in breach of any of the provisions of this Act or the regulations in relation thereto;

(c) the area of land for which he has made application, or a part of it, is subject to another mining right, or extends to or is included in, an area in respect of which the Director has granted preliminary investigation rights on conditions which impose work or expenditure obligations, unless in any such case the applicant is himself the holder of that right; or

(d) the area of land for which application has been made covers or includes an area of land for which application has been made by another person who has priority over the applicant.

(2) A prospecting licence shall-

(a) state the date of the grant of the licence, the period, not exceeding two years, for which it is granted and the conditions on which it is granted;

(b) specify the minerals in respect of which it is granted; and

(c) include a description and plan of the prospecting area.

(3) There shall be appended to a prospecting licence the programme of prospecting operations, as accepted by the Minister, which shall form part of the conditions of the licence.

(4) In determining the date for the commencement in force of the licence, the Minister may take account of any period not exceeding six

months from the date of the grant which is required by the applicant to make any necessary preparations for prospecting operations.

15. (1) A prospecting licence shall, on application, be renewed by the Minister for such period, not exceeding two years, as the licensee may require, if the holder of the licence-

Renewal of
prospecting licence

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

(b) relinquishes fifty per centum of the initial prospecting area on a first renewal, and fifty per centum of the balance on a second renewal, or such other size of area as may be agreed between the Director and the holder; and

(c) is not in breach of any condition of his licence or in breach of any of the provisions of this Act or the regulations in relation thereto:

Provided that the Minister shall not reject an application for renewal by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the Minister has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

(2) Where the Minister considers it necessary for the completion of a feasibility study commenced by the holder into the prospects for recovery of any mineral deposit and its commercial significance, the licence may be renewed for such further period as the Minister may authorise but not exceeding one year.

16. The holder of a prospecting licence-

Obligations of
holder of
prospecting licence

(a) shall commence prospecting operations within ninety days, or such further period as the Minister may allow, after the date of the grant of the licence or such other date as is stated in the licence as its commencement date;

(b) shall give notice to the Minister of the discovery of any mineral deposit of possible commercial value within thirty days of the discovery; and

(c) shall expend on prospecting operations not less than the amount prescribed or required by the terms and conditions of the licence to be so expended.

17. Except for the purpose of having the mineral analysed determining the value of the mineral or conducting tests on the mineral, the holder of a prospecting licence shall not remove any mineral from the prospecting area without the written permission of the Director and shall, when so removing any mineral, comply with such conditions as the Director may

Removal of
minerals

specify in the written permission.

Retention Licences

18. A retention licence confers on the holder exclusive rights to apply for a large-scale mining licence within the area for which the retention licence has been granted.

Rights conferred by retention licence

19. (1) The holder of a prospecting licence may apply to the Minister for the grant of a retention licence on the grounds that-

Application for retention licence

(a) he has identified a mineral deposit within the prospecting area which is potentially of commercial significance; and

(b) the mineral deposit cannot be developed immediately by reason of adverse market conditions or other economic factors which are, or may be, of a temporary character.

(2) An application for a retention licence shall be accompanied by studies and assessments by appropriate experts or consultants acceptable to the Minister on-

(a) the extent and prospects for recovery, and the commercial significance, of the mineral deposit and the relevant market conditions and trends and economic factors; and

(b) the impact of mining operations for the recovery of the mineral deposit on the environment and ways and means of eliminating or minimising any adverse effects;

and such other information as the Minister may reasonably require as to the proposals of the applicant for the retention and development of the deposit.

20. (1) The Minister, if he is satisfied that commercial development of the deposit is not presently possible for the reasons specified in the application, but may be possible within a period of six years, may grant a retention licence to the applicant over that part of the prospecting area which the Minister, after consultation with the applicant, anticipates is, or might be, required to mine the deposit identified by the applicant.

Grant of retention licence

(2) Without limiting the power of the Minister to impose conditions on a mining right, the conditions of the licence may include conditions for the preservation of the mineral deposit.

(3) A retention licence may be granted for a period not exceeding three years.

21. (1) If the Minister remains satisfied that commercial development

Renewal of

is not possible at the expiry of a retention licence, the licence may, on the application of the holder, be renewed for a single period of three years.

retention licence

(2) Before renewing such a licence, the Minister may require the holder to provide him with such updated studies and assessments of the prospects of the development and commercial exploitation of the mineral deposit as may reasonably be required.

22. If the Minister is satisfied that commercial mineral development of an area that is subject to a retention licence has become possible during the currency of the licence, he may, by notice to the holder of the licence, require the holder to apply for a large-scale mining licence in respect of the area concerned and may, at any time thereafter, cancel the retention licence.

Cancellation of retention licence

Large-Scale Mining Licences

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

Rights conferred by large-scale mining licence

(2) Without limiting the generality of subsection (1), the holder of a large-scale mining licence may himself or by his servants and agents-

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

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

(c) dispose of any mineral product recovered;

(d) prospect within the mining area for any mineral; and

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

24. (1) The holder of a prospecting licence is entitled to the grant of a large-scale mining licence for the mining of minerals within the prospecting area.

Application for large-scale mining licence

(2) An application for a large-scale mining licence shall be made to the Minister in the prescribed form and shall be accompanied by the prescribed fee.

(3) Every application for a large scale mining licence shall include or be accompanied by-

- (a) a statement of the period for which the licence is sought;
- (b) a comprehensive statement of the mineral deposits in the area over which the licence is sought, including details of all known minerals proved, estimated or inferred, ore reserves and mining conditions;
- (c) the proposed programme for mining operations, including a forecast of capital investment, the estimated recovery rate of ore and mineral products, and the proposed treatment and disposal of ore and minerals recovered;
- (d) the applicant's environmental plan, including his proposals for the prevention of pollution, the treatment of wastes, the protection and reclamation of land and water resources, and for eliminating or minimising the adverse effects on the environment of mining operations;
- (e) details of expected infrastructure requirements;
- (f) the applicant's proposals with respect to the employment and training of citizens of Zambia;
- (g) particulars of the prospecting licence held by the applicant;
- (h) a full description of the land within the prospecting area for which the large-scale mining licence is sought and a plan of the proposed mining area prepared in such manner and showing such particulars as the Minister may reasonably require;
- (i) such further information as the Minister may reasonably require for the disposal of the application.

(4) The applicant shall commission and produce to the Minister an environmental impact study on the proposed mining operations, to be prepared by persons who, in the opinion of the Minister, are suitably qualified and competent to do so.

25. (1) Subject to the other provisions of this Act, on application by the holder of a prospecting licence, the Minister shall grant a large-scale mining licence in respect of the whole or such part of the prospecting area as the applicant may require if, taking account of any relevant stipulation in a development agreement-

Grant of
large-scale mining
licence

- (a) it is established, or may be reasonably inferred, that there are sufficient deposits or reserves of minerals to justify their commercial exploitation;
- (b) the area of land over which the licence is sought is not in excess of the area reasonably required to carry out the applicant's proposed programme for mining operations;
- (c) judged by recognised standards of good mining practice, the

applicant's proposed programme for mining operations would ensure the efficient and beneficial use of the mineral resources of the area over which the licence is sought;

- (d) the applicant's environmental plan conforms to specifications and practices established by national standards for the management of the environment as it is affected by mining operations;
- (e) taking account of the size and nature of the proposed mining operations, the applicant's proposals for the employment and training of citizens of Zambia are adequate; and
- (f) the applicant is not in breach of any condition of his prospecting licence or in breach of any of the provisions of this Act or the regulations:

Provided that the Minister shall not reject an application by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the Minister has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

(2) A large-scale mining licence shall be granted for such period, not exceeding twenty-five years, as the applicant may require.

(3) A large-scale mining licence shall-

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

(4) There shall be appended to a large-scale mining licence-

- (a) the programme of mining operations;
- (b) the applicant's environmental plan; and
- (c) the applicant's proposals for the employment and training of citizens of Zambia;

as accepted by the Minister, which shall form part of the conditions of the licence.

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

Renewal of large
scale mining
licence

(2) An application for renewal shall be made to the Minister in the prescribed form and shall be accompanied by the prescribed fee.

(3) An application under this section shall include or be accompanied by-

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

(4) Except as provided by subsection (5), on an application duly made under this section, a large-scale mining licence shall be renewed by the Minister for a period not exceeding twenty-five years, and the Minister may renew the licence with or without a variation of the conditions of the licence.

(5) The Minister may reject an application for renewal after taking into account of any relevant stipulation in a development agreement-

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

Provided that the Minister shall not reject an application by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the Minister has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

27. The holder of a large-scale mining licence shall-

Obligations of
holder of

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

large-scale mining licence

(b) employ and train citizens of Zambia in accordance with his proposals as appended to the licence; and

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

28. (1) The holder of a large-scale mining licence shall give notice to the Minister-

Suspension of production

(a) at least ninety days in advance, if, without abandonment of his licence, he proposes to suspend production from his mine; and

(b) at least thirty days in advance, if he proposes to curtail such production;

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

(2) The holder of a large-scale mining licence shall forthwith inform the Minister of the suspension or curtailment of production from his mine due to causes beyond his control.

(3) On receiving notice under subsection (1), or if he otherwise becomes aware of any suspension or curtailment of production, the Minister shall cause the matter to be investigated and may, subject to the terms of any relevant development agreement-

(a) give his approval, on such conditions as he may determine (including provision for the extension of any licence), to the suspension or curtailment of production; or

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

PART IV

SMALL-SCALE MINING OPERATIONS

Prospecting Permits

29. A prospecting permit confers on the holder exclusive rights to carry on prospecting operations in the prospecting area for the minerals (not being gemstones) specified in the licence, and to do all such other acts and things as are necessary for or reasonably incidental to the

Rights conferred by prospecting permit

carrying on of those operations.

30. (1) An application for a prospecting permit-

Application for
prospecting
permit

(a) shall be made to the Director; and

(b) shall be in the prescribed form and shall be accompanied by

(i) the prescribed fee; and

(ii) a tax clearance certificate issued under section eighty one B of the
Income Tax Act.

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(2) The application shall include-

(a) a statement of the minerals, other than gemstones, for which the
applicant wishes to prospect;

(b) a description and sketch of the area of land for which the permit
is sought, sufficient to enable identification of the area and to provide a
plan to be annexed to the permit;

(c) a statement of the sum the applicant intends to expend on his
prospecting operations; and

(d) a description of any mining right which has previously been
granted to the applicant or for which he has previously made an
application.

(As amended by Act No. 5 Of 2003)

31. (1) The director shall, within thirty days of receipt of an application
duly made, grant a prospecting permit to the applicant, unless-

Grant of
prospecting permit

(a) he is disqualified under section *seven* from holding the permit.

(b) the area over which he seeks a prospecting permit is already
subject to a mining right; or

(c) the applicant is or was in breach of any condition of any other
mining right or in breach of any of the provisions of this Act or the
regulations:

Provided that the Director shall not reject an application by
virtue of this paragraph unless the applicant has been given details of his
default and has failed to remedy it within such reasonable time as the
director has allowed or, where a default is not capable of remedy, has
not offered in respect thereof reasonable compensation.

(2) A prospecting permit shall-

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

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

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

(4) The area of a prospecting permit shall not exceed ten square kilometres.

(5) A prospecting permit shall not be granted for a period exceeding two years, and shall not be renewed.

32. The holder of a prospecting permit shall give notice to the local office of the discovery of any mineral deposit of possible commercial value within thirty days of the discovery.

Obligations to give notice of discovery

33. Except for the purpose of having the mineral analysed, determining the value of the mineral or conducting tests on the mineral, the holder of a prospecting permit shall not remove any mineral from the prospecting area without the written permission of the authorised officer at the local office and shall, when so removing any mineral, comply with such conditions as that officer may specify in the written permission.

Removal of minerals

Small-scale Mining Licences

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

Rights conferred by small-scale mining licence

(2) Without limiting the generality of subsection (1), the holder of a small-scale mining licence may himself or by his servants and agents-

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

35. (1) The holder of a prospecting permit may, at any time during the

Application for

currency of his permit, apply to the Director for a small-scale mining licence over any part of the prospecting area.

small-scale mining licence

(2) An application for a small-scale mining licence shall be in the prescribed form and shall be accompanied by

(a) the prescribed fee; and

(b) a Tax clearance certificate issued under section eighty-one B of the Income Tax Act.

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(3) Every application under this section shall-

(a) describe the area, not exceeding four hundred hectares, over which a small-scale mining licence is sought, with a sketch plan in sufficient detail to enable identification of the area;

(b) identify the relevant prospecting permit;

(c) describe to the best of the applicant's knowledge and belief the mineral deposits in the area over which the licence is sought;

(d) describe the proposed programme of mining operations, which shall include a forecast of investment, the estimated recovery rate of ore and the applicant's proposals for its treatment and disposal;

(e) state the duration, not exceeding ten years, for which the small-scale mining licence is sought; and

(f) include such further information as the Director may reasonably require for disposing of the application.

(As amended by Act No. 5 of 2003)

36. (1) The director shall, within thirty days of receipt of an application duly made, grant a small-scale mining licence to the applicant, unless-

Grant of small-scale mining licence

(a) the applicant has, under section *thirty-nine*, been required to apply for a large-scale mining licence;

(b) the applicant is disqualified under section *seven*, or the area over which he seeks a small-scale mining licence is already subject to a mining right;

(c) the area in respect of which a small-scale mining licence is sought is in excess of the area required to mine the deposits identified by the applicant;

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

(e) the applicant is or was in breach of any condition of any other

mining right or in breach of any of the provisions of this Act or the regulations:

Provided that the Director shall not reject an application by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the Director has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

(2) A small-scale mining licence shall-

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

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

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

37. (1) The holder of a small-scale mining licence may apply to the Director for a renewal of the licence.

Renewal of
small-scale mining
licence

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

(3) On an application made under this section, the Director shall renew the small-scale mining licence for the period specified in the application, not exceeding ten years, unless-

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

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

(c) the applicant is in breach of any condition of his licence or in breach of any of the provisions of this Act or the regulations:

Provided that the director shall not reject an application by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the Director has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

38. The holder of a small-scale mining licence shall-

(a) develop the mining area, and commence and carry on mining operations, with due diligence and in accordance with the programme of mining operations; and

Obligations of
holder of
small-scale mining
licence

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

39. The Minister may require-

- (a) any applicant for a small-scale mining licence; or
- (b) the holder of a small-scale mining licence, if the Minister considers on reasonable grounds that the holder is engaged in mining operations on a substantial scale;

to apply for a large-scale mining licence, and, in any such case, the provisions of this Act shall apply, with any necessary modifications, to the applicant as if he were the holder of the prospecting licence who applies for a large-scale mining licence.

Requirement to convert small-scale mining licence to large-scale mining licence

Gemstone Licences

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

Rights conferred by gemstone licence

41. An application for a gemstone licence shall be in the prescribed form, accompanied by the prescribed fee and a tax clearance certificate, and shall include or be accompanied by-

Application for gemstone licence

- (a) a description and sketch of the area of land for which the licence is sought, in sufficient detail to enable officers at the local office to identify the area and to provide a plan to be annexed to the licence; and
- (b) a statement, to the best of the applicant's knowledge and belief, of the gemstone deposits in the area over which the licence is sought;
- (c) the proposed programme for mining operations, including a forecast of investment and the estimated recovery rate of ore and gemstones; and
- (d) such further information as the Director may reasonably require for disposing of the application.

(2) In subsection (1) "tax clearance certificate means a tax clearance certificate issued under section eighty-one B of the Income Tax Act.

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42. (1) The Director shall, within thirty days of receipt of an application duly made, grant a gemstone licence to the applicant, unless-

Grant of gemstone licence

- (a) the Minister has, under section *forty-five*, required the applicant to apply for a large-scale mining licence;
- (b) the applicant is disqualified under section *seven* or the area over which he seeks a small-scale mining licence is already subject to a mining right;

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

(d) the applicant is or was in breach of any condition of any other mining right or in breach of any of the provisions of this Act or the regulations:

Provided that the Director shall not reject an application by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the Director has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

(2) A gemstone licence shall be in such form as may be prescribed, and shall have annexed thereto a plan of the mining area.

(3) A gemstone licence may be granted over an area not exceeding four hundred hectares and for such period, not exceeding ten years, as the applicant may require.

43. (1) The holder of a gemstone licence may apply to the Director for a renewal of his licence.

Renewal of
gemstone licence

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

(3) On an application made under this section, the Director shall renew the licence for such period, not exceeding ten years, as the applicant may require, unless-

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

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

(c) the applicant is in breach of any condition of his licence or in breach of any of the provisions of this Act or the regulations:

Provided that the Director shall not reject an application by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the Director has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

44. The holder of a gemstone licence shall give notice to the Director of the discovery of any mineral deposit of possible commercial value within thirty days of the discovery.

Obligation to give
notice of discovery

45. The Minister may require-

Requirement to

- (a) any applicant for a gemstone licence; or
- (b) a person who has held a gemstone licence for a period of five years, if the Minister considers on reasonable grounds that the holder is engaged in mining operations on a substantial scale;

convert gemstone licence to large-scale mining licence

to apply for a large-scale mining licence, and, in any such case, the provisions of this Act shall apply, with any necessary modifications, to the applicant as if he were the holder of a prospecting licence who applies for a large-scale mining licence.

PART V

VARIATION, ETC. OF LICENCES AND PERMITS

46. (1) The holder of a licence or permit may, in accordance with an approval given under this section, make amendments to-

Amendment of terms of licence or permit

- (a) the programme of mining operations; or
- (b) any environmental plan, or any programme for the employment or training of citizens of Zambia, that forms part of the conditions of the licence

(2) Particulars of any proposed amendment shall be served on the Minister, in the case of a licence granted under Part III, and on the director, in any other case.

(3) The Minister or the Director shall determine whether or not to approve the amendment and, if he decides to approve the amendment, the terms and conditions, if any, on which such approval is granted.

47. (1) At any time during the currency of a prospecting licence or prospecting permit, the holder may re-orientate his area:

Alteration of prospecting area

Provided that-

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

(2) At any time during the currency of prospecting licence or prospecting permit, the holder may, with the permission of the Minister

and subject to such conditions as he may impose in relation to the prospecting operations to be carried on under the licence, increase the size of the prospecting area:

Provided that the prospecting area, as so increased, shall not exceed such areas as may be prescribed by the Minister by statutory instrument.

(3) Each of the rights given under subsections (1) and (2) may be exercised once during the total period of the currency of the licence and any renewals thereof.

48. (1) At any time during the currency of a large-scale mining licence or a small-scale mining licence, the holder may apply-

Enlargement of mining area

(a) to the Minister, in the case of a large-scale licence; and

(b) to the director, in the case of a small-scale mining licence;

for the enlargement of the mining area and the Minister or the Director may, subject to this section, approve the application or refuse to do so.

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

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

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

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

Abandonment of land subject to licence or permit

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

(3) An application under this section-

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

part to be retained;

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

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

(d) shall be supported by such records and reports in relation to those operations as the director may reasonably require.

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

(a) where the certificate relates to the whole of the land subject to the holder's licence or permit, the licence or permit shall be cancelled with effect from the same date; and

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

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

50. (1) Subject to this section, where the holder of a licence or permit-

Suspension or
cancellation of
licence or permit

(a) has at any time contravened a condition of the licence or permit that is expressed in the licence or permit, or in any document attached to it or otherwise forming part of it, to be a condition whose contravention may result in revocation or suspension of the licence;

(b) fails to comply with any requirement of this Act or the regulations;

(c) fails to comply with a direction lawfully given under this Act or the regulations or with a condition on which any certificate of abandonment is issued or on which any exemption or consent is given under this Act or the regulations; or

(d) fails to pay any amount payable by him under this Act or the regulations within thirty days after the amount becomes due;

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

(2) The Minister shall not suspend or cancel a licence or permit on grounds referred to in any of paragraphs (a) to (c) of subsection (1) unless-

- (a) he has first served on the holder a default notice specifying the grounds on which the licence may be suspended or cancelled; and
- (b) the holder has failed within a period of sixty days from the date on which the default notice was served, or such longer period as the Minister may allow, to remedy the default specified, or where such default is not capable of being remedied, has failed to offer in respect thereof reasonable compensation.

(3) The Minister shall not suspend or cancel a licence or permit on the ground referred to in paragraph (d) of subsection (1) if, within a period of sixty days from the date on which the default upon which the default notice was served (or such longer period as the Minister may allow) the holder, in addition to paying the amount overdue, pays interest on that amount at the prescribed rate.

(4) The Minister may, by notice in writing to the holder of a licence or permit, cancel the licence or permit on the occurrence of an event which, as provided by section *seven*, renders that person ineligible to hold a mining right.

(5) On the cancellation of a licence or permit under this section, the rights of the holder thereunder cease, but the cancellation does not affect any liability incurred before cancellation, and any legal proceedings that might have been commenced or continued against the former holder may be commenced or continued against him.

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

Termination of small-scale mining licence for insufficient production

52. Where the holder of a gemstone licence has failed to carry on mining operations in accordance with his proposed plan of mining operations and the gross proceeds of sale of minerals from an area subject to a gemstone licence in each of any three successive years is less than half of the deemed turnover applicable to that licence in each of those years, the Minister may, if he thinks fit, cancel the licence.

Termination of gemstone licence for insufficient production

53. Where-

- (a) the holder of a licence or permit applies, during its currency, for a renewal of the licence or permit;
- (b) the holder of a prospecting licence applies, during the currency

Transitional extension of licences or permits pending certain applications

of the licence, for a retention licence or for a large-scale mining licence over all or part of the prospecting area;

(c) the holder of a prospecting permit applies, during the currency of the permit, for a small-scale mining licence over all or part of the prospecting area; or

(d) the holder of a retention licence applies, during the currency of the licence, for a large-scale mining licence over all or any part of the area which the retention licence is granted;

the current licence or permit shall continue in force until the date of the renewal or grant for which application is made or until the application is refused.

54. (1) No licence or permit shall be transferred without-

Transfer of licence
or permit

(a) the consent of the Minister, in the case of a licence granted under Part III; or

(b) the consent of the Director, in the case of any other licence or permit.

(2) Consent under this section shall not be unreasonably withheld.

(3) An application for consent under this section shall contain such particulars as may be prescribed, shall be in the prescribed form and shall be accompanied by the prescribed fee.

(4) No mining right may be transferred to a person disqualified under section *seven* from holding that right.

(5) In this section, "transfer" includes a sale, mortgage, charge or other assignment or encumbrance.

(6) Any transaction purporting to transfer a mining right in contravention of this section shall be void and of no effect.

55. (1) A company that holds a mining right shall not, after the date of the grant of the right, without the written consent of the Minister-

Transfer of control
of company

(a) register the transfer of any share or shares in the company to any particular person or his nominee; or

(b) enter into an agreement with any particular person; if the effect of doing so would be to give that person control of the company.

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

(3) For the purposes of this section-

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

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

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

(b) "equity shares" has the meaning ascribed to it in the Companies Act. Cap. 388

PART VI

MINING RIGHTS AND SURFACE RIGHTS

56. (1) The holder of a licence or permit shall not exercise any of his rights under this Act or the licence or permit-

Restriction of rights of entry by holder of licence or permit

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

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

(ii) any land containing any ancient monument or national monument, as defined in the National Heritage Conservation Commission Act;

(iii) any land which is the site of or is within ninety metres of any building or dam owned by the Republic; or

(iv) any land forming part of a Government aerodrome as defined in the Air Navigation Regulations made under the Aviation Act;

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(b) without the written consent of the owner or legal occupier thereof or his duly authorised agent-

(i) upon any land which is the site of or which is within one hundred and eighty metres of any inhabited, occupied or temporarily uninhabited house or building;

(ii) within forty-five metres of any land which has been cleared or ploughed or otherwise prepared in good faith for growing of farm crops or upon which farm crops are growing;

(iii) upon any land which is the site of or is within ninety metres of any cattle dip, tank, dam or any private water as defined in the Water Act; or

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(iv) upon any land forming part of an aerodrome, other than an aerodrome referred to in sub paragraph (iv) of paragraph (a):

Provided that where any consent required under this subsection is unreasonably withheld, the Director may arrange for arbitration of the matter in accordance with section *sixty*;

(c) upon land occupied as a village, without the written consent of the chief and the local authority for the district in which the village is situated;

(d) without the written consent of the railway administration, upon any land reserved for the purposes of any railway track or within one hundred metres of any railway track;

(e) without the written consent of the appropriate authority or the local authority concerned, upon any land within, or within sixty metres of the boundaries of, any city, municipality or township for which a council is established under the provisions of the Local Government Act;

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(f) without-

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

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

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

(h) upon any land comprised in a National Park without complying with the National Parks and Wildlife Act;

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

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

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

matter or such public officer as he may authorise to give the requisite consent on his behalf.

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

Rights under licence or permit to be exercised reasonably

58. Subject to the terms of any access agreement, the owner or occupier of any land within the area of a licence or permit shall retain the right to graze stock upon or to cultivate the surface of the land in so far as such grazing or cultivation does not interfere with the proper working in the area for mining, prospecting or other operations to be carried on under the licence or permit, but shall not erect any building or structure thereon without the consent of the holder of the licence or permit:

Right to graze stock

Provided that where such consent is unreasonably withheld, the Director may grant it.

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

Acquisition of by holder of licence or permit or rights over land

Provided that the holder of a licence or permit shall not purchase or obtain a lease of or other rights over any land specified in paragraph (a), or in any of paragraphs (c) to (h), of subsection (1) of section *fifty-six*, except with the consents of the appropriate authorities mentioned in that section.

60. Where there is any dispute as to-

Arbitration of disputes

(a) whether or not paragraph (b) of subsection (1) of section *fifty-six* applies in respect of any land, or the withholding of any consent under that subsection;

(b) the withholding of any consent under section *fifty-six*; or

(c) any other matter arising under this Part that is prescribed by the Minister by statutory instrument;

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

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Provided that this subsection shall have effect subject to the terms of any access agreement.

61. Whenever in the course of prospecting or mining operations any disturbance of the rights of the owner or occupier of land or damage to any crops, trees, buildings, stock or works thereon is caused, the owner of the mining right by virtue of which such operations are or were carried out shall be liable to pay to such owner or occupier fair and reasonable compensation for such disturbance or damage according to their respective rights or interests, if any, in the property concerned:

Compensation for disturbance of rights, etc.

Provided that-

(a) compensation shall not be payable under this section in respect of any indigenous wood or timber taken-

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

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(ii) upon other land that has not been alienated by the President in accordance with the Lands Act; and

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(b) where the value of any land has been enhanced by the fact that prospecting or mining operations are taking place or have taken place on the land or nearby, the amount of any compensation payable under this section in relation to that land shall not exceed the amount that would have been payable if such value had not been so enhanced.

PART VII

ARTISANAL MINING

62. An artisan's mining right shall confer on the person to whom it is granted, or in the case of a right granted in accordance with subsection (2) of section *sixty-four*, on the community concerned, exclusive rights to mine according to its terms in respect of the mineral specified in the permit within the area for which it is granted.

Rights conferred by artisan's mining right

63. (1) Any citizen of Zambia who has identified a mineral deposit may apply to the authorised officer at the local office for an artisan's mining right.

Application for artisan's mining right

(2) An application for an artisan's mining right shall be in the prescribed form and shall be accompanied by the prescribed fee.

64. (1) Subject to this section, the authorised officer at the local office shall, within thirty days of receipt of an application duly made, grant an artisan's mining right to the applicant, to explore and mine the deposit referred to in the application.

Grant of artisan's
mining right

(2) Where the authorised officer is satisfied that, in the particular area concerned, mining operations are being carried on a community basis in accordance with customary practices, he shall authorise such operations by the grant of an artisan's mining right to a chief or such other person as the Minister may, by statutory instrument, prescribe.

(3) The authorised officer shall not grant an artisan's mining right, and may suspend or cancel a right granted, to any person disqualified by section *seven* or who he is satisfied has been convicted of an offence against this Act, the regulations or any written law repealed by this Act.

(4) An artisan's mining right shall remain in force for a period of two years, and shall not be renewed:

Provided that nothing in this subsection shall prevent the grant of a further right on the expiry of any current right.

(5) An artisan's mining right shall identify the minerals in respect of which it is granted and shall be granted over an area not exceeding five hectares, not being an area that is already subject to a mining right, which shall be delineated on a plan attached to the right.

65. (1) Except as otherwise provided by statutory instrument made under this Act, nothing in this Act shall operate to prevent-

Rights to building
materials

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

(i) the materials so taken are for use on the land concerned; and

(ii) such owner or occupier is the holder of a permit from the Director authorising such taking;

(b) the taking, by the holder of a mining right in respect of any land, of such materials from the land for use on the land;

(c) the taking, by the owner or occupier of any land that is subject to a mining right, of such materials from the land with the consent of the holder of the mining right and for use on the land; or

(d) the taking by the Republic, any local authority, a highway authority, or any person duly authorised by any such authority and

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acting under the Roads and Road Traffic Act, of such materials for public purposes.

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

PART VIII

ROYALTIES AND CHARGES

Royalties

66. (1) The holder of a mining licence shall, in accordance with the licence, this Act and the terms of any relevant development agreement, pay to the Republic a royalty on gross value of minerals produced under the licence at the rate of two per centum except that in the case of a company holding a large scale mining licence issued under section *twenty-three* and carrying on the mining of base metals, the rate shall be zero point six per centum.

Royalties on
production of minerals

(2) Subject to section *sixty-seven*, the mineral royalty payable under this section is due and payable within fourteen days after the end of the month in which the sale of minerals is done; and

(3) The holder of a gemstone licence or a small-scale mining licence or an artisan's mining right to mine gemstones, base metals or precious metals shall, in accordance with the licence or mining right, this Act and the terms of any relevant development agreement, pay to the Republic a royalty on gross value of minerals or metals produced under the licence or mining right at the rate of five per centum.

(4) In this Section-

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

Provided that if the Minister considers that the realized price does not correspond to the price that would have been paid for the minerals if they had been sold on similar terms in a transaction, at arms length, between a willing seller and a willing buyer, a notice may be given to that effect to the licensee; and the amount of the gross value shall be determined in accordance with mechanism contained in section

ninety-seven A to ninety-seven D of the Income Tax Act.

(As amended by Act No. 8 1998, No.5 of 1999, Act No. 2 of 2000 Repealed and Replaced by Act No. 5 of 2003, Amended by Act No. 4 of 2006)

66A. Every person required to pay mineral royalty under section *sixty-six* shall submit monthly mineral royalty returns in the prescribed form containing such particulars as may be required by the Commissioner-General within fourteen days after the end of the month in which the sale of the mineral is done.

Commissioner-General
to be responsible for
royalties
Cap. 321

(As amended by Act No. 8 of 1997, No. 4 of 2006)

66B. Sections *forty-five, forty-seven to forty-nine, fifty-five to fifty-eight, sixty-three to seventy, seventy-eight, seventy-nine, eighty-seven, ninety-one, ninety-five and ninety-eight to one hundred and fifteen* of the Income Tax Act shall, with the necessary modification, apply to the collection, assessment, penalisation, enforcement of, and right of appeal with respect to any royalty imposed under section *sixty-six* of this Act.

Returns and
assessments
Cap. 323

(As amended by Act No. 8 of 1997)

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

Remission and
deferment of
royalties

(2) The Minister may exempt from liability to royalty samples of minerals acquired for purposes of assay, analysis or other examination.

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

deferred.

(4) Where the payment of any royalty is deferred-

(a) it shall be accumulated with any other deferred payment of royalty which is outstanding;

(b) the amount outstanding shall become payable when royalty is due in respect of the next following royalty payment period or periods in which, after the deduction of the royalty then due, the cash operating margin is positive; and

(c) the sum payable on any particular occasion under paragraph (b) shall not exceed that which would reduce the cash operating margin for the relevant royalty payment period below zero.

(5) In this section-

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

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

(i) capital expenditure or any expenditure of a capital nature;

(ii) provision for depreciation;

(iii) financing charges, including interest on loans and fees and related charges in respect thereof; or

(iv) agency fees or any other fees or charges not directly or necessarily related to the production and disposal of minerals from the mining area;

"revenue" means the gross value of all sales or other disposal of minerals.

(As amended by Act No. 8 of 1997)

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

Provisional
assessment of
royalty

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

(As amended by Act No. 8 of 1997)

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

Prohibition on disposal of minerals

(2) Any holder of a large-scale mining licence who contravenes or fails to comply with an order given under subsection (1), and any person who, knowing of such order and contrary thereto, receives any mineral from the area concerned, shall be guilty of an offence and shall be liable on conviction-

(a) in the case of an individual, to a fine not exceeding twenty thousand penalty units or imprisonment for a term not exceeding two years, or to both; or

(b) in the case of a body corporate, to a fine not exceeding fifty thousand penalty units.

(3) For the purposes of this section and sections *sixty-six A to sixty-eight*, the "Commissioner-General" means the Commissioner-General of the Zambia Revenue Authority.

(As amended by Act No. 8 of 1997)

Other Charges

70. (1) There shall be payable to the Republic by the holder of every

Annual charge in

prospecting licence, retention licence or large-scale mining licence an annual fee of such amount as may be prescribed, or as may be calculated in the manner prescribed, by the Minister by statutory instrument.

respect of licences under Part III

(2) The annual charge shall be payable on the grant of the licence and thereafter annually on the anniversary thereof until the termination of the licence.

71. There shall be payable to the Republic by the holder of prospecting permit a charge, at such rate per hectare of the prospecting area as may be prescribed by the Minister by statutory instrument.

Charge for prospecting permit

72. The amount of the annual rent for a small-scale mining licence shall be as follows:

Rent for small-scale mining licences

(a) where the holder is mining building materials, rent calculated by reference to tonnages mined shall be paid as prescribed, or in the manner prescribed, by the Minister by statutory instrument;

(b) in any other case, rent shall be paid annually in an amount equal to five per centum of the realised proceeds of the minerals mined in the mining area and sold or otherwise disposed of by the holder:

Provided that if the Director has reasonable grounds to believe that the proceeds alleged to be realised by the holder do not represent the true market value of the minerals sold or otherwise disposed of he may, for the purpose of ascertaining the amount of rent due, require, by order under his hand, that the minerals be valued by such reasonable method as he may specify in that order.

73. (1) The amount of the annual rent and the deemed turnover for a gemstone licence shall be as set forth in the Second Schedule.

Rent and deemed turnover in respect of gemstone licence

(2) The Minister may, by statutory instrument, from time to time amend or replace the Second Schedule.

74. There shall be payable to the Republic by the holder of an artisan's mining right such charge as may be prescribed, or as may be calculated

Charge for artisan's mining

in the manner prescribed, by the Minister by statutory instrument, and such charge shall be payable on the grant of the right.

PART IX

ENVIRONMENTAL PROTECTION

75. In deciding whether or not to grant any mining right, the Minister shall take into account the need to conserve and protect-

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

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

in or on the land over which the right is sought, and the Minister may cause such environmental impact studies and other studies to be carried out as the Minister considers necessary to enable such a decision to be made.

Environment to be considered when granting mining rights

76. (1) The conditions subject to which the right is granted or renewed shall include such conditions as may be prescribed by the Minister, by statutory instrument, or as the Minister may, in a particular case, otherwise determine, in relation to-

(a) the conservation and protection of-

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

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

in or on the land subject to the right;

(b) the rehabilitation, levelling, re-grassing, re-forestation or contouring of such part of the land over which the right has effect as may have been damaged or adversely affected by prospecting operations or mining operations; and

(c) the filling in, sealing or fencing off of excavations, shafts and tunnels.

Conditions for the protection of the environment

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

(a) shall conform to specifications and practices established by national standards for the management of the environment as it is affected by mining operations; and

(b) may include requirements for the lodgment, by an applicant for the grant or renewal of a licence or permit, of one or more cash deposits for securing the performance by such applicant of all or any such conditions.

77. (1) The Director of Mine Safety may cause to be served on a person who is or has been the holder of a mining right a written notice directing the person to take specified steps, within a specified time, to give effect to any conditions included in an environmental plan, a development agreement or otherwise attaching to the right, for the protection of the environment.

Direction to comply with conditions of mining right

(2) A person on whom such a direction has been served who fails to comply with the direction shall be guilty of an offence and shall be liable, upon conviction, to a penalty not exceeding fifty thousand penalty units.

78. (1) If a person to whom a direction is given under section *seventy-seven* fails to comply with the direction, the Director of Mine Safety may himself cause the necessary steps to be taken to execute it, and the costs thereof and incidental thereto shall be a debt due to the Republic from the person to whom the direction was given and shall be recoverable in any court of competent jurisdiction on behalf of the Republic;

Rehabilitation by Director of Mine Safety at holder's expense

(2) Recovery of a debt due to the Republic under this section, a certificate signed by the Director of Mine Safety and stating that a specified amount is the amount of the debt so due shall be admissible in evidence in all courts.

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

79. (1) The holder of a mining right over land that ceases to be subject to the mining right- Clearing away
of mining plant

(a) may, within the prescribed period; and

(b) shall, if directed to do so by the Director of Mine Safety by notice in writing, within the period specified in the notice;

cause to be removed from the land any mining plant brought on to, or erected upon, that land in the course of mining operations carried out under the mining right.

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

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

80. (1) If mining plant is not duly removed under section *seventy-nine*, the Director of Mine Safety may direct that the mining plant be sold by private auction. Sale of mining
plant

(2) Any mining plant remaining unsold after the public auction has been held may be sold by private treaty.

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

(a) the costs of the sale and of any matter incidental to or connected with the sale;

(b) the costs of removing from the land concerned any mining plant remaining unsold after the public auction;

(c) any amount owing in respect of compensation payable under section *sixty-one*;

(d) any other amount that the Director of Mine Safety certifies to be a deductible amount.

(4) Any balance remaining shall be paid to the Minister responsible for finance, who shall credit the same to a trust account, and who may, on application, pay it to any person appearing to him to be lawfully entitled to it; but if no person applies within a period of ninety days, it shall be paid to the revenues of the Republic.

(5) If the proceeds of sale are less than the amounts to be deducted-

(a) the shortfall shall be a debt due to the Republic from the person to whom the relevant direction was given and shall be recoverable in any court of competent jurisdiction; and

(b) the proceeds of sale shall be applied in meeting those amounts in such manner as the Minister may direct.

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

81. (1) Where the Director of Mine Safety considers that a holder of a mining right is using wasteful mining practices, he may give notice to the holder accordingly (giving in the notice particulars of the practices) and require the holder to reply in writing showing cause, within a time limited by the notice, why he should not cease to use those practices. Wasteful practices

(2) Where the holder fails, within the time allowed, to satisfy the Director of Mine Safety that he is not using the wasteful practices concerned, or that the use of those practices is justified, the Director of Mine Safety may give notice to the holder directing him to cease using all of those practices, or the practices specified in the notice, by such date as is specified in the notice, and the holder shall do as so directed.

(3) A person who contravenes subsection (2) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding fifty thousand penalty units.

82. (1) There shall be an Environmental Protection Fund, which shall be managed in such manner as the Minister may be Statutory Instrument, prescribe.

Environmental
Protection Fund

(2) There shall be paid into the Fund the amount of any cash deposit referred to in section *seventy-six*.

(3) Moneys from the fund may be applied-

(a) at the expiry or termination of a licence or permit by way of refund to the holder thereof of the amount of any cash deposits referred to in section *seventy-six* that were paid by him, to the extent that such moneys are not appropriated under paragraph (b); or

(b) to the payment of any debt due or under subsection (1) of section *seventy-eight* or under subsection (5) of section *eighty*, to the extent that the debt concerned is not paid by or recovered from the person from whom it is due, and regardless of whether proceedings have been taken against that person for an offence under this Part or for recovery of any such debt:

Provided that, in the case of any particular debtor, the amount of any moneys expended under this paragraph for or toward the satisfaction of his debts shall not exceed the amount of any cash deposits referred to in section *seventy-six* that were lodged by him.

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

(As amended by Act No. 8 of 1997)

PART X

ADMINISTRATION

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

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

(3) There shall be a Director of Geological Survey, who shall be a public officer and who shall have and may exercise and perform the powers and functions conferred or imposed upon him by or under this Act or any other written law.

(4) Such other public officers as may be necessary for the due administration of this Act shall be appointed.

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

(6) Every authorised officer who, by virtue of his designation as such, has power to enter any land or demand production of any records or documents shall be provided with a certificate of appointment, which shall be *prima facie* evidence of his designation; and the officer shall, on demand by a person affected by the exercise of any such power, produce for inspection his certificate of appointment.

84. (1) Whilst any officer referred to in subsection (1), (2) or (3) of section *eighty-three* is vacant or the holder of any such office is, owing to absence or inability to act from illness or other cause, unable to exercise and perform the powers and functions of the office concerned, a person shall be appointed to exercise and perform his powers and Execution and delegation of powers and functions of Director and

functions.

other officers

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

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

85. The Attorney-General may demand, sue for, recover and receive all royalties, fees, dues, rents or payments which may become due in respect of any mining right or otherwise under the provisions of this Act.

Recovery of fees

86. The Director of Geological Survey shall-

Geological services

(a) advise the Minister on geological matters;

(b) undertake the geological mapping of Zambia;

(c) undertake prospecting and exploration operations on behalf of the Republic;

(d) provide data concerning the geology and mineral resources of Zambia, and generally assist members of the public seeking information concerning geological matters; and

(e) maintain such laboratory, library and record facilities as may be necessary for the performance of his functions.

