

Tanzania

## Mining Act

### Chapter 123

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# Tanzania

## Mining Act

### Chapter 123

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*[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]*

*[Repealed by [Mining Act \(Act 14 of 2010\)](#) on 1 November 2010]*

*[G.N. No. 171 of 1999; Acts Nos. 5 of 1998; 10 of 1999; 14 of 2001; G.N. No. 106 of 1999]*

**An Act to make provision for prospecting for minerals, mining and dealing in minerals, and to provide for any other relevant matters.**

### Part I – Preliminary provisions (ss. 1-4)

#### 1. Short title

This Act may be cited as the Mining Act.

#### 2. Application

This Act extends to and in respect of the sea-bed and subsoil of the continental shelf, as well as the land and the land beneath the territorial sea, of the United Republic.

#### 3. Act not to apply to petroleum

This Act does not apply to the search for or production of petroleum.

#### 4. Interpretation

(1) In this Act, unless the context otherwise requires—

"**application**" means an application for the grant or surrender of a Mineral Right made in accordance with this Act;

"**authorised lapidary**" means a dealer's licence holder authorised by the Commissioner pursuant to subsection (2) of section 76 to cut and polish gemstones;

"**authorised miner**" means the holder of a special mining licence, a mining licence, a gemstone mining licence or a primary mining licence;

"**authorised officer**" means the Commissioner, Deputy Commissioner, a public officer appointed under subsection (4) of section 16 or a person designated by the Commissioner under subsection (5) of section 16;

"**building materials**" includes all forms of rock, stones, gravel, sand, clay, volcanic ash or cinder, or other minerals being used for the construction of buildings, roads, dams, aerodromes, or similar

works but does not include gypsum, limestone being burned for the production of lime, or material used for the manufacture of cement;

**"Commissioner"** means the Commissioner for Minerals appointed under subsection (1) of section 16;

**"Company"** means a Company incorporated under the Companies Act <sup>1</sup>;

**"designated minerals"** means minerals designated in a Prospecting Licence under paragraph (b) of subsection (1) of section 32;

**"development agreement"** means an agreement referred to in section 10;

**"entitled applicant"** means an applicant to whom subsection (1) of section 36 applies;

**"gemstone"** means—

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

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

**"gemstone mining licence"** means a gemstone mining licence granted under Division B of Part IV;

**"holder"** means the person in whose name a Mineral Right is registered;

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

**"land"** includes water;

**"land to which this Act applies"** means—

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

**"lawful occupier"** in relation to any land means a person who is in actual occupation of the land or any part of it and where there is more than one person, means that one of them who is the owner, or who is responsible or would be so responsible if the land were let at a rent or otherwise occupied in circumstances in which consideration or damages for such occupation would be payable;

**"licensed broker"** means a person holding a broker's licence granted under section 81;

**"licensed dealer"** means a person holding a dealer's licence granted under section 74;

**"licensing authority"** means—

- (a) where an application for a licence is to be made to the Minister, the Minister, and includes, as regards any functions other than the original grant of the licence, the Commissioner; or



- (b) where an application for a licence is to be made to the Commissioner, the Commissioner, and includes, as regards any functions other than the original grant of the licence the zonal mines officer;

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

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

**"mineral"** means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth, or in or under the seabed formed by or subject to a geological process, but does not include petroleum or surface water;

**"Mineral Rights"** means Mineral Rights referred to in section 7;

**"Mining Advisory Committee"** means the Mining Advisory Committee established by section 20;

**"mining area"** means an area of land subject to a special mining licence, a mining licence, a gemstone mining licence, or a primary mining licence;

**"mining licence"** means a mining licence granted under Division B of Part IV, or granted to the holder of a provisional licence under Schedule 4;

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

**"Minister"** means the minister responsible for mining affairs;

**"Ministry"** means the Ministry responsible for mining affairs;

**"person"** means a natural person or a body corporate or other juridical person;

**"petroleum"** has the meaning ascribed to it in the Petroleum Exploration and Production Act <sup>2</sup>;

**"prescribed"** means prescribed by the Regulations;

**"primary mining licence"** means a primary licence to mine minerals granted under Division D of Part IV;

**"primary prospecting licence"** means a primary licence to prospect for minerals granted under Division D of Part IV;

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

**"prospecting area"** means an area of land subject to a prospecting licence or, a primary prospecting licence;

**"prospecting licence"** means a prospecting licence granted under Division A of Part IV;

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

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

**"reconnaissance operations"** means the search for minerals by geophysical surveys, geochemical surveys and photogeological or other such non-intrusive surveys or by the study of surface geology;

**"regulations"** means regulations made under section [110](#);

**"reserved area"** means—

- (a) an area reserved in accordance with section [13](#) for applications for Mineral Rights by tender; or
- (b) an area reserved in accordance with section [14](#) exclusively for the grant of primary licences to mine minerals under Division D of Part IV;

**"retention area"** means the area subject to a retention licence;

**"retention licence"** means a retention licence granted under Division A of Part IV;

**"special mining licence"** means a special mining licence granted under Division B of Part IV;

**"vacant area"** means an area of land which is not the subject of—

- (a) a Mineral Right, other than a primary prospecting licence relating to an area which has not been demarcated and registered under subsection [\(6\)](#) of section [65](#), or an area subject to such a Mineral Right which the applicant has entered into an agreement to purchase, or in respect of which he has an enforceable option to purchase;
- (b) a pending application for a Mineral Right;

**"zonal mines office"** means such an office established for any area by the Minister in accordance with section [23](#);

**"Zonal Mines Officer"** means an officer appointed under subsection [\(4\)](#) of section [16](#) to head zonal mines office.