87. (1) The Director of Geological Survey or an authorised officer may, for the purpose of carrying out the geological mapping of Zambia or any part thereof-

Geological survey, mapping and respecting on behalf of the Republic

(a) enter at all reasonable hours upon any land with such persons, animals, vehicles, appliances, instruments and materials as are necessary for such survey;

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

Provided that:

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

(2) For the purpose of carrying on prospecting operations on behalf of the Republic, the Director or an authorised officer may enter upon any land with such number of persons as he may deem necessary, and exercise the rights of a holder of a prospecting licence:

Provided that nothing in this subsection shall authorise any person to enter upon any land referred to in subsection (1) of section *fifty-six* without obtaining any consent required to be obtained under that section.

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

Mining
Advisory
Committee

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

(3) Before exercising any power under this Act-

(a) to enter into a development agreement;

(b) to refuse to grant or renew a licence;

(c) to terminate, suspend or cancel a licence;

(d) to amend the terms or conditions of any licence; or

(e) to determine any appeal that lies to him;

it shall be the duty of the Minister or the Director, as the case may be, in whom the power is vested, to refer the matter to the Mining Advisory Committee for its advice.

(4) Where any matter is referred to the mining Advisory Committee for its advice and the Minister or the Director proposes to dispose of that matter otherwise than in accordance with the advice of the Committee, the Minister or the Director shall, before disposing of the application, furnish the Committee with a statement in writing of his reasons for so doing.

(5) Where a matter referred to in subsection (4) is an application for the grant or renewal of a licence, a copy of any statement of the Minister or the Director under that subsection shall be furnished to the applicant.

89. (1) No information furnished, or information in a report submitted, to the Minister, the Director, or any officer under or for the purposes of this Act by the holder of a mining right shall, for so long as the mining

Disclosure of
information

right has effect over the land to which the information relates, be disclosed, except with the consent of the holder of the mining right.

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

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

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

(3) Any person who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

90. No officer of the Ministry or other public officer shall be liable for anything done or omitted to be done in good faith in the exercise or performance, of purported exercise or performance, of any power or function vested in him by, or in accordance with an appointment made under, this Act. Indemnity

PART XI

APPEALS

91. (1) Any person aggrieved by the decision of an authorised officer at a local office- Appeals against decisions of the local office

(a) to refuse the grant of an artisan's mining right for which he has applied, or as to the conditions to be imposed on an artisan's mining right held by him; or

(b) as to any matter prescribed by the Minister by statutory instrument;

may appeal to the Director, who shall determine the appeal, having regard to the provisions of this Act and the circumstances of the case.

(2) A determination of the Director, under this section may include such directions to the authorised officer concerned as the Director thinks fit for the disposal of the matter, and the officer shall give effect to any such directions.

92. (1) Any person aggrieved by the decision of the Director- Appeals against decisions of the Director

(a) to refuse the grant or renewal of a licence or permit granted under Part IV;

(b) as to the conditions to be imposed on any such licence or permit held by him;

(c) to cancel or suspend any such licence or permit held by him;

(d) to refuse to consent to the transfer of any such licence or permit held by him; or

(e) to refuse to grant or renew a gemstone sales certificate;

may appeal to the Minister, who shall determine the appeal, having regard to the provisions of this Act and the circumstances of the case.

(2) A determination of the Minister under this section may include such directions to the Director as the Minister thinks fit for the disposal of the

matter, and the Director shall give effect to any such directions.

93. (1) Any person aggrieved by the decision of the Minister-

Appeals in
relation to
licences under
Part III

(a) to refuse the grant or renewal of a licence granted under Part III;

(b) as to the conditions to be imposed on any such licence held by him;

(c) to cancel or suspend any such licence held by him; or

(d) to refuse to consent to the transfer of any such licence held by him, or to the registration of shares or the entry into any agreement affecting control of a company;

may appeal to the High Court, which shall determine the appeal, having regard to the provisions of this Act and the circumstances of the case.

(2) A determination of the Court under this section may include such directions to the Minister as the Court thinks fit for the disposal of the matter, and it shall be the duty of the Minister to give effect to any such directions.

94. (1) The holder of any mining right who is aggrieved by any obligation imposed by a direction of the Director under section *one hundred and one* may appeal to the Minister, who shall determine the appeal, having regard to the provisions of this Act and the circumstances of the case.

Appeals in
relation to
insurance

(2) A determination of the Minister under this section may include such directions to the Director as the Minister thinks fit for the disposal of the matter, and that officer shall give effect to any such directions.

95. Whenever the Minister, the Director or any authorised officer makes a decision against which an appeal lies by virtue of a provision of this Part, the licensee or applicant affected by the decision shall be informed by notice in writing of the decision and of the reasons therefor

Notification of
decisions

and any such notice shall inform the person so notified of his rights of appeal.

PART XII

INVESTMENT INCENTIVES

96. Any investment in mining, including prospecting, by the holder of a mining right shall attract the deductions from income tax set forth in the Fourth Schedule. Relief from income tax

97. (1) The holder of a mining right shall be entitled to exemption from customs and excise duties, and from any other duty or impost levied under the Customs and Excise Act, in respect of all machinery and equipment (including specialised motor vehicles) required for any of the activities carried on or to be carried on in pursuance of the right or otherwise for the purposes of his investment in mining or prospecting. Relief from customs and excise duties
Cap. 322

(2) The exemption to which an investor is entitled under this section shall be granted on application made in such manner, and accompanied by such evidence, as may be prescribed by a statutory instrument made under the Customs and Excise Act by the Minister responsible for finance. Cap. 322

98. *(Repealed by Act No. 5 of 2003)*

PART XIII

MISCELLANEOUS

99. (1) No person shall carry on a business of trading in gemstones unless he holds a gemstone sales certificate. Gemstone sales certificate

(2) A gemstone sales certificate shall be granted by the Director to any applicant who is a citizen and makes an application in the prescribed

form and tenders the prescribed fee.

(3) A gemstone sales certificate shall be valid for one year but may be renewed on payment of the prescribed renewal fee.

(4) The holder of a gemstone sales certificate shall, in respect of any purchase of uncut and unpolished stones located in Zambia, keep such records as may be prescribed and shall make the same available at all times for inspection by an authorised officer.

(5) Any person in Zambia who is not the holder of a valid gemstone sales certificate shall be guilty of an offence if he is found in possession of uncut and unpolished gemstones, unless-

(a) he is the holder of a gemstone licence;

(b) he is the holder of a large-scale mining licence under which gemstones are produced; or

(c) he satisfies the court that he acquired possession of the gemstones lawfully and that he holds them otherwise than for the purposes of trade.

(6) A person convicted of an offence under subsection (5) shall be liable to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

100. (1) No person shall export any radioactive mineral except under and in accordance with the terms and conditions of a consent granted by the Minister. Radioactive minerals

(2) An application for a consent to export radioactive minerals shall be in the prescribed form and shall be accompanied by the prescribed fee; and the Minister shall decide whether or not to grant the application and the terms and conditions of any consent to export.

(3) Any person who exports or attempts to export any radioactive mineral otherwise than under and in accordance with a consent granted

under this section shall be guilty of an offence and shall be liable on conviction-

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

(b) in the case of a body corporate, to a fine not exceeding one hundred thousand penalty units.

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

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

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

101. (1) The holder of a mining right granted under Part III shall-

Insurance and
indemnities

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

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

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

(3) The holder of a mining right granted under Part IV shall, if so directed by the Director by a notice in writing, obtain and maintain in force in respect of the mining operations carried on by the holder, such insurance cover as the Director may consider reasonably necessary in

the public interest.

(4) The holder of a mining right shall indemnify, defend and hold the Republic harmless against all actions, claims, demands, injury, losses or damages of any nature whatsoever, including, without limitation, claims for loss or damage to property or injury or death to persons, resulting from any act or omission in the conduct of mining operations by or on behalf of the holder, provided that such indemnity shall not apply to the extent, if any, that any action, claim, demand, loss, damage or injury resulted from any direction given by, or wrongful act committed on behalf of the Republic.

102. Any person who, without reasonable excuse, obstructs or hinders the holder of a mining right from doing any act which that holder is authorised to do by this Act, the regulations or his mining right, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both. Obstruction of holder of mining right

103. (1) Where the Director has reason to believe that a person is capable of giving information or producing or making available books or documents relating to minerals obtained, or the value of minerals obtained, he may, by notice in writing served on that person, require that person- Production of information

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

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

(c) to make available to a person specified in the instrument, at a time and place so specified, books or documents in his custody or power relating to minerals obtained or the value of minerals obtained.

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

(3) A person who refuses or fails to comply with a requirement under this section, to the extent to which he is capable of complying with it, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

104. (1) The holder of a mining right shall submit reports, keep records and furnish information as required in the Fifth Schedule.

Reports,
records and
information

(2) The holder of a mining right shall maintain an address in Zambia to which communications may be sent and shall give notice to the Director or, where the right is granted by the authorised officer at the local office, that officer, of that address and of any changes of that address.

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

(4) Any person who contravenes subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

105. (1) The Director or an authorised officer may at any time enter upon any prospecting area or mining area, or any premises or working thereon or thereunder (other than a dwelling-house) for the purpose of-

Power of entry
by Director

(a) generally inspecting any such area, premises or workings and examining prospecting or mining operations or the treatment of minerals being performed or carried out;

(b) ascertaining whether or not the provisions of this Act or the regulations, or the conditions of a mining right, 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, ore concentrates, railings or minerals situated upon any such area, premises or workings for the purpose of examination or assay;

(f) examining books, accounts, vouchers, documents, maps, drilling logs, or records of any kind; or

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

(2) The Director or an authorised officer may, at all reasonable times, inspect and take copies of any books, accounts, vouchers, documents, maps, drilling logs or records of any kind, kept by the holder of a mining right, under or for the purposes of this Act, the regulations or the mining right.

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

(4) Any person who, without reasonable excuse, hinders or obstructs the Director or an authorised officer in the exercise or performance of any power or function under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

106. (1) Any person who-

Miscellaneous
offences

(a) in any application under this Act;

(b) in any report, return or affidavit submitted for the purposes of this Act; or

(c) in purported compliance with a requirement under this Act to furnish any information, make any statement or answer any question;

furnishes information or makes any statement that he knows is false or misleading in a material particular, shall be guilty of an offence.

(2) Any person who, in pursuance of a requirement under this Act, produces or makes available a document, or any books, that he knows to be false or misleading in a material particular shall be guilty of an offence.

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

(a) places or deposits, or is accessory to the placement or deposit of, any mineral or material in any place; or

(b) mingles or causes to be mingled with any sample of ore any substance which will enhance the value or in any way change the nature of the ore;

shall be guilty of an offence.

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

(a) in the case of an individual, to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both; or

(b) in the case of a body corporate, to a fine not exceeding fifty thousand penalty units.

107. If a body corporate is convicted of an offence under this Act, every person who-

(a) a Director of, or is otherwise concerned in the management of, the body corporate; and

(b) knowingly authorised or permitted the act or omission

Offence
committed by a
body corporate

constituting the offence;

shall be deemed to have committed the same offence; and may be proceeded against and punished accordingly.

108. (1) The Minister may, by statutory instrument, make regulations for the better carrying into effect of this Act. Regulations

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

(a) any matter which, in accordance with the foregoing provisions of this Act, is to be, or may be, provided for by statutory instrument or any matter which is to be, or may be, prescribed;

(b) the proper and efficient working of prospecting areas, mining areas and mines;

(c) the avoidance of wasteful mining practices or wasteful metallurgical practices, as described or specified in the regulations;

(d) the inspection of books and documents;

(e) the regulation of all work and machinery connected with prospecting or mining so far as safety and the protection of life are concerned;

(f) the regulation of all matters relating to sanitation and health, including the establishment of cemeteries, in regard to mining areas;

(g) the reporting of cases of accident and death occurring on any prospecting area or mining area in connection with prospecting or mining operations;

(h) the demarcation of prospecting and mining areas;

(i) the circumstances and procedures for referring any matter for determination by an expert;

(j) the manner of making and dealing with applications under this Act;

(k) fees to be paid by the holder of a gemstone sales certificate;

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

(3) The Minister responsible for finance may, after consultation with the Minister, by statutory instrument, make regulations for the better carrying into effect of sections *sixty-six* to *sixty-nine* of this Act.

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

(As amended by Act No. 8 of 1997)

109. (1) The Mines and Minerals Act is hereby repealed.

Repeal of Cap.
329 of the 1971
Edition and
savings

(2) The savings and transitional provisions set out in the Sixth Schedule shall have effect as a consequence of the repeal effected by this section.

FIRST SCHEDULE

(Section 9)

Employment

Energy and Supply

Exchange Control

Taxation, royalty and taxes

Environmental protection and pollution control

Import Duties, Customs and Excise and Import or export regulations and procedures;

Regulation and management of companies;

Insolvency, bankruptcy, receivership, administration and winding-up of companies.

(As amended by Act No. 41 of 1996 and No. 2 of 2000)

SECOND SCHEDULE

(Section 73)

RENT AND DEEMED TURNOVER IN RESPECT OF GEMSTONE LICENCE

<i>Year of Duration of Right</i>	<i>Rent per Hectare (Fee Units)</i>	<i>Deemed Turnover per Hectare (Fee Units)</i>
Year 1	Nil	Nil
Years 2-4	1,00	20,00
Years 5-7	1,50	30,00
Year 8 and subsequent years	2,00	40,00

(As amended by Act No. 41 of 1996)

THIRD SCHEDULE

(Section 88)

Procedure

(As repealed by Act No. 5 of 1999)

FOURTH SCHEDULE

(Section 96)

INCOME TAX DEDUCTIONS FOR MINING INVESTMENTS

1. (1) For the purposes of this Schedule-

Interpretation
Cap. 321

"capital expenditure", in relation to mining or prospecting operations, means expenditure-

- (a) on buildings, works, railway lines or equipment;
- (b) on shaft sinking, including expenditure on sumps, pumps chambers, stations and ore bins accessory to a shaft;
- (c) on the purchase of or on the payment of a premium for the use of any patent, design, trademark, process or other expenditure of a similar nature;
- (d) incurred prior to the commencement of production or during any period of non-production on preliminary surveys, boreholes, development or management; or
- (e) by way of interest payable on any loan for mining or prospecting purposes;

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

"deemed loss" means a deduction allowable in accordance with paragraph *three*;

"equity", in relation to a company limited by shares, means-

- (a) issued ordinary share capital or stock, but only to the extent that such share capital or stock is paid up;
- (b) issued, deferred, preferred, preference or other priority share capital or stock, but only to the extent that such share capital or stock is paid up and provided that such share capital or stock carries no rights of early repayment on demand;

(c) capital reserves in so far as they are not capable of distribution except either by way of diminution of capital or by addition to issued capital; and Cap. 323

(d) revenue reserves to the extent only that they shall have remained constant throughout the previous twelve months;

but shall not include-

- (i) loan stock or debentures whether carrying conversion rights or not;
- (ii) loans at call and short notice; or
- (iii) bank overdrafts or other drawing facilities;

"estimate of life", in relation to a mine, means the number of years, not exceeding-

(a) in the case of a mine operated for the purpose of producing lead or zinc, ten years;
and

(b) in the case of any other mine, twenty years; during which mining operations at the mine may be expected to continue after the beginning of the charge year;

"expenditure" means net expenditure after taking into account any rebates, returns or recoveries from expenditure;

"pre-production expenditure" means capital expenditure incurred in charge years prior to the production charge year;

"production commencement date", in relation to a mine, means the latest of any of the following dates:

(a) the date on which the mine first commenced regular production;

(b) where the mine, having previously been in production, was closed down and then re-opened, the date on which it first recommenced regular production;

(c) where the mine has changed ownership and has been reorganised with substantially new development and new plant, the date on which it first commenced regular production after such reorganisation;

"production charge year" means the charge year in which a 1953, 1970 or 1975 new mine first commences or recommences regular production;

"prospecting expenditure" means expenditure incurred in relation to prospecting operations, including any capital expenditure incurred in connection with such operations, and such expenditure as the Commissioner-General determines to be ancillary to expenditure on prospecting operations;

"1953 new mine" means a mine whose production commencement date is later than 31st March, 1953 but not later than 31st March, 1970;

"1970 new mine" means a mine whose production commencement date is later than 31st March, 1970 but not later than 31st March, 1975;

"1975 new mine" means a mine whose production commencement date is later than 31st March, 1975.

(2) Words and expressions defined in the Income Tax Act shall, if used in this Schedule, have the same meaning as in that Act.

2. Where a deduction is allowed in respect of capital expenditure under this Schedule, any deduction that would, but for this paragraph, be allowable under the Income Tax Act in respect of the same capital expenditure is hereby disallowed.

Relief not to be duplicated
Cap. 323

3. (1) Subject to the other provisions of this paragraph, the amount of prospecting expenditure incurred by a person in a charge year in respect of an area in Zambia over which a mining right has been granted shall be allowed as a deduction to that person.

(2) A company that is entitled under this paragraph to a deduction in respect of expenditure may, by notice in writing given to the Commissioner-General within twelve

Deductions for prospecting expenditure

months after the end of the charge year in which the expenditure is incurred, irrevocably elect to forego the deduction in favour of its shareholders; whereupon the deduction shall be allowed, not to the company but to its shareholders instead, in proportion to the calls on shares paid by them during the relevant accounting period or in such other proportions as the Commissioner-General having regard to any special circumstances, may determine: Provided that this sub-paragraph shall not apply to a company carrying on mining operation in Zambia.

(3) Where-

(a) a company (in this sub-paragraph called "the parent company") is entitled under this paragraph to a deduction; and

(b) subsequent to the date the expenditure is incurred, a new company, of which the parent company is a shareholder, is incorporated for the purpose of-

(i) continuing the prospecting operations of the parent company; or

(ii) carrying on mining operations in the Republic; and

the parent company may, by notice in writing given to the Commissioner-General within twelve months after the incorporation of the new company, irrevocably elect to forego the deduction in favour of the new company; whereupon the deduction shall be allowed, not to the parent company but to the new company instead;

Provided that this sub-paragraph shall not apply-

(i) to a company carrying on mining operations in Zambia; or

(ii) in respect of expenditure incurred after the new company takes over the prospecting operations of the parent company or commences to carry on mining operations.

(4) A deduction allowable under this paragraph shall be deemed to be a loss and shall be allowed, in accordance with section *thirty* of the Income Tax Act as a loss incurred-

(a) in the case of sub-paragraphs (1) and (2), in the charge year in which the expenditure is incurred; and

(b) in the case of sub-paragraph (3), in the charge year in which the new company takes over the prospecting or exploration operations or commences to carry on mining operations:

Provided that where the deemed loss exceeds the income of person for the charge year in which it is incurred, the excess shall be deemed to be a loss incurred in the following charge year and so on from year to year until the deemed loss is extinguished.

(5) In computing a loss incurred by the operator of a 1975 new mine in any charge year, prospecting expenditure and capital expenditure incurred in relation to the mine and allowable as a deduction shall be deemed to be deducted last.

4. (1) Subject to the other provisions of this paragraph and the provisions of paragraph *five*, a deduction shall be allowed in ascertaining the gains or profits from the carrying on of mining operations by any person in a charge year in respect of the capital expenditure incurred by the person on a mine which is in regular production in the charge year.

Deductions
for mining
expenditure
Cap. 323

(2) The deduction to be allowed for the charge year in the case of 1975 new mine shall be-

(a) where the charge year is the production charge year, the sum of the pre-production expenditure, to the extent that such expenditure has not already been allowed as a deduction, and the capital expenditure incurred in the production charge year:

Provided that where, on the last day of any charge year prior to the production charge year, the total of the preproduction expenditure incurred in such charge year exceeds the amount remaining after deducting from the equity of the company on such day the prospecting expenditure incurred in such charge year and in all previous charge years on such day and allowable as a deemed loss, the excess shall not be so increased for such charge year; and

(b) where the charge year is a charge year subsequent to the production charge year, the capital expenditure incurred in such charge year.

(3) The deduction to be allowed for a charge year in the case of 1970 new mine shall be:

(a) where the charge year is the production charge year, the total capital expenditure incurred on the mine up to the end of the production charge year, to the extent that such expenditure has not already been allowed as a deduction; and

(b) where the charge year is a charge year subsequent to the production charge year, the capital expenditure incurred on the mine in such charge year.

(4) The deduction to be allowed for any charge year in the case of a 1953 new mine shall be the sum of-

(a) the fraction of any unredeemed capital expenditure on the mine at the commencement of the charge year ended 31st March, 1971, that would have been allowed in such charge year under the provisions of paragraph *twenty-three* of Part VI of the Fifth Schedule to the Income Tax Act, as in force on 31st March, 1970, had those provisions not been repealed;

(b) the capital expenditure incurred on the mine in such charge year.

(5) The deduction to be allowed for any charge year in the case of any other mine shall be the sum of-

(a) one-twentieth or, in the case of a mine operated for the purposes of producing lead or zinc, one-eighth of the balance of unredeemed capital expenditure on the mine, including any balance on which deductions were previously claimed under Parts I to V of the Fifth Schedule to the Income ITax Act, at the commencement of the charge year ended 31st March, 1971, until such balance is extinguished; and

(b) an amount obtained by taking the sum of-

(i) the balance of the capital expenditure on the mine incurred after 22nd September, 1973 and unredeemed at the commencement of such charge year; and

(ii) the capital expenditure on the mine incurred in such charge year;

and dividing the sum so obtained by the number of years in the approved estimate of the life of the mine:

Provided that where separate and distinct mining operations are carried on in mines

which are not contiguous, the deduction allowable shall be calculated separately according to the approved estimate of the life of each mine.

(6) For the purposes of sub-paragraph (5), the approved estimate of the life of the mine at the commencement of the charge year shall be based on the certified estimates of ore reserves of the mine and supported by calculations showing how the estimates have been arrived at as submitted in writing by the person carrying on the mining operations:

Provided that if the Commissioner-General does not approve the estimate of the life of the mine as submitted, the approved estimate of the life of the mine shall be as the Commissioner-General determines.

(7) The deductions for any interest on borrowings to be allowed in any charge year shall not exceed the interest on any borrowings in excess of a loan-to-equity ratio of 2:1

5. (1) Where a person is carrying on mining operations in a mine which is in regular production and is also the owner of, or has a right to work, a mine which is not contiguous with the producing mine and from which the person has a loss in the charge year, the amount of such loss may be deducted in ascertaining the gains or profits from his mining operations in that charge year: Deductions for mining expenditure on a non-producing and non-contiguous mine

Provided that the amount of tax which would otherwise be payable by such person in that charge year is not reduced by more than twenty per centum as a result of this deduction.

(2) An order made by the Minister under this paragraph may differentiate between person or classes of persons, may at any time by a like order be revoked and may be made or revoked retrospectively.

6. Where a mine ceases regular production due to the expiration of the life of the mine, or where the mining right has ended, or for any other reason acceptable to the Commissioner-General, and the person who was carrying on the mining operations irrevocably so elects, by notice in writing to the Commissioner-General, within twelve months after the end of the charge year in which the mine ceased regular production, the deduction allowable in ascertaining the gains or profits from the carrying on of the mining operations in respect of the capital expenditure on the mine for each of the last six charge years in which the mine was in regular production shall be an amount arrived at by taking the sum of-

Deductions on cessation of mining production

(a) the unredeemed capital expenditure on the mine at the commencement of the six charge years; and

(b) the capital expenditure on the mine incurred in the six charge years; and dividing the sum so obtained by six.

7. Subject to the provisions of paragraph *eight*, when a change in the ownership of a mine takes place, the consideration for the assets which qualify, for the purposes of this Schedule, as capital expenditure shall, for income tax purposes-

Change ownership mine

(a) be allowable as capital expenditure incurred by the new owner; and

(b) be deemed to be a capital recovery by the previous owner in the charge year in

which the change takes place.

8. (1) Whenever there is a change in the ownership of a mine, this paragraph shall have effect in relation to the sale of any property in respect of which any deductions have been allowed under this Schedule in any case where either- Controlled
and other
sales

(a) the buyer has control of the seller, or the seller has control of the buyer, or some other person has control of both; or

(b) the Commissioner-General determines, by reference to the consideration given for the property, that the same was not at arm's length.

(2) Where the property is sold at a price other than what it would have fetched if sold in the open market, then, subject to the provisions of sub-paragraph (3), the same consequences shall ensue as would have ensued if the property had been sold for the price which it would have fetched if sold in the open market.

(3) Where the sale is one to which clause (a) of sub-paragraph (1) applies and the parties to the sale irrevocably so elect, by notice in writing to the Commissioner-General, then sub-paragraph (2) shall not have effect but, instead, the same consequences shall ensue as would have ensued if the property had been sold for a sum equal to the residue of capital expenditure on the property still unredeemed immediately before the sale.

(As amended by Act No. 41 of 1996)

FIFTH SCHEDULE

(Section 104)

REPORTS, RECORDS AND INFORMATION

- 1.** (1) Subject to sub-paragraph (2), the holder of a prospecting licence-
- (a) shall keep, at the address referred to in section *one hundred and four*, 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 or geochemical or geophysical analysis;
 - (v) the results of any analysis or identification of minerals;
 - (vi) the geological interpretation of the records maintained under items (i) to (v) inclusive;
 - (vii) the number of persons employed;
 - (viii) other work done in connection with the prospecting licence;
 - (ix) costs incurred; and
 - (x) such other matters as may be prescribed by the Minister by statutory instrument.
- (2) The Minister may, on application made to him by the holder of a prospecting licence, dispense with or modify all or any of the requirements of sub-paragraph (1).

Records to be kept by holder of prospecting licence

- 2.** The holder of a large-scale mining licence shall-
- (a) keep, at the address referred to in section *one hundred and four*, complete and accurate technical records of his operation 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 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 account and financial records as the Minister may require and, if the holder is engaged in any other activity not connected with his mining operations, maintain separate books of accounts 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

Records to be kept by holder of large-scale mining licence

months of the end of each financial year showing the profit or loss for the year and the state of the financial affairs of the holder at the end of each financial year.

- | | |
|---|--|
| <p>3. The holder of a prospecting permit shall keep at the address referred to in section <i>one hundred and four</i> the records specified in paragraph 1 of this Schedule or such other records as may be endorsed on his permit.</p> | Records to be kept by holder of prospecting permit |
| <p>4. The holder of a small-scale mining licence, a gemstone licence or artisan's mining right shall keep at the address referred to in section <i>one hundred and four</i> such records, and furnish to the local office the reports specified in paragraph 2 of this Schedule or such other records and reports as may be endorsed on the licence or permit.</p> | Records to be kept by holder of small-scale mining licence, gemstone licence or artisan's mining right |
| <p>5. Every holder of a mining right shall keep and preserve, for such period as may be prescribed by the Minister by statutory instrument, the records so prescribed in relation to the protection of the environment.</p> | All holders to keep environmental records |
| <p>6. (1) Where-</p> <p>(a) a mining right terminates by abandonment, curtailment, suspension, cancellation or other action under this Act; or</p> <p>(b) the term of a licence granted under Part III expires;</p> <p>the person who was the holder of the mining right immediately before the termination or expiration shall deliver to the Minister-</p> <p>(i) all records which the former holder maintained under this Act with respect to the licence;</p> <p>(ii) all plans or maps of the area of land that was subject to the mining right and which were prepared by or on the instructions of the former holder; and</p> <p>(iii) such other documents as the Minister may, by notice given to the former holder require him to so deliver.</p> | Surrender of records on termination of mining right |
| <p>(2) Except as provided by sub-paragraph (1), where a mining right granted under Part IV or Part VII terminates or expires, the person who was the holder of the right shall deliver to the local office all records which he was required to keep under this Schedule and all plans or maps of the prospecting or mining operations on such area.</p> | |

(As amended by Act No. 41 of 1996)

SIXTH SCHEDULE

(Section 109)

SAVINGS AND TRANSITIONAL PROVISIONS

1. In this Schedule-

"appointed date" means the date on which this Act comes into force;

"interim period" means a period beginning with the appointed date and ending on the first anniversary of the appointed date;

"interim licence" means a licence that a person is deemed, by the operation of this Schedule, to hold, and "interim licensee" shall be construed accordingly;

"repealed Act" means the Mines and Minerals Act, repealed by this Act.

Interpretation
Cap. 329 of
the 1971
edition

2. Any person who, immediately before the appointed date, was the holder of a mining right or a mining permit under the repealed Act shall be deemed to have become on the appointed date the holder of an interim licence.

Rights and
permits
under the
repealed
Act
converted
to interim
licences

3. (1) During the interim period, the holder of an interim licence is authorised to carry on the operations which he was authorised to carry on immediately before the appointed date under the mining right or mining permit of which he was the holder; and in carrying on those operations the holder of the interim licence shall in respect of those operations enjoy the same rights and be subject to the same liabilities as if the repealed Act were still in force.

Authority
conferred
by interim
licences

(2) At any time during the interim period, the holder of an interim licence may apply for and, subject to this Schedule, shall be granted a mining right under this Act.

4. (1) The holder of an interim licence who, immediately before the appointed date, held a prospecting licence or an exploration licence under the repealed Act shall be entitled, at his election, to apply for and be granted under this Act, in respect of the area covered by his interim licence-

Holders of
prospecting
licences or
exploration
licences
under the
repealed
Act

- (a) a prospecting licence;
- (b) a prospecting permit;
- (c) a gemstone licence;

(d) a small-scale mining licence; or

(e) a large-scale mining licence.

(2) A prospecting licence granted under this paragraph shall be deemed to have been granted on the date on which the licence under the repealed Act was granted, and shall remain in force, subject to this Act, for a period equal to the unexpired period of the licence held under that Act.

(3) A prospecting permit, gemstone licence or small-scale mining licence granted under this paragraph shall run from the date of its grant.

(4) On the renewal of a prospecting licence granted under this paragraph, the provisions of section *fifteen* of this Act relating to relinquishment shall have no application.

5. (1) The holder of an interim licence who, immediately before the appointed date, held a mining licence under the repealed Act (other than a mining licence for building or industrial minerals under Part VIII of that Act) shall be entitled at his election to apply for and be granted, in respect of the area covered by his interim licence-

(a) a large-scale mining licence;

(b) a small-scale mining licence; or

(c) a gemstone licence.

(2) A large-scale mining licence granted under this paragraph shall-

(a) remain in force, subject to this Act, for a period equal to the unexpired period of the mining licence held under the repealed Act which remained at the appointed date;

(b) require compliance with the programme of development and mining operations which was appended to the licence under the repealed Act;

(c) require compliance with an environmental plan drawn up by the holder of the interim licence which shall be approved by the Minister and form part of the conditions of the licence if it meets the requirements of this Act:

Provided that, if the Minister considers that the environmental plan does not meet those requirements, the matter or matters in dispute shall be referred to an independent expert chosen by agreement between the Minister and holder of the interim licence, whose decision shall be binding; and in the event that the Minister and the holder of the interim licence are unable to agree on the choice of the expert, the expert shall be chosen by the High Court.

(3) A small-scale mining licence granted under this paragraph shall-

(a) remain in force, subject to this Act, for such period, not exceeding ten years, as may be applied for by the holder of the interim licence; and

(b) require compliance with the programme of development and mining operations which was appended to the mining licence under the repealed Act.

(4) A gemstone licence granted under this paragraph shall-

Holders of mining licences (other than for building or industrial materials) under the repealed Act

- (a) be granted for such period, not exceeding ten years, as may be applied for by the holder of the interim licence, provided that for the purpose of calculating the rent payable under section *seventy-three* of this Act, the licence shall be treated as though the term of the licence had commenced one year before the date on which the licence was granted; and
- (b) require compliance with the programme of development and mining operations which was appended to the mining licence under the repealed Act.

(5) Where the holder of an interim licence who, immediately before the appointed date, held a mining licence under the repealed Act elects to apply for a small-scale mining licence or a gemstone licence under this Act, the Minister may, if the holder of the interim licence has before the appointed date been carrying on mining operations on a substantial scale, reject the application for a small-scale mining licence or a gemstone licence and require the holder of the interim licence to apply for a large-scale mining licence, and in any such case the provisions set out in this paragraph shall apply as though the holder of the interim licence had elected to apply for a large-scale mining licence.

6. (1) The holder of an interim licence who, immediately before the appointed date, held a mining licence or a mining permit for building or industrial minerals granted under Part VIII of the repealed Act may apply for, and shall be granted, in respect of the area covered by his interim licence, a small-scale mining licence under Part IV of this Act. Holders of mining licences for building or industrial materials under the repealed Act

(2) A small-scale mining licence granted under this paragraph-

- (a) shall be granted for such period as may be applied for, but not exceeding the unexpired period of the mining licence which remained at the appointed date, or ten years, whichever is greater; and
- (b) shall require compliance with such conditions as may have been attached to the licence or permit granted under the repealed Act.

(As amended by Act No. 41 of 1996)

SUBSIDIARY LEGISLATION

THE MINES AND MINERALS (TRADING IN RESERVED MINERALS) REGULATIONS [ARRANGEMENT OF REGULATIONS]

PART I

PRELIMINARY

Regulation

1. Title
2. Interpretation

PART II

TRADING IN RESERVED MINERALS

3. Trading in and possession of reserved minerals
4. Application for reserved minerals trader's licence
5. Reserved Minerals Trader's Licensing Committee
6. Publication of names of applicants
7. False statement by applicant for licence
8. Notification of grant or rejection of application
9. Prohibition against issue of licence
10. Fee on issue or renewal of licence
11. Form of licence
12. Place of business
13. Register of transactions

14. Summary fine
15. Valuation certificate for reserved minerals destined for export
16. Purchase from or sale to unauthorised persons
17. Power to cancel licence

SCHEDULE

SECTION 123-TRADING IN RESERVED MINERALS *Regulations by the Minister*

***Statutory
Instrument
110 of
1995***

PART I PRELIMINARY

1. These Regulations may be cited as the Mines and Minerals (Trading in Reserved Minerals) Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation

"Committee" means the Reserved Minerals Traders' Licensing Committee established under regulation 5;

"licence" means a reserved minerals trader's licence issued under sub-regulation (3) of regulation 8;

"licensed trader" means the holder of a valid licence;

"permit" means written authority granted by the Committee under sub-regulation (2) of regulation 3 authorising a person to possess reserved minerals;

"registered lapidary" means a lapidary operating under a manufacturing licence issued under Part III of the Investment Act and duly registered with the Engineer. Cap. 385

PART II

TRADING IN RESERVED MINERALS

3. (1) Subject to these Regulations, a person shall not-

Trading in and
possession of
reserved
minerals

(a) buy, deal in, or receive by way of barter or pledge, either as principal or agent, any reserved mineral, unless he is

(i) licensed or authorised under this Part to trade in reserved minerals; or

(ii) the operator of a registered lapidary.

(b) sell, offer, display for sale, barter or pledge, either as principal or agent, any reserved mineral unless-

(i) subject to the provisions of section *forty* of the Act, he is the holder of a valid prospecting or exploration licence relating to that reserved mineral;

(ii) the reserved mineral is won or recovered by him from land on which he is lawfully mining for reserved minerals; or

(iii) he is authorised under this Part to sell or dispose of that reserved mineral.

(c) possess any reserved mineral unless-

(i) he is authorised under these Regulations to be in possession of that reserved mineral; or

(ii) he has a permit.

(2) The Committee may grant, in writing, authority to trade and possess reserved minerals to any person who is not a citizen of Zambia or is not ordinarily resident in Zambia for a period of two years.

(3) The authority granted under sub-regulation (2) shall convey any right in respect of the grant of a licence.

(4) Any person who contravenes sub-regulation (1) shall be guilty of an offence and liable upon conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

4. (1) Subject to this Part, any person may apply to the Committee for, and obtain a licence. Application for licence

(2) An application made under sub-regulation (1) shall be in Form 1 set out in the Schedule.

5. (1) There shall be a reserved minerals traders' licensing committee which shall consist of- Reserved minerals traders' licensing committee

(a) Chairman;

(b) the Engineer;

(c) the Director; and

(d) any other two persons appointed by the Minister.

(2) The Chairman shall be appointed by the Minister from outside the civil service and shall preside at all meetings of the Committee.

(3) In the absence of the Chairman, the members present at a meeting of the Committee shall choose a chairman from amongst themselves for the purposes of that meeting.

(4) Three members of the Committee shall form a quorum and the chairman at any meeting shall have a casting as well as a deliberative

vote.

(5) The Minister shall appoint the Secretary to the Committee.

6. (1) The Committee shall not consider an application for the grant or renewal of a licence, unless the applicant has given at least fourteen days' notice of his intention to make the application. Publication of names of applicants

(2) The notice referred to in sub-regulation (1) shall-

(a) be made in the prescribed form;

(b) include an address at which service of notices and documents may be made; and

(c) be published in the *Gazette* and in two consecutive issues of a national newspaper.

(3) The period of fourteen days referred to in sub-regulation (1) shall be calculated from the date of the 1st publication of the notice.

7. (1) If any person applying for a licence under this part, knowingly makes or causes to be made a statement which is false in any material particular, he shall be guilty of an offence and liable upon conviction to a fine not exceeding two thousand penalty units. False statement by applicant

(2) A licence or permit issued to a person convicted for contravening sub-regulation (1) shall be null and void.

8. (1) The Committee shall within thirty days, notify the applicant of the result of the application. Notification of grant or rejection of application

(2) Where the application is granted, the notification of the grant shall include terms and conditions on which the application is granted and shall require the applicant to accept the conditions within such time as

the Committee may specify.

(3) Where the applicant-

(a) accepts within the time specified by the Committee, the terms and conditions on which the application is granted, the Committee shall issue a licence to him; or

(b) fails to notify the Committee within the time specified under paragraph (a), his application shall lapse.

(4) If an applicant is dissatisfied with the decision of the Committee he may, within thirty days of being notified of that decision, appeal to the High Court.

9. (1) Subject to these Regulations, a licence shall not be granted to or held by- Restrictions on licence

(a) a person-

(i) under the age of eighteen years; or

(ii) who is or becomes an undischarged bankrupt.

(b) a company-

(i) unless it has been incorporated under the Companies Act;

(ii) which is in liquidation.

Cap. 388

(2) A licence shall-

(a) not be transferrable;

(b) be terminated where the holder-

(i) is adjudged or declared bankrupt;

(ii) goes into liquidation; or

(iii) dies.

(3) A person applying for a licence shall lodge with the Committee a certificate in Form 4 set out in the Schedule under the hand of a police officer of or above the rank of Sub-Inspector, together with sufficient sureties who have entered into a recognizance, which recognizance shall be in Form 3 set out in the Schedule.

(4) In this regulation, "liquidation" shall not include a liquidation which forms part of a scheme for the reconstruction or amalgamation of the holder.

10. An applicant shall pay, for every issue or renewal of a licence, a fee of one hundred thousand kwacha per year or part thereof. Fees on issue or renewal of licence

11. The licence shall be in Form 2 set out in the Schedule and shall expire on the 31st December of each year. Form of licence

12. (1) The applicant's office or place of business shall be endorsed on the applicant's licence. Place of business

(2) A person who holds a licence shall inform the Committee of any changes of his business premises.

13. (1) A person who holds a licence shall keep or cause to be kept a true and correct register relating to the details of reserved minerals received, purchased, imported, sold or exported. Register of transactions

(2) The register relating to the details of reserved minerals received, purchased or imported shall be in Form 5 set out in the Schedule and that of reserved minerals sold or exported shall be in Form 6 set out in the Schedule.

(3) A person who holds a licence shall within fifteen days after the end of every month forward to the Committee a true copy of all entries in the register for the previous month, together with a declaration stating that the entries are correct.

14. (1) A person who contravenes regulation 13 shall be made to appear before the Committee and if found guilty of an offence shall be liable to a fine not exceeding fifty thousand penalty units. Penalty for contravening Regulation 13

(2) The fine referred to in sub-regulation (1) shall be paid to the Committee.

(3) The moneys received from fines shall be paid into the general revenues of the Republic.

(4) A person who fails to pay the fine imposed under sub-regulation (1) within ninety days from the date of such imposition shall have his licence cancelled by the Committee.

15. (1) Any reserved mineral destined for export, shall be valued by an independent Government approved valuer who shall issue a valuation certificate in Form 7 set out in the Schedule. Valuation certificate for reserved minerals destined for export

(2) An application to the Committee for registration as a Government approved valuer, shall contain the following information-

(a) the full name and business address of the applicant; and

(b) copies of academic qualifications and professional experience.

16. (1) A person shall not buy or receive by way of barter, pledge or otherwise any reserved mineral from any person not authorised under paragraph (a) of sub-regulation (1) of regulation 3 to trade in reserved minerals. Purchase from or sale to unauthorised person

(2) A person not authorised to trade in reserved minerals shall not sell or offer or display for sale, barter, pledge or otherwise dispose of or deliver any reserved mineral to any person not authorised under paragraph (b) of sub-regulation (1) of regulation 3 or any other provision of this Part to buy or receive that reserved mineral.

(3) Any person who contravenes sub-regulations (1) and (2) shall be guilty of an offence and liable upon conviction to a fine not exceeding two thousand penalty units.

17. (1) The Committee may, cancel a licence if it is satisfied that any licensed trader is or has been on reasonable grounds suspected of being engaged in illicit trade in reserved minerals or has contravened these Regulations or that Act. Power to cancel licence

(2) The notice to cancel the licence shall be from the date specified in the notice, which shall not be less than one month from the date of giving such notice.

(3) Any person whose licence is cancelled under sub-regulation (1) may appeal to the High Court.

SCHEDULE

REPUBLIC OF ZAMBIA

No.

Date of receipt.....

Form 1
(Regulation 4)

APPLICATION FORM FOR A RESERVED MINERALS TRADER'S LICENCE

The Mines and Minerals (Trading in Reserved Minerals) Regulations

Type(s) of Reserved mineral:

A PARTICULARS OF APPLICANT (other than company, co-operative or association)

(1) Full names of applicant

(a) Surname (Maiden Name).....

(b) Other names

(c) Place and date of birth

(2) Address of applicant

(a) Residential address Telephone No.

(b) Business address Telephone No.Fax: No.

(3) Identity documents

(a) NRC No. Date/place of issue.....

(b) Passport No. Date/place of issue.....

(c) Nationality

(d) Period resident in Zambia

B. PARTICULARS OF ORGANIZATION (company or association)

(4) (a) Name of Company Association

(b) Location and postal address of Company/Association

Telephone Fax.....Telex.....

(c) Company/Association Registration No.

(d) Address of registration office in Zambia

.....

(e) Date of incorporation

(f) Nominal capital

(g) Paid up capital

(h) Shareholders (owning more than 5 percent of paid up capital)

Full Name	Shares held	Nationality	NRC/Passport No.
(i).....
(ii).....
(iii).....
(iv).....
(v).....

(i) Full name and nationality of Chief Executive

(j) Full name and nationality of Company Secretary

C. PARTICULARS OF THE CO-OPERATIVE

(5) (a) Name and address of Co-operative

Telephone Fax.....Telex.....

(b) Registration Certificate No.

(c) Date and place of registration

(d) Share capital (nominal)

(e) Share capital (paid up)

(f) Full names of

Member	Nationality	NRC/Passport No.
(i).....
(ii).....
(iii).....
(iv).....
(v).....
(vi).....
(vii).....
(viii).....
(ix).....
(x).....

(g) Full name and nationality of Chief Executive

(h) Full name and nationality of Company Secretary

D. PARTICULARS OF FINANCE

(6) Name and address of bankers Telephone No.

(7) Financial status

(a) Details of finance available for intended trade (with documentary evidence)

(b) Details of other assets

(8) Financial references

(i)

(ii)

(9) Name and address of lawyers Telephone No.

Telex No. Fax No.

E. PARTICULARS OF OTHER STATUTORY REQUIREMENTS

(10) Details required for application for reserved minerals trader's licence:

All applicants for a reserved minerals trader's licence will require the following documentation to be attached to the application:

(a) police certificates; and

(b) recognizance.

NOTE: Any declaration in this application which is to the knowledge of the maker, false or untrue, shall render this application void *ab initio*.

Date Signature.....

(In what capacity?)

*Where space is not adequate additional information to be submitted separately.

Three copies to be submitted to:

Chairman,
Reserved Minerals Trader's Licensing Committee,
P.O. Box 31969,
Lusaka.

REPUBLIC OF ZAMBIA

Licence No. RML.....

Form 2

(Regulation 9)

RESERVED MINERALS TRADER'S LICENCE

(Part II)

Mines and Minerals (Trading in Reserved Minerals) Regulations

WHEREAS of Plot No. Road: Town:

Postal address

Telephone No. Telex No.

Telefax No. has this.....day

of.....19.....been duly licensed to trade in the minerals specified below:

.....
Chairman

Expiry date: 31st December, 19.....



*Not Transferable

NB-Applicants are advised to lodge their application for renewal of this licence at least sixty days before the date of expiry.

ENDORSEMENT OF BUSINESS ADDRESS, ADDITIONAL ADDRESSES OR CHANGES THEREOF

REPUBLIC OF ZAMBIA

Form 3

(Regulation 9)

RECOGNIZANCE

The Mines and Minerals (Trading in Reserved Minerals) Regulations

On the day of19..... appeared before me Magistrate of the District of and acknowledge themselves to owe the Republic to which the said the sum of one hundred thousand Kwacha and the said and each the sum of one hundred thousand Kwacha to be respectively made and levied of their several goods, chattels, lands and tenements to the use of the Republic if the said shall fail in performing the conditions underwritten.

The condition of this recognizance is that if the said shall strictly conform to and abide by all and singular the provisions of the Mines and Minerals (Trading in Reserved Minerals) Regulations during the time the licence to be obtained by him under these Regulations shall be in force, then this recognizance shall be null and void or else shall remain in full force and effect.

The said and the said and the said do hereby further jointly and severally agree that in the event of the said being convicted of contravening any provision of these Regulations this recognizance shall *ipso facto* become at once executable without the necessity of further process just as if judgment had been obtained upon it.

Taken and acknowledged this day and year above written.

Proposed holder

Surety

Surety

Magistrate

REPUBLIC OF ZAMBIA

Form 4

(Regulation 9)

The Mines and Minerals (Trading in Reserved Minerals) Regulations

RESERVED MINERALS TRADER'S CERTIFICATE

I, Police
Officer of do hereby certify
that is a fit
and proper person to receive a licence to buy and sell reserved minerals.

(Station) Police Officer

(Date) Rank.....

(Assistant Inspector or above)

OFFICIAL STAMP

REPUBLIC OF ZAMBIA

Form 5

(Regulation 13)

MONTHLY RECEIPTS RETURN

The Mines and Minerals (Trading in Reserved Minerals) Regulations

Full Name: Month:19.....

Address

REPUBLIC OF ZAMBIA

Form 6

(Regulation 13)

MONTHLY SALES RETURN

The Mines and Minerals (Trading in Reserved Minerals) Regulations

Full Name: Month:19.....

Address

Sales and Exports								
Date	Type of Reserved Mineral	Name of Buyer	Lot No.	Weight (g)	Value		Currency	Remarks
					K	US\$		
TOTAL								

I, do hereby
solemnly and sincerely declare that the above is true and correct, and I make this certificate conscientiously believing the same to be true.

Signature:

In what capacity signing

To be submitted to:
Chief Mining Engineer,
P.O. Box 31969,
Lusaka,
(2 copies)

REPUBLIC OF ZAMBIA

Form 7

(Regulation 15)

VALUATION CERTIFICATE

The Mines and Minerals (Trading in Reserved Minerals) Regulations

Certificate No.

Lot No.	Description	Grade	Quantity	Colour	Valuation	
					Per Unit	Total
TOTAL						

Company:

Address:

Buyer:

Examined by:

For Sale/Market Survey

For Ministry of Mines and Minerals Development

Approved/Not Approved for Export by:

Name:

Rank:

Signature:

Date:

Receipts, Purchases, Imports

Receipts, Purchases, Imports								
Date	Type of Reserved Mineral	Name of Seller	Lot No.	Weight (g)	Value		Currency	Remarks
					K	US\$		
TOTAL								

I, _____ do hereby solemnly and sincerely declare that the above is true and correct, and I make this certificate conscientiously believing the same to be true.

Signature:

In what capacity signing

To be submitted to:
 Chief Mining Engineer,
 P.O. Box 31969,
 Lusaka,
 (2 copies)

THE MINES AND MINERALS ACT

THE MINES AND MINERALS (ENVIRONMENTAL) REGULATIONS [ARRANGEMENT OF REGULATIONS]

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**SECTION 76-MINES AND MINERALS
(ENVIRONMENTAL) REGULATIONS**

*Statutory
Instrument
29 of 1997*

Regulations by the Minister

PART I

PRELIMINARY

1. These Regulations may be cited as the Mines and Minerals (Environmental) Regulations.

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"Council" means the Environmental Council of Zambia established by the Environmental Protection and Pollution Control Act; Cap. 204

"competent person" means any person appointed as such by a mine manager, to enforce these Regulations within a mine licence or permit area;

"contaminant" means a substance or physical agent or a combination of substances and physical agents that may contribute to, or create, pollution;

"decommissioned dump" means a dump where dumping operations have ceased but the dump has not been closed;

"developer" means a person who holds a licence or a permit issue under the Act and who undertakes a new mining operation or mining related project to repair or extend an existing mine or mining operation;

"Director" means the Director of Mines Safety appointed under section *eighty-three* of the Act;

"environmental impact statement" means a statement on the impact of the mining operation on the environment submitted to the Director under regulation 5;

"inspector" means a person appointed as an inspector under section *eighty-three* of the Act;

"project brief" means a report made by the developer including preliminary predictions of possible impacts of a proposed exploration, prospecting or mining operation on the environment and constituting the first stage in the environmental impact assessment process;

"proprietary information" means any information relating to any manufacturing process, trade secret, trademark, patent, copyright, breeder's right or formula protected by law or by any international treaty to which Zambia is a party;

"scheduled mine" means any mine specified in the First Schedule of the Pneumoconiosis Act and includes any scheduled place specified in the Cap. 326

Second Schedule to that Act;

"toxic substance" means a poisonous gas, vapour, fume, dust or other substance that may cause injury, or adverse pathological changes, to human beings or animals or cause adverse physiological changes to the environment;

"underground" means beneath the surface of the ground to which access may be by way of a ramp, adit raise, shaft or winze, but does not include an open pit or quarry;

"workings" means an excavation made for the purpose of searching of winning minerals;

PART II

ENVIRONMENTAL IMPACT ASSESSMENT

3. (1) A developer shall prepare and submit six copies to the Director, of an environmental project brief before undertaking any prospecting, exploration or mining operations. Environmental project brief

(2) For the purpose of prospecting exploration or mining operations under these Regulations a developer shall appoint a mine manager.

(3) A mine manager appointed under (2) shall employ a competent person.

(4) A competent person referred to in sub-regulation (2), shall-

(a) in relation to any duty or function, have adequate training and experience so as to enable him to perform such duty or function under these Regulations, without any avoidable danger to himself or any other person; and

(b) have the relevant academic qualifications in mining environmental management, recognised by the Director and should have a minimum of two years relevant industrial experience.

(5) The environmental project brief referred to in sub-regulation (1) shall be prepared by a competent person.

(6) The environmental project brief referred to in sub-regulation (1) shall contain the information set out in the First Schedule to which shall be attached-

(a) a brief statement on the impact of the prospecting, exploration or mining operations on the environment; and

(b) information on any remedial action, if any, to be implemented and complied with.

(7) The Director shall comment on the environmental project brief and shall, within ten days of receipt of such environmental project brief, make recommendations to the Council for consideration.

(8) The Council shall, within forty days of receipt of the environmental project brief, inform the Director of its decision.

(9) If the environmental project brief is incomplete, the Council shall send it back to the Director with comments, and the Director shall inform the developer referred to in sub-regulation (1), to re-submit the environmental project brief within twenty-one days.

(10) The Director shall write to the developer authorising him to develop the mine, if the mining operation has no significant impact on the environment.

(11) This regulation shall apply to-

(a) all proposed mining operations whether they are part of a previously proposed mining operation or not;

(b) any alterations, modifications or extensions of any existing mining operation, which the Director or the Council directs, based on the information contained in the project brief, that an environmental impact assessment should be prepared.

(12) The provisions of the Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997 relating to environmental project briefs shall apply to any application made under this regulation.

4. (1) Where the Director determines that the exploration, prospecting or mining operation is likely to have a significant impact on the environment, the Director shall request the developer to prepare an environmental impact statement in accordance with these Regulations. Environmental impact statement procedure

(2) The environmental impact statement referred to in sub-regulation (1) shall be prepared by a competent person.

(3) The provisions of sub-regulation (3) of regulation 3 shall apply to this Regulation.

(4) The developer referred to in sub-regulation (1) shall submit nine copies of the Environmental impact statement to the Director within sixty days of receipt of the request from the Director.

(5) The environmental impact statement shall contain the information set out in the Second Schedule.

(6) If the environmental impact statement is unacceptable or significantly incomplete, the Director shall, within thirty days of receipt of such environmental impact statement, inform the developer, stating-

(a) the issues that need further consideration;

(b) that he should re-submit the environmental impact statement with alteration or corrections within thirty days of that request; or

(c) any further data to be collected.

(7) The Director shall register each environmental impact statement.

5. (1) The environmental impact statement shall contain-

Contents of
environmental
impact
statement

(a) an executive summary of the impact of the exploration, prospecting or mining operation on the environment;

(b) an environmental management plan;

(c) a plan for rehabilitation and management; and

(d) the estimated cost of protecting the environment.

(2) The cost of protecting the environment referred to in paragraph (c) of sub-regulation (1) shall include-

(a) the operational cost of protecting the environment, covering the full life of the mine;

(b) the cost of rehabilitating the mine, covering the full life of the mine;

(c) the cost of decommissioning; and

(d) the operational cost of protecting the environment after the closure of the mine.

(3) The estimate of the cost of the rehabilitating the mine shall be in the form set out in the Third Schedule.

(4) The developer shall make a commitment, in writing, to the Director to-

(a) meet the costs referred to in sub-regulation (2); and

(b) implement the environmental impact statement.

(5) The developer shall attach to the environmental impact statement-

(a) a map showing the location of the tailings, waste and overburden dumps;

(b) a map showing the area covering the mining right or permit and the location of the dumps in relation to the mine structures and the natural and physical features;

(c) the total tonnage and chemical composition of the materials dumped; and

(d) the statement of any rehabilitation work to be undertaken.

(6) The map referred to in paragraph (a) of sub-regulation (5) shall be-

(a) made of durable material;

(b) deposited at the office of the Director and updated by every thirteenth day of September of each year, and

(c) updated immediately on the cessation of mining, abandonment of a mine or at the request of the Director.

(7) A developer shall appoint a competent person to update the environmental impact statement once a year.

6. (1) A developer may apply to the Director for a partial or complete closure of a mine.

Mine site
closure

(2) The application referred to in sub-regulation (1) shall include an audit report on the environment surrounding the mine site which shall be prepared by an independent person.

(3) A mine site shall be closed within sixty days of the application referred to in sub-regulation (1), after all the conditions under these Regulations have been met.

(4) The Director shall issue a closure certificate for any mine closed and the mining right or permit or part thereof shall be cancelled by the Minister.

7. (1) The Director shall keep a record of an environmental impact statement, map or other document for any mine temporarily or permanently closed or abandoned.

Records of
closing down
mine

(2) The records referred to in sub-regulation (1) shall be open for inspection by the public during normal working hours.

(3) Notwithstanding subsection (2), the records referred to in that subsection shall not include proprietary information.

8. (1) An Audit report on the impact on the environment of any exploration, prospecting or mining operation shall be prepared by two independent competent persons and shall contain information as to whether the environmental impact statement is being implemented and complied with.

Audit of
environmental
impact

(2) Two copies of the report referred to in sub-regulation (1) shall be submitted to the Director for evaluation.

(3) The Director shall, within thirty days of receipt of the report referred to in sub-regulation (2), notify the developer of any modifications the Director may consider necessary and shall state when the next audit on the impact of the exploration, prospecting or mining operation on the environment shall be conducted.

(4) The first audit on the impact of any exploration, prospecting or mining operation on the environment shall be conducted within fifteen months of commissioning such exploration, prospecting or mining operation.

9. (1) The Minister may, on such conditions as he may determine, exempt any prospecting, exploration or mining operation from the operation of any provision of these Regulations in accordance with the Act, or, where a developer is conducting any experiments or tests on such conditions as the Minister may determine.

Minister's powers to exempt

(2) The Minister may delegate his function under sub-regulation (1) to the Director.

PART III

MINE DUMPS

10. In this Part, unless the context otherwise required-

Interpretation of Part

"active dump" means any dump where dumping operations are carried out and which has not been closed;

"classified dump" means a dump consisting of material deposited and accumulated-

(a) wholly or mainly in solid form where-

(i) the area covered is more than ten thousand square metres and the height is more than two metres;

(ii) the height of the dump is more than fifteen metres; or

(iii) the average gradient of the land covered by the material is more than one in twelve;

(b) mainly in solution or suspension where-

(i) any point is more than four metres above the level of any part of the adjacent land and is less than fifty metres from the perimeter of the

dump; or

- (ii) the volume is more than ten thousand cubic metres;

"water course" includes any river, stream, ditch, drain, sewer, culvert, cut, dyke, sluice and passage through which water, whether processed or not processed, flows.

11. (1) A developer shall apply and give thirty days notice to the Director, before commencing any dumping operations-

Procedure to be followed before dumping

- (a) specifying the material to be dumped;
- (b) giving a description of the site; and
- (c) stating whether the dump shall be a classified dump or not.

(2) A developer shall submit a report containing information set out in the Fourth Schedule to the Director which shall be prepared by a competent person and shall state the safety precautions and the other measures to be taken to protect the environment surrounding the dumping area, before dumping any material on that site.

(3) Where the Director approves the application referred to in subsection (1) the developer shall, not less than thirty days before he commences any dumping operations, submit to the Director a plan delineating the area where the dump will be situated, showing-

- (a) one thousand metres from the boundary of the adjacent land at a scale of not less than 1/5,000, contoured to, oriented to, and co-related to, the mine surface plan;
- (b) all the mining workings, whether abandoned or not, of any previous land movement, spring, well, watercourse or any other natural, geological or topographical feature which may affect the security or safety of the dump or which may be relevant to determine whether the land is suitable for dumping operations; and
- (c) any surface installations.

(4) If the Director considers that the report referred to in subregulation (1) is not complete, he may direct the developer-

(a) conduct any additional survey tests, borehole or ground-water measurements; or

(b) meet any other conditions as he may think necessary and may request that a supplementary report be made by the person who prepared the previous report or from a competent person.

(5) If the Director does not approve the dumping application, he shall give reasons for such refusal within thirty days of receipt of such application.

(6) A developer who is aggrieved by a decision of the Director under this regulation, may appeal to the Minister.

12. (1) A developer shall make rules relating to any dumping operations carried out on an active classified dump specifying-

Rules for
dumping
operations

(a) the manner in which the dumping operations are to be carried out;

(b) the precautions to be taken to avoid polluting the environment;

(c) the safety precautions to be taken relating to the dump; and

(d) how pollution to the environment shall be monitored.

(2) A developer referred to in sub-regulation (1) shall appoint a competent person to inspect every classified dump and its surroundings, every week, to ensure that-

(a) the drainage and the ground between the dump and the inter-section of vertical planes drawn from the boundaries of any mine workings is less than five hundred metres from the nearest edge of that

dump;

- (b) the dumping rules are being complied with; and
- (c) the measures to control pollution are being complied with.

(3) The competent person referred to in sub-regulation (1) shall make a report which shall be open for inspection by an inspector stating-

- (a) any defect found in any records kept for that purpose at the mine;
- (b) the progress made in implementing the provisions of the environmental impact assessment; and
- (c) any pollution to the environment not initially detected or predicted.

(4) The competent person referred to in sub-regulation (1), shall bring to the immediate attention of the developer, any pollution to the environment not initially detected or predicted, to the developer's attention and remedial action.

13. (1) A developer shall apply in writing to the Director to resume dumping on a decommissioned dump, not less than thirty days before commencing any dumping operation stating-

Procedure for
dumping on
decommissioned
dump

- (a) the description of the site on which the dumping will be made;
and
- (b) the material to be dumped.

(2) The Director shall-

- (a) determine whether the dump shall be a classified dump or not; or
- (b) notify the developer referred to in sub-regulation (1) that the dump shall be a classified dump, if that dump may have an impact on the environment.

(3) Where the Director approves the application for dumping on a decommissioned dump such developer shall follow the procedure referred to in regulation 11, and shall, before dumping any material on that decommissioned dump, give thirty days notice to the Director.

(4) Where dumping is to be resumed on a previously decommissioned classified dump, new rules shall be made and the provisions of regulation 12 shall apply.

(5) A developer shall make a report to the Director if-

(a) such developer makes any change or variation to the specifications of the dumping site, which he originally submitted to the Director, that may affect the safety of that dumping site;

(b) such developer makes any change or variation to the mining operations which may have an adverse impact on the environment; or

(c) the mining operations advances within a horizontal distance of five hundred metres from the boundary of the dump.

14. A developer shall not dump any material which is wholly or partially in solution or suspension or any solid material which may turn into a solution or suspension, over an area vertically above any mine workings, whether abandoned or not, or is within a horizontal distance of one hundred metres from where the line of break from the mine workings intersects the surface.

Prohibition of dumping over mine

15. (1) A developer shall ensure that a dump is properly drained and shall not carry out any dumping operations that may cause accumulation of water in, under or near a dump, making the dump insecure or dangerous.

Drainage of dump

(2) The drainage from any dumping operation shall not enter any mine opening or subsiding ground over any mine workings, whether abandoned or not.

(3) The developer referred to in sub-regulation (1) shall ensure that-

(a) the drainage system of a dump is maintained and is in proper and safe working condition;

(b) regular inspections of the dump are made;

(c) the dump is kept secure and safe;

(d) measures to control pollution are being effected; and

(e) the dumping operations are being carried out in accordance with this Part.

(4) A developer shall keep a record of any maintenance or action taken to remedy any defect in the drainage system.

16. (1) A developer shall appoint a competent person to supervise any person charged with dumping any material in a classified dump to ensure that-

Supervision of
drainage system
by competent
person

(a) the design and the management of the dump; and

(b) the rehabilitation and decommissioning of every dump is done in accordance with these Regulations.

(2) A competent person appointed under sub-regulation (1), shall make a report-

(a) of every defect revealed during any inspection of the dump and any action taken to remedy such defect;

(b) on the condition of the drainage of the dump; and

(c) on any pollution to the environment that is revealed during inspection and the action to be taken to control such pollution.

17. (1) Notwithstanding sub-regulation (2), a developer shall obtain a report from an independent competent person on-

Reports by
independent
person
regarding
classified dump

(a) each active classified dump;

(b) the condition of the ground between a dump and all surface intersections of vertical planes drawn from the boundaries of any mine workings less than one hundred metres from the nearest edge of the dump;

(c) every matter which may affect the security or safety of the dump, ground or mine workings;

(d) any significant impact on the environment not originally predicted; and

(e) the progress made in implementing the environmental impact statement.

(2) The report shall contain information stating-

(a) whether or not the dump is safe;

(b) whether there has been any change in the design of the dump or in the nature of the material deposited;

(c) in detail, whether there may occur or there is likely to occur any subsidence or other surface movement which may affect the safety of the dump or any mine workings, whether abandoned or not;

(d) any surveys, tests, boreholes or groundwater measurements made for purposes of the report and the results;

(e) the precautions to be taken during any dumping operations to avoid pollution of the environment and prevent a nuisance; and

(f) any recommendation to modify the environmental impact

statement.

(3) The report referred to in sub-regulation (1) shall be obtained-

(a) at intervals of two years;

(b) as soon as practicable after a dangerous occurrence relating to a dump, ground or mine working happens;

(c) as soon as it is practicable after a significant impact on the environment not originally predicted occurs;

(d) after any alteration is made to any specifications or design of a dump; or

(e) if there is any change in the nature of the material dumped which may affect the safety of the dump or the environment.

(4) A copy of the report referred to in sub-regulation (1) shall be kept at the office of a mine for inspection by an inspector and another copy sent to the Director.

(5) If the area was not previously used as a dumping site, the first report shall be made not more than two years after the date on which dumping operations commence.

18. (1) A developer shall, for every active classified dump, keep-

Reports on
active classified
dumps

(a) any record relating to such classified dump obtained under regulation 16;

(b) a record of any written directions given by an inspector;

(c) accurate plans and sections of all the dumps and the dumping area showing clearly and accurately the state of the dump, fifteen months from the date any dumping commences or after such period as the Director may direct in writing;

(d) accurate plans of adjacent land within one thousand metres from the boundary of the dump and the sections showing any surface installation, mine workings whether abandoned or not and any geological or other feature that may affect the safety of the dump;

(e) any record completed at the end of each month relating to the nature, quantity and location of the material deposited in such classified dump; and

(f) a copy of the environmental impact statement.

19. An inspector, competent person or a person in charge of a mine shall inform a developer of any abnormal or unusual matter recorded in any report relating to any dump and the developer shall in turn inform the Director.

Reporting of unusual or abnormal matter

20. (1) Within thirty days of ceasing any dumping operations, and after completing the procedure set out in these Regulations a developer shall, apply to the Director for a classified dump to be closed.

Closure of dumping site

(2) An application referred to in sub-regulation (1) shall be accompanied by-

(a) an audit report on the impact of the dump on the environment prepared by an independent competent person;

(b) a copy of the environment impact statement;

(c) a copy of the records of the progress made in implementing the environmental impact statement; and

(d) a report on the progress on rehabilitating the dump indicating the environmental status of the dump and the surrounding areas and the amount of work still outstanding to rehabilitate the dump.

(3) The Director shall within four weeks of receiving the application referred to in sub-regulation (1), inform the developer, in writing, whether he accepts or rejects the application.

(4) Where the Director rejects the application he shall inform the developer, in writing, to make any alterations to the environmental impact statement, as he may think necessary.

(5) The report referred to in paragraph (d) of sub-regulation (2), shall be submitted every twelve months throughout the period the dump is being rehabilitated and decommissioned.

(6) The Director shall close a dump when all the conditions have been met by the developer.

21. (1) A developer shall appoint a competent person to inspect-

Inspection of decommissioned classified dump

(a) every decommissioned dump and the surrounding land situated one thousand metres from the boundary of the dump; and

(b) where the environmental impact statement is being complied with.

(2) Where the dump consists of material mainly in solution or suspension form, the inspection shall be at intervals not exceeding six months.

(3) Where the dump consists of material in a solid state, the inspections shall be at intervals not exceeding twelve months.

(4) A competent person referred to in sub-regulation (1), shall make and sign a full and accurate report of every defect or pollution to the environment which he discovers.

(5) The report referred to in sub-regulation (4) shall be kept at the office of the mine for a period of five years and shall be open for inspection by the public during normal working hours.

22. (1) A developer shall submit to the Director-

Report on
decommissioned
classified dump

(a) a report prepared by an independent competent person relating to the safety and environment status of a decommissioned dump not yet closed, at intervals not exceeding-

(i) five years for a dump consisting of material wholly or mainly in solution or suspension form;

(ii) ten years for a dump of material mainly in a solid state;

(b) a special supplementary report as soon as is practicable, if any pollution to the environment relating to a decommissioned dump not yet closed occurs; and

(c) a report within seven days, when the mine workings reach a horizontal distance of five hundred metres from the boundary of a decommissioned classified dump and the effect of such mine workings on the safety of the dump.

(2) The report referred to in sub-regulation (1) shall contain-

(a) the provisions set out in the Fifth Schedule;

(b) information on the safety of the dump;

(c) details of any subsidence or any other ground movement that may affect the safety of the dump indicating any danger to the mine workings;

(d) details of the progress of any rehabilitation work undertaken in accordance with the approved environmental impact statement; and

(e) information on the nature and extent of the inspection and supervision and the measures that should be taken to prevent or control pollution or abate nuisance.

23. (1) A developer shall keep a record at the mine of any plans and sections of a decommissioned classified dump including-

Keeping of plans, sections, etc. of decommissioned classified dump

(a) any particulars of any dumping, building, mining operations or engineering operations which may affect the safety of the dump or any survey or tests;

(b) any accurate plans and sections of every dump and the land adjacent to it, showing the extent of the dump from the date dumping operations ceased and decommissioning began;

(c) information showing the chemical composition and amount of material deposited, in tonnes;

(d) any accurate plans of the land adjacent to the dump, which is within one thousand metres from the boundary of the dump;

(e) any accurate sections of the strata underlying the dump, showing any variation in the thickness or character of the strata, which may affect the safety of the dump;

(f) a report, updated annually, on the progress of rehabilitating the dump and the surrounding area;

(g) any report relating to the dump as provided for under these Regulations; and

(h) any instructions given by an inspector relating to the dump.

(2) Any book, plan or other record referred to in sub-regulation (1) shall be open for inspection by an inspector.

24. (1) A developer shall submit to the Director-

Submission of reports for closed dump

- (a) all reports required under regulation 23;
- (b) a report on the progress of rehabilitating the dump and the surrounding area; and
- (c) the final audit on the environment conducted by an independent person.

PART IV

AIR QUALITY AND EMISSION STANDARDS

- | | |
|--|---|
| <p>25. (1) Except as provided for in the Sixth Schedule, a developer shall comply with the ambient air quality and emission standards established under the Air Pollution (Licensing and Emission Standards) Regulations, when discharging any toxic substance or harmful dust into the atmosphere.</p> | <p>Air quality and emission standards
Cap. 204</p> |
| <p>(2) The Director shall provide air quality limits to a developer where specific air quality limits or guidelines are not provided for under the Air Pollution (Licensing and Emission Standards) Regulations, or under the Sixth Schedule.</p> | <p>Cap. 204</p> |
| <p>26. The provisions of the legislation on Occupational Health and Safety shall apply to any person employed by a developer who is at risk of contracting any occupational disease as a result of any emission or pollutants which may result from any mining operations.</p> | <p>Application of Legislation on Occupational Health and Safety</p> |
| <p>27. A developer shall provide adequate supply of water to suppress dust or fumes generated by a mining operation where effective dust or fume extraction facilities are not available.</p> | <p>Water for dust suppression</p> |
| <p>28. (1) A developer shall provide ventilation which is adequate and effective-</p> | <p>Developer to provide</p> |

adequate
ventilation

(a) as provided in the Sixth Schedule and in the Air Pollution Control (Licensing and Emission) Regulations;

Cap. 204

(b) in any surface plant, building or any part of a mine in which any person travels to and from work or works;

(c) where any dust containing coal, asbestos or siliceous matter is released or may be released; or

(d) where any toxic substance evolves or may be evolved.

29. (1) Any toxic substance or harmful dust collected and not discharged into the atmosphere, as provided for in regulation 26, shall be abated at source or as near to the source as is practicable.

Removal of
toxic substance
or dust

(2) A toxic substance shall not be released from any surface plant or building in which any dust referred to in sub-regulation (1) is handled, processed, stored or evolved.

(3) Where the concentration of toxic substances determined under sub-regulation (1), are suspected to be harmful to any person or the environment, the frequency of determining the air quality shall be increased and steps taken to reduce the toxicity to acceptable levels as provided under the Environmental Protection and Pollution Control Act.

Cap. 204

(4) In determining the air quality under sub-regulation (1) the Director shall specify-

(a) the concentration of gases specified in the Sixth Schedule;

(b) the dust concentrations; and

(c) the concentration of any other toxic substance which is known or suspected to be present.

(5) The Director shall keep a record of the results of the air quality determined under sub-regulation (1), which record shall be signed by the ventilation engineer and the senior mine official of the plant, building or process concerned.

(6) A quarterly report of the results obtained in accordance with sub-regulation (1), shall be submitted to the Director in such form as the Director may determine.

30. (1) The Director shall assess the air quality of a scheduled mine or any mine to determine the air quality of a surface plant at intervals not exceeding thirty-one days. Determination of air quality in surface plants

(2) In making the assessment under sub-regulation (1) the Director shall consider;

(a) dust concentrations;

(b) concentrations of the gases specified in the Second Schedule of the regulations; and

(c) concentrations of any other toxic substance which is known or suspected to be present.

PART V

WATER STANDARDS

31. The water rights of any mining activity shall be as provided for in the Water Act. Water rights
Cap. 312

32. The quality of drinking water provided by a developer to his employees shall be as provided in the Seventh Schedule. Access to
drinking water

33. The quality of any water effluent entering a stream in a mining area Regulating

which is licensed as a discharge site, shall be as provided for in the Third Schedule to the Water Pollution Control (Effluent and Waste Water) Regulations.

effluent water
discharge
Cap. 204

PART VI

STORAGE, HANDLING AND PROCESSING OF HAZARDOUS MATERIAL

34. (1) In this Part, unless the context otherwise requires-

Interpretation

"bowser" means a mobile vessel used for conveying fuel underground or from the surface to underground;

"container" means a movable vessel, which has a capacity of not more than two hundred litres and not less than twenty litres, used for storing or conveying hazardous liquid;

"corrosive" means any substance that by chemical action may cause damage when in contact with any living tissue or any other substance;

"hazardous material" means-

(a) any substance which is a potential source of harm or danger;

(b) any corrosive, inflammable or combustible solid or liquid, ionising radiation and its source or petroleum product; or

(c) any toxic substance, hazardous liquid or hazardous solid;

"highly inflammable liquid" means any liquid which has a flash point of 7 degrees celsius or below;

"inflammable and combustible solid" means any carbonaceous or organic solid capable of self-igniting or of being ignited;

"inflammable combustible liquid" means any liquid which has a flash point below 93 degrees celsius;

"inflammable liquid" means any liquid which has a flash point above 7 degrees celsius but below 60 degrees celsius;

"ionising radiation" means any radioactive substance, whether sealed or unsealed and any machine or apparatus which emits ionising radiation particles charged at a voltage of not less than five kilovolts;

"mobile container" means any vessel mounted on wheels, tracks or skids, whether self-propelled or not, used for the transportation of any hazardous liquid and includes a bowser, tanker and trailer;

"petroleum product" means any derivative or product of crude petroleum oil and includes any liquidified hydrocarbon gas and its distillates;

"portable container" means any vessel which has a capacity of not more than twenty litres used for the storage or conveyance of any hazardous liquid;

"vehicle" means any wheeled or tracked self propelled unit, track or wagon owned or operated by a mine or contractor on the mine;

"tanker" means a mobile vessel used for the transportation of any hazardous liquid, by road or rail, on the surface;

"combustible liquid" means any liquid which has a flash point above 60 degrees celsius but below 93 degrees celsius;

"vessel" means any object or container used to carry hazardous, inflammable or combustible liquid, or petroleum products.

35. Any building, installation or equipment for storing any liquid under this Part, shall be suitable for storing such liquid.

Suitability of building, installation and equipment

36. Any liquid under this Part shall be stored, handled and processed in a manner that is safe and healthy for any person working in that mine. Safe working practice

37. A developer shall ensure that an appropriate code of safe working practice is enforced in accordance with regulation 37. Code of safe working practice

38. Any inflammable combustible liquid shall be classified as follows: Inflammable combustible liquid

(a) class I: any liquid which has a flash point below 38 degrees celsius;

(b) class II: any liquid which has a flash point above 38 degrees celsius but below 60 degrees celsius;

(c) class III: any liquid which has a flash point above 60 degrees celsius but below 93 degrees celsius.

39. (1) Except petrol in a tank of a vehicle, a highly inflammable liquid in excess of twenty litres shall not be stored in any container in a building. Storage of highly inflammable or combustible liquids

(2) Except fuel oil or any liquid stored in an industrial pressure cylinder, a combustible liquid shall not be taken underground without the prior approval in writing of the Director.

(3) No petrol shall be taken underground.

(4) Two incompatible hazardous liquids under this Part shall not be stored in close proximity of each other.

40. (1) Any vessel used for storing, conveying or transporting any hazardous liquid shall- Vessel for storing,

conveying or
transporting
liquid

(a) be sealed with a positive sealing device and where the vapour of that liquid may generate pressure to a dangerous level that container shall be sealed using a pressure relief valve;

(b) have a built in relief mechanism; and

(c) be clearly marked and labelled and, have prominently displayed on it, a label giving an appropriate warning of the dangers of such liquid.

(2) The conditions for storing any hazardous liquid shall be as prescribed in the Eighth Schedule.

41. (1) A person transferring any hazardous liquid shall-

Transferring
hazardous
liquid

(a) only load or unload one container at any one time and shall do so with the help of other people;

(b) use a suitable transfer pump or other safe means, when transferring any liquid into, or from, any mobile container or tank;

(c) not use a vessel that is pressurised or discharge any liquid unless the conditions relating to a pressure vessel are met, in accordance with the provisions of the Mining Regulations, 1997.

(d) use a vessel which is electrically bonded or protected against dangerous electro-static build-up;

(e) take adequate precautions to protect any person from any danger arising from the movement of such liquid; and

(f) not mix one type of inflammable or corrosive liquid with another.

(2) Notwithstanding paragraph (b) of sub-regulation (1), a gravity head of any hazardous liquid discharged may be used where a positive means for stopping the flow of that hazardous liquid is adequately secured at source.

(3) The gravity head of the hazardous liquid referred to in sub-regulation (2) shall not exceed thirty metres without the prior approval, in writing, of the Director.

42. (1) Where the quantity of any hazardous liquid stored inside any building exceeds two hundred litres, that liquid shall be stored inside a storage room set aside for that purpose.

Storage of any hazardous liquid in storage room

(2) The storage room, referred to in sub-regulation (1), shall not contain more than two thousand litres of any hazardous liquid.

(3) The storage room referred to in subsection (2) shall-

(a) be located in such a position that fire may not spread quickly and shall have a minimum of two hours resistance;

(b) have suitable fire-fighting equipment located in suitable positions, outside the room;

(c) be fitted with a high and low system of ventilation flowing outside;

(d) be built with a floor that can easily be drained;

(e) have facilities to relieve pressure where there is likelihood of any danger.

(f) have prominently displayed at suitable places, inside, and outside that room, notices bearing the following inscriptions: "NO SMOKING", "NO FIRES" and "NO NAKED LIGHTS"; and

(g) have electric light bulbs, inside that room, adequately protected

with all switches and fuses affixed outside.

(2) Any vessel kept in the storage room shall be suitably sealed when not in use.

43. (1) Where the quantity of any hazardous liquid stored outside any building in a storage shed exceeds two hundred litres, that shed shall- Storage of hazardous liquid in storage shed

(a) have a space of at least five metres from any cultivation, shrub or grass and other inflammable or combustible materials capable of causing fire;

(b) be constructed of non-flammable material;

(c) have suitable fire-fighting equipment located at suitable positions outside the shed;

(d) be fitted with a high and low system of ventilation flowing outside;

(e) have prominently displayed at suitable places inside and outside the shed, notices bearing the following inscription: "NO SMOKING", "NO FIRES" and "NO NAKED LIGHTS"; and

(f) where illuminated by electric lights, have all bulbs inside that shed adequately protected with all switches and fuses affixed outside that storage shed.

(2) A container containing any liquid kept in the shed shall be kept suitably sealed when not in use.

44. (1) Where the quantity of any hazardous liquid stored on the surface in any open area exceeds two thousand litres, that open area shall- Storage of hazardous liquid in open area

(a) be adequately fenced at a distance of five metres from the

surrounding area, away from any cultivation, shrub or grass and other inflammable or combustible materials that can cause fire;

(b) have prominently displayed, at suitable places outside the fenced area, notices bearing the following inscription: "NO SMOKING", "NO FIRES" and "NO NAKED LIGHTS"; and

(c) have electric light bulbs, within that fenced area, adequately protected with all switches and fuses affixed outside that fence.

45. (1) Where the quantity of any hazardous liquid stored in any vessel exceeds two thousand litres, the conditions set out in the Ninth Schedule to these Regulations shall apply. Storage of hazardous liquid

(2) A plan of the area where the vessel is to be installed and the specifications of the vessel shall be submitted to the Director accompanied by a plan of the site showing how any potential contamination of the soil shall be prevented or controlled.

(3) The Director shall approve the plan referred to in sub-regulation (2) within sixty days of receipt of such plan.

46. (1) A person shall not re-fuel any self-propelled vehicle with petrol or fuel-oil except at a filling station constructed in a mining area in accordance with regulation 47. Re-fueling of petrol and fuel oil in a mining area

(2) When it is impracticable to comply with the requirements under sub-regulation (1), a person may re-fuel from suitably equipped, mobile container with the prior approval, in writing, of the Director, and in case of an emergency, a small quantity of petrol or fuel-oil, sufficient to enable a vehicle to be driven to a filling station, may be taken to that place in a portable container.

(3) The Director may approve, in writing, re-fuelling underground directly from a bowser, in the initial stages of any mining operations, if it is not practicable for a filling station to be constructed.

(4) A person shall not re-fuel at any filling station or at any other place,

while the engine of the vehicle being re-fuelled is running.

(5) A person shall not re-fuel within three metres from any live trolley line conductor.

47. (1) Any filling station in a mining area shall-

Filling station
in mining area

(a) be constructed out of non-flammable materials;

(b) be accessible in not less than two ways;

(c) be ventilated by a flow of sufficient air to dilute any gas emitted during re-fuelling;

(d) have a concrete floor that is impervious and free of cracks and shall be sloped to facilitate cleaning and collection of any spilt fuel;

(e) be provided with suitable fire-fighting equipment;

(f) open between hours of sunset and sunrise on the surface and at all times underground; and

(g) be equipped with suitable electric lighting and the bulbs and tubes for the lighting shall be adequately protected.

(2) A competent person shall be in charge of a filling station or any other place where petrol or fuel-oil is stored.

(3) The provisions of sub-regulation (3) of the Regulation (3) shall apply to this Regulation, with the necessary modifications.

48. A developer shall transport fuel from the surface to the underground or between places underground in a bowser, approved in writing, by the Director.

Transportation
of fuel-oil
underground

49. Any fuel-oil used underground to power any engine shall be as

Specification of

specified in the Ninth Schedule.

fuel-oil
underground

50. The total quantity of fuel-oil permitted underground shall not, as far as is reasonably practicable, exceed the quantity likely to be normally consumed within a period of seven days.