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

## Part II – General principles of the Act (ss. 5-15)

### 5. Control of minerals

Subject to this Act the entire property and control over minerals on, in or under the land to which this Act applies is vested in the United Republic.

### 6. Authority required for prospecting or mining

- (1) No person shall, on or in any land to which this Act applies, prospect for minerals or carry on mining operations except under the authority of a Mineral Right granted, or deemed to have been granted, under this Act.
- (2) The activities carried on by an authorised officer in the course of geological mapping shall not be treated for the purpose of subsection [\(1\)](#) as prospecting for minerals or mining operations.
- (3) Any person who contravenes subsection [\(1\)](#) commits an offence and on conviction is liable—
  - (a) in the case of an individual, to a fine not exceeding two million shillings or to imprisonment for a period not exceeding three years, or to both;
  - (b) in the case of a body corporate, to a fine not exceeding ten million shillings.
- (4) Any Minerals obtained in the course of unauthorised prospecting or mining operation shall be forfeited in addition to other penalties provided for under subsection [\(3\)](#).

## 7. Mineral Rights

The following Mineral Rights may be granted under this Act—

- (a) under Division A of Part IV—
  - (i) a prospecting licence;
  - (ii) a retention licence;
- (b) under Division B of Part IV—
  - (i) a special mining licence;
  - (ii) a mining licence;
  - (iii) a gemstone mining licence;
- (c) under Division D of Part IV—
  - (i) a primary prospecting licence;
  - (ii) a primary mining licence;

## 8. Restriction on grant of Mineral Rights

- (1) No Mineral Rights shall be granted to—
  - (a) an individual who—
    - (i) is under the age of eighteen years;
    - (ii) is 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 law for the benefit of debtors;
  - (b) a body corporate—
    - (i) which is in liquidation other than a liquidation which forms part of a scheme for the reconstruction or amalgamation of the holder;
    - (ii) in respect of which an order has been made by a court of competent jurisdiction for the winding up or dissolution of the body corporate;
    - (iii) which has made a composition or arrangement with its creditors.
- (2) No primary prospecting licence and no primary mining licence may be granted to an individual, partnership or body corporate unless—
  - (a) in the case of an individual, the individual is a citizen of Tanzania;
  - (b) in the case of a partnership, it is composed exclusively of citizens of Tanzania;
  - (c) in the case of a body corporate, it is a Company and—
    - (i) its membership is composed exclusively of citizens of Tanzania;
    - (ii) its directors are all citizens of Tanzania;
    - (iii) control over the Company, both direct and indirect, is exercised from within Tanzania by persons all of whom are citizens of Tanzania.
- (3) No gemstone mining licence shall be granted to a non-citizen unless the gemstone mining licence is held by that person in undivided participating shares with a citizen or citizens of Tanzania whose undivided participating share or shares amount to not less than twenty five *per centum* either alone, in the case of one person, or in the aggregate, in the case of more than one person.

## 9. Mineral Rights transferable

- (1) The holder of a Mineral Right, or where the holder is more than one person, every person who constitutes the holder of that Mineral Right, shall, subject to subsection (2), be entitled to assign the Mineral Right or, as the case may be, an undivided proportionate part thereof to another person.
- (2) Subject to subsection (3) no special mining licence and no mining licence, or gemstone mining licence or any undivided proportionate part thereof may be assigned to another person without the consent, given in writing, of the licensing authority.
- (3) Consent of the licensing authority shall not be required under subsection (2) for an assignment to—
  - (a) an affiliate, where the obligations of the affiliate are guaranteed by the assignor or by a parent company approved by the licensing authority, and, for the purposes of this subsection, an affiliate means any company which directly or indirectly controls or is controlled by the applicant or which is controlled directly or indirectly by a company which directly or indirectly controls the applicant;
  - (b) a bank or other financial institution by way of mortgage or charge given as security for any loan or guarantee in respect of mining operations;
  - (c) another person who constitutes the holder of the special mining licence or, as the case may be, the mining licence.
- (4) The consent of the licensing authority where it is required under subsection (2) shall not be unreasonably withheld or delayed.
- (5) No Mineral Right may be assigned to a person to whom that Mineral Right could not have been granted under this Act.

## 10. Development agreement

- (1) The Minister may, on behalf of the United Republic, enter into a development agreement, not inconsistent with this Act, with the holder of, or an applicant for, a Mineral Right for which he is the licensing authority relating to the grant Schedule of such a Mineral Right or Rights, the conduct of mining operations under a special mining licence, or the financing of any mining operations under a special mining licence.
- (2) The agreement under subsection (1) may contain provisions binding on the United Republic relating to a special mining licence or mining operations to be conducted under a special mining licence—
  - (a) which guarantee the fiscal stability of a long term mining project, by reference to the law in force at the effective date of the agreement, with respect to the range and applicable rates of royalties, taxes, duties, fees and other fiscal imposts and the manner in which liability in respect thereof is calculated and for that purpose but not otherwise may contain special provisions relating to the payment of any such fiscal impost to take effect in the event of a change in the applicable law;
  - (b) relating to the circumstances or the manner in which the Minister or the Commissioner will exercise any discretion conferred on them by this Act or the Regulations;
  - (c) relating to environmental matters, including in respect of matters which are project specific and not covered by regulations of general application, provisions intended to define the scope, and, as may be appropriate in any particular case, limit the extent of the obligations or liabilities of the holder of a special mining licence;
  - (d) dealing with the settlement of disputes arising out of or relating to the development agreement, the administration of this Act, or the terms and conditions of a special mining

licence, including provisions relating to the settlement of any such dispute by international arbitration.