Amount of
fuel-oil
permitted
underground

51. (1) Where any petrol or fuel-oil is spilled in any place it shall be removed immediately, and if, in the process of removing the petrol or fuel-oil, any material is contaminated, that material shall be placed in a suitable container for subsequent destruction or other safe disposal.

Spillage of
fuel-oil

(2) Any person who spills petrol or fuel-oil on an engine or vehicle that person shall immediately ensure that the petrol or fuel-oil is removed.

(3) A person shall not wash any petrol or fuel-oil into any drainage system or any place where it may cause danger or pollution to the environment.

52. Except a bowser, any container, used to transport any hazardous liquid under this Part shall-

Transporting of
hazardous
liquid in
container

(a) be fitted with surge plates;

(b) have filling pipes which extend below the level of the suction pipe;

(c) have a vent of not less than fifty millimetres in diameter, fixed to each vessel and protected by two wire gauze diaphragms which do not corrode, each of which shall have a linear mesh aperture of not less than 0.4 millimetres or more than 0.6 millimetres and diaphragms spaced not less than seventy-five millimetres apart;

(d) be earthed in accordance with the provisions of the Mining Regulations, 1997, during transportation of any hazardous liquid and the resistance of any connection shall not exceed five ohms;

(e) be equipped so that the volume of the liquid in the container may be accurately ascertained at any time;

(f) have prominently displayed;

(i) on the front, rear and each side, the name of the hazardous liquid being transported and its category in accordance with regulation 35;

(ii) any special action to be taken or any action to be avoided, in an emergency concerning the hazardous liquid being transported; and

(iii) any prohibitions to be observed by persons near the mobile container;

(g) be equipped with suitable fire-fighting equipment adequate to combat fire in its initial stage;

(h) be fitted with the requirements specified in the Roads and Roads Traffic Act in relation to that liquid; Cap. 464

(i) have an air space of not less than 2.5 per cent of the total capacity of that container;

(j) have all elements of any articulated container electrically bonded; and

(k) be securely attached to the chassis.

53. A developer transporting fuel-oil in a bowser shall transport such fuel in a bowser-

Transporting
fuel-oil in
bowser

(a) fitted with filling pipes which extend below the level of the suction pipe;

(b) which has a vent of not less than fifty millimetres in diameter, fixed to each vessel and protected by two wire gauze diaphragms that do not corrode, each of which has a linear mesh aperture of not less than 0.4 millimetres or more than 0.6 millimetres and diaphragms spaced not less than seventy-five millimetres apart;

(c) earthed in accordance with the provisions of the Mining Regulations, 1997, and the resistance of any connection shall not exceed five ohms;

(d) clearly marked;

(e) equipped with suitable fire-fighting equipment adequate to combat fire in its initial stage;

(f) fitted with a suitable reflector at each end; and

(g) with an air space of not less than 2.5 per cent of the total capacity of such bowser.

54. Any developer who transports acid using a mobile container or road tanker shall, in addition to the provisions of regulation 52-

Transporting
corrosive liquid
in mobile
container

(a) prominently display on the front, rear and each side of such container or road tanker a notice bearing the following inscription: "DANGER ACID", and shall have a clearly visible flashing light when transporting the acid;

(b) have at all times, at least twenty litres of water to be used for diluting the acid in case it burns any person; and

(c) have adequate chains between the trailer and the tanker at each side of the tow-bar where the tanker is towing a trailer tanker.

55. (1) A person shall not smoke or use any naked lights at any filling station or at any other place where petrol or fuel-oil is stored or where vehicles are re-fuelled.

Prohibition of
smoking and
naked lights

(2) A notice shall be displayed at a filling station and other places referred to in sub-regulation (1) stating the prohibition referred to in that sub-regulation.

(3) A developer shall provide adequate fire-fighting facilities at a filling station or other places referred to in sub-regulation (1).

56. A developer shall not use a road tanker transporting any corrosive liquid to tow any other vehicle.

Prohibition of towing

57. (1) Where any inflammable or combustible solid is stored at any place, the following conditions shall apply;

Storage of inflammable or combustible solid

(a) adequate precautions shall be taken to prevent spontaneous combustion or self-ignition;

(b) sufficient ventilation shall be provided to dilute spontaneous combustion or self-ignition;

(c) incompatible solids shall be stored apart;

(d) suitable fire-fighting equipment shall be provided; and

(e) a notice bearing the following inscription: "NO SMOKING", "NO NAKED LIGHTS" and "NO FIRES" shall be prominently displayed at suitable places.

(2) Any inflammable and combustible solids shall be stored in a safe and suitable manner at a safe distance from any explosives, magazine, storage box or shaft.

(3) Notwithstanding sub-regulation (2), an inflammable or combustible material awaiting transportation underground may be temporarily stored at the shaft bank if suitable precautions are taken to prevent danger from fire.

58. A person shall not touch or move any container or vessel containing any hazardous material which is leaking until a competent person has personally examined the container and has given instructions on the action to be taken.

Prohibition of touching or moving damaged

container

59. (1) Where any repair is to be undertaken inside any vessel or mobile container which contains any hazardous material, the following procedure shall be followed: Repairs to mobile container

(a) the mobile container or vessel shall be opened and thoroughly ventilate before any repairs are undertaken;

(b) a suitable sampling apparatus shall be used to determine the level of any concentration of gas, vapour or fumes in the container;

(c) a person shall not enter the vessel or mobile container until it is safe to do so;

(d) a competent person, who has personally examined the vessel or mobile container and who is satisfied that it is safe to do so, shall certify that repairs be undertaken specifying-

(i) the repairs to be undertaken;

(ii) the manner in which such repairs shall be undertaken; and

(iii) the precautions to be observed;

(e) where the container contains inflammable, combustible or toxic liquid, it shall be purged; and

(f) where any scale or sludge is to be removed, the repairs shall only be undertaken with suitable non-ferrous tools.

(2) Where any repair is to be carried out on the outside of any tank or mobile container, suitable precautions shall be taken to ensure that no person is endangered while conducting such repairs.

60. Where any repairs have to be carried out on any bowser which contains a hazardous liquid, the provisions of regulation 59 shall apply. Repairs to bowser

61. Where any repairs have to be carried out on any vessel which Repairs to

contains hazardous material, the provisions of regulation 59 shall apply before any person enters the container. vessel

62. The provisions of the Ionising Radiation Act shall apply to any place in which ionising radiation or any radio-active substance is present. Ionising radiation
Cap. 311

PART VII

INSPECTION

63. (1) The Director shall appoint authorised persons in accordance with the provisions of section *eighty-three* of the Act. Inspection of mining operations

(2) The Director shall issue an identity card set out in the Tenth Schedule to each authorised person.

(3) Any person who obstructs the Director in the performance of his duties under this Part shall be guilty of an offence.

64. (1) An authorised person shall have powers, on production of the identity card issued to him under regulation 63, to inspect any mining operation and conduct such inquiries and tests to ensure that the provisions of the Act and these Regulations are being complied with. Power of authorised person

(2) In inspecting any mining operation referred to in sub-regulation (1), an authorised person shall ensure that the mining operation does not have a severe impact on the environment and the records kept are in accordance with the provisions of these Regulations.

(3) The mining operations and records referred to in sub-regulation (2), shall not apply to proprietary information.

(4) An authorised person shall furnish the Director with such reports and such other information relating to the matters referred to in

sub-regulation (2) as the Director may direct.

PART VIII

THE ENVIRONMENTAL PROTECTION FUND

65. (1) A developer shall contribute to the fund established under the Act. Contribution to Fund

(2) The contributions referred to in sub-regulation (1), shall depend on the capacity of the developer to rehabilitate the mining operations that may have an adverse impact on the environment, as may be determined by the Director.

(3) A person referred to in sub-regulation (2), shall apply for a refund of his contribution, less the monies owed to Government as provided for under the Act, if a mine site is declared closed.

66. (1) The contributions to the Fund referred to in regulation 65, shall be calculated depending on the performance of each developer, and shall be categorised as set out in the Eleventh Schedule Fund contributions

(2) The Director shall inform the developer of the category in which the prospecting, exploration or mining operation shall fall and the contribution to the fund using the Form as set out in the Third Schedule.

(3) The contribution shall be deposited with the Fund over a period of five years beginning the year the prospecting, exploration or mining operations are commissioned in the case of new operations, or when the developer submits an approved environmental impact statement in the case of existing mines or project briefs for prospecting and exploration projects.

(4) A new prospecting, exploration or mining operation shall not be

classified in category 1 of the Eleventh Schedule.

(5) A developer who is aggrieved by any decision made under this regulation, may appeal against such decision in accordance with, and as provided for, under section *ninety-five* of the Act.

67. The Director may give concessions to a developer after assessing- Concessions by Director

(a) the approved environment impact statement of new or existing mining, prospecting or exploration operations,

(b) the annual audit report on the environment submitted to the Director; and

(c) any inspection or investigation that the Director may consider necessary for environmental audit report purposes.

PART IX

MISCELLANEOUS

68. Except for any proprietary information, the public shall have access to projects briefs, environmental impact statements, comments made by the public hearing reports kept by the Director. Public access to information

69. (1) A developer shall provide appropriate protective clothing to any employee exposed to any pollutant from a mining process or the environment which may cause injury or impairment to the function of the body of such employee. Protective clothing

(2) An employee to whom personal protective clothing is provided under sub-regulation (1), shall maintain such clothing in a sanitary and proper condition.

70. A developer who operates a mine, where any toxic substance is Provisions of

handled, processed or stored, shall provide-

washing and eating facilities where toxic substances are handled

(a) adequate washing facilities to be used by these employees at the end of each shift; and

(b) adequate facilities immediately adjacent to the washing facilities established under paragraph (a), where such employees shall eat during working hours.

71. A developer shall issue an appropriate code of safe working practice for use by all the employees who work in hazardous conditions, to ensure, as far as is reasonably practicable, the safety and health of his employees.

Code of safe working practice

72. A developer who makes, or causes any other person to make, an excavation into which a person or animal may fall, shall make a regular ridge around the boundary of the excavation or take such other measures as are necessary for the safety or health of such person or animal.

Protection at surface excavation

73. (1) Where any mining operation has caused or is likely to cause any crack, subsidence or cavity on the surface in any area, the whole of the area shall be kept fenced or bounded and shall be a caving area and sufficient notices prohibiting unauthorised entry to the area shall be prominently displayed at suitable places along the fence or bounds.

Crack, subsidence or cavity

(2) No person shall carry out any mining operations likely to cause any crack, subsidence or cavity on the surface within a horizontal distance of one hundred metres from any building, road, railway, lake, river, or any other structure or feature on the surface requiring protection, unless written permission is obtained from the Director, under such conditions as he may prescribe.

(3) No person shall erect or construct a building, power line, road or railway within one hundred metres from the line of break of a caving area, except with the written permission of the Director.

(4) No person shall deposit tailings or other fluid material at any place on the surface of a mine, without the prior approval in writing of the Director.

(5) No person shall enter any caving area, except for the purpose of performing statutory duties.

75. A dump which may cause spontaneous combustion, shall be situated in such a position that it may not cause fire and shall not-

Danger from
spontaneous
combustion

(a) be a danger to any person;

(b) damage any mine shaft, open pit mine, quarry or building; or

(c) pollute the environment.

74. (1) Any person who contravenes any provisions under these Regulations shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years or to both.

General penalty

(2) If the offence referred to in subsection (1) is committed by a company, each person who is a director or is a person in-charge of that mine shall be guilty of that offence, if it was committed with his knowledge.

FIRST SCHEDULE

(Regulation 3)

INFORMATION TO BE CONTAINED IN ENVIRONMENTAL PROJECT BRIEF

1. Name of developer
2. Address of developer
3. Telephone number of developer
4. Fax numbers and electronic mail address
5. Name of owner of mine
6. Mine manager or the person responsible for mine
7. Prospecting permit or mining right or licence number
8. Regional setting:
 - (a) plan or aerial photograph required;
 - (b) topography (Plan required);
 - (c) surface infrastructure (such as roads, railway lines and power lines in the vicinity).
9. A brief description of the regional climate:
 - (a) mean monthly and annual rainfall for the site;
 - (b) mean monthly maximum and minimum temperatures;
 - (c) mean monthly wind direction and speed-where appropriate (such as in urban areas and if such information is freely available);
 - (d) mean monthly evaporation; and
 - (e) incidence of extreme weather conditions-floods, drought, high winds.
10. Soil:
 - (a) plan required;
 - (b) a description of the soil types to be disturbed, their fertility, erodibility and depth;
 - (c) pre-mining land use (proportions of the land used as arable land, grazing land, wetland, and wilderness land, and existing structures and any evidence of misuse).
11. Natural vegetation or plant life
12. Animal life:

Presence of rare or endangered species.
13. Surface Water:
 - (a) plan required;
 - (b) the presence of water course, streams, rivers, dams, and pans should be indicated; and
 - (c) surface water quality.
14. Groundwater (information readily available):
 - (a) depth of water-table, presence of water boreholes; and springs (plan required); and
 - (b) groundwater quality and use.
15. Air quality
16. Noise
17. Sites of archaeological and cultural interest (plan required)
18. Sensitive landscapes
19. Visual aspects
20. Regional socio-economic structure (does not apply for prospecting)
21. Interested and affected parties:

Identify and list known bodies representing interested and affected parties.

22. Geology:

- (a) representative logs, and where appropriate, a section through the orebody and surface mapping;
- (b) identify and characterise overburden material that will be disturbed, may give rise to a deterioration in water quality; and
- (c) presence of dykes, sills and faults that extend beyond the property boundary (plan required).

23. Mineral Deposit:

- (a) mine product(s); including solid, liquid and gaseous waste generation; and noise, heat and radioactive emissions, from normal and emergency operation; or prospecting target mineral(s);
- (b) estimated reserves or extent of target area;
- (c) proposed prospecting or mining method(s) (e.g. opencast, underground, long wall, extensions to existing mine, etc.); and
- (d) planned production rate; planned life of mine or duration of prospecting.

24. Environmental Impact:

- (a) the expected environmental impact of the mining operation;
- (b) the expected area of land and water that may be affected;
- (c) a description of measures to be taken on pollution and any monitoring programmes to be implemented.

25. Mining Operation Project Motivation:

- (a) a brief summary of the motivation for the mining operation; where it is intended that the product(s) shall be sold;
- (b) an estimate of the expenditure required to bring the mining operation into production;
- (c) an estimate of the total annual expenditure at full production;
- (d) an estimate of the labour force during construction at full production; and
- (e) an estimate of the multiplier effect on the local regional and national economy.

26. Mining Operation Alternatives:

- (a) a brief summary of considered mining operation alternatives;
- (b) mining methods;
- (c) mineral processing method;
- (d) transport;
- (e) power and water supply routes;
- (f) sources of water;
- (g) mine infrastructure sites;
- (h) mine disposal sites;
- (i) domestic and industrial water disposal sites;
- (j) housing sites;
- (k) land use options after rehabilitation;
- (l) alternatives to river diversions; and
- (m) the "No mining operation" option.

SECOND SCHEDULE

(Regulation 4)

CONTENTS OF ENVIRONMENTAL IMPACT STATEMENT

1. A detailed description of the proposed prospecting, exploration or mining operation.
2. An estimate of the expected impact of the prospecting, exploration or mining operation on the environment.
3. The procedure to be used to either prevent, minimise or rehabilitate the adverse environmental impact.
4. The proposed environmental management procedures shall be specified and shall include an adequate monitoring and reporting system, which shall incorporate the provisions of the Environmental Protection and Pollution Control Act.
5. Surface infrastructure:
Surface infrastructure (plan required), to include:
 - (a) Roads, railways and power-lines;
 - (b) Solid waste management facilities including industrial and domestic waste disposal sites; mine residue disposal sites (state or show on the plan, the type of residue, final extent of the dumps, construction method and water reticulation layout);
 - (c) Water pollution management facilities, including:
 - (i) sewerage plant location, its design capacity and the process to be used;
 - (ii) pollution control dams, dumps, paddocks and evaporation dams (indicate whether these are to be lined or not); and
 - (iii) polluted water treatment facility, its design capacity and the process to be used;
 - (d) Portable waterplant, location, its design, capacity and the process to be used;
 - (e) Process water supply system, its design, capacity and the process to be used;
 - (f) Mineral processing plant;
 - (g) Workshops, administration and other buildings;
 - (h) Housing, recreation and other employee facilities;
 - (i) Transport;
 - (j) Water balance diagram right across the minesite (the diagram should show the water supply source(s), the water discharge point(s), the evaporation areas and potential seepage points. Each step in the diagram should indicate the estimated flow, in cubic metres per day, into and out of the facility, whether it is pumped or gravity fed, piped or an open channel flow, clean or dirty water and, where appropriate, e.g. in the case of dams, the storage capacity); and
 - (k) Disturbances of water courses.
6. Storm-water:
(Indicate on a plan the storm water diversion measures designed to separate clean from contaminated water);
7. Geology
8. Topography:
(Plan required of expected post-mining topography. Include what slopes will be created during rehabilitation and dump construction).
9. Soils:
(Include depths of soil that will be disturbed and how fertility and erosion will be managed);
10. Land capability:
(Plan required of expected post-mining land capability), and use-(include what type of land use is planned).
11. Natural vegetation or plant life:
(For river and stream diversions emphasise aquatic plant life. If possible, include a description of the plant life that will be used during rehabilitation and how the vegetation will be managed).
12. Animal life:
For river and stream diversions, emphasise aquatic animal life.
13. Surface water:
Indicate the strategies for managing the following:

- (a) the water balance;
- (b) storm water;
- (c) surface rehabilitation (in so far as this affects surface water);
- (d) the legitimate requirement of surface water users on the affected water course;
- (e) for river and stream diversions only-(include how the significant impacts identified will be managed, paying particular attention to erosion control, structural stability and surface drainage into and out of the diverted section).

14. Groundwater:

Indicate the strategies for the following:

- (a) optimising surface rehabilitation in order to minimise adverse groundwater impacts;
- (b) meeting the requirements of legitimate ground-water users in the affected zone.

15. Air quality:

Include an air pollution control plan if the assessment reveals significant potential impacts on air quality at potential impact sites.

16. Noise:

Include a noise reduction plan if significant impacts are expected at receptor sites.

17. Sites of archaeological and cultural interests

18. Sensitive landscapes

19. Visual aspects

20. Regional socio-economic structure

22. Submission of information:

The developer shall establish the extent to which information on measure taken to comply with statutory requirements are to be submitted. The provisions of the Environmental Protection and Pollution Control Act relating to gaseous and effluent emissions will apply as well as the requirements under these Regulations.

23. Maintenance:

Some of the measures will require maintenance after they have been implemented until the time decommissioning and closure activities begin. The developer should consider, where appropriate, the maintenance of at least the following:

- (a) rehabilitated land;
- (b) water pollution control structures; and
- (c) rehabilitated dumps, residue deposits.

THIRD SCHEDULE

(Regulations 5 and 66)

THE REHABILITATION COSTS ESTIMATE

The rehabilitation cost estimate submitted by the developer shall be lodged as a cash contribution with the Environmental Protection Fund established under the Act over a period of five years beginning in the year mining operation is commissioned. For new projects, a submission of an acceptable environmental management plan in the case of existing mines, at the rate of twenty percentum of the total cost each year. If a mining operation lasts less than five years, the cash contribution rate shall be on a *pro-rata* basis. There shall be concessions given against the full cash contribution to be submitted to the Fund which will depend upon the mining operations environmental performance rating as follows:

<i>Category</i>	<i>Concession</i>
1.	95% off full rehabilitation cost
2.	90% off full rehabilitation cost
3.	80% off full rehabilitation cost

The levy concessions shall be such that a developer contributes successively decreasing amounts of money to the Fund over the five year implementation period depending on how quickly the project moves from environmental category 3 to 1. However, this means that the minimum cash contribution that a project can submit to the fund is 5% of the total mine site rehabilitation cost as estimated by the developer. New projects can upon demonstration of capability be rated as Category 2 and then work towards achieving Category 1 status. This contribution shall be calculated against concluding closure costs only and will exclude progressive rehabilitation costs.

ITEMISED REHABILITATION

REHABILITATION COST ESTIMATES

<i>Surface Treatment</i>	<i>Estimated Cost (K/ha)</i>	<i>Area(ha)</i>	<i>Cost(K)</i>
1. <i>Plough, seed, fertilise, construct Graded banks, plant area, roadways spoil</i>			
2. <i>Profiling of spoil for topsoil spreading</i>			
3. <i>Pick-up, transport 100 m, spread Topsoil per 300 mm</i>			

FOURTH SCHEDULE

(Regulation 11)

CONTENTS OF REPORT TO DIRECTOR BEFORE DUMPING

1. The intended total amount of material to be dumped.
2. The average amount of material to be dumped.
3. The chemical composition of the material.
4. The intended dumping method.
5. The details of the site preparation, drainage and foundation.
6. Plans of the proposed dump to a scale of not less than 1/2500 and a section to a scale of not less than 1/1250 or to such larger scale as the Director may in writing approve.
7. The records of the design of the dump.
8. The intended area, height and contour of the boundaries of the dump.
9. The position and the nature of the construction of any wall or other structure.
10. The design and structure of the spillway and the type of material to be deposited there.
11. The nature and extent of inspection, supervision and safety measures necessary during any dumping operations.
12. The details of measures intended to prevent pollution including information on-
 - (a) surface hydrology;
 - (b) existing surface water quality;
 - (c) riverbed sediment;
 - (d) ground water hydrology and ground water quality, where applicable;
 - (e) the extent and location of any ground water aquifers relative to the selected disposal site and how they are to be protected from pollution;
 - (f) the monitoring system to be used;
 - (g) the chemical composition of the material to be deposited which shall be evaluated;
 - (h) the mineralogy of the selected site to determine the potential of acid mine drainage.

N.B. The environment impact statement provided under regulation 6 shall be attached.

FIFTH SCHEDULE

(Regulation 22)

CONTENTS OF DECOMMISSIONING AND CLOSURE PLAN

1. Reasons for closure.
2. Infrastructure:
 - (a) demolition of structures buildings foundations and removal of debris;
 - (b) rehabilitation of the surface according to section *seventy-six* of the Act.
3. Mine dumps and residue deposits:
 - (a) disposal facilities like pipes, solution, trenches, return water dams, etc;
 - (b) ongoing seepage, control of rain water;
 - (c) long-term physical and chemical stability; and
 - (d) final rehabilitation in respect of erosion and dust control.
4. Sealing of underground mining operation:
rehabilitation of dangerous excavations.
5. Progress report of decommissioning:
A developer shall submit to the Director, annually, the progress of the decommissioning of the mining operating until the area is declared closed by the Director.
6. Maintenance-A decommissioned site which requires maintenance until closure is approved by the Director, shall be maintained by the developer by-
 - (a) rehabilitating the land;
 - (b) Controlling water pollution; and
 - (c) rehabilitating residue deposits.

SIXTH SCHEDULE

(Regulation 25)

MAXIMUM PERMITTED QUANTITIES OF CERTAIN GASES IN AMBIENT AIR

Description of gas	Maximum permitted quantity of gas in mg/m ³
1. Hydrogen sulphide	14

SEVENTH SCHEDULE

(Regulation 32)

Table 1: GUIDELINE VALUES FOR HEALTH RELATED INORGANIC CONSTITUENTS IN DRINKING WATER (WHO, 1993)

Constituent	Guideline Values (mg/L)
Arsenic	0.01
Cadmium	0.003
Chromium	0.05
Cyanide	0.07
Fluoride	1.5
Lead	0.01
Mercury	0.001
Nitrate (as N)	10.00
Selenium	0.01

Table 2: GUIDELINE LEVELS FOR CHEMICAL CONSTITUENTS AND PHYSICAL CHARACTERISTICS THAT MAY AFFECT THE AESTHETIC QUALITY OF DRINKING WATER (WHO, 1993)

Constituent Characteristic	Guideline Value
Aluminium	0.2mg
Chloride	250 mg C/litre
Colour	15 True Colour units
Copper	1.0 mg/L
Hardness	500 mg/L as CaCO ³
Hydrogen Sulphide	0.05 mg/L
Iron	0.3 mg/L
Manganese	0.01 mg/L
pH	6.5-8.5
Sodium	200 mg/L
Solids - total Dissolved	250 mg/L
Sulphate	Not offensive for most consumers
Taste and Colour	5 Nephelometric turbidity units preferably
Turbidity	<1 disinfectant efficiency
Zinc	3.0 mg/L

EIGHTH SCHEDULE

(Regulation 40)

CONDITIONS FOR STORING HAZARDOUS LIQUID

1. Every vessel shall-

- (a) contain two suitable manholes, handholes or other means which will allow the interior to be thoroughly cleaned and inspected;
- (b) have safe means of access by any person to any part of the vessel;
- (c) have a vent not less than fifty millimetres in diameter fixed to each vessel and adequately protected by two wire gauze diaphragms, that do not corrode and which has a linear aperture of not less than 0.4 millimetres or more than 0.6 millimetres and diaphragms shall be spaced not less than seventy-five millimetres apart;
- (d) have a vent at the open end facing downwards at least three metres above ground level and not within three metres from any door, chimney or exhaust pipe;
- (e) be earthed as defined in the electricity provisions of the Mining Regulations, and the resistance of any connection shall not exceed five ohms;
- (f) be equipped with filling pipes, extending below the level of the suction pipe with a screwed metal connection to the source of supply;
- (g) have, prominently displayed at suitable places, notices bearing the following inscription: "NO SMOKING", "NO FIRES" and "NO NAKED LIGHTS";
- (h) be placed reasonably free from corrosive ground water or effluent or be treated with anti-corrosive materials; and
- (i) be equipped so that the volume of liquid contained in that vessel may be accurately ascertained.

2. The provisions of paragraph (c), (d), (e), (f), (g), (h), (i) and (j) of sub paragraph 1 shall apply to a vessel which is buried and contains petrol or fuel-oil.

3. A buried vessel referred to in sub-paragraph 1 shall be-

- (a) covered with reinforced concrete to a thickness of not less than one hundred and sixty millimetres;
- (b) be suitably protected; and
- (c) filled through oil-tight pipes fitted with screwed pipes or valves.

4. The provisions of paragraph 1 shall apply to any vessel in which petrol or fuel-oil is stored on the surface and is not buried.

5. A vessel referred to in paragraph 4 shall be-

- (a) supported on properly constructed wall surrounded by enclosed walls or impermeable bunds or embankments of sufficient strength, capable of retaining one hundred and ten per cent of the amount of petrol or fuel-oil contained in that vessel or, where more than one vessel is installed, one hundred and ten per cent of the amount of petrol or fuel-oil contained in all the vessels;
- (b) have valves to stop the flow of liquid if any pipe is damaged;
- (c) equipped with suitable discharge pumping equipment which shall be placed outside any enclosed impermeable bunds or embankments and fitted with stop valves; and
- (d) have its lightning protected.

6. The provisions of paragraph 1 shall apply to any vessel in which any corrosive liquid is stored on the surface with the necessary modifications.

7. Where the vessel is not provided with enclosed walls or impermeable bunds or embankments, there shall be provided a suitable and adequate drainage system draining into a soak-pit or settling pond of sufficient size to contain one hundred and twenty per cent of all the liquid into the vessel until that liquid can be neutralized.

8. Where the discharge of the liquid is by means of compressed air or gas, the requirements of pressure vessels as provided for under the Mining Regulations shall apply.

9. The provisions of paragraph 1 shall apply to any underground vessel in which fuel-oil is stored.

10. An underground vessel referred to in paragraph 9 shall be-

- (a) kept in, or adjacent, to a filling station;
- (b) have two means of access if any point within the area in which the tank is situated is in excess of eleven metres away from the entrance on the intake side;

- (c) constructed of non-flammable materials;
- (d) situated in a well ventilated place and the return air shall be directed to a return airway;
- (e) have walls constructed so as to form a liquid-tight joint with the floor, and any openings through the walls not at a height below the maximum volume of the fuel-oil to be stored in it
- (f) positioned on the intake side of the tank and suitable means of extinguishing any fire shall be provided; and
- (g) protected, as far as is reasonably practicable, against accidental damage.

11. The provision of paragraph 1, 2, 3, 4, 5, 6, 7 and 8 shall apply to any vessel in which any hazardous liquid other than petrol, fuel-oil or corrosive liquid is stored.

NINTH SCHEDULE

(Regulation 49)

FUEL OIL

Fuel oil used underground for supplying motive power to diesel engines shall have a sulphur content of not greater than 0.5 per cent by weight and flash-point of not less than 57.0 degrees celsius as measured by the Closed-Tester apparatus detailed by the Institute of Petroleum (IP-34) or the American Society for Testing and Materials (ASTMD-93) test methods. With due allowance for test method repeatability the guaranteed minimum flash-point should never be lower than 51.5 degrees celsius.

If, for refining reasons beyond the control of the suppliers, the flash-point would be lower than the specified value with a fuel of sulphur content of 0.5 per cent by weight or less, then the sulphur content may be increased to a maximum of 1.0 per cent by weight in order to maintain the flash-point above the specified value.

TENTH SCHEDULE

(Regulation 63)

FORMS

FORM MS 1

REPUBLIC OF ZAMBIA

MINES AND MINERALS ACT

Mines and Minerals (Environment Protection and Pollution Control) Regulations

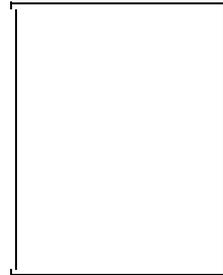
(Regulation 15)

CERTIFICATE OF IDENTITY FOR AN AUTHORISED PERSON

This is to certify that;

.....

has been duly appointed as an authorised person in accordance with section *eighty-three* of the Mines and Minerals Act and section *four* of the Explosives Act.



Signature

Director of Mines Safety

Signature

Bearer

ELEVENTH SCHEDULE

(Regulation 66)

FUND CONTRIBUTIONS

Category 1

Action taken to rehabilitate

- (a) progressive rehabilitation carried out;
- (b) whether rehabilitation has been properly monitored; and
- (c) whether the annual rehabilitation audits show progress to meet the target of the environmental impact statement to manage environmental pollution.

Category 2

Environmental compliance capability

- (a) the financial capability to complete the rehabilitation of the mine area;
- (b) the materials in place for total mine area rehabilitation;
- (c) whether suitable expertise is provided for the organisational structure; and
- (d) whether the developer or the person who holds a mining licence or permit has an approved environmental impact statement or project brief.

Category 3

Basis operational and strategic environmental protection requirements

- (a) an approved environmental impact statement or project brief;
- (b) discharges of mining operations are permitted or licenced;
- (c) post-mining land use and slop and profile design, allowing stable land rehabilitation within the mining or permit area; and
- (d) a water management system is in place or designed to contain, treat, discharge or dispose of contaminated water.

**SECTION 108-THE MINES AND MINERALS
(APPLICATION FOR MINING RIGHTS)
REGULATIONS**
Regulations by the Minister

**CAP. 213
Statutory
Instrument
123 of
1996
144 of
1996
154 of
1996**

- | | |
|---|-----------------------------------|
| <p>1. These Regulations may be cited as the Mines and Minerals (Application for Mining Rights) Regulations.</p> | Title |
| <p>2. (1) A person may apply to the Minister for the following licences in the form set out in the First Schedule:</p> <p>(a) Prospecting Licence;</p> <p>(b) Mining Licence; and</p> <p>(c) Large Scale Mining Licence.</p> <p>(2) A person may apply to the Director for the following licences or permit, as the case may be, in the form set out in the First Schedule:</p> <p>(a) Small Scale Mining Licence;</p> <p>(b) Gemstone Licence; and</p> <p>(c) Prospecting Permit.</p> | Application for licence or permit |
| <p>3. A person may apply to the Authorised officer for an Artisan's Mining Right in the form set out in the Second Schedule.</p> | Artisan's Mining Right |
| <p>4. A person may apply to the Director for a Gemstone Sales Certificate</p> | Gemstone Sales |

in the form set out in the Third Schedule.

Certificate

5. The fees set out in the Fourth Schedule shall be paid for licences, permits, an artisan's mining right or for a gemstone sales certificate.

Fees

FIRST SCHEDULE

(Regulation 2)

Mines Form No.
Stocked by Mines Development Department
Date and time of receipt:
.....
Checked by:

APPLICATION FORM FOR A MINING RIGHT

THE MINES AND MINERALS ACT, 1995
(PARTS III AND IV)

Type of licence

Type(s) of mineral(s)

Area District Province

Period

A. PARTICULARS OF APPLICANT (other than company or association)

(1) Full names of applicant

(a) Surname (Maiden Name)

(b) Other names

(c) Place and date of birth

(2) Address of applicant

(a) Residential address

..... Telephone No.

(b) Business address

..... Telephone No. Fax No.

(3) Identity documents

(a) NRC No. Date/place of issue

(b) Passport No. Date/place of issue

(c) Nationality

B. PARTICULARS OF ORGANISATION (company/association)

(4) (a) Name of company

(b) Location and postal address of company/association

..... Telephone No. Fax No.

Telex No. E-mail No.

(c) Company Registration No.

(d) Address of registered office in Zambia

(e) Date of incorporation

(f) Nominal capital

(g) Paid up capital

(h) Full names of

	Shareholders	Shares held	Nationality	NRC/Passport No.
(i)
(ii)
(iii)
(iv)
(v)

(i) Full names of

	Directors	Nationality	NRC/Passport No.
(i)
(ii)
(iii)
(iv)
(v)

(j) Full name and nationality of Chief Executive

(k) Full name and nationality of Company Secretary

C. PARTICULARS OF FINANCE

(5) Name and address of bankers

..... Telephone No.

Fax No. Telex No.

(6) Financial status

(a) Details of finance available for intended operations (with documentary evidence)

(b) Details of other assets

(7) Financial references (other than own bankers)

(i)

(ii)

(8) Name and address of lawyers

..... Telephone No.

Fax No. Telex No.

D. PARTICULARS OF TECHNICAL COMPETENCE AND EXPERIENCE

(9) Details relevant to prospecting/mining experience (with supporting documentary evidence)

(10) Details of previous mining rights held and reports submitted:

E. PARTICULARS OF OTHER STATUTORY REQUIREMENTS

(11) Details required for application for a prospecting licence:

(a) Description of the area with a plan (map) in Scale 1:50 000 or 1:250 000

(b) Programme of operations (annualized, with budget)

(12) Details required for application for a retention licence:

(a) Feasibility Study

(b) Environmental Impact Assessment Study.

(13) Details required for application for a large-scale mining licence:

(a) Description of the area with a plan (map) in Scale 1:50 000 or 1:250 000

(b) Technological reports (feasibility studies)

(i) Geology (reserves, etc.)

(ii) Mining and processing

(c) Programme of mining operations

(d) Environmental Plan.

(14) Details required for application for prospecting permit:

(a) Description of the area with a plan (map) in Scale 1:50 000 or 1:250 000

(b) Programme of operations.

(15) Details required for application for a small-scale mining licence:

(a) Description of the area with a plan (map) in Scale 1:50 000 or 1:250 000

(b) Programme of mining operations.

(16) Details required for application for a gemstone licence:

(a) Description of the area with a plan (map) in Scale 1:50 000 or 1:250 000

(b) Programme of mining operations including forecast for investment and estimated recovery rate of ore and gemstones.

NOTE: Any declaration in this application which is to the knowledge of the maker, false or untrue, shall render this application void *ab initio*.

I, _____ do hereby declare that the information given above is true and correct and I make this declaration conscientiously believing the same to be true.

Signature

(In what capacity?)

Date:

NOTES:

1. Mining Right means a prospecting licence, retention licence, a large-scale mining licence, a prospecting permit, small-scale mining licence and gemstone licence granted under the provisions of Parts III and IV of the Mines and Minerals Act, 1995.
2. Prospecting licence means a licence granted under Part III of the Mines and Minerals Act, 1995. It empowers the holder to carry on prospecting operations in accordance with the programme of operations.
3. Retention licence means a licence granted under the provisions of Part III of the Mines and Minerals Act, 1995. It empowers the holder exclusive rights to retain and develop the deposit in accordance with the studies and assessments.
4. Large-scale Mining Licence means a licence acquired under the provisions of Part III of the Mines and Minerals Act, 1995. It empowers the holder to develop and mine mineral deposits covered by his licence in accordance with the programme of operations.
5. Prospecting Permit means a permit granted under the provisions of Part IV of the Mines and Minerals Act, 1995. It empowers the holder to carry on prospecting operations in accordance with the programme of operations.
6. Small-Scale Mining Licence means a licence acquired under the provisions of Part IV of the Mines and Minerals Act, 1995. It empowers the holder to develop and mine mineral deposits covered by his licence in accordance with the programme of operations.
7. Gemstone Licence means a licence acquired under Part IV of the Mines and Minerals Act, 1995. It empowers the holder to develop and mine mineral deposits covered by his licence in accordance with the programme of operations.

*Where space is not adequate additional information to be submitted separately.

For paragraphs D and E above the information to be submitted in accordance with the provisions of the following sections:

-13 (2) (b) and 14 (3); 19 (2) (a) and (b); 24 (3) (c), (d), (h) and (4); 30 (2) (b) and 31 (3); 35 (3) (a) and (d); and 41 (1) (a) and (c) of the Mines and Minerals Act, 1995.

Three copies to be submitted to: Director, Mines Development Department, P.O. Box

31969, Lusaka.

Application forms can be obtained from: Director, Mines Development Department, P.O. Box 31969, Lusaka.

Price: 100 fee units.

Mines Form.....
Stocked by Mines Development Department
Registration No. LML
REPUBLIC OF ZAMBIA

LARGE-SCALE MINING LICENCE

(Section 25 of the Mines and Minerals Act, 1995, No. 31 of 1995)

Applicant's name:

Address:

Prospecting Licence No.

The mining area shall be the area described in the Schedule and annexed hereto and bordered, on the Plan.

The licence shall relate to the following minerals:

The licence is granted for a period of, commencing on the day of

The programme of mining and development operations shall be as shown in the Appendix hereto.

The following conditions included in Prospecting Licence No. PL shall continue to apply:

Issued at this day of

Director

Endorsement of Registration

This large-scale mining licence has this day of been registered in the Register of Mining Rights.

Director

RENEWALS AND AMENDMENTS

Date of Amendment	Details of Renewal or Amendment	Date of Registration and Registration No.	Signature of Director

--	--	--	--

Mines Form.....
Stocked by Mines Development Department
Registration No. PL
REPUBLIC OF ZAMBIA

PROSPECTING LICENCE

(Section 14 of the Mines and Minerals Act, 1995, No. 31 of 1995)

Applicant's name:

Address:

The prospecting area shall be the area described in the Schedule annexed hereto and bordered, on the Plan.

The licence shall relate to the following minerals:

The licence is granted for a period of , commencing on the day of

The programme of prospecting operations shall be as shown in the Appendix hereto.

In addition to the above conditions, the licence shall be subject to the following special conditions-

(here shall be inserted any conditions under section 14 (3) of the Mines and Minerals Act, 1995):

Issued at this day of,

Director

ENDORSEMENT OF REGISTRATION

This prospecting licence has this day of, been registered in the Register of Mining Rights.

Director

RENEWALS AND AMENDMENTS

Date of Amendment	Details of Renewal or Amendment	Date of Registration and Registration No.	Signature of Director

--	--	--	--

Mines Form.....
Stocked by Mines Development Department
Registration No. SML
REPUBLIC OF ZAMBIA

SMALL-SCALE MINING LICENCE

(Section 36 of the Mines and Minerals Act, 1995, No. 31 of 1995)

Applicant's name:

Address:

Prospecting Permit No. PP

The mining area shall be the area described in the Schedule and annexed hereto and bordered, on the Plan.

The licence shall relate to the following minerals:

The licence is granted for a period of, commencing on the day of

The programme of mining and development operations shall be as shown in the Appendix hereto.

The following conditions included in Prospecting Permit No. PP shall continue to apply:

Issued at this day of

Director

ENDORSEMENT OF REGISTRATION

This small-scale mining licence has this day of,
..... been registered in the Register of Mining Rights.

Director

RENEWALS AND AMENDMENTS

Date of Amendment	Details of Renewal or Amendment	Date of Registration and Registration No.	Signature of Director

--	--	--	--

Mines Form.....
Stocked by Mines Development Department
Registration No. PP
REPUBLIC OF ZAMBIA

PROSPECTING PERMIT

(Section 31 of the Mines and Minerals Act, 1995, No. 31 of 1995)

Applicant's name:

Address:

Prospecting Permit No. PP

The mining area shall be the area described in the Schedule and annexed hereto and bordered, on the Plan.

The licence shall relate to the following minerals:

The permit is granted for a period of, commencing on the day of

The programme of prospecting operations shall be as shown in the Appendix hereto.

In addition to the above conditions, the permit shall be subject to the following special conditions (here shall be inserted any conditions, imposed under subsection (3) of section 31 of the Mines and Minerals Act, 1995):

Issued at this day of

Director

ENDORSEMENT OF REGISTRATION

This prospecting permit has this day of been registered in the Register of Mining Rights.