- (3) Where this Act or the Regulations confer on the Minister or the Commissioner a discretion, the Minister or, as the case may be, the Commissioner shall exercise that discretion subject to and in accordance with any relevant stipulation contained in a development agreement made under this section.
- (4) The Minister shall refer any proposal to enter into a development agreement to the Mining Advisory Committee.

## 11. Joint and several obligations

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

## 12. Priority between competing applications

- (1) Where two or more persons, not acting together as partnership or joint venture, each make a specified application for the grant of a Mineral Right over the same area of land, or over areas of land, parts of which are the same area, the person whose application was first registered under this Act shall, if the circumstances in subsection (3) are satisfied, be granted the Mineral Right for which he has applied.
- (2) Where two or more specified applications are received on the same day by an authorised officer or officers during the hours of business appointed by the Commissioner for the receipt of applications, those applications shall be deemed to have been received simultaneously and priority between them shall be determined by the Minister in such manner as may be prescribed.
- (3) The circumstances referred to in subsection (1) and (2) are—
  - (a) that the applicant is not disqualified for a grant of the Mineral Right by section 8;
  - (b) that the applicant is entitled, otherwise than as provided in this section, to a grant of the Mineral Right over the area of land for which application is made.
- (4) For the purpose of this section, a specified application means—
  - (a) an application for the grant of a prospecting licence;
  - (b) an application for the grant of a special mining licence or a mining licence by a person who is not an entitled applicant;
  - (c) an application for the grant of a gemstone mining licence by a person who is not an entitled applicant;
  - (d) an application for a primary mining licence.
- (5) An applicant for a mining licence for building materials, gemstone mining licence, or as the case may be, primary mining licence, in accordance with section 37 is deemed to be a person who has priority under this section.

## 13. Applications for Mineral Rights by tender

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

- (b) a mining licence or licences; or
  - (c) a gemstone mining licence or licences.
- (2) The area of a gemstone mining licence which has been determined by the Minister in accordance with subsection (2) of section 54 shall be deemed to have been designated under this section as an area for which the Minister invites application for tender for a gemstone mining licence.

#### 14. Exclusive areas for primary licensees

Where the Minister, after consultation with the Mining Advisory Committee, determines that it would be in the interests of the orderly development of the mining industry in Tanzania, he may by Order, published in the *Gazette*, designate any vacant area as an area exclusively reserved for prospecting and mining operations by persons holding primary mining licences issued under Division D of Part IV.

#### 15. Offences relating to unauthorised trading of minerals

- (1) No person other than an authorised miner, a licensed dealer, a licensed broker or an authorised lapidary shall buy or otherwise acquire, or sell or otherwise dispose of, any raw gold or gemstones.
- (2) No person other than an authorised miner, a licensed dealer, a licensed broker or an authorised lapidary shall have in his possession any raw gold or gemstones unless, as an employee, agent or contractor, he has acquired and holds the raw gold or gemstones for or on behalf of an authorised miner, licensed dealer, licensed broker or an authorised lapidary.
- (3) No person shall export from Tanzania any raw gold or gemstone unless he is an authorised miner or a licensed dealer, and—
  - (a) in the case of an authorised miner has paid the royalty or provisional royalty due on such raw gold or gemstone; or
  - (b) in the case of a licensed dealer has made the payment or provisional payment *in lieu* of royalty due on the export of the raw gold or gemstone; or
  - (c) in any case, has given security to the satisfaction of the Commissioner for the payment of any such amount.
- (4) Any person who contravenes any of the provisions of this section commits an offence and on conviction is liable—
  - (a) in the case of an individual, to a fine not exceeding five million shillings or to imprisonment for a period not exceeding three years or to both;
  - (b) in the case of a body corporate, to a fine not exceeding twenty five million shillings.
- (5) The Minister may, by Order in the *Gazette*, extend the provisions of this section so that, subject to such limitations and exceptions as may be specified in the Order, they apply to minerals other than raw gold and gemstones named in the Order.

### Part III – Administration (ss. 16-23)

#### 16. Appointment of Commissioner for Minerals

- (1) The President shall appoint a suitably qualified public officer to be a Commissioner for Minerals.
- (2) The Commissioner appointed under subsection (1) shall exercise and perform the functions conferred or imposed upon him by this Act or by any other written law and shall supervise and regulate the proper and effectual carrying out of the provisions of this Act.
- (3) The President may appoint a Deputy Commissioner as may be necessary for the better administration of this Act.

- (4) The Minister in consultation with the Commissioner may appoint zonal mines officers and other public officers who may be necessary for the better administration of this Act.
- (5) The Commissioner may, by notice in the *Gazette*, designate any person to be an authorised officer for the purpose of all or any of the provisions of this Act.

## **17. Execution and delegation of functions of Commissioner**

- (1) Where the office of Commissioner is vacant or the Commissioner is, owing to absence or inability to act from illness or other cause, unable to exercise and perform the functions of his office, the Deputy Commissioner shall exercise and perform the functions of the Commissioner during such vacancy, absence or inability.
- (2) The Commissioner may, by notice published in the *Gazette*, 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 functions conferred or imposed on him by this Act.
- (3) The Commissioner may exercise or perform a function notwithstanding that he has delegated the exercise or performance thereof to some other person.
- (4) The Commissioner shall not delegate the exercise or performance of any of his functions under Part VIII.