Director

RENEWALS AND AMENDMENTS

Date of Amendment	Details of Renewal or Amendment	Date of Registration and Registration No.	Signature of Director

--	--	--	--

Mines Form.....
Stocked by Mines Development Department
Gemstone Sales Certificate GSC
REPUBLIC OF ZAMBIA

GEMSTONE SALES CERTIFICATE

(Section 99 of the Mines and Minerals Act, 1995, No. 31 of 1995)

(PART XIII)

Applicant's name:

Address:

The certificate is for a period of one year commencing on the day
.....,

This certificate is subject to the following conditions:

Issued at this day of,
.....

Director

Mines Form.....
Stocked by Mines Development Department
Registration No. RL
REPUBLIC OF ZAMBIA

RETENTION LICENCE

(Section 20 of the Mines and Minerals Act, 1995, No. 31 of 1995)

Applicant's name:

Address:

Prospecting Licence No. PL

The mining area shall be the area described in the Schedule and annexed hereto and bordered, on the Plan.

The licence shall relate to the following minerals:

The licence is granted for a period of, commencing on the day of

A feasibility study on the market conditions and trends and economic factors as well as the environmental plan for the recovery shall be as shown in the appendix hereto.

In addition to the above conditions, the licence shall be subject to the following special conditions-(here shall be inserted any conditions, imposed under subsection (2) of section (20) of the Mines and Minerals Act, 1995):

Issued at this day of

Director

ENDORSEMENT OF REGISTRATION

This Retention licence has this day of,
been registered in the Register of Mining Rights.

Director

RENEWALS AND AMENDMENTS

Date of Amendment	Details of Renewal or Amendment	Date of Registration and Registration No.	Signature of Director

Mines Form.....
Stocked by Mines Development Department
Artisan's Mining Right AMR
REPUBLIC OF ZAMBIA

ARTISAN'S MINING RIGHT

(Section 64 of the Mines and Minerals Act, 1995, No. 31 of 1995)

Applicant's name:

Address:

The artisan's mining right area shall be the area described in the Schedule and annexed hereto and bordered, on the Plan.

The artisan's mining right shall relate to the minerals:,

The artisan's mining right is granted for a period of two (2) years commencing on the day of,

Issued at this day of,

Authorised Officer

This artisan's mining right has this day of,
been registered in the Register of Mining Rights.

Authorised Officer

Mines Form.....
Stocked by Mines Development Department
Registration No. GL
REPUBLIC OF ZAMBIA

GEMSTONE LICENCE

(Section 42 of the Mines and Minerals Act, 1995, Act No. 31 of 1995)

Applicant's name:

Address:

The prospecting and mining area shall be the area described in the Schedule and annexed hereto and bordered on the Plan.

The licence shall relate to the following minerals:

The licence is granted for a period of _____, commencing on the _____ day of _____

The programme of prospecting and mining operations shall be as shown in Appendix hereto.

In addition to the above conditions, the licence shall be subject to the following special conditions-(here shall be inserted any conditions imposed under subsection (2) of section 42 of the Mines and Minerals Act, 1995):

Issued at this day of,

Director

ENDORSEMENT OF REGISTRATION

This gemstone licence has this day of, been registered in the Register of Mining Rights.

Director

AMENDMENTS

		Date of
--	--	---------

Date of Amendment	Details of Amendment	Registration and Registration No.	Signature of Director

(As amended by SI Nos. 144 of 1996 and 157 of 1996)

SECOND SCHEDULE

(Regulation 3)

Mines Form.....
Stocked by Mines Development Department
Date and time of receipt:

Checked by:

APPLICATION FORM FOR AN ARTISAN'S MINING RIGHT

THE MINES AND MINERALS ACT, 1995
(PARTS VII)

I. DETAILS OF APPLICANT (complete A or B, whichever is applicable)

A. Application by an individual

Name

Chief District

Postal address

Residential address

Telephone No. Fax No.

Citizenship NRC/Passport No.

B. Application by a community

(i) Where community is not a co-operative:

Name of representative

Name of village

Chief District

Postal address

Name of members

NRC No.

Residential address

.....

.....

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(use separate sheet if necessary)

(ii) Where community is a co-operative:

(a) Name and address of the co-operative

..... Telephone No.

(b) Registration Certificate No. Fax No.

(c) Date and place of registration

(d) Share capital (nominal and paid-up)

(e) Name of village (Place of mining activities)

(e) Chief District

(f) Full names of

Members

NRC No./Passport No.

Residential address

(i)

(ii)

(iii)

(g) Full names of Chairman

(h) Full names of secretary

II. PARTICULARS OF APPLICATION

(a) Area required Hectares (not exceeding five Hectares)

(b) Location of area

(c) Mineral(s)

III. BRIEF TECHNOLOGICAL INFORMATION ON MINING AND PROCESSING

(if space not enough, use separate sheet)

IV. SKETCH PLAN

Show the following details on the plan:

(a) The dimensions of the area

(b) The position of any area in the vicinity already held under a mining right

(c) The direction and distance of the area from any feature which can be identified on maps, e.g. roads, river, beacon, river or road junctions, etc.

I, do hereby declare that the information given above is true and correct and I make this declaration conscientiously believing the same to be true.

Signature

(In what capacity?)

Date:

NOTES:

Artisan's Mining Rights means an artisan's mining right granted under the provisions of Part VII of the Mines and Minerals Act, 1995. It empowers the holder of the mining right to develop and mine mineral deposits covered by his mining right.

Three copies to be submitted to: Director, Mines Development Department,
P.O. Box 31969, Lusaka.

Application forms can be obtained from: Director, Mines Development Department,
P.O. Box 31969, Lusaka.

Price: 100 fee units.

THIRD SCHEDULE

(Regulation 4)

Mines Form.....
Stocked by Mines Development Department
Date and time of receipt:

Checked by:

APPLICATION FORM FOR A GEMSTONE SALES CERTIFICATE

THE MINES AND MINERALS ACT, 1995
(PART XIII)

Type(s) of gemstones:

A. PARTICULARS OF APPLICANT (other than company or association)

(1) Full names of applicant

(a) Surname (maiden name)

(b) Other names

(c) Place and date of birth.

(2) Address of applicant

(a) Residential address

..... Telephone No.

(b) Business address

..... Telephone No. Fax No.

(3) Identity documents

(a) NRC No. Date/place of issue

(b) Passport No. Date/place of issue

(c) Nationality

(4) Situation of registered office.

B. PARTICULARS OF ORGANISATION (company/association)

- (4) (a) Name of company
 (b) Location and postal address of company/association

Telephone No. Fax No. Telex No.
 E-mail No.

- (c) Company Registration No.
 (d) Address of registered office in Zambia
 (e) Date of incorporation
 (f) Nominal capital
 (g) Paid up capital
 (h) Full names of

	Shareholders	Shares held	Nationality	NRC/Passport No.
(i)
(ii)
(iii)
(iv)
(v)

- (i) Full names of

	Directors	Nationality	NRC/Passport No.
(i)
(ii)
(iii)
(iv)
(v)

- (j) Full name and nationality of Chief Executive

- (k) Full name and nationality of Company Secretary

- (l) Situation of registered office

C. PARTICULARS OF FINANCE

- (5) Name and address of bankers

..... Telephone No. Fax No.
 Telex No.

- (6) Financial status

- (a) Details of finance available for intended operations (with documentary evidence)

(b) Details of other assets

(7) Financial references (other than own bankers)

(i)

(ii)

(8) Name and address of lawyers

..... Telephone No. Fax No.

Telex No.

NOTE: Any declaration in this application which is to the knowledge of the maker, false or untrue, shall render this application void *ab initio*.

I, do hereby declare that the information given above is true and correct and I make this declaration conscientiously believing the same to be true.

Signature

(In what capacity?)

Date:

NOTES:

The gemstone sales certificate granted under the provisions of Part XIII of the Mines and Minerals Act, 1995, empowers the holder to carry on business of trading in gemstones.

Three copies to be submitted to: Director, Mines Development Department, P.O. Box 31969, Lusaka.

Application forms can be obtained from: Director, Mines Development Department, P.O. Box 31969, Lusaka.

Price: 100 fee units.

FOURTH SCHEDULE

(Regulation 5)

<i>Type of licence</i>	<i>Fee units</i>
LARGE SCALE MINING OPERATIONS	

1. *Prospecting licence*

(a) basic licence fee	, 500
(b) annual area charges per square kilometre	, 10

2. *Retention licence*

(a) basic licence fee	1,000
(b) annual area charges per square kilometre	, 100

3. *Mining licence*

(a) basic licence fee	1,000
(b) annual area charges per square kilometre	, 200

SMALL SCALE MINING OPERATIONS

4. *Prospecting permit*

(a) basic licence fee	, 250
(b) annual area charges per hectare	, 5

5. *Small scale mining licence*

(a) basic licence fee	, 250
(b) annual area charges per hectare	, 10
(c) tonnage fees for building materials	, 2
(d) annual rent on any mineral other than building material sold, percentum of mineral sold	, 5

6. *Gemstone licence*

(a) basic licence fee	, 250
(b) annual rent and deemed turnover shall be as set out in the table below-	

Year of duration of Right	Rent per hectare (fee units)	Deemed turnover per hectare (fee units)
Year 1	nil	nil

Years 2-4	100	2000
Years 5-7	150	3000
Year 8 and subsequent years	200	4000

7. *Artisan's mining rights*

- (a) basic licence fee , 100
 - (b) annual area charges per hectare , 100
 - (c) tonnage fees for building materials , 2
8. Reconnaissance Permit , 250
9. Gemstones Sales Certificate 1,000
10. Gold Dealer's Licence 1,000
- 11.(a) survey charges per kilometer , 100
- (b) other related charges for transport, subsistence, etc., shall be determined by the Director in accordance with the scale approved from time to time by the Government

CHAPTER 214

MINERAL ROYALTY TAX (REPEAL)

An Act to repeal the Mineral Royalty Act
[18th April, 1997]

Act 1 of 1997

1. (1) This Act may be cited as the Mineral Royalty (Repeal) Act, 1997, and shall come into operation on 1st April, 1997.

Short title and commencement

2. The Mineral Royalty Act is hereby repealed.

Repeal of Cap. 215

CHAPTER 216

**THE MEDICAL EXAMINATION OF YOUNG PERSONS
(UNDERGROUND WORK) ACT**

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Convention to have the force of law
4. Initial medical examination
5. Periodical medical examination
6. Inspection
7. Registers
8. Penalties
9. Regulations

SCHEDULE-Convention No. 124

CHAPTER 216

**MEDICAL EXAMINATION OF YOUNG PERSONS
(UNDERGROUND WORK)**

Act No.
20 of 1973
13 of 1994

An Act to provide for the implementation in Zambia of the International Labour Organisation's Convention Number 124 concerning medical examination of young persons for fitness for employment underground in mines; and to provide for matters ancillary to or connected with the foregoing.

[23rd March, 1973]

1. This Act may be cited as the Medical Examination of Young Persons (Underground Work) Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"approved physician" means any physician approved for the purposes of this Act by the Director of the Bureau or by the Deputy Director or any other member of the Bureau authorised by the Director in writing in that behalf;

"Bureau" means the Pneumoconiosis Medical and Research Bureau

Cap. 217

established under section *twenty* of the Pneumoconiosis Act;

"Convention" means the International Labour Organisation Convention Number 124 concerning medical examination of young persons for fitness for employment underground in mines, reproduced in the Schedule to this Act;

"employee" means an employee within the meaning of section *three* of the Employment Act who is less than twenty-one years of age; Cap. 268

"employer" means the owner of a mine or any person who, under any agreement whatever, works a mine and includes the manager, secretary, agent or other person authorised by the owner or by the person who, under any agreement, works the mine to engage workers;

"mine" has the meaning assigned to it under Article 1 of the Convention;

"thorough medical examination" includes clinical and radiological examinations.

3. Subject to the provisions of this Act, the Convention shall have the force of law in the Republic. Convention to have the force of law

4. (1) No employer shall employ or require to work underground in a mine any person under the age of twenty-one years unless, after a thorough medical examination carried out by or under the supervision of an approved physician, such person is certified by the physician to be in every way physically fit for such employment or work. Initial medical examination

(2) Nothing in this Act shall be construed as authorising the employment of any person whose employment is prohibited under any other written law.

5. In addition to the medical examination mentioned in section *four*, an employer shall cause every employee to be medically examined by or under the supervision of an approved physician at least once in every twelve months, and no employee who has been, as a result of such examination, declared by the approved physician to be unfit for employment or work underground in a mine shall be allowed to continue such in employment or work. Periodical medical examination

6. (1) The Director of the Bureau may at any time, in writing, authorise any person (hereinafter referred to as "an inspector") to inspect the registers and certificates of health of the employees kept and maintained by any employer in pursuance of the provisions of this Act. Inspection

(2) An employer shall, whenever so required by an inspector, produce to him for inspection, the registers and certificates mentioned in subsection (1).

(3) Whenever an inspector inspects the registers and certificates of health kept and maintained by an employer, he shall submit a report of his inspection to the Director of the Bureau, and the Director shall transmit the same together with his comments thereon to the Minister.

7. (1) An employer shall in respect of every employee keep and maintain, in such form as may be prescribed under this Act, a register which shall *inter alia* contain the following information, that is to say: Registers

(a) name;

(b) date of birth;

(c) nature of employment;

(d) date of agreement; and

(e) particulars of the certificate which evidences the fitness of an employee.

8. Any employer who fails to comply with the provisions of this Act shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a term not exceeding six months, or to both. Penalties

(As amended by Act No. 13 1994)

9. (1) The Minister may, by statutory instrument, make regulations for the carrying into effect of the provisions of this Act. Regulations

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may-

(a) prescribe the time, place, nature and procedure of the thorough medical examination to be made under section *four*;

(b) prescribe the nature of and procedure in connection with the periodical medical examination to be made under section *five*;

(c) prescribe the forms to be used for certificates to be issued under this Act; and

(d) prescribe the form of the register to be kept by an employer under this Act.

SCHEDULE

(Section 2)

CONVENTION NO. 124

THE MEDICAL EXAMINATION OF YOUNG PERSONS
(UNDERGROUND WORK) CONVENTION, 1965

CONVENTION CONCERNING MEDICAL EXAMINATION OF YOUNG PERSONS
FOR FITNESS FOR EMPLOYMENT UNDERGROUND IN MINES

Article 1

1. For the purpose of this Convention, the term "mine" means any undertaking, whether public or private, for the extraction of any substance from under the surface of the earth by means involving the employment of persons underground.
2. The provisions of this Convention concerning employment or work underground in mines include employment or work underground in quarries.

Article 2

1. A thorough medical examination, and periodic re-examinations at intervals of not more than one year, for fitness for employment shall be required for the employment or work underground in mines of persons under 21 years of age.
2. Alternative arrangements for medical supervision of young persons aged between 18 and 21 years shall be permitted where the competent authority is satisfied on medical advice that such arrangements are equivalent to or more effective than those required under paragraph 1 of this Article and has consulted and reached agreement with the most representative organisations of employers and workers concerned.

Article 3

1. The medical examinations provided for in Article 2-
 - (a) shall be carried out under the responsibility and supervision of a qualified physician approved by the competent authority; and
 - (b) shall be certified in an appropriate manner.
2. An X-ray film of the lungs shall be required on the occasion of the initial medical

examination and, when regarded as medically necessary, on the occasion of subsequent re-examinations.

3. The medical examinations required by this Convention shall not involve the young person, or his parents or guardians, in any expense.

Article 4

1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.

2. Each Member which ratifies this Convention undertakes either to maintain an appropriate inspection service for the purpose of supervising the application of the provisions of the Convention or to satisfy itself that appropriate inspection is carried out.

3. National laws or regulations shall define the persons responsible for compliance with the provisions of this Convention.

4. The employer shall keep, and make available to inspectors, records containing, in respect of persons under 21 years of age who are employed or work underground-

- (a) the date of birth, duly certified wherever possible;
- (b) an indication of the nature of their occupation; and
- (c) a certificate which attests fitness for employment but does not contain medical data.

5. The employer shall make available to the workers' representatives, at their request, the information mentioned in paragraph 4 of this Article.

Article 5

The competent authority in each country shall consult the most representative organisations of employers and workers concerned before determining general policies of implementation and before adopting regulations in pursuance of the terms of this Convention.

Article 6

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 7

1. This Convention shall be binding only upon those Members of the International Labour

Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratification of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 8

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 9

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 10

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 11

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 12

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides-

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 8 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 13

The English and French versions of the text of this Convention are equally authoritative.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organisation during its Forty-ninth Session which was held at Geneva and declared closed the twenty-third day of June, 1965.

CHAPTER 217

THE PNEUMOCONIOSIS ACT

ARRANGEMENT OF SECTIONS

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3. Dependants of miner

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5. Appointment of medical and other officers
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CHAPTER 217

PNEUMOCONIOSIS

An Act to make new provision for the assessment and payment of compensation in connection with pneumoconiosis; to provide for the medical examination and standards of physical fitness to be required of persons exposed or likely to be exposed to the risk of pneumoconiosis; and to provide for matters incidental to or connected with the foregoing.

[Parts I, II, VI and VII-1st November, 1950]

[Parts III (except section 44), IV and V-31st December, 1950]

[Part III (section 44)-21st December, 1951]

27 of 1950
 1 of 1951
 31 of 1951
 25 of 1952
 6 of 1954
 15 of 1955
 15 of 1956
 42 of 1956
 3 of 1957
 3 of 1959
 12 of 1960
 52 of 1960
 30 of 1962
 76 of 1963
 77 of 1965
 25 of 1971
 13 of 1994
Government Notices
 233 of 1963
 497 of 1964
Statutory Instrument
 124 of 1965
 165 of 1983
 63 of 1996

PART I PRELIMINARY

- 1. This Act may be cited as the Pneumoconiosis Act.
 (As amended by No. 15 of 1955)

Short title

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

"actuary" means an actuary appointed by the Minister for the purposes of this Act under section *six*;

"benefit", when used as a noun, means, according to the context, money which has been paid, or the payment of money, or a claim for the payment of money, to or on behalf of a miner or to or on behalf of a dependant of a deceased miner, under the provisions of this Act, or of the repealed Act, because the miner was found to be or to have been suffering from pneumoconiosis or tuberculosis or from both these diseases, but does not include financial assistance which the Board is empowered by sections *sixty-five* and *sixty-six* to give in its discretion; and reference to a benefit under any specific provision of this Act shall be deemed to include reference to a benefit under the corresponding provision of the repealed Act;

"Board" means the Pneumoconiosis Compensation Board established under section *seven*;

"Board of Appeal" means the Medical Board of Appeal established under section *twenty-five*;

"Bureau" means the Pneumoconiosis Medical and Research Bureau established under section *twenty*;

"certificate of fitness" means any of the following certificates issued by the Bureau under this Act:

- (a) an initial certificate;
- (b) an initial (restricted) certificate;
- (c) a periodical certificate;
- (d) a periodical (restricted) certificate;
- (e) a special certificate;

"certification" and any part of the verb "certify", in relation to an act by the Bureau, means the issue by the Bureau of a report that there is or are present in any person pneumoconiosis or tuberculosis or both those diseases;

"Chairman of the Board" means the Chairman of the Pneumoconiosis Compensation Board appointed under the provisions of section *four*;

"child" means an unmarried son or daughter and includes-

- (a) an illegitimate child;
- (b) a posthumous child;
- (c) a stepchild, which term shall be deemed to include an

illegitimate child of the wife of a miner or of any woman with whom the miner was, in the opinion of the Board, living as man and wife at the time of first certification, if such child was wholly or partly supported by the miner;

(d) a child adopted under the provisions of the Adoption Act, or adopted prior to the commencement of that Act or outside Zambia, if the child was in fact adopted prior to the first certification of the adoptive father by the Bureau;

"commencement of this Act" means, in relation to any particular provision of this Act, the date of commencement of that provision:

"commonwealth" means-

- (a) the self-governing members of the Commonwealth;
- (b) all British colonies;
- (c) all states and territories under the protection of Her Britannic Majesty through Her Government in the United Kingdom; and
- (d) all territories administered by governments of the Commonwealth in accordance with a mandate from the League of Nations or under the trusteeship system of the United Nations;

"dependant" means, in relation to a deceased miner, any person deemed to be a dependant of such miner under section *three*;

"Director of the Bureau" means the director of the Pneumoconiosis Medical and Research Bureau appointed under the provisions of section *twenty-one*;

"earnings", in relation to any miner, means the remuneration payable to such miner by his employer for his work but does not include any amount payable for overtime, extra duty, shift differential or as an allowance or bonus;

"employer" means-

- (a) the owner of a scheduled mine or any person who, under any agreement whatever, works such a mine, and, where any miner engaged in working at such a mine is employed through a contractor, such owner or other person who, under any agreement whatever, works such mine shall be deemed to be his employer; and
- (b) for the purpose of the giving and receiving of statements, notices or other documents under this Act, includes the manager, secretary, accountant, treasurer, duly authorised agent or other responsible person employed or appointed by the owner of a scheduled mine;

"former Bureau" means the organisation existing at Kitwe at the commencement of this Act commonly known as the Bureau and provided for by sub-heads 43 to 59 inclusive of Head 16 of the estimates

of expenditure of the former Protectorate of Northern Rhodesia approved for the year 1950;

"former employer" means an employer who has terminated the contract of a miner or whose contract with a miner has been terminated;

"Fund" means the Pneumoconiosis Compensation Fund established under section *eighty-nine*;

"initial certificate" means a certificate to which a person is entitled under paragraph (a) of subsection (3) of section *thirty-nine* and issued to such person under subsection (5) of that section;

"initial examination" means either a medical examination performed by the Bureau under section *thirty-nine* or the interpretation by the Bureau of a medical examination performed for the same purpose by a medical practitioner or medical practitioners outside Zambia under section *twenty-three*;

"initial (restricted) certificate" means a certificate for which a person is eligible under paragraph (b) of subsection (3) of section *thirty-nine* and issued to such person under subsection (5) of that section;

"miner" means, subject to the provisions of subsection (2)-

(a) any person employed or who has been employed at a scheduled mine, the nature of whose lawful employment has necessitated his working below the surface of the ground or in any scheduled place; or

(b) any other person whom the Bureau certifies to have contracted pneumoconiosis, which, in the opinion of the Board after consultation with the Bureau, was beyond reasonable doubt contracted as a result of employment at a scheduled mine;

"owner", in relation to any scheduled mine, means the person possessing the right to extract any mineral from such mine for his own benefit;

"periodical certificate" means a certificate issued under paragraph (a) of subsection (1) of section *forty-three*;

"periodical examination" means a medical examination performed by the Bureau under section *forty* or the interpretation by the Bureau of a medical examination performed for the same purpose by a medical practitioner or medical practitioners outside Zambia under section *twenty-three*;

"periodical (restricted) certificate" means a certificate issued by the Bureau under paragraph (b) of subsection (1) of section *forty-three*;

"pneumoconiosis" means any form of pneumoconiosis due to the inhalation of mineral dust;

"prescribed day" means the 31st December, 1950, or such other day as may be prescribed in lieu thereof;

"prescribed examination" means any of the following examinations conducted by the Bureau or by a medical practitioner outside Zambia with the authority of the Bureau:

- (a) an initial examination;
- (b) a periodical examination;
- (c) a discharge examination, under section *forty-four*;
- (d) a suspect examination, under section *forty-seven*;
- (e) a benefit examination, under section *forty-eight*; and
- (f) an additional examination under section *forty-nine*;

"prospective employer" means an employer who has the intention of engaging for employment a person as a miner;

"repealed Act" means the Silicosis (Temporary Arrangements) Act, Chapter 189 of the 1948 Edition of the Laws, repealed by section *one hundred and one*;

"scheduled mine" means any mine specified in the First Schedule;

"scheduled place" means any place specified in the Second Schedule;

"special certificate" means a certificate for which a person is eligible under paragraph (c) of subsection (3) of section *thirty-nine* and issued to such person under subsection (5) of that section;

"total service as a miner" means, subject to the provisions of section *seventy-nine*, the aggregate, whether the periods were continuous or not, of-

- (a) any period of service as a miner at any scheduled mine;
- (b) any period of service as a miner or native labourer, as defined in the Pneumoconiosis Act, 1956, of the Republic of South Africa, in any mine which is a controlled mine of Group A or Group B under the provisions of the said Act;
- (c) any period of service as a worker as defined in the Pneumoconiosis Act, 1960, of Southern Rhodesia, in any mining location in that Colony which has not been declared under that Act to be an exempted mining location; and
- (d) any period of mining service actually below the surface of the ground at any other place;

and any period of service referred to in paragraphs (a), (b) and (c) shall be deemed to include all periods of authorised absence from work, including Sundays and public holidays, which were immediately preceded and immediately followed by a day on which the person whose service is being calculated worked as a miner or native labourer or worker, as the case may be;

"tuberculosis" means tuberculosis of the respiratory organs, and for the purposes of this Act a person shall be deemed to be suffering from tuberculosis when the Bureau is satisfied and certifies either-

- (a) that the sputum of the person in question contains the bacillus of tuberculosis; or
- (b) that the person in question, although his sputum does not contain the bacillus of tuberculosis at the time of examination, has tuberculosis of the respiratory organs in such a degree as to render his continued employment as a miner dangerous to himself or to others.

(2) For the purposes of the definition of "miner" in subsection (1), "working" does not include the performance of infrequent inspection or other occasional duties underground or in scheduled places or the performance underground or in a scheduled place of any work or duty necessitated by and performed during any serious emergency. In the event of any doubt or dispute whether duties are infrequent, occasional or otherwise, or whether any emergency was serious or not, or as to the duration of any emergency, the decision of the person carrying out the duties of Chief Inspector of Mines under the Mines and Minerals Act shall be final.

Cap. 213

(As amended by No. 31 of 1951, No. 15 of 1955, No. 42 of 1956, No. 3 of 1957, No. 30 of 1962, No. 76 of 1963, S.I. No. 124 of 1965 and No. 77 of 1965)

3. (1) For the purposes of this Act, the following persons shall be deemed to be dependants of a deceased miner:

Dependants of
miner

(a) any widow of such miner who did not desert him during his lifetime or who, having so deserted him, *bona fide* returned to him before his death; or, if there is no such widow, any woman with whom such miner was, in the opinion of the Board, living as man and wife at the time of his death, and any such woman shall, for the purposes of this Act, be deemed to be his widow;

(b) the children of such miner, either under the age of eighteen years or, in the opinion of the Board, incapable by reason of ill health or physical or mental infirmity of earning their own living;

(c) the children of such miner who, but for the fact that they are over the age of eighteen years, would be deemed to be dependants under the provisions of paragraph (b), who are under the age of twenty-five years

and are attending a full-time educational course:

Provided that-

- (i) the persons specified in this subsection shall only be deemed to be dependants of the deceased miner so long as they remain unmarried;
- (ii) a stepchild shall be deemed to be a dependant of the deceased miner only if such child was, in the opinion of the Board, dependent upon such miner before the date upon which such miner first became entitled to a pension under the provisions of this Act.
- (iii) an adopted child shall be deemed to be a dependant of the deceased miner only if such child was, in the opinion of the Board, dependent upon him at the time of first certification by the Bureau.

(2) In default of any dependent of a deceased miner under the provisions of subsection (1), and subject to the provisions of paragraph (c) of subsection (2) of section *sixty-eight* and of subsection (2) of section *seventy-seven*, such of the following persons shall be deemed to be dependants of such deceased miner as, in the opinion of the Board, were dependent upon him at the time of his death and who have not contracted a marriage since the death of such miner:

- (a) his children over the age of eighteen years;
- (b) his father, mother, stepfather and stepmother;
- (c) his brother, sister, half-brother, half-sister and any of their children;
- (d) his grandparents and grandchildren; and
- (e) any other relation of his by consanguinity or affinity.

(As amended by No. 31 of 1951 and No. 77 of 1965)

PART II

ADMINISTRATION

Appointment of Officers

4. (1) The Minister shall appoint a Chairman of the Board.

Appointment of
Chairman of Board

(2) Subject to the provisions of section *seventeen*, the Chairman of the Board may exercise all or any of the powers conferred upon the Board by this Act other than-

(a) the powers conferred upon the Board by Part VI; and

(b) the powers of the Board relating to the borrowing, lending and investment of money, and the realisation of investments.

*(As amended by No. 1 of 1951, No. 25 of 1952,
No. 15 of 1955 and No. 77 of 1965)*

5. Subject to the provisions of any law for the time being in force relating to the public service, the Public Service Commission may appoint such medical, technical, clerical, accounting and other officers as may be necessary for the efficient performance of the functions of the Board, the Bureau and the Board of Appeal.

Appointment of
medical and other
officers

(As amended by No. 15 of 1955 and S.I. No. 124 of 1965)

6. The Minister shall from time to time appoint an actuary for the performance of the special duties specified in Part VI and for the performance of any other duties which the Board or Bureau may desire to refer to such officer.

Appointment of
actuary

(As amended by No. 77 of 1965)

Pneumoconiosis Compensation Board

7. (1) Upon the commencement of this Act there shall be established a Board to be known as the Pneumoconiosis Compensation Board.

Establishment of
Board

(2) The Board shall be a body corporate capable of suing and being sued in its corporate name and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may do by law and

may be necessary for or incidental to the carrying out of the powers, duties and functions of the Board under this Act.

(As amended by No. 3 of 1957)

8. (1) The Board shall consist of the Chairman of the Board and the following other members:

Composition of
Board

- (a) the Workers' Compensation Commissioner;
- (b) the Medical Superintendent of the Central Hospital, Kitwe;
- (c) the Director of the Bureau;
- (d) one member representing the Minister;
- (e) one member to be nominated by the Minister responsible for finance and appointed by the Minister;
- (f) two members to be appointed by the Minister from persons nominated by the registered trade unions representing the employees of the scheduled mines;
- (g) one member to be nominated by Mindeco Limited and appointed by the Minister;
- (h) one member to be nominated by Roan Consolidated Mines Limited and appointed by the Minister; and
- (i) one member to be nominated by Nchanga Consolidated Copper Mines Limited and appointed by the Minister.

(2) For each of the members of the Board other than the Chairman there shall be appointed an alternate member, and the provisions of subsection (3) and of section *nine* shall apply to alternate members. The alternate members shall be appointed by the Minister, and, in the case of alternate members for the members mentioned in paragraphs (e) to (i) of subsection (1), they shall be nominated in the manner prescribed in the aforementioned paragraphs (e) to (i) before they are so appointed.

(3) If any of the persons mentioned in paragraphs (f) to (i) of subsection (1) fails, neglects or refuses to submit a nomination or nominations, as the case may be, pursuant to subsection (1) or (2), the Minister may, in lieu thereof, appoint such person or persons as he may deem fit to be a member or members of the Board.

(No. 25 of 1971)

9. (1) Subject to the provisions of subsection (2), the members of the Board appointed under paragraphs (f) to (i) of subsection (1) of section *eight* shall hold office for three years and shall be eligible for reappointment.

Terms of office of
members of Board

(2) The Minister may declare the appointment of any such member to be vacated if he is satisfied that such member-

(a) has died; or

(b) has been absent from three consecutive meetings of the Board without the permission of the Board; or

(c) is incapacitated by physical or mental illness; or

(d) is otherwise unfit or unable to discharge his functions as a member of the Board;

and in such case the Minister shall appoint to fill the vacancy a person chosen in the same manner as such member was chosen.

(3) If any of the members of the Board appointed under paragraphs (f) to (i) of subsection (1) of section *eight* is prevented by illness, absence from Zambia or other specific cause from exercising his functions as a member of the Board, the Minister may appoint any person to act for such member during his absence. The provisions of paragraph (f), (g), (h) or (i), as the case may be, of subsection (1) of section *eight*, shall apply to the appointment of such a person.

(4) If at any meeting of the Board the Chairman of the Board is absent, the members of the Board who are present shall elect as chairman for that meeting one of the members present who is mentioned in paragraph (a), (b), (e) or (f) of subsection (1) of section *eight*.

*(As amended by No. 15 of 1955, No. 12 of 1960,
No. 77 of 1965 and No. 25 of 1971)*

10. (1) Meetings of the Board shall be held as often as may be necessary, but not less frequently than once in any three months.

Meetings of Board
and quorum

(2) Five members of the Board, of whom one may be the chairman, shall form a quorum at any meeting thereof.

(3) The decision of the majority of the members of the Board present at any meeting shall constitute a decision of the Board:

Provided that in the event of an equality of votes, the chairman at the meeting shall have a casting vote in addition to his deliberative vote.

(4) An alternate member may attend and take part in the proceedings at any meeting of the Board notwithstanding the presence at such meeting of the member to whom he is alternate, but shall not be entitled to a vote unless the member to whom he is alternate is absent.

(5) Subject to the provisions of this Act, the procedure at meetings of the Board shall be determined by the Board.

11. (1) It shall be the duty of the Board generally to carry into effect the provisions of this Act relating to the award of benefits, the obtaining of funds from owners of scheduled mines and such other matters as are provided for in Parts IV, V and VI, and, in particular, the Board shall-

General powers,
duties and
functions of Board

(a) control and administer all funds and moneys placed under the control or at the disposal of the Board by or under this Act; and

(b) determine what persons are entitled to benefits under this Act and the benefits to which such persons are entitled, and shall pay such benefits from the funds at the disposal of the Board.

(2) The Board may from time to time make such recommendations to the Minister as it may deem desirable for the improvement of this Act

and of any regulations made thereunder.

(As amended by No. 77 of 1965)

12. (1) All assets and liabilities which at the commencement of this Act were assets and liabilities of the former Board shall devolve upon the Board.

Transfer of assets and liabilities of former Board

(2) For the purposes of this Act all acts performed by the former Board under and in accordance with the provisions of the repealed Act shall be deemed to have been done by the Board under and in accordance with the provisions of this Act.

13. (1) The Board shall deposit all its revenue in an account, in the name of the Board, at a bank or banks approved by the Minister and shall not pay out any money except by means of an order signed by two persons designated by the Board directing such bank or banks to pay the sum or sums in question on behalf of the Board.

Deposit and investment of moneys

(2) The Board may invest any moneys belonging to the Fund in any of the following ways:

(a) in investments which are trustee investments within the meaning of the British Act known as the Trustee Act, 1925, or any Act amending the same or substituted therefor;

(b) in public stock, funds or debentures issued or guaranteed by the Government or of any part of the Commonwealth;

(c) on fixed deposit with any bank carrying on business within Zambia;

(d) in the Post Office Savings Bank;

(e) in any stock of a municipal council, or of a public utility corporation, or institution not carrying on business for gain, where such council, corporation or institution is within the Commonwealth;

(f) in any other investment approved by the Minister.

(As amended by No. 31 of 1951, No. 25 of 1952,

G.N. No. 233 of 1964, S.I. No. 124 of 1965
and No. 77 of 1965)

14. The Board may, with the consent of the Minister, borrow money for the purpose of any function which the Board is by this Act required to perform. Power to borrow money

(As amended by No. 77 of 1965)

15. (1) The Board shall cause full and true accounts to be kept in respect of the Fund showing- Accounts and audit

- (a) the investments of the Fund;
- (b) all sums received by or due to the Fund from any source;
- (c) all moneys paid out by the Board; and
- (d) all ascertained liabilities of the Fund.

(2) The Board shall cause the books and accounts of the Fund to be balanced every year up to the last day of December in such year, and a balance to be made up showing, as at that date, the assets of the Fund, including the investments, and the existing and accruing liabilities thereof.

(3) The Board shall cause proper books of account and other records to be kept in relation to its undertakings and property, and shall prepare yearly balance sheets, made up to the 31st December of each year, showing in all necessary detail the assets, liabilities, revenue and expenditure of the Board.

(4) All accounts kept by the Board shall be audited by an auditor chosen by the Board and approved by the Minister.

(5) The Board shall, as soon as possible after the end of each year ending on the 31st December, furnish to the Minister a report upon its working operations during such year.

(6) The Board shall furnish to the Minister, either together with the report referred to in subsection (5) or as soon thereafter as practicable, a balance sheet and a complete statement, duly audited and accompanied by the report of the auditor, of the Board's revenue and expenditure during the year covered by the said report.

(As amended by No. 31 of 1951 and No. 77 of 1965)

16. (1) For the purpose of determining any matter the Board shall, in addition to its other functions and powers, have the same powers as are vested in a subordinate court to summon witnesses and to examine them on oath and to call for the production of documents.

Power to summon witnesses and take evidence

(2) A summons for the attendance of a witness or for the production of any book, document or record before the Board shall be signed and issued by the Chairman of the Board, and shall be served in the same manner as a summons for the attendance of a witness at a criminal trial before a subordinate court.

(3) Any person summoned to give evidence or to produce any book, document or record or giving evidence before the Board shall be entitled to the same privileges and immunities as if he were summoned to attend or were giving evidence at a trial before a subordinate court.

(4) If any person who has been summoned to give evidence or to produce any book, document or record before the Board fails, neglects or refuses without reasonable excuse-

(a) to attend in obedience to such summons; or

(b) to be sworn as a witness; or

(c) having been sworn, to answer fully and to the best of his knowledge any question lawfully put to him; or

(d) to produce any such book, document or record;

he shall be guilty of an offence.

(As amended by No. 31 of 1951)

17. (1) The Chairman of the Board shall submit to each meeting of the Board, with such details as the Board may require, a report as to his exercise under subsection (2) of section *four*, of the powers of the Board since the previous meeting of the Board.

Exercise of powers
of Board by
Chairman of Board

(2) The amount and nature and method of payment of every benefit under this Act awarded by the Chairman of the Board in exercise of the powers of the Board shall be provisional, pending confirmation or variation by the Board, and the beneficiary concerned or a person acting on his behalf, when notified of the award of the Chairman of the Board, shall be notified that the amount, nature and method of payment thereof are provisional and such person shall, in due course, be notified of the confirmation or variation by the Board of the amount, nature and method of payment of such provisional award.

(3) A beneficiary or a person acting on his behalf, who, on receipt of notice of a provisional award, desires to make representations concerning any or all of the terms of such provisional award before the Board proceeds to confirm or vary the same shall, within fourteen days of the receipt of such notice, request the Chairman of the Board in writing to delay consideration by the Board of such provisional award until representations with regard to its terms have been received by him in writing.

(4) When the Chairman of the Board has received a written request to delay consideration by the Board as provided for in subsection (3), he shall not submit the provisional award in question to the Board for confirmation or variation until the meeting of the Board next following a period of forty days subsequent to the date of service of notice of the provisional award.

(5) When notice of a request has been given to the Chairman of the Board under subsection (3), the Chairman of the Board shall, at the meeting of the Board referred to in subsection (4), put the provisional award in question before the Board for confirmation or variation, either with or, if none has been received, without the written representations referred to in subsection (3), and the Board may then proceed to confirm or vary such provisional award.

(6) If the Chairman of the Board, when considering any matter relating

to the payment to any person of a benefit, deems it expedient not to exercise the powers conferred upon him by subsection (2) of section *four*, he shall refer the matter to the Board, either at its next meeting or by circulation to all members, and shall inform the person whose benefit is in question that the matter has been so referred.

(As amended by No. 15 of 1955 and No. 30 of 1962)

18. Except where specifically provided, every finding, opinion and determination of the Board shall be final.

Finality of Board's decisions

(As amended by No. 31 of 1951)

19. Subject to the provisions of section *eighty*, where the Board has paid to or for the benefit of any person any sum of money which was not due to that person, the Board may recover such sum either directly or by deduction from any benefit to which such person has or will become entitled.

Recovery by Board of money paid in error

Pneumoconiosis Medical and Research Bureau

20. Upon the commencement of this Act there shall be established a Pneumoconiosis Medical and Research Bureau for the purpose of carrying into effect the provisions of Part III and carrying out the functions of the examining and certifying medical authority under this Act.

Establishment of Bureau

(As amended by No. 3 of 1957)

21. The Bureau shall consist of a director, deputy director and such other members as the Minister may appoint. The director, deputy director and other members shall be medical practitioners in the service of the Government.

Composition of Bureau

(As amended by No. 15 of 1955, No. 3 of 1957 and No. 7 of 1965)

22. The Bureau shall be under the direction and control of the Director of the Bureau and shall work in conjunction with the Board, and on all purely medical questions the advice and decision of the Bureau shall, subject to the provisions of section *twenty-eight*, be accepted by the Board and by any other person interested under this Act.

Function and control of Bureau

(No. 15 of 1955 as amended by No. 3 of 1957)

23. Except where otherwise specifically provided, the Bureau shall-

(a) conduct all medical examinations required under this Act. In the case of a person who is resident outside Zambia, the Bureau may, in its discretion, and subject to the payment of any expenses involved by the person concerned, authorise the performance of a medical examination by a medical practitioner or medical practitioners approved by the Bureau for the purpose, but the Bureau shall interpret the findings of such examination and no certificate or report on any medical matter other than a certificate or a report by the Bureau or the Board of Appeal shall be valid for any purpose of this Act. Medical practitioners approved as aforesaid shall send to the Bureau a report written on a form to be supplied by the Bureau of the findings of each examination made together with a radiograph, to the satisfaction of the Bureau, of the chest of each person examined;

Conduct of medical examinations and issue of certificates and reports by Bureau

(b) issue all the certificates and reports referred to in Part III except those required under the provisions of subsection (1) of section *thirty-one*. Certificates and reports issued by the Bureau shall, subject to any finding of the Board of Appeal, be in accordance with the interpretation by the Bureau of the findings at examinations carried out in accordance with the provisions of paragraph (a).

24. All medical examinations and all certificates and reports which were validated by section *forty-eight* of the repealed Act, and all medical examinations and all reports and certificates of fitness performed or issued by the Director of Medical Services, or by the former Bureau in accordance with the arrangements made under the authority of section *twenty-three* of the repealed Act before the commencement of this Act, shall be deemed to have been performed and issued by the Bureau established under this Act and such reports and certificates shall be accepted by the Board and by every person interested under this Act in like manner as if they had been issued by the Bureau.

Validity of examinations, certificates of fitness and reports issued prior to the commencement of this Act

Medical Board of Appeal

25. Upon the commencement of this Act, there shall be established a Medical Board of Appeal to which appeals against decisions of the Bureau shall lie in accordance with section *twenty-eight*.

Establishment of Board of Appeal

26. (1) The Board of Appeal shall consist of the Director of Medical Services, who shall be the chairman of the Board of Appeal, the Director

Composition of Board of Appeal

of the Bureau, one of the medical staff of the Bureau nominated by the Director of the Bureau and appointed by the Minister, and two medical practitioners in the service of the Government nominated by the Director of Medical Services and appointed by the Minister.

(2) When an appeal concerns a report by the Bureau upon the findings resulting from a *post-mortem* examination, there shall be added to the Board as a member thereof a Government pathologist, who shall be nominated by the Director of Medical Services and appointed by the Minister.

(As amended by No. 15 of 1955,
No. 3 of 1957, No. 76 of 1963
and No. 77 of 1965)

27. The Board of Appeal shall meet as often as may be necessary, and shall consider all appeals which may be made to it in accordance with the provisions of this Act and all questions referred to it under section *thirty-three*.

Meetings of Board
of Appeal

28. (1) Subject to such conditions as may be prescribed, any miner who is dissatisfied with a report of the Bureau on any prescribed examination other than an initial examination, and who has not accepted any benefit under an award made as the result of such report, may, within thirty days after the receipt by him of the Bureau's report on such examination, appeal to the Board of Appeal, whose decision thereon shall, subject to the provisions of section *thirty-two*, be final, and shall not be subject to any further review or appeal.

Appeals to Board
of Appeal

(2) Whenever any dependant of a deceased miner is dissatisfied with the report of the Bureau as to the cause of such miner's death, or as to whether such miner did or did not have pneumoconiosis or tuberculosis, or both these diseases, at the time of his death, and if such dependant has not accepted any benefit under an award made by the Board as a result of such report, he may, within thirty days after the receipt by him of the Bureau's report, appeal to the Board of Appeal, whose decision shall, subject to the provisions of section *thirty-two*, be final, and shall not be subject to any further review or appeal:

Provided that the acceptance of any benefit shall not debar a beneficiary from appealing to the Board of Appeal if the appeal is based upon any fact of which the appellant was not aware at the time of such acceptance.

(As amended by No. 31 of 1951 and No. 15 of 1955)

29. When the Board of Appeal is considering any appeal against a decision of the Bureau, all radiographic, clinical and other records which are in the custody of the Bureau, and which relate to the subject-matter of the appeal, shall be made available to the Board of Appeal.

Records in custody of Bureau to be available for appeals

30. Any microfilmed or photostat copy of any radiographic, clinical or other similar records in the custody of the Bureau purporting to be certified as a true copy of any such record by the Director of the Bureau shall be admissible as evidence of the matters contained therein in all proceedings before a court.

Certified copies of records in custody of Bureau to be admissible as evidence of contents

(No. 77 of 1965)

31. (1) After the hearing of every appeal under the provisions of this Act, a report stating its decision in respect of the subject of the appeal shall be issued by the Board of Appeal.

Reports on appeals

(2) Any report which is issued under the provisions of subsection (1) shall be sent to the appellant, and a copy of the report shall be sent to the employer or former employer, as the case may be, to the Board and to the Bureau.

(As amended by No. 30 of 1962)

32. (1) When the Board of Appeal has issued a report and subsequently is satisfied that at the date of issue such report was incorrect, the Board of Appeal may issue a correct report which shall, subject to the provisions of section *eighty*, supersede and cancel the incorrect report.

Correction of reports

(2) When a correct report has been issued under the provisions of subsection (1), the provisions of subsection (2) of section *thirty-one* shall apply in respect of the issue of such correct report.

33. The Bureau may refer any medical questions for the opinion of the Board of Appeal, but when such reference is made by the Bureau, the opinion of the Board of Appeal shall not be binding upon the Bureau in respect of any decision arrived at, or to be arrived at, by the Bureau.

Reference of questions for opinion of Board of Appeal

PART III

MEDICAL EXAMINATIONS, CERTIFICATES OF FITNESS AND REPORTS

General

34. Any person who-

(a) employs as a miner any person who is not the subject of a valid certificate of fitness; or

(b) employs as a miner any person who is the subject of an initial (restricted) certificate or a periodical (restricted) certificate otherwise than in accordance with the restrictions set out in such certificate; or

(c) employs as a miner any person who is the subject of a special certificate for more than an aggregate of one hundred hours in any period of thirty days; or

(d) works as a miner without being the subject of a valid certificate of fitness; or

(e) being the subject of an initial (restricted) certificate or periodical (restricted) certificate, works as a miner otherwise than in accordance with the restrictions set out in such certificate; or

(f) being the subject of a special certificate, works as a miner for more than an aggregate of one hundred hours in any period of thirty days;

shall be guilty of an offence:

No employment without, or in breach of, a certificate of fitness

Provided that when a miner is or is to be presented for examination under section *forty-one*, the continuation of his working or employment as a miner up to fifteen days or for such longer period as the Bureau may authorise in writing with reference to him, after the validity of his certificate of fitness has expired, shall not constitute an offence against the provisions of this Act.

(As amended by No. 30 of 1962)

35. (1) In order to obtain a certificate of fitness, the person concerned shall undergo the appropriate examination prescribed by this Act as

Method of obtaining

hereinafter provided.

certificate of
fitness

(2) Any employer or prospective employer desiring to present any person for a prescribed examination shall do so at a date and time to be arranged between the Bureau, or medical practitioner outside Zambia authorised by the Bureau under paragraph (a) of section *twenty-three*, and such employer or prospective employer.

(3) Any person not employed as a miner or having no definite offer of employment as a miner, who desires to undergo a prescribed examination, shall apply to the Bureau in person or in writing and shall attend for examination at the date and time fixed by the Bureau for the purpose.

(As amended by No. 30 of 1962)

36. (1) Before any prescribed examination is carried out, the first part, that is to say, the statement as to the nature of the examination, personal particulars, occupational history and declaration as to the truth of the particulars given, of the appropriate form supplied by the Bureau shall be completed and delivered to the Bureau at the same time as the person concerned presents himself, or is presented, for examination.

Application forms
for prescribed
examinations

(2) In the case of a miner in employment as such, or a person presented by an employer for engagement as a miner, such required particulars shall be entered on the form by the employer or prospective employer, and the declaration that the particulars are correct shall be signed by such employer or prospective employer and by such miner or person presented for engagement as a miner, as the case may be.

(3) In all other cases the person to be examined shall enter or cause to be entered on his behalf such required particulars on the form and shall, as the Bureau may require, sign, or affix his thumbprint to, the declaration that the particulars are correct.

(4) Any person who knowingly makes a false statement on such form, and any person who knowingly leads any other person to record a false statement on any such form, shall be guilty of an offence.

(5) When any person is convicted of an offence under subsection (4) the court convicting him may, if it is satisfied that the Bureau has issued to or in respect of the convicted person any certificate of fitness or report which, but for the false statement, would not have been issued, direct that such certificate or report shall forthwith be cancelled and the person having custody of any such certificate of fitness shall forthwith return the same to the Bureau for cancellation.

(6) Any person who fails to return a certificate of fitness to the Bureau in accordance with subsection (5) shall be guilty of an offence and liable to a fine of three hundred penalty units.

(As amended by No. 31 of 1951, No. 30 of 1962 and Act No. 13 of 1994)

37. (1) On the occasion of every prescribed examination of a person who is in employment as a miner, the employer having the custody of the miner's certificate of fitness shall cause such certificate to be delivered to the Bureau before the new examination may be performed.

Existing, expired or expiring certificates of fitness to be delivered to Bureau at every examination

(2) On the occasion of every prescribed examination of a person who is not at the time of examination in employment as a miner but in respect of whom any certificate under this Part or under the repealed Act has been issued and has not been returned to the Bureau, such certificate shall, whether valid or expired, be delivered to the Bureau before the new examination may be performed.

(3) Notwithstanding the provisions of subsections (1) and (2), the Bureau may, if satisfied that a certificate not delivered as required has been lost or destroyed, proceed with an examination and issue a certificate appropriate to the case, having regard to the Bureau's records of previous examinations and certificates in respect of the person concerned.

38. (1) Upon any prescribed examination, after both clinical and radiological examination of the person examined, and having regard to the occupational history of such person and to any other factor considered by the Bureau to be relevant-

Stages of pneumoconiosis

- (a) if the Bureau is satisfied that pneumoconiosis is present in the lungs of such person and that such pneumoconiosis shows-
- (i) radiological evidence of nodulation accompanied by no, or only very slight, incapacity; or
 - (ii) no radiological evidence of nodulation but is accompanied by moderate incapacity;

the Bureau shall certify that such person is suffering from pneumoconiosis in the first stage; or

(b) if the Bureau is satisfied that pneumoconiosis is present in the lungs of such person and is accompanied by definite and appreciable incapacity, the Bureau shall certify that such person is suffering from pneumoconiosis in the second stage; or

(c) if the Bureau is satisfied-

- (i) that pneumoconiosis is present in an advanced stage in the lungs of such person; and
- (ii) that such pneumoconiosis is accompanied by serious incapacity;

the Bureau shall certify that such person is suffering from pneumoconiosis in the third stage;

and, subject to any appeal entered under the provisions of section *twenty-eight*, any such certificate of the Bureau shall be conclusive evidence for the purposes of this Act that such person is suffering from the stage of pneumoconiosis specified in such certificate.

(2) For the purposes of this section, "incapacity" means physical incapacity, attributable to pneumoconiosis, for his work on the part of the person concerned.

(No. 15 of 1955)

Initial Examinations

39. (1) A person desiring employment as a miner who does not hold a valid certificate of fitness and who is not eligible for a periodical examination-

Initial examinations and issue of initial, initial (restricted) and special certificates

(a) if he has been offered such employment, shall be presented by his prospective employer to the Bureau for examination; and

(b) if he has no definite offer of such employment, may himself make application to the Bureau for examination.

(2) A medical examination performed by the Bureau under the provisions of this section or the interpretation by the Bureau of the findings of a medical examination performed for a like purpose by an approved medical practitioner in the case of a person resident outside Zambia under paragraph (a) of section *twenty-three*, as the case may be, shall be known as an initial examination and shall be so described on the prescribed form of application.

(3) At every initial examination the candidate shall be clinically and radiologically examined, and upon such examination the Bureau may find either-

(a) that he is free from tuberculosis and any other respiratory disease and is in every way physically suitable for work as a miner in occupations involving exposure to harmful dust, and entitled accordingly to the issue of an initial certificate; or

(b) that he does not conform to the standard laid down in paragraph (a) but is nevertheless free from tuberculosis and from pneumoconiosis in the third stage and is, in the opinion of the Bureau, medically fit for work as a miner at a particular scheduled mine in some particular occupation or occupations, and eligible accordingly for the issue of an initial (restricted) certificate; or

(c) that he does not conform to the standard laid down in paragraph (a) but is nevertheless free from tuberculosis and from pneumoconiosis in the third stage and is, in the opinion of the Bureau, medically fit for work as a miner for an aggregate of not more than one hundred hours in any one period of thirty days, and is eligible accordingly for the issue of a special certificate; or

(d) that he is not fit for work as a miner at the time of examination but may present himself or be presented for further examination after the expiration of such period as the Bureau may specify; or

(e) that he is not fit for work as a miner in any circumstances.

(4) Notwithstanding the provisions of section *forty*, the re-examination for continued employment of a person who has been employed as a miner by virtue of his having been the holder of a special certificate shall be deemed to be an initial examination, and the provisions of this section shall apply accordingly.

(5) Where a person has been examined by the Bureau under this section and has been found to be entitled to or eligible for the issue of a certificate of fitness as provided in subsection (3), the Bureau shall forthwith issue the appropriate certificate in the prescribed form:

Provided that the Bureau shall not issue an initial (restricted) certificate or a special certificate unless it is satisfied that suitable employment is or will be available for the candidate.

(6) Where a person-

(a) is presented for examination by a prospective employer under this section; or

(b) applies for examination under this section and satisfies the secretary of the Bureau that he genuinely intends to take up employment as a miner;

the examination shall be free, but in any other case the examination shall not be performed until the prescribed fee has been paid. All fees payable under this subsection shall be received by the secretary of the Bureau and paid into the general revenues of the Republic.

(7) The decision of the Bureau under this section shall be final and shall not be subject to review or appeal, and the Bureau shall be under no obligation to reveal to any person the grounds upon which a candidate for mining employment was found to be unfit for a certificate, but may in its discretion do so in any particular case.

(As amended by No. 15 of 1955 and S.I. No. 124 of 1965)

Periodical Examinations

40. Subject to the provisions of section *forty-two*, every person, whether in employment as a miner or not, in respect of whom a certificate of fitness has been issued-

Periodical
examinations

(a) if he is in employment as a miner, may be presented to the Bureau by his employer; and

(b) if he is not in employment as a miner, may himself apply to the Bureau;

for examination for the purpose of ascertaining-

(i) whether he is suffering from tuberculosis or pneumoconiosis and, if he is suffering from pneumoconiosis, the stage in which that disease is; or

(ii) if he is such a person as is mentioned in the proviso to section *forty-two*, whether his fitness for work as a miner has been seriously impaired by any disease or by old age.

Such examination shall, subject to the provisions of subsection (4) of section *thirty-nine*, be known as a periodical examination and shall be so described on the prescribed form of application for examination.

(As amended by No. 15 of 1955)

41. An employer having the custody of a certificate of fitness shall, within fifteen days before or after the date of expiry of the validity of such certificate, arrange with the Bureau for the miner concerned to undergo a periodical examination or, in the case of a person to whom subsection (4) of section *thirty-nine* applies, the examination prescribed by that subsection.

Employer to
arrange
examination on
expiry of
certificate of
fitness

42. No person shall be eligible for a periodical examination-

Persons eligible for
periodical
examination

(a) save as otherwise expressly provided in this Act or as may be required by the Bureau or the Board, prior to a date fifteen days before the date of the expiry of the validity of his certificate of fitness; and

(b) unless the application for a periodical examination is made within one year and six months from the date of expiry of the validity of the last certificate of fitness issued under this Act or under the repealed Act; and

(c) unless at the date of his last examination by the Bureau or former Bureau he was found to be free from tuberculosis and from

pneumoconiosis in the third stage; and

(d) where his last issued certificate of fitness was an initial certificate, unless, during the period of validity of such certificate, he has been employed as a miner:

Provided that paragraph (b) shall not apply in the case of a person who has a definite offer of employment as a miner and who has worked as a miner at one or more of the scheduled mines for a total of five years or longer and who has, since he last so worked, not worked in any occupation which, in the opinion of the Bureau, would expose him to the risk of inhaling harmful dust.

(As amended by No. 25 of 1952, No. 6 of 1954 and No. 15 of 1955)

43. (1) At every periodical examination the candidate shall be clinically and radiologically examined, and if upon such examination the Bureau finds that the person examined is free from tuberculosis and from pneumoconiosis in the third stage, the Bureau shall either-

Issue of periodical
certificates of
fitness

(a) issue a certificate of fitness, to be known as a periodical certificate; or

(b) if the previous certificate of fitness issued in respect of the person examined is either an initial (restricted) certificate, or a periodical (restricted) certificate, issue a certificate of fitness, to be known as a periodical (restricted) certificate, which shall contain restrictions of a like nature to those contained in the previous certificate; or

(c) in the case of a person admitted to a periodical examination under the proviso to section *forty-two*, refuse to issue a periodical certificate, unless, in addition to freedom from tuberculosis and pneumoconiosis in the third stage, the Bureau finds that fitness for work as a miner has not been seriously impaired by any disease or by old age.

(2) When, at the time of any periodical examination, the Bureau cannot forthwith determine with certainty the presence or absence of tuberculosis, the Bureau may-

(a) suspend the validity of an existing certificate of fitness for the remaining period of its validity or any portion thereof; and

(b) withhold the issue of a periodical certificate for any period not exceeding thirty days.

(As amended by No. 15 of 1955)

Discharge Examinations

44. (1) Every employer shall inform the Bureau-

Examination of
miners before
leave or discharge

(a) when any miner, whose existing certificate of fitness when issued was valid for one year and whose total service as a miner is five years or more, is about to proceed on leave for a period exceeding ninety days or to cease to be employed by such employer:

Provided that this paragraph shall not apply to any case in which such miner has been examined within one hundred and eighty days of the date of his proceeding on leave or ceasing to be employed, as the case may be; and

(b) when any miner, whose existing certificate of fitness when issued was valid for less than one year, is about to proceed on leave for a period exceeding thirty-one days or to cease to be employed by such employer.

(2) The employer shall, so far as is practicable, supply the information required by subsection (1) not more than fourteen days and not less than seven days before the date on which such miner is due to proceed on leave or to cease to be employed, as the case may be.

(3) The Bureau shall, after an examination of its records as to the health of such miner, inform the employer whether such miner is required to present himself for examination.

(4) If the Bureau, acting in accordance with subsection (3), requires the examination to be performed, the employer shall instruct and arrange for the miner concerned to present himself for examination by the Bureau and such miner shall so present himself.

(No. 31 of 1951 as amended by No. 30 of 1962)

45. An examination under section *forty-four* shall be known as a discharge examination and shall be so described upon the prescribed form of application delivered to the Bureau.

Description of examination

(As amended by No. 30 of 1962)

46. Any employer or miner who contravenes or fails without reasonable excuse to comply with any provision of section *forty-four* shall be guilty of an offence.

Offence

(As amended by No. 31 of 1951 and No. 30 of 1962)

Suspect Examinations

47. When a medical practitioner employed by the owner of a scheduled mine has reason at any time to suspect that any person employed as a miner at such mine may be suffering from pneumoconiosis or tuberculosis, the medical practitioner shall so inform the employer who shall arrange for such miner to be examined by the Bureau. Such examination shall be known for the purposes of this Act as a suspect examination and shall be so described on the prescribed form of application delivered to the Bureau.

Miners suspected of compensable disease to be examined

(As amended by No. 15 of 1955)

Benefit Examinations

48. Any person who-

Examination for benefits

(a) was formerly but is no longer employed as a miner;

(b) is not the holder of a valid certificate of fitness;

(c) is not qualified for a periodical examination; and

(d) has not, within the twelve months immediately preceding his application, been examined by the Bureau under this section or under arrangements operating under any provision of the repealed Act;

may apply for and shall be entitled to receive a medical examination with a view to ascertaining whether he is suffering from a disease which may make him eligible for a benefit under this Act. Such examination shall be known as a benefit examination and shall be so described upon the prescribed form of application for examination delivered to the Bureau.

Additional Examinations

49. (1) A person who is employed as a miner who-

Additional
examinations of
miners on request

(a) believes that he is or may be suffering from respiratory disease which might entitle him to benefit under this Act;

(b) submits to the Bureau a written request to be specially examined by the Bureau together with the prescribed form of application for examination;

(c) submits with such request a certificate signed by a registered medical practitioner to the effect that he considers the request and the belief which led to the request to be reasonable; and

(d) has informed his employer that he intends to submit a request as aforesaid;

shall be entitled to be examined by the Bureau once in any calendar year in addition to any other prescribed examination during that year. Such examination shall be known as an additional examination and shall be so described upon the prescribed form of application for examination delivered to the Bureau.

(2) The Bureau shall arrange and perform all additional examinations. Additional examinations shall be both clinical and radiological.

Certificates of Fitness

50. (1) Every certificate of fitness shall be in the prescribed form and shall show the nature of the certificate, the date of its expiry, and the name and Bureau number of the person in respect of whom it was issued, and such person shall place his signature or thumb-print upon the face of the certificate. No certificate shall be valid unless it bears upon its face the signature or stamped facsimile signature of the Director or Secretary of the Bureau.

Particulars to be
shown on
certificates of
fitness

(2) In addition to the particulars required by subsection (1) to be given on every certificate, an initial (restricted) certificate and a periodical

(restricted) certificate shall show the fact that the validity is restricted and the occupation or occupations in which and the scheduled mine or scheduled mines at which the certificate is valid.

(3) In addition to the particulars required by subsections (1) and (2), every periodical certificate whether restricted or unrestricted shall state-

(a) that the person in respect of whom it was issued is free from tuberculosis; and

(b) that he does not suffer from pneumoconiosis or that he suffers from pneumoconiosis in the first or second stage, as the case may be.

(4) In addition to the particulars required by subsection (1) to be given on every certificate, every special certificate shall show that it is not lawful for the person in respect of whom such certificate was issued to work as a miner for longer than one hundred hours in any period of thirty days.

(As amended by No. 25 of 1952, No. 15 of 1955 and No. 3 of 1957)

51. Subject to the provisions of subsection (2) of section *forty-three*, the period of validity of a certificate of fitness shall be one year:

Period of validity
of certificates of
fitness

Provided that-

(i) the Bureau may, in any case in which it is deemed desirable for medical reasons, make the validity of a periodical or periodical (restricted) or special certificate such lesser period as may to the Bureau seem appropriate; and

(ii) whenever a report issued by the Bureau certifies tuberculosis with or without pneumoconiosis or pneumoconiosis in the third stage to be present in a person examined, any certificate of fitness which may be extant in respect of such person shall forthwith become invalid, and the person in whose custody the certificate is shall forthwith return it to the Bureau for cancellation. Any person who fails to return such certificate shall be guilty of an offence.

(As amended by No. 15 of 1955)

52. (1) When the Bureau has issued a certificate of fitness and subsequently becomes satisfied that, at the date of issue, such certificate was incorrect in any respect, the Bureau shall recall and cancel the incorrect certificate.

Power to correct
certificates of
fitness

(2) If on the facts known to the Bureau at the date of recall of the incorrect certificate, the issue of a certificate is required by any provision of this Act, the Bureau shall, on receipt of the incorrect certificate for cancellation, issue the appropriate certificate, particulars whereon shall be such as they would have been had such facts been known to the Bureau at the date of issue of the incorrect certificate.

(3) If on the facts as aforesaid the issue of a certificate is not permissible under the provisions of this Act, the Bureau shall so inform every person who was informed of the issue of the incorrect certificate.

(4) Any person who refuses or neglects to return to the Bureau any certificate recalled under the provisions of this section shall be guilty of an offence.

53. (1) Where any person is entitled to the issue of a certificate of fitness under the provisions of this Act-

Issue and custody
of certificates of
fitness

(a) if the person examined is in employment as a miner or is presented to the Bureau by a prospective employer for examination with a view to his engagement as a miner, the certificate shall be sent by the Bureau to the employer or prospective employer, as the case may be;

(b) if the person examined is neither in employment as a miner nor presented for examination by a prospective employer, the certificate shall be sent by the Bureau to the person examined, who shall, when being engaged for work as a miner, deliver such certificate into the custody of his employer.

(2) Every employer shall keep in his custody each certificate received by him in accordance with the provisions of subsection (1) during the period of validity of such certificate and during the period of employment as a miner by him of the person in respect of whom it was issued.

(3) When a miner ceases to be so employed the employer shall deliver to him the certificate of fitness which has been in the employer's custody:

Provided that in the case of any miner ceasing to be employed as such but continuing to work for the same employer in an occupation other than that of a miner, the employer shall continue to keep such person's certificate of fitness in his custody and shall instruct and arrange for such person to present himself for periodical examination by the Bureau in accordance with the provisions of section *forty-one*.

(4) Any employer who contravenes or fails without reasonable excuse to comply with any provision of subsection (2) or (3) shall be guilty of an offence.

(As amended by No. 31 of 1951 and No. 30 of 1962)

54. (1) The Bureau may in its discretion replace a certificate of fitness which has been lost or destroyed where-

Lost or destroyed
certificates of
fitness

(a) application for replacement is made in person or in writing to the secretary of the Bureau by the person responsible under this Act for the custody of the missing certificate at the time its loss or destruction was discovered;

(b) at the time of application for replacement the certificate was still valid;

(c) the secretary of the Bureau is satisfied-

(i) that the certificate has in fact been lost or destroyed; and

(ii) that any applicant for replacement of a certificate issued in respect of himself is in fact the person in respect of whom the certificate lost or destroyed was issued; and

(d) a fee of eight fee units, which shall be paid into the general revenues of the Republic, has been paid to the secretary of the Bureau by the applicant.

(2) A new certificate issued in accordance with subsection (1) shall be identical in its particulars with the certificate lost or destroyed.

(As amended by S.I. No. 124 of 1965 and Act No. 13 of 1994)

Reports

55. (1) After every prescribed examination, the Bureau shall issue a report of its findings in the prescribed form.

Bureau to issue reports

(2) The original of each report issued in accordance with subsection (1) shall-

(a) in the case of a person presented by an employer or prospective employer for examination, be sent by the Bureau to the employer or prospective employer and, where the Bureau certifies the presence of pneumoconiosis or tuberculosis in the person examined, a copy of such report shall be sent to such person;

(b) in the case of any other person-

(i) if he is a miner, be sent by the Bureau to such person and a copy of such report shall be sent to the mine secretary of the mine at which such person was last employed;

(ii) if he is not a miner, be sent by the Bureau to such person.

(3) Whenever a report issued under this section certifies pneumoconiosis or tuberculosis to be present in the person examined, a copy of such report shall be sent by the Bureau to the Board and to-

(a) the Pneumoconiosis Board and Pneumoconiosis Bureau of the Republic of South Africa; or

(b) the Pneumoconiosis Compensation Board and Pneumoconiosis Medical Bureau of Zimbabwe; or

(c) the Pneumoconiosis Board and Bureau of the Republic of South Africa and the Pneumoconiosis Compensation Board and Medical Bureau of Zimbabwe;

if the person reported on has worked in either or both of those countries,

as the case may be, in an occupation deemed by the Bureau to involve exposure to risk of pneumoconiosis.

(4) Subject to the provisions of section *eighty*, when the Bureau has issued a report and subsequently becomes satisfied that at the date of issue such report was incorrect, the Bureau shall issue a correct report which shall supersede and cancel the incorrect report.

*(As amended by No. 6 of 1954,
No. 15 of 1955, No. 3 of 1957
and No. 30 of 1962)*

Post-mortem Examinations

56. (1) Every medical practitioner who carries out a *post-mortem* examination upon the body of a person shall-

Post-mortem
examinations

(a) if he finds tuberculosis to be present in the lungs of the deceased and if he has reason to believe that the deceased had at any time been employed as a miner; or

(b) if he finds pneumoconiosis to be present in the lungs of the deceased;

send the heart and lungs of the deceased to the Bureau accompanied by such report as he may be able to supply as to the health of the deceased during the thirty days prior to death.

(2) Any medical practitioner who fails to comply with the provisions of subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding seven hundred and fifty penalty units.

*(As amended by No. 31 of 1951,
No. 15 of 1955
and Act No. 13 of 1994)*

57. (1) Where a miner has died and the Bureau deems it necessary for the proper determination of the cause of death or of the presence or absence of tuberculosis or pneumoconiosis or the stage of the latter if present, the Bureau may direct that a *post-mortem* examination of the body of the deceased shall be carried out.

Bureau may direct
post-mortem
examination

(2) Where a miner who has worked as such at a scheduled mine for not less than five years has died within Zambia, and a dependant of such miner transmits to the Bureau a written request for a *post-mortem* examination, the Bureau may, in its discretion, direct that a *post-mortem* examination shall be carried out.

(3) A *post-mortem* examination may, for the purposes of this section, be made by any registered medical practitioner in accordance with arrangements made by the Bureau.

(As amended by No 15 of 1955)

PART IV

BENEFITS AND OTHER FORMS OF ASSISTANCE

58. (1) All former pensions shall cease to be payable on the date of commencement and thereafter every person entitled to a former pension immediately prior to the date of commencement shall, subject to the provisions of the amended Act, be paid a monthly pension which shall be assessed by the Board in every respect as if the amended Act had been in force when such former pension was assessed.

Cessation of former pensions and payment of pensions to dependants of a deceased miner who died before the date of commencement

(2) Notwithstanding the provisions of subsection (1), the total monthly amount of any pension or pensions payable in pursuance of subsection (1) to a miner or the dependants of a deceased miner shall not exceed the earnings of such miner and, where the pension or pensions, as so assessed, exceed such earnings, the pension or pensions shall be reduced in such manner as the Board may consider necessary to ensure that the provisions of this subsection are complied with:

Provided that the pension payable to a miner shall not be less than his former pension; and the pension payable to a dependant of a deceased miner shall not be less than the former pension received by such dependant.

(3) Where any person, in pursuance of subsection (1), receives a pension which exceeds the amount of the former pension received by such person, the Board shall, in such manner and over such period as it

may determine, pay to such person the difference between such pension and such former pension calculated on the period from the 1st January, 1961, or the date when such former pension first became payable, whichever is the later, to the date of commencement.

(4) Where, prior to the date of commencement, a payment under the provisions of section *seventy-one* was made or was due to the dependants of a deceased miner who died on or after the 1st January, 1961, the Board shall assess the pension, if any, which would have been payable under the provisions of the amended Act, if such miner had died on the date of commencement and thereafter the pension so assessed shall be paid in accordance with and subject to the provisions of the amended Act:

Provided that the amount of a pension so assessed in respect of a deceased miner shall not exceed the earnings of such miner.

(5) In assessing a pension in pursuance of subsection (4), the Board shall, for the purpose of determining who are the dependants of a deceased miner, have regard to the position pertaining at the date of commencement and determine who are the dependants accordingly.

(6) For the purpose of assessing a pension in pursuance of subsections (1) and (4), the earnings of a miner shall be treated as being the earnings which, in the opinion of the Board, he would have received if he had performed the duties which he was last employed as a miner to perform throughout the month of January, 1961, or if he was employed as a miner throughout the said month, the earnings which he received in such month:

Provided that where the earnings of a miner as so assessed are in excess of two hundred kwacha they shall be treated as being two hundred kwacha.

(7) For the purposes of this section-

"date of commencement" means the 1st December, 1962;

"former pension" means a pension payable under the Act immediately prior to the date of commencement;

"the amended Act" means the Act as amended by Act No. 30 of 1962;

"the Act" means the Pneumoconiosis Act in force immediately prior to the date of commencement.

(No. 30 of 1962 as amended by
S.I. No. 124 of 1965)

59. (1) Notwithstanding any other provisions contained in this Act, the total monthly amount of any pension or pensions payable under section *sixty-one*, *sixty-two* or *sixty-eight* to a miner or the dependants of a deceased miner shall not exceed the earnings of such miner and, where the pension or pensions assessed under any of the said sections exceed such earnings, the pension or pensions shall be reduced in such manner as the Board may consider necessary to ensure that the provisions of this section are complied with.

Limitation on the amount of any pension or pensions to be paid

(2) For the purposes of this section, the earnings of a miner shall be assessed in the manner set out in subsection (1) of section *sixty-nine*:

Provided that where the earnings of any miner as so assessed are in excess of two hundred kwacha, the earnings of such miner shall be treated as being two hundred kwacha.

(3) The provisions of this section shall not apply to any pension assessed in pursuance of the provisions of section *fifty-eight*.

(No. 30 of 1962)

60. When the Bureau certifies for the first time that a miner who has not previously been entitled to any benefit is suffering from pneumoconiosis in the first stage but is not suffering from tuberculosis, the miner shall be entitled to such sum as bears the same proportion to one thousand two hundred kwacha as his earnings bear to one hundred and sixty kwacha.

Benefits for pneumoconiosis in the first stage

(No. 30 of 1962)

61. (1) When the Bureau certifies for the first time that a miner who has already become entitled to a benefit under section *sixty* and who has not previously become entitled to any other benefit is suffering from pneumoconiosis in the second stage but is not suffering from tuberculosis, the miner shall be entitled to a monthly pension of-

Benefits for pneumoconiosis in the second stage

(a) in respect of himself, such sum as bears the same proportion to thirty-two kwacha as his earnings bear to one hundred and sixty kwacha; and

(b) where the miner has a wife, in respect of such wife such sum as bears the same proportion to ten kwacha as the miner's earnings bear to one hundred and sixty kwacha; and

(c) where the miner has a child or children, in respect of each child under the age of eighteen years such sum as bears the same proportion to five kwacha as the miner's earnings bear to one hundred and sixty kwacha.

(2) When the Bureau certifies for the first time that a miner who has not previously been entitled to any benefit is suffering from pneumoconiosis in the second stage but is not suffering from tuberculosis, the miner shall be entitled to a benefit in accordance with the provisions of section *sixty* and, in addition thereto, to a monthly pension in accordance with the provisions of subsection (1).

(As amended by No. 6 of 1954, No. 15 of 1955 and No. 30 of 1962)

62. (1) When the Bureau certifies for the first time that a miner who has already been entitled to a benefit under section *sixty* or *sixty-one* is suffering from pneumoconiosis in the third stage but is not suffering from tuberculosis, such miner shall be entitled to a monthly pension of-

Benefits for pneumoconiosis in the third stage

(a) in respect of himself, such sum as bears the same proportion to seventy-six kwacha as his earnings bear to one hundred and sixty kwacha; and

(b) where the miner has a wife, in respect of such wife such sum as bears the same proportion to twenty kwacha as the miner's earnings bear to one hundred and sixty kwacha; and

(c) where the miner has a child or children, in respect of each such child under the age of eighteen years such sum as bears the same proportion to nine kwacha as the miner's earnings bear to one hundred and sixty kwacha.

(2) When the Bureau certifies for the first time that a miner who has not

previously been entitled to any benefit is suffering from pneumoconiosis in the third stage but is not suffering from tuberculosis, the miner shall be entitled to a benefit in accordance with the provisions of section *sixty* and, in addition thereto, to a monthly pension in accordance with the provisions of subsection (1).

(As amended by No. 6 of 1954, No. 15 of 1955 and No. 30 of 1962)

63. (1) When the Bureau certifies for the first time that a miner who, throughout a period of one year or longer or periods amounting in the aggregate to one year or longer, but less in either case than ten years, has worked as a miner at a scheduled mine, is suffering from tuberculosis with which he was, in the opinion of the Bureau, already affected within the twelve months immediately succeeding the date on which he last worked as aforesaid, but is not suffering from pneumoconiosis, the miner shall be entitled to a benefit in accordance with the provisions of section *sixty*.

Benefits in respect
of tuberculosis

(2) When the Bureau certifies for the first time that a miner who, throughout a period of ten years or longer or periods amounting in the aggregate to ten years or longer, has worked as a miner at a scheduled mine, is suffering from tuberculosis with which he was, in the opinion of the Bureau, already affected within the twelve months immediately succeeding the date on which he last worked as aforesaid, but is not suffering from pneumoconiosis, the miner shall be entitled to a benefit in accordance with the provisions of section *sixty* and, in addition thereto, to a monthly pension in accordance with the provisions of section *sixty-two*.

(3) For the purpose of subsections (1) and (2), no person shall be deemed to have worked as a "miner" throughout the period of one year or ten years unless he has, throughout the period of one year or ten years, as the case may be, performed work underground or in scheduled places amounting on the average, either-

(a) to such work on more than twenty days per calendar month irrespective of the number of hours worked per month; or

(b) to an aggregate of more than eighty hours per calendar month irrespective of the number of days in the month over which the work was distributed.

(As amended by No. 31 of 1951 and No. 15 of 1955)

64. (1) When the Bureau certifies for the first time that a miner who has already been entitled to a benefit under section *sixty* or under subsection (1) of section *sixty-three* and who has not become entitled to a monthly pension under section *sixty-two* or subsection (2) of section *sixty-three* is suffering from both pneumoconiosis and tuberculosis, the miner shall be entitled to a monthly pension in accordance with the provisions of subsection (1) of section *sixty-two*.

Benefits in respect of tuberculosis combined with pneumoconiosis

(2) When the Bureau certifies for the first time that a miner who has not previously been entitled to any benefit is suffering from both pneumoconiosis and tuberculosis, the miner shall be entitled to the benefits provided for in subsection (2) of section *sixty-two*.

(As amended by No. 15 of 1955)

65. (1) When the physical condition of a miner to whom a pension has been awarded or who has become entitled to a benefit under the provisions of subsection (1) of section *sixty-three* is such that, in the opinion of the Board, special medical care or treatment is necessary for or in connection with that condition, the Board may, in its discretion, defray the costs of or incidental to such special care or treatment as the Board deems to be appropriate. The payments made by the Board under the authority of this section shall not in the aggregate exceed one thousand kwacha in respect of any beneficiary.

Discretionary payments in addition to pension

(2) Notwithstanding the provisions contained in section *twenty-three*, the Bureau may refund to a miner the whole or a part of the amount paid by him to a medical practitioner for medical examination performed upon him outside Zambia if the following conditions are satisfied:

(a) the medical examination outside Zambia was duly authorised by the Bureau; and

(b) the miner has already been entitled, or becomes entitled as a result of such medical examination, to the benefits laid down in section *sixty* or *sixty-one*.

(As amended by No. 52 of 1960 and No. 25 of 1971)

66. When a miner who has been entitled to any benefit has died, or when the Bureau certifies, after the death of a miner who has not, during

Contribution towards funeral

his life, been entitled to any benefit, that he was at the time of his death suffering from pneumoconiosis or tuberculosis which would, in the opinion of the Board, have entitled him to a benefit if the Bureau had so certified before his death, the Board may, in its discretion, contribute a sum, not exceeding fifty kwacha, towards his reasonable funeral expenses.

expenses of a deceased miner

(As amended by No. 25 of 1952 and No. 15 of 1955)

67. When a miner who has not, during his life, been entitled to any benefit has died after the commencement of this Act, and the Bureau certifies after his death that at the time of his death the deceased miner was suffering from pneumoconiosis in any stage, or from tuberculosis with or without pneumoconiosis, the deceased miner shall be deemed to have become entitled before his death to a benefit in accordance with the provisions of section *sixty*:

Certain benefits to be deemed to have accrued before death to a deceased miner

Provided that such certification after death of tuberculosis without pneumoconiosis shall not confer a benefit under this section unless the Board is satisfied that a like certification by the Bureau would have conferred a benefit under section *sixty-three* if the miner had been alive at the date when such certification was made.

(As amended by No. 15 of 1955)

68. (1) The dependants of a deceased miner who died after the commencement of this Act and who-

Pensions for dependants of deceased miners

(a) was entitled to a monthly pension thereunder; or

(b) had not been entitled to any benefit by way of pension during his life but with regard to whom the Bureau certifies after his death that, at the time of death, he was suffering from-

(i) pneumoconiosis in the first stage, which caused or contributed to his death; or

(ii) pneumoconiosis in the second or third stage; or

(iii) pneumoconiosis combined with tuberculosis; or

(iv) tuberculosis with regard to which the Board is satisfied that the same certification, if made during the deceased's life, would have entitled him to a pension under subsection (2) of section *sixty-three*;

shall, as from the day following the day upon which the miner died or, in the case of a posthumous dependant, as from the date of that dependant's birth, be entitled to or eligible for the award of the appropriate monthly pension in accordance with the provisions of subsection (2).

(2) The monthly pension to which a dependant of a deceased miner shall be entitled shall be-

(a) in the case of a widow of such miner, such sum as bears the same proportion to forty kwacha as the miner's earnings bear to one hundred and sixty kwacha;

(b) in the case of each child of such miner under the age of eighteen years and subject to the provisions of subsection (3), such sum as bears the same proportion to sixteen kwacha as the miner's earnings bear to one hundred and sixty kwacha;

(c) in the case of any person who may be deemed to be a dependant of such miner under the provisions of subsection (2) of section *three*, such sum, if any, as the Board may award:

Provided that pensions awarded by the Board under this paragraph shall not amount in the aggregate to more than fifty kwacha per month in respect of all the dependants of such miner.

(3) In the case of any child of a deceased miner who becomes entitled to a monthly pension under the provisions of this section and who has no natural or adoptive parent living, the Board may, in its discretion and notwithstanding the provision of paragraph (b) of subsection (2), pay to or for such child such increased pension, but not exceeding fifty kwacha per month, as the Board may deem appropriate.

(As amended by No. 1 of 1951, No. 6 of 1954, No. 15 of 1955, No. 30 of 1962, S.I. No. 124 of 1965 and No. 77 of 1965)

69. (1) For the purposes of sections *sixty*, *sixty-one*, *sixty-two* and *sixty-eight*, the earnings of a miner shall be assessed as follows:

Assessment of earnings for the purposes of sections 60, 61, 62 and 68

(a) in the case of a miner not employed as such when he is certified

or dies, the earnings which, in the opinion of the Board, he would have received if he had performed the duties which he was last employed to perform as a miner throughout the month of January, 1961, or, if he was employed as a miner after the said date, the earnings which he received in respect of the last full month in which he worked as a miner; or

(b) in the case of a miner employed as such when he is certified or dies, the earnings which he received for the full month in which he is certified or dies, or, if he did not work as a miner for the full month in which he is certified or dies, the earnings which, in the opinion of the Board, he would have received had he so worked.