## **18. Geological services**

The Commissioner, or a person to whom the functions referred to in this subsection have been delegated under subsection (2) of section 17 shall—

- (a) advise the Minister on geological matters;
- (b) undertake the geological mapping of Tanzania, and may for that purpose engage contractors;
- (c) provide data concerning the geology and mineral resources of Tanzania, and generally assist members of the public seeking information concerning geological matters; and
- (d) maintain such laboratory, library and record facilities as may be necessary for the discharge of his functions.

## **19. Geological survey, mapping and prospecting on behalf of the Republic**

The Commissioner or a person to whom the functions referred to in section 18 have been delegated may, for the purpose of carrying out the geological mapping of Tanzania—

- (a) enter upon any land with such number of persons as he may deem necessary, for the purpose of carrying out such mapping;
- (b) demarcate the area and carry out any operations which may be carried out in accordance with this Act and the regulations by the holder of a prospecting licence granted under Part IV.

## **20. Mining Advisory Committee**

- (1) There is hereby established a Mining Advisory Committee which shall advise the Minister—
  - (a) on the matters which under the provisions of this Act are required to be referred to the Committee;
  - (b) on such other matters in connection with the administration of this Act as may be referred to the Committee by the Minister.
- (2) The provisions of the First Schedule to this Act shall apply to the composition and functions of the Committee.

- (3) Where, in accordance with this Act, any matter is required to be referred to the Mining Advisory Committee for its advice it shall submit its advice to the Minister in a written report and, in the event that the Minister proposes to dispose of that matter otherwise than in accordance with the advice of the Committee, the Minister shall, before disposing of the matter, publish the report of the Committee.
- (4) The Minister shall include in a report, to be published annually on the work of the Ministry—
  - (a) a statement on the number of matters which have been referred to the Committee;
  - (b) the number of cases in which he has disposed of any matter otherwise than in accordance with the advice of the Committee, and the reasons for such action.

## 21. Prohibition against the disclosure of information

- (1) Subject to subsection (2), no information furnished, or information in a report submitted, pursuant to section 98 by the holder of a Mineral Right shall, for so long as that Mineral Right or another mineral right granted to the holder has effect over the land to which the information relates, be disclosed, except with the consent of the holder of the Mineral Right.
- (2) Nothing in subsection (1) shall operate to prevent the disclosure of information where the disclosure is made—
  - (a) for, or in connection with, the administration of this Act;
  - (b) for the purpose of any legal proceedings;
  - (c) for the purpose of any investigation or inquiry conducted under this Act;
  - (d) to any person being a consultant to the Government or public officer who is authorised 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.
- (3) Any person who contravenes the provisions of subsection (1) commits an offence and shall be liable on conviction—
  - (a) in the case of an individual, to a fine not exceeding two hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or to both;
  - (b) in the case of a body corporate, to a fine not exceeding one million shillings.

## 22. Indemnity

No officer of the Ministry or other public officer shall be liable for anything done or omitted to be done *bona fide* in the performance or purported performance of any function vested in him by, or in accordance with an appointment made under, this Act.

## 23. Zonal mines offices

- (1) The Minister in consultation with the Mining Advisory Committee shall establish zonal mines offices for the purpose of this Act, and appoint the area of Tanzania for which each such zonal mines office shall be responsible.
- (2) The establishment of zonal mines offices and the designation of the areas for which they are responsible shall be set forth in a notice published in the *Gazette*.



## **Part IV – Mineral Rights (ss. 24-72)**

### **Division A – Prospecting licence and retention licence (ss. 24-35)**

#### **(i) – Prospecting licence (ss. 24-33)**

#### **24. Application for prospecting licence**

- (1) An application may be made under this Division of this Part for a prospecting licence for—
  - (a) all minerals other than building materials and gemstones;
  - (b) building materials;
  - (c) gemstones.
- (2) An application for a prospecting licence including an application in respect of land in an area reserved for applications by tender for prospecting licences shall be made to the Minister and shall be in the prescribed form and accompanied by the prescribed fee.
- (3) An application for the grant of a prospecting licence—
  - (a) shall contain in respect of the person or, if there is more than one person, of each person, making the application—
    - (i) in the case of an individual, his full name and nationality; or
    - (ii) in the case of a body corporate, its corporate name and the place where it was incorporated;
  - (b) shall state whether the application is for—
    - (i) all minerals other than building materials or gemstones;
    - (ii) building materials; or
    - (iii) gemstones;
  - (c) shall state the size of the area of land over which it is sought, which shall not exceed the maximum area prescribed as provided under section 27, and be accompanied by a plan of the area;
  - (d) shall contain a statement giving particulars of the financial and technical resources available to the applicant; and
  - (e) shall contain details of any Mineral Right previously granted to the applicant.
- (4) Every application for a prospecting licence made in the prescribed form by an applicant who has tendered to the licensing authority the prescribed fee, shall be registered immediately in the register maintained for such applications under this Act.
- (5) Each application registered under subsection (4) shall be assigned a number and the date, and time at which it 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.

#### **25. Preliminary reconnaissance period**

An applicant for the grant of a prospecting licence for all minerals other than building materials or gemstones may apply for the grant of a prospecting licence covering in the first instance a preliminary reconnaissance period not exceeding two years.