(2) Notwithstanding the provisions of subsection (1), where the earnings of a miner, as assessed in accordance with the provisions of subsection (1), are-

(i) less than thirty-five kwacha, the earnings of such miner shall be treated as being thirty-five kwacha;

(ii) in excess of two hundred kwacha, the earnings of such miner shall be treated as being two hundred kwacha.

(3) The provisions of this section shall not apply to any pension assessed in pursuance of the provisions of section *fifty-eight*.

(No. 30 of 1962)

70. Where a pension to a widow of a deceased miner ceases under the provisions of subsection (1) of section *seventy-seven* on account of her remarriage, she shall be entitled to a sum equal to twenty-four times the amount of her monthly pension.

Gratuity to widow of deceased miner on remarriage

(As amended by No. 30 of 1962 and No. 77 of 1965)

71. (1) The pension payable to a miner or to the dependants of a miner married under a system permitting of polygamy shall be calculated as if there was only one wife or on his death one widow.

Pension payable to a miner married under a system permitting of polygamy

(2) In the case of a deceased miner who leaves two or more widows, such widows shall be entitled to share between themselves such pension as would be payable to a single widow of the deceased miner jointly or in such proportions as the Board in its discretion may decide.

(No. 30 of 1962 as amended by No. 77 of 1965)

PART V

PROVISIONS GOVERNING THE PAYMENT AND RECEIPT OF BENEFITS

72. (1) Where any miner or any dependant of a miner who, at the time of becoming entitled to any benefit or after he has become entitled to any benefit, is or becomes resident in any country outside the Commonwealth, his right to receive such benefit shall be in abeyance for the whole of the period of residence outside the Commonwealth unless the Board decides in any particular case that it is reasonably practicable and convenient to pay such benefit.

Exclusion from certain rights of persons resident outside the Commonwealth

(2) If any question arises in connection with the application of subsection (1) as to whether a person was, on any date or for any period, resident outside the Commonwealth, such person shall be deemed to have been resident outside the Commonwealth on that date or for that period unless the contrary is proved to the satisfaction of the Board.

(As amended by No. 77 of 1965)

73. (1) A right to any benefit under this Act shall not become effective until the benefit has been awarded by the Board on an application made by the person concerned or by any other person acting on his behalf on the prescribed form and accompanied by the prescribed information:

Application for benefits and date at which awards become effective

Provided that the Board may award any benefit even though no application has been made therefor.

(2) When the Board has awarded a pension, the award shall have retrospective effect-

(a) as from the date upon which the beneficiary concerned became entitled to the pension if the application therefor reached the Board within a period of one year from such date; or

(b) as from the date upon which the application reached the Board if

such date is more than a year later than the date upon which the beneficiary became entitled to the pension:

Provided that if an application reached the Board on a date which is more than a year after the date upon which the beneficiary concerned became entitled to the pension, the Board may, in its discretion, award the pension from a date not earlier than one year before the date on which the application reached the Board.

(As amended by No. 30 of 1962)

74. (1) If a miner is suffering or if a deceased miner was suffering from pneumoconiosis in any stage which, in the opinion of the Board, is not or was not wholly or partially attributable to mineral dust inhaled while working as a miner at a scheduled mine, he shall be deemed for the purposes of this Part not to be or to have been suffering from pneumoconiosis:

Pneumoconiosis
contracted outside
scheduled mines

Provided that the provisions of this subsection shall not apply to a miner who or whose dependants became entitled to any benefit under the repealed Act.

(2) If a miner is suffering or if a deceased miner was suffering from pneumoconiosis in any stage, without tuberculosis, which, in the opinion of the Board, is or was only partly attributable to mineral dust inhaled as aforesaid, the Board, in consultation with the Bureau, shall determine to what extent, expressed as a fraction or percentage, the pneumoconiosis is or was so attributable, and thereupon the miner or his dependants, as the case may be, shall be entitled to a corresponding fraction or percentage of the benefit for which provision is made in Part IV in relation to the stage of pneumoconiosis from which the miner is or was suffering.

(3) If a miner is suffering or if a deceased miner was suffering-

(a) from pneumoconiosis in any stage which, in the opinion of the Board, is or was only partly attributable to mineral dust inhaled as aforesaid; and

(b) from tuberculosis in respect whereof he did not become entitled to a benefit under subsection (2) of section *sixty-three*;

the provisions of subsection (2) shall apply in relation to him as if he were or had been suffering from pneumoconiosis in the third stage and as if he were not and had not been suffering from tuberculosis.

(4) In the case of a miner who or whose dependants would, under the provisions of this section, be entitled to a fraction or percentage of the benefits provided by Part IV and who-

(a) has worked as a miner at a scheduled mine before it was established that pneumoconiosis could be acquired at such mine in that occupation, that is to say, before the 15th December, 1943; and

(b) has worked as a miner at a scheduled mine for an aggregate of not less than ten years; and

(c) at the date of the earliest certification of pneumoconiosis by the Bureau was either working as a miner at a scheduled mine or had not, since he last so worked, been employed in any other occupation likely, in the Board's opinion, to cause pneumoconiosis;

the Board may, in its discretion, award to the beneficiary or beneficiaries concerned a larger proportion of the benefits provided by Part IV than the fraction or percentage assessed in accordance with subsection (2), and the Board shall, in assessing such larger proportion, take into account any compensation in respect of pneumoconiosis which the miner or dependants concerned may have received or may be entitled to receive from any source other than the Board.

(As amended by No. 15 of 1955 and No. 30 of 1962)

75. (1) When a miner who is entitled to pension under any provision of this Act becomes entitled to a greater pension under any other provision of this Act, such first-mentioned pension shall lapse.

Pensions not to be duplicated

(2) No person shall be entitled simultaneously to two separate pensions under the provisions of this Act.

(3) Where the Bureau has certified the presence in any miner of pneumoconiosis in any stage or of tuberculosis without pneumoconiosis, or of both pneumoconiosis and tuberculosis, and such miner has received or is entitled to receive under the law of another country the full benefit which under the law of such country is payable

in respect of a like certification made there to a person who has worked only in such country as a miner, labourer or worker, no benefit shall be payable under this Act.

*(As amended by No. 31 of 1951, No. 15 of 1955 and * No. 42 of 1956)*

* These amendments shall be deemed to have come into force on 1st January, 1953.

76. A miner shall not be entitled to a pension-

Restriction of
entitlement to a
pension

(a) in respect of a wife-

(i) who is living apart from him and whom he is under no obligation by agreement or by order of a court to maintain; or

(ii) whom he married on or after the date upon which he first became entitled to a pension in respect of himself;

* These amendments shall be deemed to have come into force on 1st January, 1953.

(b) in respect of a legitimate child-

(i) who was born of a marriage contracted on or after the date upon which he first became entitled to pension in respect of himself; or

(ii) who has been adopted by another person;

(c) in respect of a child whom he adopted on or after he became entitled to his first benefit;

(d) in respect of a step-child-

(i) who became his step-child on or after the date mentioned in sub-paragraph (ii) of paragraph (a); or

(ii) whose mother has ceased to be the miner's wife or whose mother the miner is not obliged by agreement or court order to maintain, unless in either case the step-child is living with and is wholly or partly supported by the miner;

(e) in respect of an illegitimate child who was born more than ten months after the date upon which he first became entitled to a pension in respect of himself;

(f) in respect of any person, other than the miner's wife, who is or

has been married or has been adopted by a person other than the miner.
(As amended by No. 25 of 1952)

77. (1) A pension awarded to a dependant of a deceased miner shall cease-

Cessation of pensions awarded to dependants

(a) when the person concerned marries; or

(b) if the person concerned, not being the widow of such miner, was under the age of eighteen years at the time of the death of the miner in question, when such person attains such age:

Provided that such pension shall continue so long as the Board is satisfied that the person concerned is either-

(i) incapable by reason of ill health or physical or mental infirmity of earning his own living; or

(ii) attending a full-time educational course and is under the age of twenty-five years.

(2) If any benefit has been awarded in respect of the death of a deceased miner, to a person specified in subsection (2) of section *three*, and thereafter any dependant of such deceased miner under subsection (1) of that section establishes a right to any benefit as such dependant, the award to such first-mentioned person shall be cancelled, but any payment made under the award prior to such cancellation shall be valid, and be deemed to have been made to such last-mentioned dependant.

(3) When a dependant of a deceased miner who is entitled to a pension thereafter becomes entitled to a pension in respect of another deceased miner and the Board has, on an application made by or on behalf of such dependant, awarded such last-mentioned pension to him, his right to the first-mentioned pension shall lapse as from the date upon which the later pension award takes effect, and the Board shall set off against the new pension any amount which has been paid as an instalment of the lapsed pension in respect of any period after such date.

78. (1) When the whereabouts is unknown of any person who is entitled to receive any benefit under this Act, the Board may withhold any payment due to such person.

Withholding of payments in certain circumstances

(2) When the Board has reason to believe that any person may have ceased to be entitled to a benefit, the Board may withhold the payment of such benefit.

(3) Where the Board, in the exercise of the powers conferred upon it by subsection (1) or (2), has withheld payment of any benefit for a period of three years or where the right to receive a benefit has been in abeyance for a period of three years under the provisions of section *seventy-two*, the right of the person concerned to receive any benefit or the unpaid balance of any benefit to which he was formerly entitled shall lapse:

Provided that the right to receive or to continue to receive a benefit shall be revived by the Board within three years of such lapse on its being satisfied that the reason for the lapse of the right no longer exists.

(4) No interest shall be payable by the Board on any moneys the payment of which is withheld, or the right to which lapses and is revived in accordance with the provisions of this section.

(No. 31 of 1951 as amended by No. 15 of 1955 and No 77 of 1965)

79. (1) Any work as a miner at a scheduled mine which any person has performed in contravention of the provisions of this Act shall, for the purpose of determining whether such person or any dependant of his is entitled to a benefit and for the purpose of determining the amount of any benefit, be deemed not to be work as a miner.

Disqualifications
and penalties
resulting from
prohibited work

(2) When a person who is suffering from pneumoconiosis or tuberculosis and who has been so informed works as a miner in contravention of this Act and such person thereafter becomes entitled to a pension or to a greater pension than formerly, the Board may reduce the amount of such pension or greater pension to an extent which, in the opinion of the Board, is proportionate to the extent to which, the work in question is likely to have caused or contributed to the aggravation of the condition as a result of which he becomes entitled to such pension or greater pension.

(3) If a miner who has become entitled to a pension under this Act

works in contravention of the provisions of this Act on any day in any calendar month, he shall not be entitled to payment of his pension in respect of the month in question.

(4) If it becomes known to the Board that a person who is in receipt of or has become entitled to a pension under the provisions of this Act is working as a miner in contravention of the provisions of this Act, or has so worked since he became entitled to a pension, the Board shall not make to him any further monthly payment of such pension until satisfied that the person in question has ceased to work as a miner in contravention of the provisions of this Act.

(5) Any part of a benefit to which a person has become entitled and of which he has been deprived under the provisions of this section shall lapse irrevocably to the Board.

(As amended by No. 15 of 1955)

80. (1) When the Bureau, acting under subsection (4) of section *fifty-five*, or the Board of Appeal, acting under subsection (2) of section *thirty-two*, has issued a correct report which is more advantageous to a beneficiary under this Act than was the incorrect report, or which makes eligible for an award under this Act a person who was not made eligible therefor by the incorrect report, the correct report shall be deemed to have been issued on the date on which the incorrect report was issued and an award of benefits shall be made in accordance with or shall be adjusted to conform to the correct report.

Adjustment of
benefits on
correction of
incorrect medical
report

(2) When the Bureau, or the Board of Appeal, acting as aforesaid, has issued a correct report which is less advantageous to any individual in respect of the payment of benefits to him than was the incorrect report-

(a) no part of any benefit which, at the date of the correct report, has already been paid out by the Board by reason of the incorrect report shall be recoverable by the Board or repayable by the beneficiary; and

(a) as from the date of issue of the correct report, such correct report shall supersede the incorrect one.

(3) No provision of this section shall be applied to the advantage of any person in relation to any report which was obtained by any improper

means.

(As amended by No. 30 of 1962)

81. (1) The Board may pay any benefit which has been awarded to a miner-

Board's power to deal with benefits awarded to miners

(a) to the miner himself; or

(b) to any person who would be his dependant if he had died immediately before the payment was made, or to his wife, if the preceding provisions of this paragraph do not apply to her and if she has not deserted him; or

(c) to any other person for the benefit of the miner and of all or any such persons as are mentioned in paragraph (b); or

(d) partly to the miner and partly to any person mentioned in paragraph (b) or (c);

as the Board may, in its discretion, deem desirable in the interests of the miner or of any such person as is mentioned in paragraph (b).

(2) In addition to the discretionary powers which the Board may exercise under the provisions of subsection (1) and under subsection (1) or (2) of section *eighty-two* in respect of the persons to whom payments may be made, the Board may pay any benefit in such instalments and at such intervals as it may deem desirable in the interests of the beneficiary concerned or may retain at interest the whole of any benefit until such time as the Board may deem it to be in the interests of the beneficiary concerned to pay such benefit in full or by instalments.

(As amended by No. 31 of 1951 and No. 30 of 1962)

82. (1) Where, after the death of a miner, a benefit is deemed under the provisions of section *sixty-seven* to have accrued to such miner before his death, the Board shall have, in respect of payment of such benefit in the interests of the dependants, all the discretionary powers conferred upon the Board by section *eighty-one* in respect of the payment of benefits awarded to a living miner.

Board's powers in relation to payments after the death of a miner

(2) The Board may pay any pension which has been awarded to a dependant of a deceased miner to the dependant himself or to any other

person for the benefit of the dependant, or partly to the dependant and partly to such other person, as the Board may deem desirable in the interests of the dependant.

(As amended by No. 30 of 1962)

83. (1) Any right to a benefit, other than a benefit or part of a benefit left in the custody of the Board under the provisions of section *eighty-five* or subsection (1) or (2) of section *eighty-seven*, to which a miner or a dependant of a deceased miner is entitled, shall lapse on the death of the beneficiary concerned except in so far as any part of the benefit was paid out by the former Board or by the Board to or for the benefit of the beneficiary before his death.

Disposal by Board
of rights lapsing on
death of
beneficiary

(2) When a right to a benefit other than a pension has lapsed as provided for in subsection (1), the Board shall award the benefit in question or the balance thereof-

(a) if the right lapsed on the death of a miner, to his dependants; or

(b) if the right lapsed on the death of a dependant of a miner, to the other dependants or to any one or more of them as the Board may deem desirable, and the provisions of subsections (1) and (2) of section *eighty-one* shall apply *mutatis mutandis* in connection with any money awarded under the provisions of this paragraph.

(3) Where a miner, or the dependant of a deceased miner to whom a pension has been awarded, has died, he shall, for the purposes of this section, be deemed to have become entitled before his death to payment of the pension or periodical payment in respect of the period from the date on which the last payment of the pension or periodical payment became due to him to the date of his death, and the Board shall deal in accordance with the provisions of subsection (2) with the pension or periodical payment in respect of such period and with any money which is due to the deceased as an instalment or part of an instalment of the pension or periodical payment in respect of a period prior to the first-mentioned period, but which for any reason remained in the custody of the Board.

(4) If the Board, because of non-existence of a dependant, is unable to deal, under subsection (2), with any benefit the right whereunto has lapsed, no person shall have any right to such lapsed benefit, but the Board may,

in its discretion, award that benefit or any part thereof to any relative by consanguinity or affinity or adoption of the person to whom the right to the benefit accrued or was deemed to have accrued before it lapsed, or to any creditor in payment or part payment of any claim which he has against the estate of such person.

(As amended by No. 31 of 1951 and No. 30 of 1962)

84. When a miner or a dependant of a deceased miner to whom the Board has awarded a pension has become an inmate of a prescribed institution, the Board may, in its discretion, retain so much of such pension as is not needed to defray the cost of maintaining the person concerned or any person for whose maintenance he is responsible.

Board's powers to retain part of pension when beneficiary is in institution

85. When the Board has awarded to a miner or to a dependant of a deceased miner any benefit other than a pension, the beneficiary concerned or a person acting on his behalf may leave the benefit or any part thereof amounting to not less than ten kwacha in the custody of the Board, which shall keep it at the disposal of the beneficiary or, after his death, at the disposal of his personal representative.

Certain benefits may be left in custody of Board

86. The Board shall credit the person concerned with interest calculated at a rate determined for each financial year by the Board after consultation with the actuary, and compounded half-yearly as at the last day of June and as at the last day of December, on any money-

Interest on benefits other than pension left in custody of or retained by Board

(a) which has been left in the custody of the Board under section *eighty-five*; or

(b) which constitutes the unexpended part of a benefit other than a pension which the Board has retained under subsection (2) of section *eighty-one*:

Provided that the Board shall not credit any such person with such interest in respect of-

(i) a period preceding the commencement of this Act;

(ii) any money which has remained in the custody of the Board during a period of less than thirty days;

(iii) any part of a benefit other than a pension retained by the Board and from which payments by the Board to the beneficiary are being

made by instalments; or

(iv) any part of any award which remains in the custody of the Board in accordance with the provisions of section *seventy-eight*.

(As amended by No. 31 of 1951)

87. (1) When the Board has awarded a pension to any person in accordance with the provisions of section *sixty-one*, such person, if he was working as a miner when the pension was awarded to him and continues so to work, may leave the whole or any part, not being less than ten kwacha, of each monthly pension payment to which he is entitled in the custody of the Board while he continues to work as a miner.

Pensions left in custody of or retained by Board and interest on the same

(2) If a person to whom a pension has been awarded under section *sixty-one* resumes working as a miner after having ceased to work in that capacity he may, on such resumption of work as a miner and for the period of the duration of such work, leave in the custody of the Board the whole or any part, not being less than ten kwacha, of each monthly pension payment to which he is entitled.

(3) When on the 30th June or the 31st December in any year, on account of the exercise by a miner of his right under subsection (1) or (2) to leave his pension or part of it in the custody of the Board, or on account of the exercise by the Board in respect of a miner's pension of its powers under subsection (2) of section *eighty-one* or under section *eighty-four*, there is in the custody of the Board to the credit of a miner or a dependant of a miner any sum of money, the Board shall, on that date, credit the miner or dependant concerned with interest calculated at the rate referred to in section *eighty-six* on any sum which has been in the custody of the Board on his behalf since the preceding 1st January or 1st July respectively.

(4) Any money which is left in the custody of the Board in accordance with the provisions of subsection (1) or (2) shall be kept by the Board at the disposal of the beneficiary concerned or, after his death, at the disposal of his personal representative.

(As amended by No. 31 of 1951)

88. In respect of any money which is, on behalf of any person, in the Discretionary

custody of the Board in accordance with the provisions of subsection (2) of section *eighty-one* or of section *eighty-four*, the Board shall have all the discretionary powers as to payment of such money as are provided by section *eighty-one* in respect of the payment of benefits.

powers of Board in connection with moneys in custody of Board

(As amended by No. 77 of 1965)

PART VI

COMPENSATION FUND, LEVIES AND OUTSTANDING LIABILITIES

89. The Board shall establish a fund to be known as the Pneumoconiosis Compensation Fund which the Board shall credit with all assets and debit with all liabilities which devolve upon it under subsection (1) of section *twelve* and into which it shall pay all moneys received in connection with scheduled mines and from which it shall make all payments required by this Act to be made by the Board.

Establishment of Compensation Fund

(As amended by No. 15 of 1955)

90. The Board shall from time to time, at such intervals as it deems desirable, levy from all owners of scheduled mines such sums of money as the Board, in its opinion, is likely to need to meet the liabilities payable under this Act and shall pay the amounts so levied into the Fund.

Levies from mine owners

(2) Before estimating the amount of any sum referred to in subsection (1), the Board shall consult the actuary.

(3) The Board shall, in consultation with the actuary, and subject to any regulations prescribing the basis upon which the Board shall make an apportionment or the factors which it shall take into consideration in making an apportionment, apportion to, and recover from, every owner of a scheduled mine such a share of the total amount of a levy imposed under subsection (1) as the Board deems equitable and, in making such an apportionment, the Board may differentiate between individual owners of scheduled mines if, in the opinion of the Board, after consultation with the actuary, there are factors which make such a differentiation desirable:

Provided that the Board shall, at the request of any such owner against whom any such differentiation has been made, inform him of the grounds therefor.

(4) If the period in respect of which the Board has imposed such a levy as aforesaid is longer than three months, the share of the levy apportioned to each owner of a scheduled mine shall be payable in such instalments and on such dates as the Board may determine.

(5) Whenever the Board has imposed a levy in respect of any period, it shall send notice in writing to every owner of a scheduled mine affected by the levy-

(a) of the fact that the levy has been imposed;

(b) of the amount of the levy and of the period in respect of which it has been imposed;

(c) of the share of the levy which has been apportioned to him; and

(d) of the instalments in which he shall pay that share and of the due date of each instalment, if the levy is payable by instalments.

(6) Every owner of a scheduled mine who has received such a written notice shall pay to the Board his share of the levy or every instalment of such share not later than the date upon which the same is due.

91. (1) The actuary shall estimate as soon as may be-

Assessment and
apportionment of
outstanding
liabilities

(a) after the commencement of this Act as on the day prior to the commencement of this Act; and

(b) in any financial year thereafter in which the Board shall call upon him to do so as on the last day of the last preceding month of December;

the sum of money which the Board would need if every scheduled mine

had, on that day, ceased to be a scheduled mine, in order to enable the Board to pay from time to time all amounts which it will be obliged, or entitled and likely, to pay under this Act out of the Fund at any time after the day on which the estimate is made.

(2) From the sum estimated under the provisions of subsection (1) the actuary shall deduct the amount of the value of all assets which appertained to the former Board or to the Fund, as the case may be, on the day prior to the commencement of this Act or the last day of December to which the estimate in question relates, and the balance of the sum so estimated after such deduction shall be the aggregate of the outstanding liabilities of all owners of scheduled mines as from the day succeeding the day as on which the estimate is based up to the day on which the next succeeding estimate is based, inclusive.

(3) When the actuary has so determined the aggregate of the outstanding liabilities for the financial period ending on the prescribed day, or for any financial year thereafter, he shall, subject to the provisions of subsection (5), apportion to the owner of each scheduled mine on the day of the commencement of this Act or on the first day of the financial year, as the case may be, such a share of such aggregate in respect of each such mine of which he is the owner on such day as is, in the opinion of the actuary, reasonable in view of all known factors which will or are likely to affect the amount of all future payments out of the Fund in connection with the particular mine in question. The actuary in making such apportionment may make adjustments as between the owners of scheduled mines concerned in respect of all sums paid to the Government or to the former Board by such owners under Part VI of the repealed Act up to and including the day prior to the commencement of this Act.

(4) The amount of the share of the aggregate of the outstanding liabilities which the actuary has so apportioned to the owner of a scheduled mine in respect of a particular mine shall, for the purposes of this Act, be his outstanding liability in respect of that mine for the financial period ending on the prescribed day, or for the financial year in which the apportionment was made, as the case may be:

Provided that when a person who has been, at any time after the commencement of this Act, the owner of a scheduled mine, has ceased to be such an owner, the outstanding liability in respect of that mine and every obligation of an owner of that mine in connection with the

outstanding liability shall attach to such person and, if any other person becomes the owner of such mine, the outstanding liability in respect thereof and any such obligation as aforesaid shall attach to such owner and to the former owner jointly and severally unless the Minister by notice in writing releases the former owner from such liability.

(5) The Board shall, at the request of the owner of any scheduled mine, inform him of the name and address of the actuary, and when such an owner has, within a month from the date of the commencement of this Act or in the month of December in any year, requested the actuary in writing to consult with an actuary named in the request for the purposes of this subsection, the actuary shall not apportion to the owner concerned his share of the aggregate of outstanding liabilities for the financial period ending on the prescribed day, when the request was made within a month from the day of the commencement of this Act, or for the financial year immediately following upon the month of December in which the request was made, as the case may be, unless he has afforded the actuary named in the request a reasonable opportunity to consult with him in regard to the share of such aggregate which is to be so apportioned to the mine owner concerned.

(6) When the actuary has, in the financial period ending on the prescribed day or in any financial year thereafter, completed his duties under the preceding provisions of this section, he shall inform the Board in writing of his determination of the aggregate of the outstanding liabilities under subsections (1) and (2) and of his apportionment under subsection (3) in respect of every owner of a scheduled mine, and the Board shall thereupon inform every such owner in writing of the aggregate of the outstanding liabilities as so determined and of his outstanding liability as so apportioned in respect of every scheduled mine of which he is the owner.

*(As amended by No. 31 of 1951, No. 3 of 1959
and G.N. No. 233 of 1964)*

92. (1) When the Minister has, under the provisions of section *ninety-six*, caused the name or description of a mine to be removed from the First Schedule, the person who was the owner of that mine on the day of such removal shall be obliged to pay to the Board the whole of the outstanding liability in respect of such mine for the financial period ending on the prescribed day, if the removal took place within such period, or for the financial year in which the removal took place, with, in each case, interest on the amount of that liability as from the date of the removal to the date on which the liability is paid, at the rate of interest

Payment of
outstanding
liability

which the actuary adopted in determining that liability:

Provided that-

- (i) if the name or description of the mine was removed from such Schedule before the actuary apportioned the outstanding liability in respect of that mine for the financial period or year in question, as the case may be, the mine owner shall, pending such apportionment, be obliged to pay the outstanding liability in respect of that mine for the financial period ending on the prescribed day, where such financial period immediately preceded the financial year in which the removal took place, or the last financial year for which the actuary has apportioned the outstanding liability, as the case may be;
- (ii) if the amount of the outstanding liability as thereafter apportioned by the actuary for the current financial year is greater than the amount of the outstanding liability for the financial period ending on the prescribed day, or the last financial year for which the actuary has apportioned the outstanding liability, as the case may be, the owner of such mine shall be obliged to pay to the Board a sum equal to the difference between the two such amounts, in addition to the smaller amount; and if, conversely, the amount of the outstanding liability for the current financial year is less than the amount of the outstanding liability for the financial period ending on the prescribed day, or for the last financial year for which the actuary has apportioned the outstanding liability, as the case may be, and the owner of such mine has paid the greater of the two amounts, the Board shall refund to him a sum equal to the difference between the two amounts with interest thereon since the date of payment at the rate which the actuary adopted in estimating the aggregate of the outstanding liabilities for the current financial year.

(2) If, in such a case as is mentioned in proviso (i) to subsection (1), the actuary is of the opinion that the amount of the outstanding liability in respect of the mine in question for the current financial year may, when apportioned, exceed the amount of the outstanding liability in respect of such mine for the financial period ending on the prescribed day, where such financial period immediately precedes the current financial year, or for the last financial year for which the actuary has apportioned the outstanding liability, as the case may be, he shall, at the request of the Board, provisionally estimate the possible difference between the two amounts, and the Board may thereupon demand from the owner of such mine that, in addition to paying that liability in accordance with the provisions of such proviso, he shall furnish security, to the satisfaction of the Board, for the payment of a sum equal to the difference as estimated by the actuary, should he become liable for the payment of an

additional sum under the provisions of proviso (ii) to subsection (1); and if the Board's demand is not met forthwith the Board may recover from such owner a sum equal to the amount of such estimated excess, in addition to the outstanding liability for the financial period ending on the prescribed day, or the last financial year for which the actuary has apportioned the outstanding liability, as the case may be, but subject to the subsequent application, *mutatis mutandis*, of proviso (ii) to subsection (1).

(As amended by No. 3 of 1959 and G.N. No. 233 of 1964)

93. If the Board is of opinion that it might find it impossible or difficult to recover from the owner of a scheduled mine the whole of his outstanding liability in respect of that mine in the event of the removal of its name or description from the First Schedule, the Board may call upon such owner to furnish the Board with security, to the Board's satisfaction, for the payment of the outstanding liability when it becomes due, and if such owner fails to furnish such security or to make any other arrangement satisfactory to the Board with a view to meeting his outstanding liability when it becomes due, the Board may demand from such owner immediate payment of the outstanding liability in respect of the mine in question, and thereupon the provisions of section *ninety-two* shall apply, *mutatis mutandis*, as if the Board's demand were the removal under paragraph (e) of subsection (2) of section *ninety-six* of the name or description of the mine in question from the First Schedule:

Board may demand security for outstanding liability or recover payment

Provided that the payment of the sum demanded by the Board shall not exempt the mine owner concerned from the provisions of subsection (3) of section *ninety-one* in respect of the mine in question while its name or description remains on the First Schedule.

(As amended by No. 77 of 1965)

94. Whenever the owner of a scheduled mine owes the Board any sum of money under any provision of this Part, the Board may recover that sum from him with interest thereon at the rate of seven per centum per annum as from the date when such sum of money became due:

Interest on debts due to Board

Provided that the Board may from time to time waive or reduce any such interest in respect of any period.

95. In the event of the winding up or insolvency of the owner or former owner of a scheduled mine who owes the Board any money under any provision of this Part, the Board's claim for the payment of that money and of any interest due thereon shall, notwithstanding any conflicting provision in any other law contained, have priority over every other claim (whether secured or unsecured) against the debtor or estate in question except over a claim which is secured by a lien or over that part of a claim which has priority by virtue of the provisions of the Preferential Claims in Bankruptcy Act.

Priority of Board's
claims
Cap. 83

PART VII

GENERAL

96. (1) The Minister may, by statutory instrument, make regulations for carrying this Act into effect.

Regulations

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may-

(a) prescribe the time, place, nature of and procedure in connection with medical examinations to be made under the provisions of this Act, and the conditions subject to which appeals may be made to the Board of Appeal, and provide for the administration of the Bureau;

(b) prescribe the forms to be used for certificates and reports to be issued under this Act, the forms to be used in keeping records required by this Act to be kept, and the form of any other document necessary for carrying out the provisions of this Act;

(c) provide for the provision of transport by the Bureau or the payment by the Bureau of transport expenses necessarily incurred by a miner employed in that capacity when presented by his employer for a prescribed examination or when summoned by the Chairman of the Board to attend at his office for interview in connection with the payment of benefit under this Act;

(d) provide for the payment by the employer of basic wages which would normally be earned in respect of the time during which a miner is necessarily absent from work on account of having to undergo a

prescribed examination or when summoned by the Chairman of the Board to attend at his office for interview in connection with the payment of benefit under this Act;

(e) delete any item from, vary or add any item to, any Schedule;

(f) subject to any specific provision of this Act, prescribe the fees for any act, matter or thing under this Act to be done or observed;

(g) prescribe any other matter which is required to be prescribed under the provisions of this Act.

(As amended by No. 31 of 1951, No. 15 of 1955, No. 30 of 1962 and G.N. No. 233 of 1964)

97. No benefit paid or payable under the provisions of this Act shall be capable of being assigned or charged nor shall such benefit be attached by the order of any court, and the right to a periodical payment to a beneficiary shall not pass by operation of law to any other person, and no claim shall be set off against an order for such a payment.

Benefits not to be assigned, charged or attached

98. Except where otherwise specially provided in this Act, all expenditure incurred in giving effect to any provision of this Act shall be defrayed from the general revenues of the Republic.

Republic to bear cost of administering this Act

(As amended by S.I. No. 124 of 1965)

99. Any notice for which provision is made in this Act shall be deemed to have been properly given if it was sent by post in a properly addressed registered letter, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Notices by registered letter

100. Any person who commits an offence against this Act for which no special penalty is provided shall be liable to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a term not exceeding six months, or to both.

Penalties

(As amended by Act No. 13 of 1994)

101. Subject to the provisions of section *twenty-four*, the Silicosis (Temporary Arrangements) Act, Chapter 189 of the 1948 Edition of the

Repeal and saving

Laws, is hereby repealed.

FIRST SCHEDULE

(Section 2 and 96)

SCHEDULED MINES

For purposes of this act the following are the Scheduled Mines;

(1) The Roan Antelope Copper Mine, operated at the commencement of this Act by Roan Antelope Copper Mines Limited, from the 1st March, 1962, by the Roan Division of Rhodesia Selection Trust Limited; from the 1st April, 1968, by Luanshya Mines Limited, from the 15th August, 1970, by the Luanshya Division of Roan Consolidated Mines Limited, from the 1st April, 1981, by the Luanshya Division of Zambia Consolidated Copper Mines Limited.

(2) The Mufulira Copper Mine, operated at the commencement of this Act by Mufulira Copper Mines Limited; from the 15th December, 1967, by the Mufulira Division of Mufulira Copper Mines Limited, from the 15th August, 1970, by the Mufulira Division of Roan Consolidated Mines Limited; from the 1st April, 1981, by the Mufulira Division of Zambia Consolidated Copper Mines Limited.

(3) The Nkana Copper Mine, including the Mindolo section thereof, operated at the commencement of this Act of Rhokana Corporation Limited; from the 26th June, 1970, by the Rhokana Division of Ndranga Consolidated Copper Mines Limited; from the 1st April, 1981, by the Rhokana Division of Zambia Consolidated Copper Mines Limited and also any open-pit operated by the Rhokana Division of the last-named company.

(4) The Nchanga Copper Mine, operated at the commencement of this Act by Nchanga Consolidated Copper Mines Limited; from the 26th June, 1970, by the Chingola Division of Nchanga Consolidated Copper Mines Limited; from 1st April, 1981, by the Chingola Division of Zambia Consolidated Copper Mines Limited; also any open (illigible words) from the 21st January, 1956, by Nchanga Consolidated Copper Mines Limited; from the 26th June, 1970, by the Chingola Division of the last-named company; from 1st April, 1981, by the Chingola Division of Zambia Consolidated Copper Mines Limited.

(5) The Chibuluma Mine, operated from the 16th October, 1951, by Mufulira Copper Mines Limited; from the 1st May, 1952, by Chibuluma Mines Limited; from the 15th August, 1970, by the Chibuluma Division of Roan Consolidated Copper Mines Limited; from the 1st April, 1981, by Chibuluma Division of Zambia Consolidated Copper Mines Limited.

(6) The Bancroft Mine, operated from the 19th January, 1954, by Bancroft Mines Limited; from the 26th June, 1970, by the Konkola Division of Nchanga Consolidated Copper Mines Limited; from the 1st April, 1981, by the Konkola Division of Zambia Consolidated Copper Mines Limited.

(7) The Broken Hill Mine, operated from the 9th September, 1957, by Rhodesia Broken Hill Development Company Limited; from the 3rd April, 1965, by Zambia Broken Hill

Development Company Limited; from the 26th March, 1971, by the Broken Hill Division of Nchanga Consolidated Copper Mines Limited; from the 1st April, 1981, by the Broken Hill Division of Zambia Consolidated Copper Mines Limited.

(8) The Chambishi Mine, and any open-pit operated, from the 21st January, 1963, by Chambishi Mines Limited; from the 1st December, 1957, by the Chambishi Division of Mufulira Copper Mines Limited; from the 15th August, 1970, by the Chibuluma Division of Roan Consolidated Mines Limited; from the 1st April, 1981, by the Chibuluma Division of Zambia Consolidated Copper Mines Limited.

(9) The Bwaua Mukubua Mine and any open-pit operated from March, 1968, by the Rokana Division of Nchanga Consolidated Copper Mines Limited; from 1st April, 1981, by the Rokana Division of Zambia Consolidated Copper Mines Limited.

(10) The Kalengwa Mines and any open-pit operated from 1978 by the Chibuluma Division of Roan Consolidated Copper Mines Limited; from 1st April, 1981, by Zambia Consolidated Copper Mines Limited.

(11) The Maamba Coal Mine and any open-pit operated by Maamba Collieries Limited.

(12) The Nampanwe Mine operated from 1970 by the Broken Hill Division of Nchanga Consolidated Copper Mines Limited; from the 1st April, 1981, by the Broken Hill Division of Zambia Consolidated Copper Mines Limited.

(13) The Kansanshi Mine, and any open-pit operated from August, 1977, by the Kankola Division of Nchanga Consolidated Copper Mines Limited; from 1st April, 1981, by Kankola Division of Zambia Consolidated Copper Mines Limited;

(14) The Kansanshi Mine and any open cast working operated, at the date of its addition to this Schedule, by the Copper Mining Enterprises Trust Limited (COMET).

(15) Ndola Lime Quarry and Plant operated at the date of its addition to this Schedule by Ndola Lime Company.

Note: In this Schedule "open-pit" means the surface beneath the original surface of the ground which earlier mentioned surface of this ground which (illegible words) to exist due to the mining of metalliferous (illegible words) but does not match any trench or other description of pit.

(As amended by G.N. Nos. 257 of 1951, 22 of 1954, 57 of 1956, 228 of 1957, 40 of 1958, 72 of 1962, 18 of 1963, S.I. Nos. 246 of 1965, 165 of 1983, No. 142 of 1993 and No. 63 of 1996)

SECOND SCHEDULE

(Sections 2 and 96)

SCHEDULED PLACES

(1) The following are the working places at any scheduled mine which are situated above the surface of the ground, wherein work for the purpose of the definition of "miner" in section *two* ranks in the same fashion as work below the natural surface of the ground:

- (a) any silica-bearing rock crushing plant, silica-bearing rock screening plant, silica-bearing rock loading and tipping point or bell conveyor plant within and forming an integral part of such rock-crushing or rock-screening plant or rock-loading or tipping point including the immediate surroundings of any such plant or point;
- (b) any plant for the treatment of refractory copper ores (also known as the "TORCO" plant) and the immediate surroundings of such plant;
- (c) any roasting, sintering or other similar plant used for the conservation of sulphide ores to oxides and the immediate surroundings of any such plant; and
- (d) any weightbridge;
- (e) any rock drill sharpening shop used by miners

(2) The following are the coal crushing plant and coal pulverising plants are scheduled places:

- (a) the main coal crushing plant and coal pulverizing plant, at the Roan Antelope Copper Mine operated at the commencement of this Act by the Roan Antelope Copper Mines Limited; from the 1st March, 1962, by the Roan Antelope Division of Rhodesian Selection Trust Limited; from the 1st April, 1968, by Luanshya Mines Limited; from the 15th August, 1970, by the Luanshya Division of Roan Consolidated Mines Limited; from the 1st April, 1981, by the Luanshya Division of the Zambia Consolidated Copper Mines Limited;
- (b) the receiving bins, crushers and all conveyor belts forming part of the coal preparation system, up to and including the belt above the power station bunkers serving the smelter and the receiving bins, and all conveyor belts or the refinery, but excluding the coal pulverizing plant of the refinery, at the Mufulira Copper Mines, operated at the commencement of this Act by Mufulira Copper Mines Limited; from the 15th December, 1967, by the Mufulira Division of Mufulira Copper Mines Limited; from the 15th August, 1970, by the Mufulira Division of Roan Consolidated Mines Limited; from the

(3) The following, situated above the surface of the ground at the Maamba Coal Mine and involved in the crushing of coal or any other minerals, are scheduled places:

- (a) any plant, together with the immediate surroundings thereof;
- (b) any station on the aerial rope-way, together with the immediate surroundings

thereof; and

Note: In this Schedule "immediate surroundings", in relation to any building, installation, plant or other specified place, means an area bounded by a line five metres from the perimeter of any such building, installation, plant or place or, as the case may be, such greater or lesser area as the Director of the Bureau may, after consultation with the Chief Health Inspector of Mines, determine.

*(As amended by G.N. Nos. 38 of 1953,
352 of 1959, 72 of 1962,
S.I. Nos. 246 of 1965 and 165 of 1983)*

SUBSIDIARY LEGISLATION

PNEUMOCONIOSIS

SECTION 96-THE PNEUMOCONIOSIS (CHARGES AND FEES) REGULATIONS Regulations by the Minister

*Government
Notices
152 of 1951
36 of 1956
209 of 1957
330 of 1962
285 of 1963
Statutory
Instrument
124 of 1965
Act
13 of 1994
CAP. 217*

1. These Regulations may be cited as the Pneumoconiosis (Charges and Fees) Regulations.

Title

(As amended by No. 209 of 1957)

2. In these Regulations, unless the context otherwise requires-

Interpretation

"employed miner" means a person actually in lawful employment as a miner.

3. Where an employer is required by the Act to present an employed miner to the Bureau for a prescribed examination and where the Chairman of the Board requires any miner to attend at his office for interview in connection with compensation, the Bureau shall provide transport from the place of employment to the Bureau and return for every such examination or interview.

Transport of
employed miners
for prescribed
examinations

(As amended by No. 36 of 1956)

4. (1) An employer shall pay to the Bureau the charges set out below, in respect of every person, other than an employed miner, who is presented by such employer to the Bureau for a prescribed examination and who travels to and from, or to or from, the Bureau for such purpose in transport provided and paid for by the Bureau.

Charges for
transport of
persons other than
employed miners

CHARGES

					Fee units
(a)	Mfulira Copper Mine	..	..	..	20
(b)	Roan Antelope Copper Mine	..	..	..	20
(c)	Nchanga Copper Mine	..	..	..	20
(d)	Bancroft Copper Mine	..	..	..	25
(e)	Chibuluma Copper Mine	..	..	..	10
(f)	Chambishi Copper Mine	..	..	..	10

(2) All moneys received by the Bureau by virtue of the provisions of this regulation shall be paid into the general revenues of the Republic.