## 26. Prospecting licence by tender

- (1) An application for a prospecting licence in an area designated as an area for which applications for such a licence are invited by tender shall—
  - (a) be in the prescribed tender form and accompanied by the prescribed tender fee; and
  - (b) subject to the terms and conditions of the invitation to tender, include the matters required to be included in applications by section [24](#).
- (2) Applications made under subsection [\(1\)](#) shall be submitted to the Mining Advisory Committee for its advice.
- (3) On receipt of a report from the Mining Advisory Committee, the Minister shall consider the competing bids and shall select the bid which is most likely to promote the expeditious and beneficial development of the mineral resources of the area having regard to—
  - (a) the programme of prospecting operations which the applicant proposes to carry out and the commitments as regards expenditure which the applicant is prepared to make;
  - (b) the financial and technical resources of the applicant; and
  - (c) the previous experience of the applicant in the conduct of prospecting and mining operations,and the successful application shall be treated as an application under section [12](#) which has priority over any other application and the applicant shall be notified accordingly.

## 27. Maximum areas, minimum expenditure

- (1) The maximum area over which a prospecting licence may be granted shall be prescribed in the regulations.
- (2) The regulations shall prescribe a maximum area for a prospecting licence—
  - (a) held during a preliminary reconnaissance period for all minerals other than building materials and gemstones;
  - (b) held during initial prospecting period;
  - (c) for building materials or gemstones.
- (3) The amount per square kilometre which the holder of a prospecting licence shall expend annually on prospecting operations shall be prescribed and for that purpose the Regulations may prescribe different amounts in respect of prospecting licences for building materials and gemstones from those for prospecting licences for all minerals other than building materials and gemstones.
- (4) The expenditure per square kilometre specified in subsection [\(3\)](#) shall be different amounts for the different periods specified under subsection [\(1\)](#) of section [29](#) including, in the case of a preliminary reconnaissance period, making provision for a lumpsum payment.

## 28. Condition for grant of prospecting licence

An applicant for a prospecting licence whose application was properly made under section [25](#) and an applicant whose application has been declared to be a successful application under section [26](#) shall be entitled to the grant of a prospecting licence for which he has applied unless—

- (a) he is disqualified from holding a prospecting licence under section [8](#);
- (b) he is the holder of another Mineral Right and is, in respect of that other Mineral Right, in default;

- (c) the area of land for which he has made application or part thereof is subject to another Mineral Right, other than—
  - (i) a primary prospecting licence unless it relates to an area which has been demarcated and registered under subsection (6) of section 65;
  - (ii) in the case of an application for a prospecting licence for minerals other than building materials and gemstones, an existing prospecting licence for building materials;
  - (iii) in respect of minerals that are not designated minerals as provided for under paragraph (b) of subsection (1) of section 32 an existing prospecting licence covering a preliminary reconnaissance period in respect of an area in excess of one thousand square kilometres;
- (d) the area of land for which application has been made, or any part of it, covers or includes an area designated by the Minister under section 14 as an area reserved for prospecting and mining operations by persons holding primary mining licences;
- (e) the area of land for which application has been made covers or includes an area of land for which application has been made by another person who has priority over the applicant under section 12;
- (f) except in a case to which section 26 applies, the area of land for which application has been made, or any part of it, covers or includes an area designated by the Minister under section 13 as an area in respect of which applications for the grant of a Mineral Right shall be invited by tender.

## 29. Grant, duration and renewal of prospecting licence

- (1) Where an applicant is entitled to the grant of a prospecting licence under section 28, the licensing authority shall issue to the applicant the prospecting licence as provided in that section and the licence so issued shall subsist for the following periods—
  - (a) if the applicant applied for a prospecting licence covering a preliminary reconnaissance period in accordance with section 25, a period not exceeding two years;
  - (b) for the initial prospecting period for which the applicant has applied, a period not exceeding three years;
  - (c) where application for renewal has been made by the holder in the prescribed form, for two successive periods of renewal for which the applicant has applied, neither of which shall exceed two years;
  - (d) where the holder is not in default and at the end of the second period of renewal a further period is required to complete a feasibility study, already commenced by the holder, for such further period as may be reasonably required for that purpose.
- (2) The licensing authority shall, on application of the holder of licence granted under subsection (1) of this section and on payment of prescribed fees for renewal, renew the prospecting licence—
  - (a) where applicable, at the end of the preliminary reconnaissance period, for the initial prospecting period for which application has been made;
  - (b) at the end of the initial prospecting period or, as the case may be, at the end of the first renewal period, for the period referred to in paragraph (c) of subsection (1);
  - (c) at the end of the second renewal period, in a case falling under paragraph (d) of subsection (1), for the period required to complete the feasibility study.
- (3) The obligation of the licensing authority to renew a prospecting licence is subject to the condition that—
  - (a) the holder is not in default except that the licensing authority shall not reject an application to renew a prospecting licence on the grounds that the holder is in default, without first

serving on the holder a notice giving particulars of the default and requiring the holder within a reasonable time specified in the notice to remedy the default;

- (b)
  - (i) where a preliminary reconnaissance period was granted, the holder has at the end of that period relinquished an area or areas sufficient in size to ensure that the area retained does not exceed the maximum area which may be held during the initial prospecting period, and has by notice in writing to the licensing authority given a sufficient description of the areas he is relinquishing;
  - (ii) the holder, on renewal under paragraph (b) of subsection (2), has relinquished in the case of a first renewal fifty *per centum* of the area held during the initial prospecting period and in the case of a second renewal fifty *per centum* of the balance, and has by notice in writing to the licensing authority given a sufficient description of the areas he is relinquishing.
- (4) A prospecting licence for gemstones shall subsist for two years from the date of grant and shall not be subject to renewal.

### 30. Notification of grants

- (1) Not later than four weeks from the date on which an application under section 24 for the grant of a prospecting licence was registered under that section, the licensing authority shall—
  - (a) grant the application and cause the licence to be issued; or
  - (b) by notice in writing, inform the applicant that his application has been rejected for one or more of the reasons set out in section 28 and specified in the notice.
- (2) Not later than six weeks from the date on which application is made for the renewal of a prospecting licence, the licensing authority shall, in accordance with subsection (2) of section 29, grant the application or—
  - (a) in a case of default, serve on the holder a notice of the kind referred to in paragraph (a) of subsection (3) of section 29; or
  - (b) where the holder has failed to provide the licensing authority with a sufficient description of the areas he is relinquishing in order to satisfy the requirements of subparagraph (i), or (ii), of paragraph (b) of subsection (3) of section 29 serve a notice on the holder calling on him within a reasonable time to satisfy those requirements;
  - (c) where the holder has served a notice on the licensing authority under the provisions of paragraph (b) of this subsection but his description of the areas to be relinquished is not sufficient, the respects in which further or better particulars are required; or
  - (d) in the case of an application under paragraph (d) of section 29, if the conditions for the grant of an extension in accordance with that provision have not been satisfied, serve a notice on the holder stating why.

### 31. Content of prospecting licence

- (1) A prospecting licence shall—
  - (a) state the date of the grant of the licence and the period for which it is granted;
  - (b) include a description and plan of the area of land over which it is granted;
  - (c) state whether the licence applies to—
    - (i) all minerals other than building materials and gemstones;
    - (ii) building materials, in which case it shall contain an explanatory note of section 37;
    - (iii) gemstones in which case it shall contain an explanatory note of section 37.

- (2) In determining the date for the commencement of the period for which the licence is granted, the licensing authority may take account of any period not exceeding six months from the date of the grant which is required by the applicant to make any necessary preparations for prospecting operations.

### **32. Rights of holder of prospecting licence**

- (1) Subject to the provisions of this Act and the Regulations, a prospecting licence confers on the holder the exclusive right, to carry on prospecting operations in the prospecting area for minerals to which the licence applies provided that—
  - (a) notwithstanding the description of the licence or the foregoing provision of this Part, the holders of a prospecting licence for minerals other than building materials and gemstones, may within the area subject to the licence, investigate and assess deposits of gemstones found in a natural state in deposits of non-gemstone minerals;
  - (b) in the event that an applicant for a prospecting licence applies pursuant to section 26 for a grant covering a preliminary reconnaissance period in respect of an area in excess of one thousand square kilometres, the exclusive rights granted to the applicant in respect of that area shall not extend to any minerals not designated in the prospecting licence granted.
- (2) In the exercise of the rights conferred by this section, the holder may, either himself or by his employees or agents enter upon the prospecting area and erect camps and temporary buildings and may erect installations in any water forming part of the prospecting area.
- (3) The holder of a prospecting licence for gemstones, who in the course of carrying out prospecting operations under the prospecting licence recovers gemstones, may dispose of the gemstones by sale to a licensed dealer and shall promptly following any such sale submit particulars thereof to the Commissioner, showing the name and business address of the dealer, a description of the stones, their weight and a copy of a receipt given by the purchaser for the price received.
- (4) The holder of a prospecting licence for gemstones who recovers gemstones in the course of prospecting operations shall for the purpose of holding the gemstones and selling them pursuant to subsection (3) be deemed to be an authorised miner.

### **33. Obligations of holder of a prospecting licence**

The holder of a prospecting licence shall—

- (a) commence prospecting operations within three months, or such further period as the licensing authority may allow, from the date of the grant of the licence or such other date as is stated in the licence on commencement period;
- (b) give notice to the licensing authority of the discovery of any mineral deposit of potential commercial value; and
- (c) expend on prospecting operations not less than the amount prescribed.

### **(ii) – Retention licence (ss. 34-35)**

### **34. Application for retention licence**

- (1) The holder of a prospecting licence other than a prospecting licence for building materials or gemstones may apply to the Minister for the grant of a retention licence on the grounds that—
  - (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 technical constraints, 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, prospects for recovery, and the commercial significance of the mineral deposit, and the relevant market conditions, trends, technical and economic factors;
  - (b) the impact of mining operations for the recovery of the mineral deposit on the environment and the manner of eliminating or minimising any adverse effects; and
  - (c) such other information as the Minister may reasonably require as to the proposals of the applicant for the retention and development of the deposit.
- (3) An application for a retention licence shall be submitted to the Mining Advisory Committee for its advice.