(As amended by No. 36 of 1956, No. 330 of 1962, No. 285 of 1963, No. 124 of 1965 and Act No. 13 of 1994)

5. Where an employer is required by the Act to present an employed miner to the Bureau for a prescribed examination and so presents such miner and where the Chairman of the Board has required any miner to attend at his office for interview in connection with compensation and such miner has so attended, the employer shall pay to such miner the basic wages he would normally have earned during the period he is necessarily absent from work for the purpose of undergoing such examination or attending for such interview.

Employed miner to be paid basic wages when absent for prescribed examination

(As amended by No. 36 of 1956)

6. The prescribed fee payable under subsection (6) of section *thirty-nine* of the Act shall be sixty-three fee units.

Prescribed fee

(As amended by No. 330 of 1962 and Act No. 13 of 1994)

SECTION 96-THE PNEUMOCONIOSIS (FORMS) REGULATIONS

*Government Notices
208 of 1957*

Regulations by the Minister

*331 of 1962
284 of 1963
497 of 1964
Statutory
Instruments
124 of 1965
229 of 1965*

1. These Regulations may be cited as the Pneumoconiosis (Forms) Regulations.

Title

2. The forms set out in the Schedule are hereby prescribed for use in the cases to which they respectively refer.

Prescribed forms

PRESCRIBED FORMS

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

**APPLICATION FOR MEDICAL EXAMINATION OF
NATURE INDICATED BELOW**

1. INITIAL (Section 39).	2. INITIAL failing which SPECIAL (Section 39 (3) (c) and 39 (4) and proviso to 39 (5)).	3. INITIAL failing which INITIAL (RESTRICTED) to employment as (Section 39 (5) and proviso 39 (5)).
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Name in full (BLOCK CAPITALS) Date of examination

Age Mine *Mine No *National Register No

*Place of birth Address for letters

*Chief *Village

*District *Country

* Complete as required

Have you been examined and given a number by any of the Bureaux named?
If so, state the number.



R.Z. Bureau Number

S.A. Bureau Number

S.R. Bureau Number

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

APPLICATION FOR MEDICAL EXAMINATION OF THE NATURE INDICATED BELOW

1. PERIODICAL (SECTIONS 40, 41, 42).	2. PERIODICAL Re-stricted (SECTION 43 (1) (b)).	3. Discharge (SECTION 44).	4. Suspect (SECTION 47).	5. Ad (SECT
Engagement Employee	Engagement Employee			Applic employe

Name in full (BLOCK CAPITALS) Date of examination

Age Mine *Mine No *National Register No

*Place of birth *Address for letters or tribal particulars

*Complete as required.

Have you been given a number by either of the Bureaux named since last examined by or for the R.Z. Bureau?
If so, state number.



S.A. Bureau No.
S.A. Bureau No.

What occupation other than mining have you been engaged in since your last examination by the R.Z. Bureau?

MINING SERVICE SINCE LAST BUREAU EXAMINATION

Country, Name and Nature of Mine	Dates of Service	Surface Scheduled Service in Months		Including Lashing
		<i>Concentrator</i> Including Crushers, Screening and Belt Conveyors	<i>Other</i> Including Sample Crushing, Change House, Tailing Dump, Rock Drill Sharpening, Coal Plant	

Cumulative Absence from work of more than 14 days (Leave, Hospital, etc.) No. of Days

Right thumb-print	<p>I declare the above statement to be true to the best of my knowledge and belief.</p> <p>Signature or thumb-print of person examined:</p> <p>Signature of Witness</p> <p>Place of examination if not Republic of Zambia</p>	<p>(This Appar</p> <p>R.Z</p> <p>Elsew</p>
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FORM 3

(FACE)

BUREAU **N**O.
M.B.

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

INITIAL CERTIFICATE

Full name

Address

This is to certify that the person named above underwent on an initial examination as prescribed by section 39 of the Pneumoconiosis Act and was found to satisfy the requirements for the issue to him of this certificate.

*The validity of this certificate expires on
after which date the certificate will be of no effect.*

Secretary of the Bureau

Kitwe,

Signature or right
thumb-print of
person named above

INITIAL (RESTRICTED) CERTIFICATE

(BACK)

If the word "Restricted" is stamped upon the face of this certificate, then this certificate is valid only for the occupations and only at the mine named below.

OCCUPATIONS:

MINE:

FORM 4

(FACE)

BUREAU **N.O.**
M.B.

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

PERIODICAL CERTIFICATE

Full name

Address

This is to certify that the person named above underwent on a periodical examination as prescribed by section 40 of the Pneumoconiosis Act and was found to satisfy the requirements for the issue to him of this certificate.

*The validity of this certificate expires on
after which date the certificate will be of no effect.*

Tuberculosis is absent. Pneumoconiosis is absent/pneumoconiosis is present in the first/second stage.

Secretary of the Bureau

Kitwe,

Signature or right thumb-print
of _____
person named above

PERIODICAL (RESTRICTED) CERTIFICATE

(BACK)

If the word "Restricted" is stamped upon the face of this certificate, then this certificate is valid only for the occupations and only at the mine named below.

OCCUPATIONS:

MINE:

FORM 5

(FACE)

BUREAU **N.O.**
M.B.

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

SPECIAL CERTIFICATE

(See important note on back)

Full name

Address

This is to certify that the person named above underwent on an initial examination as prescribed by section 39 of the Pneumoconiosis Act and was found to satisfy the requirements for the issue to him of this certificate.

*The validity of this certificate expires on
after which date the certificate will be of no effect.*

Secretary of the Bureau

Kitwe,

Signature or right thumb-print
of
_____ person named above

IMPORTANT NOTE

(BACK)

This certificate is issued under the authority of section 39 (3) (c) and (5) of the Pneumoconiosis Act. It is not lawful for the person in respect of whom it is issued to work as a "miner" or for an employer to employ him as a "miner" for an aggregate of more than 100 hours in any period of thirty days.

FORM 6 B.1

CONFIDENTIAL

BUREAU_NO.

M.B.

**MINE
REGISTRATION
N.O.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. Box 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Initial: Section 39 (3) (a))

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

(1) A Republic of Zambia INITIAL CERTIFICATE valid to

has been sent to the Mine Secretary of Mine.

is enclosed herewith.

*(2) The original of this report has been sent to the Mine Secretary of

Mine.

Secretary of the Bureau

*To examine if not presented for examination by employer or prospective employer with copy to Mine Secretary if previously employed as a miner in scheduled mines.

FORM 7 B.2

CONFIDENTIAL

BUREAU_NO.

M.B.

**MINE
REGISTRATION
N.O.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. Box 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Initial: Section 39 (3) (b))

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

(1) A Republic of Zambia INITIAL (RESTRICTED) CERTIFICATE valid to

has been sent to the Mine

Secretary of Mine.

(2) The validity of the above-mentioned certificate is restricted to the occupations

of

at Mine.

(3) Tuberculosis is absent.

Pneumoconiosis is absent/present in the first/second stage.

(4) The date of this certification is

(5) Previous certifications if any:

Pneumoconiosis in the first stage

Pneumoconiosis in the second stage

(6) A copy of this report has been sent to:

*Examinee.

*The Secretary, Zambia Pneumoconiosis Compensation Board.

- (7) The original of this report has been sent to the Mine Secretary of Mine.

Secretary of the Bureau

*These lines are for use only when the presence of pneumoconiosis is certified: delete in other cases.

FORM 8 B.3

CONFIDENTIAL

BUREAU_NO.

M.B.

**MINE
REGISTRATION
N.O.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. Box 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Initial: Section 39 (3) (c))

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

- (1) A Republic of Zambia SPECIAL CERTIFICATE valid to
has been sent to the Mine Secretary of Mine.
- (2) Pneumoconiosis is absent.
Pneumoconiosis is present in the first/second stage.
Tuberculosis is absent.
- (3) The certificate named constitutes an authority for the person in respect of whom it is issued to work or to be employed as a "miner" provided that his work in that capacity does not exceed in aggregate 100 hours in any month. (Section 39 (3) (c) and (4) of the Pneumoconiosis Act.)
- (4) Previous certifications if any:
Pneumoconiosis in the first stage

Pneumoconiosis in the second stage

(5) A copy of this report has been sent to:

*The Examinee.

*The Secretary, Zambia Pneumoconiosis Compensation Board.

(6) The original of this report has been sent to the Mine Secretary of Mine.

Secretary of the Bureau

*These lines are for use only when the presence of pneumoconiosis is certified: delete in other cases.

FORM 9 B.4

CONFIDENTIAL

BUREAU_NO.

M.B.

**MINE
REGISTRATION
N.O.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. Box 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Initial: Section 39 (3) (d))

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

- (1) NO CERTIFICATE can be issued since the person named above is not up to the physical standard required by law. He is at liberty, however, to apply for re-examination after _____ months from the date of this report.
- (2) Pneumoconiosis is absent; tuberculosis is absent.
- *(3) The original of this report has been sent to the Mine Secretary of
Mine.

Secretary of the Bureau

*To examine if not presented for examination by employer or prospective employer with copy to Mine Secretary if previously employed as a miner in scheduled mines.

FORM 10 B.5

CONFIDENTIAL

BUREAU_NO.

M.B.

**MINE
REGISTRATION
N.O.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONOSIS MEDICAL AND RESEARCH BUREAU

P.O. Box 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Initial: Section 39 (3) (e))

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

(1) NO CERTIFICATE can be issued since the person named above is found by the Bureau to be not fit for work as a miner in any circumstances. He is therefore not eligible to be examined again by this Bureau for a certificate of fitness.

(2) Pneumoconiosis is absent/present in the stage.
Tuberculosis is absent/present.

(3) A copy of this report has been sent to:

*The Secretary, Zambia Pneumoconiosis Compensation Board.

*The Examinee

** (4) The original of this report has been sent to the Mine Secretary of Mine.

Secretary of the Bureau

*These lines are for use only when the presence of pneumoconiosis and/or tuberculosis is certified; delete in other cases.

**To examine if not presented for examination by employer or prospective employer with copy to Mine Secretary if previously employed as a miner in scheduled mines.

FORM 11 B.6

CONFIDENTIAL

BUREAU_NO.

M.B.

**M_INE
R_EGISTRATION
N_O.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. Box 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Periodical: Section 43)

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

- (1) A Republic of Zambia PERIODICAL CERTIFICATE, valid to
has been sent to the Mine Secretary of Mine. is
enclosed herewith.
- (2) Pneumoconiosis and tuberculosis are both absent.
- * (3) The original of this report has been sent to the Mine Secretary of
Mine.

Secretary of the Bureau

NOTE-If the word "Restricted" is stamped on the face of this report, it implies that the certificate referred to above was issued under special provisions of the pneumoconiosis law and that such certificate is valid only for the occupations of:

at the following mine:

*To examine if not presented for examination by employer or prospective employer with copy to Mine Secretary.

FORM 12 B.7

CONFIDENTIAL

BUREAU_NO.
M.B.

MINE
REGISTRATION
N_O.

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU
P.O. Box 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Periodical: Section 43)

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

- (1) A Republic of Zambia PERIODICAL CERTIFICATE valid to
has been sent to the Mine Secretary of Mine.
is enclosed herewith.
- (2) Pneumoconiosis is present in the first stage. Tuberculosis is absent.
- (3) The date of this certification is

- (4) Previous certifications if any:

Pneumoconiosis in the first stage

- (5) A copy of this report has been sent to:

The Secretary, Zambia Pneumoconiosis Compensation Board.

- * (6) The original of this report has been sent to the Mine Secretary of

Mine.

Secretary of the Bureau

NOTE.-If the word "Restricted" is stamped on the face of this report, it implies that the certificate referred to above was issued under section 43 (1) (b) of the Pneumoconiosis Act and that such certificate is valid only for the occupation of:

at the following mine:

*To examinee if not presented for examination by employer or prospective employer with copy to Mine Secretary.

FORM 13 B.8

CONFIDENTIAL

BUREAU_NO.

M.B.

**MINE
REGISTRATION
N.O.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU
P.O. Box 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Periodical: Section 43)

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

- (1) A Republic of Zambia PERIODICAL CERTIFICATE valid to
has been sent to the Mine Secretary of Mine.
is enclosed herewith.
- (2) Pneumoconiosis is present in the second stage. Tuberculosis is absent.
- (3) The date of this certification is

-
- (4) Previous certifications if any:
Pneumoconiosis in the first stage
Pneumoconiosis in the second stage
 - (5) A copy of this report has been sent to:
The Examinee.

The Secretary, Zambia Pneumoconiosis Compensation Board.

*(6) The original of this report has been sent to the Mine Secretary of Mine.

Secretary of the Bureau

NOTE.-If the word "Restricted" is stamped on the face of this report, it implies that the certificate referred to above was issued under section 43 (1) (b) of the Pneumoconiosis Act and that such certificate is valid only for the occupations of:

at the following mine:

*To examinee if not presented for examination by employer or prospective employer with copy to Mine Secretary.

FORM 14 B.9

CONFIDENTIAL

BUREAU_NO.

M.B.

**MINE
REGISTRATION
N.O.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU
P.O. Box 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Periodical: Section 43)

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

- (1) For the reason stated in paragraph (2) NO CERTIFICATE can be issued.
- (2) Pneumoconiosis is present in the third stage without tuberculosis.
Tuberculosis is present without pneumoconiosis.
Tuberculosis and pneumoconiosis are both present.
- (3) The date of this certification is
- (4) This certification immediately and finally cancels any existing certificate in respect of the person named above authorising him to work or to be employed as a "miner" in Zambia and the law requires that he forthwith cease to be so employed.

-
- (5) Previous certifications if any:
Pneumoconiosis in the first stage
Pneumoconiosis in the second stage

(6) A copy of this report has been sent to:
The Secretary, Zambia Pneumoconiosis Compensation Board.
The Examinee.

*(7) The original of this report has been sent to the Mine Secretary of
Mine.

Secretary of the Bureau

*To examine if not presented for examination by employer or prospective employer with
copy to Mine Secretary.

FORM 15 B.9a

CONFIDENTIAL

BUREAU_NO.

M.B.

**MINE
REGISTRATION
NO.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. BOX 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Periodical: Section 43 (1) (c))

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

- (1) Pneumoconiosis is absent.
Pneumoconiosis is present in the first/second stage.
Tuberculosis is absent.
- (2) Despite the absence of tuberculosis and of pneumoconiosis in the third stage NO CERTIFICATE can be issued for the reason stated in paragraph (3).
- (3) The Bureau is of the opinion that the fitness for work as a miner of the person reported on has been seriously impaired by old age/disease. (Section 43 (1) (c) of the Pneumoconiosis Act.)
- (4) Previous certifications if any:
Pneumoconiosis in the first stage
Pneumoconiosis in the second stage
- (5) A copy of this report has been sent to:
*The Secretary, Zambia Pneumoconiosis Compensation Board.

*The Examinee.

** (6) The original of this report has been sent to the Mine Secretary of Mine.

Secretary of the Bureau

*These lines are for use only when pneumoconiosis is certified to be present.

**To examinee if not presented for examination by employer or prospective employer with copy to Mine Secretary.

FORM 16 B.10

CONFIDENTIAL

BUREAU_NO.

M.B.

**MINE
REGISTRATION
NO.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. BOX 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Benefits: Section 48)

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

(1) Pneumoconiosis is absent.

Tuberculosis is absent.

(2) Unless specially directed by the Director of the Bureau to present himself at the Bureau for re-examination at some earlier date, the person named above is *not* eligible to be re-examined by the Bureau sooner than one year from the date of the examination now reported on. (Section 48 (*d*) of the Pneumoconiosis Act.)

*(3) The original of this report has been sent to the Mine Secretary of Mine.

Secretary of the Bureau

*To examinee if not presented for examination by employer or prospective employer with

copy to Mine Secretary.

FORM 17 B.11

CONFIDENTIAL

BUREAU_NO.
M.B.

MINE
REGISTRATION
N_O.

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. BOX 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Benefits: Section 48)

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

- (1) Pneumoconiosis is present in the stage.
Tuberculosis is absent.
- (2) The date of this certification is

- (3) Previous certifications if any:
Pneumoconiosis in the first stage
Pneumoconiosis in the second stage
Pneumoconiosis in the third stage
- (4) Unless directed by the Director of the Medical Bureau to present himself for re-examination at some earlier date, the person named above is *not* eligible to be re-examined at the Bureau sooner than one year from the date of the examination now

reported on. (Section 48 (d) of the Pneumoconiosis Act.)

(5) A copy of this report has been sent to:

The Secretary, Zambia Pneumoconiosis Compensation Board.

The Examinee.

*(6) The original of this report has been sent to the Mine Secretary of Mine.

Secretary of the Bureau

*To examinee if not presented for examination by employer or prospective employer with copy to Mine Secretary.

FORM 18 B.12

CONFIDENTIAL

BUREAU_NO.

M.B.

**M_INE
R_EREGISTRATION
N_O.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. BOX 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Benefits: Section 48)

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

- (1) Tuberculosis is present.
Pneumoconiosis is absent.
- (2) The date of this certification is

- (3) Previous certification if any:
Tuberculosis without pneumoconiosis
- (4) Unless directed by the Director of the Medical Bureau to present himself for re-examination at some earlier date, the person named above is *not* eligible to be re-examined at the Bureau sooner than one year from the date of the examination now reported on. (Section 48 (*d*) of the Pneumoconiosis Act.)
- (5) A copy of this report has been sent to:
The Secretary, Zambia Pneumoconiosis Compensation Board.
The Examinee.

*(6) The original of this report has been sent to the Mine Secretary of Mine.

Secretary of the Bureau

*To examinee if not presented for examination by employer or prospective employer with copy to Mine Secretary.

FORM 19 B.13
CONFIDENTIAL

BUREAU NO.
M.B.
MINE REGISTRATION NO.

Date

FORM 19 B.13

CONFIDENTIAL

BUREAU_NO.
M.B.

MINE
REGISTRATION
N_O.

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. BOX 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Benefits: Section 48)

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

- (1) Pneumoconiosis is present.
Tuberculosis is present.
- (2) The date of this certification is

- (3) Previous certifications if any:
Pneumoconiosis in the first stage
Pneumoconiosis in the second stage
Pneumoconiosis in the third stage

Pneumoconiosis with tuberculosis

Tuberculosis without pneumoconiosis

(4) Unless directed by the Director of the Medical Bureau to present himself for re-examination at some earlier date, the person named above is *not* eligible to be re-examined at the Bureau sooner than one year from the date of the examination now reported on. (Section 48 (*d*) of the Pneumoconiosis Act.)

(5) A copy of this report has been sent to:

The Secretary, Zambia Pneumoconiosis Compensation Board.

The Examinee.

*(6) The original of this report has been sent to the Mine Secretary of Mine.

Secretary of the Bureau

*To examinee if not presented for examination by employer or prospective employer with copy to Mine Secretary.

FORM 20 B.14

CONFIDENTIAL

BUREAU_NO.

M.B.

**MINE
REGISTRATION
N.O.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. BOX 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Discharge: Section 44; Suspect: Section 47; or Additional: Section 49)

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

(1) Pneumoconiosis is absent.

Tuberculosis is absent.

*(2) The original of this report has been sent to the Mine Secretary of Mine.

Secretary of the Bureau

*To examinee if not presented for examination by employer or prospective employer with copy to Mine Secretary.

FORM 21 B.15

CONFIDENTIAL

BUREAU_NO.

M.B.

**M_INE
R_EGI_STRATION
N_O.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. BOX 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Discharge: Section 44; Suspect: Section 47; or Additional: Section 49)

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

(1) Pneumoconiosis is present in the first/second stage.

Tuberculosis is absent.

(2) The date of this certification is

(3) Previous certifications if any:

Pneumoconiosis in the first stage

Pneumoconiosis in the second stage

(4) A copy of this report has been sent to:

The Secretary, Zambia Pneumoconiosis Compensation Board.

The Examinee.

*(5) The original of this report has been sent to the Mine Secretary of Mine.

Secretary of the Bureau

*To examinee if not presented for examination by employer or prospective employer with copy to Mine Secretary.

FORM 22 B.16
CONFIDENTIAL

BUREAU NO.
M.B.
MINE REGISTRATION NO.

Date

FORM 22 B.16

CONFIDENTIAL

BUREAU_NO.
M.B.

MINE
REGISTRATION
N_O.

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. BOX 205, KITWE

REPORT ON MEDICAL EXAMINATION

(Discharge: Section 44; Suspect: Section 47; or Additional: Section 49)

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

- (1) Pneumoconiosis is present in the third stage without tuberculosis.
Tuberculosis is present without pneumoconiosis.
Tuberculosis and pneumoconiosis are both present.
- (2) The date of this certification is
- (3) This certification immediately and finally cancels the validity of any certificate of fitness in respect of the person named above authorising him to work or to be employed as a "miner" in Zambia and the law requires that he forthwith cease to be so employed.
- (4) Previous certifications if any:

Pneumoconiosis in the first stage

Pneumoconiosis in the second stage

(5) A copy of this report has been sent to:
The Secretary, Zambia Pneumoconiosis Compensation Board.
The Examinee.

*(6) The original of this report has been sent to the Mine Secretary of Mine.

Secretary of the Bureau

*To examinee if not presented for examination by employer or prospective employer with copy to Mine Secretary.

FORM 23 B.17

CONFIDENTIAL

BUREAU <small>M.B.</small> N.O.
MINE REGISTRATION N.O.

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. BOX 205, KITWE

REPORT ON A POST-MORTEM EXAMINATION

(Sections 56 and 57)

Name of deceased person

Date of examination

With reference to the *post-mortem* examination performed on the above date, I am directed to report as follows:

(1) Pneumoconiosis was found to be absent/present in the..... stage.

Tuberculosis was found to be absent/present.

Death was due to pneumoconiosis.

Death was not due to pneumoconiosis but pneumoconiosis was a contributory or predisposing factor.

Death was not due to pneumoconiosis and pneumoconiosis was neither a contributory nor a predisposing factor.

The date of this certification is i.e., the date of the *post-mortem* examination.

(2) In the case of the deceased person now reported on, certification of the presence of compensable disease during life was made as follows:

Pneumoconiosis in the first stage on

Pneumoconiosis in the second stage on

Pneumoconiosis in the third stage on

Pneumoconiosis with tuberculosis on

Tuberculosis without pneumoconiosis on

(3) A copy of this report has been sent to:

*The Secretary, Zambia Pneumoconiosis Compensation Board.

The next of kin.

** (4) The original of this report has been sent to the Mine Secretary of Mine.

Secretary of the Bureau

*Delete this line if no compensable disease was found.

**To next of kin if examination not arranged by employer with copy to Mine Secretary.

FORM 24 B.B

CONFIDENTIAL

BUREAU_NO.

M.B.

**MINE
REGISTRATION
N.O.**

Date

REPUBLIC OF ZAMBIA

PNEUMOCONIOSIS MEDICAL AND RESEARCH BUREAU

P.O. BOX 205, KITWE

REPORT ON INCONCLUSIVE MEDICAL EXAMINATION

Name of person reported on

Date of examination

With reference to the examination on the above date, I am directed to report as follows:

(1) The examination referred to above was inconclusive.

(2) Further examination is required as follows:

Clinical examination by the Bureau on date to be arranged.

X-ray examination by the Bureau on date to be arranged.

Examination of specimens of sputum expectorated on successive days.

Observation in hospital for days.

(3) (For use when the person examined is employed at a mine***) The Mine Secretary,

Mine has been asked, by copy of this notice, to make the necessary arrangements which he will communicate to the person concerned.

(3a) (For use when the person examined is not employed at a mine***) Arrangements for the required further examination will be as follows:

** (4) A Periodical Certificate valid for fourteen days has been sent to the Mine Secretary, Mine.

This will cover the continuation of work as a miner until a final decision is intimated.

** (4a) Under the authority given by section 43 (2) of the Pneumoconiosis Act, any certificate of fitness extant in the name of the person named above is hereby suspended and no fresh certificate will be issued until a final decision is reached and intimated.

(5) A copy of this report has been sent to the Mine Secretary, Mine.

Secretary of the Bureau

NOTE FOR BUREAU GENERAL OFFICE

*If the person concerned is not employed at a mine, paragraphs (3) and (4) and the reference to the Mine Secretary in paragraph (5) must be deleted and paragraph (3a) should be completed, as the Secretary may direct, so as to show what are the arrangements for examination by the Bureau, by a Government Medical Officer, etc.

**Paragraphs (4) and (4a) should be deleted unless the official decision of the Bureau signified on the A.P. form makes the use of one or other of those paragraphs necessary.

CHAPTER 218

THE MINES ACQUISITION (SPECIAL PROVISIONS) ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Application
4. Guarantees and undertakings
5. Exemption from registration fees
6. Obsolete
7. Vesting of assets
8. Power to amend written laws by statutory instrument
9. Further powers in implementation of the Master Agreements

CHAPTER 218

MINES ACQUISITION (SPECIAL PROVISIONS)

28 of 1970
Statutory
Instruments
162 of 1970
221 of 1970

An Act to facilitate the acquisition by the Republic of a 51 per centum interest in each of the main Zambian copper mining companies; and to provide for matters connected therewith.

[*28th April, 1970*]

1. This Act may be cited as the Mines Acquisition (Special Provisions) Act. Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"the Master Agreements" means the RST Agreement and the Zamanglo Agreement;

"the RST Agreement" means the Agreement made on the 24th December, 1969, between the Republic of Zambia, the Industrial Development Corporation of Zambia Limited and Roan Selection Trust Limited, including any agreement in amendment thereof or expressed to be a supplemental agreement thereto between the same parties or the same parties and others made prior to the 14th August, 1970;

"the Zamanglo Agreement" means the Heads of Agreement made on the 24th December, 1969, between the Republic of Zambia, the Industrial Development Corporation of Zambia Limited, Bancroft Mines Limited, Nchanga Consolidated Copper Mines Limited, Rhokana Corporation Limited, Rhokana Copper Refineries Limited and Zambian Anglo American Limited, including any agreement in amendment thereof or expressed to be a supplemental agreement thereto between the same parties or the same parties and others made prior to the 26th June, 1970;

"Bond" means any bond, note or stock, as the case may be, issued by Indeco pursuant to the Master Agreements;

"the Constituent Companies" means Mufulira Copper Mines Limited, Luanshya Mines Limited and Mwinilunga Mines Limited;

"Indeco" means the Industrial Development Corporation of Zambia Limited or Zambia Industrial and Mining Corporation Limited or any other company to which or by which there are transferred or undertaken all or any of the rights and obligations under the Master Agreements of the Industrial Development Corporation of Zambia Limited or Zambia Industrial and Mining Corporation Limited, as the case may be;

"the Mining Companies" means Bancroft Mines Limited, Nchanga Consolidated Copper Mines Limited, Rhokana Corporation Limited and Rhokana Copper Refineries Limited;

"operating company" means, as the case may be-

(a) the company to hold the mining assets and undertakings of the

Mining Companies pursuant to the Zamanglo Agreement; or

(b) the company to hold the mining assets and undertakings of Mulfulira Copper Mines Limited, Luanshya Mines Limited and the Kalengwa Division of Mwinilunga Mines Limited pursuant to the RST Agreement.

(As amended by S.I. Nos. 162 and 221 of 1970)

3. Subject to section *eight*, the provisions of this Act shall have effect notwithstanding any provision of any other written law, and if any provision of any other written law (including any written law enacted or made after the commencement of this Act) is inconsistent with any provision of this Act, then the provision of this Act shall prevail. Application

4. (1) For the purpose of giving full and complete effect to the Master Agreements, the Minister, in the name of the Republic- Guarantees and undertakings

(a) shall unconditionally guarantee the discharge by Indeco of its obligations as to the payment of interest on and principal of any Bond;

(b) may, on such terms and conditions as he may think fit-

(i) guarantee any payment due to be made by Indeco under any trust deed or indenture by which the Bonds or any of them are constituted;

(ii) guarantee the repayment to any person, whether resident within or outside Zambia, of any loan (or portion thereof) borrowed from or debt (or portion thereof) due to any such person as aforesaid by all or any of the Mining Companies or the Constituent Companies or an operating company;

(iii) guarantee the performance of such other obligations as he may deem necessary or expedient in relation or pursuant to the Master Agreements or either of them or the implementation thereof;

(c) may undertake such other obligations as he may deem necessary or expedient in relation or pursuant to the Master Agreements or either of them or the implementation thereof or any guarantee given under this section.

(2) For the purpose of exercising the powers conferred by subsection (1), the Minister or any public officer authorised by him in writing may negotiate, sign or execute any guarantee or undertaking given pursuant

to such powers.

(3) Every guarantee and undertaking given in pursuance of subsection (1) shall be in writing and shall be binding on the Republic.

(4) As soon as practicable after any guarantee is given under subsection (1), the Minister shall lay a statement thereof before the National Assembly.

(5) There shall be paid out of the general revenues of the Republic any sum required for discharging any liability incurred by the Republic under any guarantee given under this section, and any sum received by way of repayment of any sum so paid shall be paid into the general revenues of the Republic.

(6) The powers conferred upon the Minister by subsection (1) shall be in addition to the power to give guarantees conferred by the Loans and Guarantees (Authorisation) Act or any other written law. Cap. 366

5. (1) Notwithstanding anything contained in any written law, no transfer fees or registration fees or other similar fees shall be chargeable or payable on or in respect of any of the following: Exemption from registration fees

(a) the Master Agreements;

(b) the Bonds, the guarantees, the management, purchasing, sales or marketing agreements, the trust deeds or indentures, the Memorandum and Articles of Association specifically mentioned in the Master Agreements;

(c) any order made under section *one hundred and two* of the Companies Act pursuant to any scheme of arrangement sanctioned by the High Court or any order made under section *eighteen* of the Companies Act pursuant to any reduction of capital confirmed by the High Court, in each case to facilitate the implementation of the Master Agreements or either of them; Cap. 388

(d) any transaction, dealing, instrument, resolution or document effected, made, passed or executed solely for the purpose of giving effect to-

- (i) a transfer of assets or undertakings from or to any person pursuant to, or any increase of capital provided for in, any such scheme of arrangement or reduction of capital as is referred to in paragraph (c);
- (ii) any order to which paragraph (c) applies;

(e) any transaction, dealing, instrument or document which is certified by the Minister to be effected, made or executed solely for the purpose of implementing or giving effect to the Master Agreements or either of them.

(2) In this section-

Cap. 185
Cap. 388
Cap. 213

"assets" includes shares and liabilities and obligations;

"registration fees" and "transfer fees" include fees payable under the Lands and Deeds Registry Act, the Companies Act and the Mines and Minerals Act, and any regulations made under any of the aforesaid written laws;

(As amended by S.I. No. 162 of 1970)

6. Obsolete.

7. (1) Any order of the High Court to which paragraph (c) of subsection (1) of section *five* applies shall itself be effective to transfer to and vest in any transferee company (as defined in the said section *one hundred and two* of the Companies Act) the assets and liabilities proposed to be vested in that transferee company pursuant to any scheme of arrangement for the purposes of which such order is made and, notwithstanding any provision of any other written law, no order, consent, declaration, approval or other act relating to such transfer and vesting shall be required as a condition of the same taking full effect for all purposes.

Vesting of assets
Cap. 388

(2) In proving that any asset has vested in a transferee company it shall be sufficient-

(a) to prove that immediately prior to the order of the High Court the transferor company (as defined in the said section *one hundred and two* of the Companies Act) was the holder of the asset, and that the scheme of arrangement provides for such asset to vest in the transferee company; and

Cap. 388

(b) to produce an office copy of such order.

8. (1) Subject to subsection (3), the President may, by statutory instrument, at any time and from time to time, make such amendments to any written law, including this Act, as may be necessary or expedient or desirable to give full and complete effect to the Master Agreements.

Power to amend written laws by statutory instrument

(2) If any provision of any statutory instrument made under this section is inconsistent with any provision of any written law, including this Act, then the provision of such statutory instrument shall prevail.

(3) Subsection (1) shall not apply to the Income Tax Act or any Act which amends or replaces that Act.

Cap. 323

9. Notwithstanding anything contained in any written law, including this Act, the President or any person authorised by him in writing may exercise all such powers and authorities and do or cause to be done all such acts or things as appear to him to be necessary or expedient or desirable to give full and complete effect to the Master Agreements.

Further powers in implementation of the Master Agreements

CHAPTER 219

THE MINES ACQUISITION (SPECIAL PROVISIONS) (NO. 2) ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Power to become incorporated in Bermuda
4. Company to become a foreign company
5. Special provisions effective from operative date

CHAPTER 219

**MINES ACQUISITION (SPECIAL PROVISIONS)
(NO. 2)**

29 of 1970

An Act to facilitate the incorporation under the laws of Bermuda of a company hitherto incorporated under the laws of Zambia by the name **Zambian Anglo American Limited**; and to provide for matters incidental thereto or connected therewith.

[28th April, 1970]

- 1.** This Act may be cited as the **Mines Acquisition (Special Provisions) (No. 2) Act**. Short title

- 2.** In this Act, unless the context otherwise requires-

"the Company" means **Zambian Anglo American Limited**, a company incorporated at the commencement of this Act under the Companies Act; Cap. 388

"existing" means existing immediately before the operative date;

"operative date" means the date on which the Company becomes a company incorporated under the laws of Bermuda;

"register" means any register of companies incorporated under the Companies Act kept by the Registrar for the purposes of the Companies Act; Cap. 388

"Registrar" means the Registrar of Companies.

- 3.** The Company may become incorporated in Bermuda by the name **Zambian Anglo American Limited** and may do all such acts as may be necessary or conducive in that behalf in accordance with the laws of Bermuda. Power to become incorporated in Bermuda

- 4.** (1) As soon as is reasonably practicable after the operative date, the Company shall send to the Registrar, by registered airmail, a certificate of deposit of Memorandum of Association and, upon receipt thereof, the Company to become a foreign company
Cap. 388

Registrar shall delete the name of the Company from the register, but thereafter Part XII of the Companies Act (which applies to foreign companies) shall apply to the Company so long as it has a place of business in Zambia, and the Company shall accordingly, within two months of the operative date file with the Registrar the documents required to be filed under section *two hundred and forty-five* of the Companies Act.

Cap. 388

(2) The expression "certificate of deposit of Memorandum of Association" in subsection (1) means the certificate issued by the Registrar-General or Registrar of Companies, as the case may be, of Bermuda upon the filing in his office of what is or is deemed to be by Bermudian law a Memorandum of Association.

5. With effect from the operative date, but without prejudice to any right, benefit, privilege, obligation or liability previously acquired, accrued or incurred, the following provisions shall have effect in relation to the Company, that is to say:

Special provisions
effective from operative
date
Cap. 388
Cap. 388

(a) the Company shall be treated as a company incorporated under the laws of Bermuda, but shall not thereby cease or be deemed to cease to exist, but shall instead be and be deemed to be and to have at all times continued to be the same body corporate as the existing Company;

(b) save as provided in section *four* of this Act, the provisions of the Companies Act shall cease to apply to the Company; and

(c) any entries or deletions in the register made by the Registrar with respect to the Company in conformity with this Act (which he is hereby authorised so to make) shall be deemed to be made by virtue of section *four* and of this section and not in exercise of any power in that behalf under any other written law, including the Companies Act.

CHAPTER 220

THE ZAMBIAN MINES LOCAL PENSION FUND (DISSOLUTION) ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title

2. Interpretation
3. Trust Fund to be wound up and dissolved
4. Provisions relating to winding up and dissolution of the Trust Fund
5. Regulations and amendment and construction of the Trust Deed and the Rules
6. No claims permissible against the Trust Fund after date of dissolution

CHAPTER 220

ZAMBIAN MINES LOCAL PENSION FUND (DISSOLUTION)

50 of 1966

An Act to provide for the winding up and dissolution of the Zambian Mines Local Pension Fund; the rights of subscribers to that Fund on the winding up and dissolution thereof; and for matters connected therewith.

[7th October, 1966]

1. This Act may be cited as the Zambian Mines Local Pension Fund (Dissolution) Act. Short title

2. (1) In this section, "the Indenture" means the Supplemental Trust Deed reconstituting the former Northern Rhodesian Mines Pension Fund dated the 30th June, 1965, to which the parties are- Interpretation
 1. Bancroft Mines Limited, Nchanga Consolidated Copper Mines Limited, Zambian Anglo American Limited (formerly Rhodesian Anglo American Limited), Rhokana Corporation Limited, Mushili Limited, The Zambia Broken Hill Development Company Limited (formerly The Rhodesia Broken Hill Development Company Limited), Zambian Anglo Mine Services Limited (formerly Rhoanglo Mine Services Limited), Copperbelt Power Company Limited (formerly Rhodesia Congo Border Power Corporation Limited) and Mining Timbers Limited (formerly Rhodesia Congo Border Timber Company Limited) of the first part.

2. Roan Selection Trust Limited (formerly Rhodesian Selection Trust Limited), Mufulira Copper Mines Limited, Chibuluma Mines Limited, Ndola Copper Refineries Limited, RST Administrative Services Limited (formerly R.S.T. Administrative Services Limited), RST Technical Services Limited (formerly R.S.T. Secretariat Limited) and RST Mine Services Limited (formerly R.S.T. Mine Services Limited) of the second part.

3. Copper Industry Service Bureau Limited (formerly The Incorporated Northern Rhodesia Chamber of Mines Limited) and Mines Air Services Limited (formerly Northern Rhodesia Aviation Services Limited) of the third part.

4. Zambian Mines Local Pension Fund Limited (formerly Northern Rhodesian Mines Pension Fund Limited) of the fourth part.

5. Zaminex Limited whose registered office is situate at Kitwe in Zambia of the fifth part.

(2) In this Act-

(a) the expressions "the companies", "the Trust Deed" and "the Trust Fund" have the same meanings as defined in and amended by the Indenture;

(b) the expressions "the Rules" and "the Trustees" have the same meanings as defined in the Trust Deed;

(c) all references to other expressions which are used in the Rules or the Trust Deed shall, unless the context otherwise requires, be read and construed as having the same respective meanings as in the Rules or the Trust Deed.

3. (1) On the commencement of this Act the Zambian Mines Local Pension Fund (otherwise referred to as the Trust Fund) shall be wound up and accordingly-

Trust Fund to be wound up and dissolved

(a) the commencement of this Act is an event upon the happening of which the Trust Fund shall be dissolved; and

(b) the Trustees shall proceed to wind up and dissolve the Trust Fund in accordance with the provisions of this Act and the Trust Deed.

(2) The Trust Fund shall stand dissolved as from such date not being a date before the expiry of the period of four years after the commencement of this Act as the Minister may, in agreement with the Trustees, determine and notice of the date so determined shall be published in the *Gazette*.

(3) As from the commencement of this Act contributions and payments to the Trust Fund as provided for in the Trust Deed and the Rules shall cease and shall not be accepted by the Trustees, except any contributions or payments that are, on the commencement of this Act, lawfully due and have not been paid to the Trustees.

4. In the winding up and dissolution of the Trust Fund the following provisions shall apply:

Provisions relating to winding up and dissolution of the Trust Fund

(a) Any member or former member or pensioner shall be entitled, if he so elects within twelve weeks after the commencement of this Act, to be repaid by the Trustees in the instalments hereinafter provided for an amount equal to all contributions paid by him and all payments other than life assurance premiums made by the companies in respect of him together with such other amounts as may be allocated by the Trustees to that member or former member or pensioner and the Trustees shall repay accordingly after they have made provision to enable them to comply with the requirements of paragraph (a) of clause 12 of the Trust Deed (which relates to the payment of Trust expenses);

(b) Payments of the amount mentioned in paragraph (a) and of any other benefits under the Trust Deed or the Rules other than those payable by way of pension or secured annuity shall, except to the extent that regulations made under this Act may otherwise provide, be due and payable in eight instalments at intervals of approximately six months on the dates prescribed over the period of four years commencing on the date of payment of the first instalment which shall be not later than the 15th November, 1966;

(c) Subject to the provisions of paragraphs (a) and (b) the Trustees shall apply the Trust Fund in accordance with the provisions of clause 12 of the Trust Deed.

5. (1) The Minister may by regulations made after consultation with the Trustees provide for such matters as he thinks fit for the purposes of this

Regulations and amendment and

Act and in particular may make such amendments to the Trust Deed and the Rules (including the powers of amendment contained therein) as may appear to him to be necessary or expedient for bringing the Trust Deed and the Rules into conformity with the provisions of this Act or otherwise and until such amendments as aforesaid are effected the Trust Deed and the Rules shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act.

construction of the Trust Deed and the Rules

(2) The Trust Deed and the Rules shall have effect as amended by any regulations made under this Act.

6. Every member, former member, pensioner and dependant shall accept the benefit allotted to him by the Trustees in the winding up and dissolution of the Trust Fund in full discharge of all claims in respect of the Trust Fund and shall as from the date upon which the Trust Fund stands dissolved have no further claim whatsoever in respect of any rights to any benefit under the Trust Deed or the Rules or otherwise.

No claims permissible against the Trust Fund after date of dissolution