### 35. Grant of retention licence

- (1) Where the commercial development of the deposit is not presently possible for the reasons specified in the application, but may be possible within a period of ten years, the Minister 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 required to mine the deposit identified by the applicant.
- (2) A retention licence shall, so long as it subsists, entitle the holder to apply for a special mining licence within the area for which the retention licence has been granted and, where such application is made, the provisions of this Act relating to the grant of special mining licences shall apply, as if the holder of the retention licence is the holder of a prospecting licence for that area.
- (3) A retention licence may be granted for a period not exceeding five years and on such conditions for the preservation of the mineral deposit and the protection of the environment as the Minister may determine and cause to be specified in the licence or in a relevant development agreement.
- (4) Where the commercial development is not presently possible, a retention licence may, on the application of the holder, be renewed for a single period of five years; but, 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 and shall refer the application to the Mining Advisory Committee for its advice.
- (5) The Minister may by notice in writing, require the holder of a retention licence to show cause why he should not apply for a special mining licence in respect of the area of land subject to the retention licence.
- (6) Where the holder of a retention licence fails to show cause within a reasonable time, specified in the notice referred to in subsection (5), or adduces reasons which the Minister considers insufficient, the Minister may by a further notice require the holder to apply for a special mining licence within a period of sixty days from the service of that further notice or surrender the retention licence.
- (7) Before serving a notice on the holder of a retention licence, pursuant to subsection (6) the Minister shall refer the matter to the Mining Advisory Committee for its advice.

**Division B – Special mining licence, mining  
licence and gemstone mining licence (ss. 36-55)**

**(i) – Applications for special mining licence, mining  
licence and gemstone mining licence (ss. 36-37)**

**36. Applicants**

- (1) Subject to section 39 or 48, as the case may be, the holder of a prospecting licence or a retention licence hereinafter in this Division of this Part referred to as an "entitled applicant" is entitled—
  - (a) on application to the Minister, pursuant to section 38, to the grant of a special mining licence;
  - (b) on application to the Minister pursuant to section 47 or section 51 to the grant of a mining licence, or a gemstone mining licence,for the mining within the prospecting area or the retention area of minerals to which the prospecting licence, or the retention licence, applies.
- (2) Any person may apply to the Minister for the grant of—
  - (a) a special mining licence, for the mining of minerals other than building materials;
  - (b) a mining licence, for the mining of minerals other than gemstones; or
  - (c) a gemstone mining licence,in any vacant area which is not part of a reserved area or in any area which is subject only to a prospecting licence for building materials or gemstones.
- (3) Where a person who is not an entitled applicant has made an application to the licensing authority for a special mining licence, mining licence or gemstone mining licence in the prescribed form and tendered the prescribed fee, the application shall be registered immediately in the register maintained for such applications in accordance with this Act.
- (4) The application registered under subsection (3) shall be assigned a number, the date and time at which it was received shall be indicated on an official receipt and handed to the applicant or his authorised agent or sent to the applicant by registered mail.
- (5) Every applicant applying for a special mining licence, a mining licence or a gemstone mining licence under the provisions of this Act shall submit copies of his application to such persons as the Minister may prescribe in the Regulations.

**37. Effect of application under this head on prospecting licence for building materials**

- (1) When an application is made for a special mining licence, a mining licence or a gemstone mining licence for an area which includes an area subject to—
  - (a) prospecting licence for building materials;
  - (b) prospecting licence for gemstones;
  - (c) primary prospecting licence which has been demarcated and registered under subsection (6) of section 65,the licensing authority shall serve notice on the holder of the prospecting licence terminating the licence for building materials or gemstones or terminating the activities under the primary prospecting licence over the area.

- (2) Where notice has been served in pursuance to the provisions of subsection (1) the licence for building materials or gemstones shall be deemed to have been terminated after thirty days from the date on which the notice was issued.
- (3) At any time between the date of the service of such notice and the date of termination of the prospecting licence or the activities under the primary prospecting licence, the holder of the licence shall be entitled, on application made to the licensing authority for the grant of a mining licence for building materials or gemstones within the area of his prospecting licence or, as the case may be, for the grant of a primary mining licence over demarcated area.
- (4) Every application under subsection (3) shall have priority over an application referred to in subsection (1).

## **(ii) – Special mining licence (ss. 38-45)**

### **38. Application for special mining licence**

- (1) An application for a special mining licence shall be in the prescribed form and shall be accompanied by the prescribed fee.
- (2) In addition to the requirements in subsection (4), an application by an entitled applicant shall identify the relevant prospecting licence or, as the case may be, retention licence and provide a full description of the land within the prospecting area or retention area for which the special mining licence is sought and a plan of the proposed mining area drawn in the manner and showing particulars as the Minister may reasonably require.
- (3) In addition to the requirements of subsection (4), an applicant other than an entitled applicant shall include in his application such matters as are required by section 24 to be included in an application for a prospecting licence.
- (4) Every application for a special mining licence shall include or be accompanied by—
  - (a) a statement of the period for which the licence is sought;
  - (b) a comprehensive statement by the applicant, so far as he knows, of the mineral deposits in the proposed area, including information on any gemstones intended to be included in the programme of mining operations and details of all known minerals proved, estimated or inferred, ore reserves and mining conditions;
  - (c) the proposed programme for mining operations, including a forecast of capital investment, the estimated recovery rate of ore and mineral products, and the proposed treatment and disposal of ore and minerals recovered;
  - (d) the applicant's environmental management 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 Tanzania;
  - (g) such further information as the Minister may reasonably require for the disposal of the application.
- (5) Every applicant for a special mining licence shall commission and produce to the Minister an environmental impact assessment on the proposed mining operations from independent consultants of the international standing shortlisted by the applicant and approved by the Government of the United Republic.



- (6) An application under this section shall be submitted to the Mining Advisory Committee for its advice.

### 39. Grant of special mining licence

- (1) Subject to the provisions of this Act, the Minister shall grant a special mining licence to an entitled applicant for the mining of minerals, excluding gemstones other than gemstones included in the programme of mining operations, in respect of the area of land requested in his application if, taking account of any relevant stipulation in a development agreement—
- (a) it is established, or may be reasonably inferred, that there are sufficient deposits or reserves of minerals proposed to be mined to justify their commercial exploitation;
  - (b) the area of land over which the licence is sought is not in excess of the area reasonably required to carry out the applicant's proposed programme for mining operations;
  - (c) judged by international standards of good mining practice, the applicant's proposed programme for mining operations would ensure the efficient and beneficial use of the mineral resources of the area over which the licence is sought;
  - (d) the applicant's environmental management plan takes proper account of the environmental impact assessment commissioned in accordance with subsection (5) of section 38 and conforms to the Regulations and to established international standards and practice and meets reasonable standards established by the Government of Tanzania for the management of 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 Tanzania are adequate;
  - (f) the applicant is not in default in respect of any of the obligations under his prospecting licence, or as the case may be his retention licence.
- (2) Notwithstanding paragraph (f) of subsection (1) the Minister shall not reject an application for the grant of a special mining licence on the grounds that the applicant is in default without first serving on the applicant a notice giving particulars of the default and requiring the applicant within a reasonable time specified in the notice to remedy the fault or, where a default is not capable of remedy, the applicant has not offered in respect thereof reasonable compensation.
- (3) In the event that an application for a special mining licence made by an entitled applicant is rejected by the Minister on the grounds that the application does not satisfy one or more of the requirements set forth in subsection (1), the Minister shall cause a notice to be served on the entitled applicant giving full particulars of the respects in which the applicant fails to satisfy those requirements.
- (4) In the case of an application for a special mining licence by an applicant who is not an entitled applicant, the Minister shall, subject to the provisions of any applicable development agreement, decide in his discretion whether or not to grant the application for the mining of minerals and which, if any, gemstones are included therein, and the period for which, and the conditions on which, the licence shall be granted.
- (5) The Minister shall give notice to an applicant to which subsection (1) refers of his decision on the application, and, if he intends to grant it, on the terms and conditions of the special mining licence.
- (6) If within sixty days of the service of such notice, the applicant fails to inform the Minister of his willingness to accept the proposed special mining licence, his application shall be deemed to have lapsed.

#### 40. Duration of special mining licence

A special mining licence—

- (a) granted to an entitled applicant shall be for such period, not exceeding twenty five years, as the applicant requests, or the estimated life of the ore body which it is proposed to mine, whichever is the shorter;
- (b) granted to a person who is not an entitled applicant, shall, subject to the provisions of any applicable development agreement, be for such period not exceeding twenty-five years as the Minister shall determine.

#### 41. Content of special mining licence

(1) A special mining licence shall—

- (a) state the date of the grant of the licence and the period for which it is granted;
- (b) include a description and plan of the area of land over which it is granted;
- (c) state which, if any, gemstones are included in the licence.

(2) There shall be appended to a special mining licence—

- (a) the programme of mining operations;
- (b) the applicant's environmental management plan;
- (c) the applicant's proposals for the employment and training of citizens of Tanzania, as accepted by the Minister, which shall form part of the licence.

#### 42. Renewal of special mining licence

- (1) The holder of a special mining licence may, at any time not later than one year before the expiry of that licence, apply to the Minister for the renewal of his licence in respect of all or any part of the mining area. An application for renewal shall be in the prescribed form and shall be accompanied by the prescribed fee.
- (2) An application under this section shall include or shall 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 renewal;
  - (d) an environmental management plan in respect of operations to be conducted during the renewal period;
  - (e) if the renewal is sought in respect only of part of the mining area, a plan identifying that part.
- (3) An application for renewal shall be referred to the Mining Advisory Committee for its advice.

- (4) Save as provided in subsection (5), on an application duly made under this section, a special mining licence shall be renewed by the Minister for a period not exceeding twenty-five years and the Minister may, subject to any relevant development agreement and after consultation with the applicant, renew the licence with a variation of conditions of the licence.
- (5) The Minister may reject an application for renewal after taking account of any relevant stipulation in a development agreement if—
  - (a) the applicant is in default, provided that the Minister shall not reject an application on the grounds that the applicant is in default without first serving on the applicant a notice giving particulars of the default and requiring the applicant within a reasonable time specified in the notice to remedy the fault or, where a default is not capable of remedy, requiring the applicant to offer in respect thereof reasonable compensation;
  - (b) the development of the mining area has not proceeded with reasonable diligence;
  - (c) minerals in workable quantities do not remain to be produced;
  - (d) the programme of intended mining operations will not ensure the proper development of the mineral resources of the mining area and their recovery in accordance with good mining practice;
  - (e) the environmental management plan does not satisfy the requirements set out under paragraph (d) of subsection (1) of section 39.
- (6) On the renewal of the licence, it shall be amended in accordance with any variations made as provided in this section.

#### 43. Rights of holder of special mining licence

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

- (a) enter on the mining area and take all reasonable measures on or under the surface for the purpose of his mining operations;
- (b) erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered by him in the course of mining operations;
- (c) subject to the payment of royalties in accordance with this Act and the Regulations, dispose of any mineral product recovered;
- (d) stack or dump any mineral or waste products in a manner provided for in his environmental management plan and the Regulations,

and may prospect within the mining area for any mineral excluding gemstones other than gemstones specified in the licence.

#### 44. Obligations of holder of special mining licence

Subject to the provisions of this Act and the Regulations, the holder of a special mining licence shall, as a condition of the licence—

- (a) develop the mining area and carry on mining operations in substantial compliance with the programme of mining operations and his environmental management plan and commence production in accordance with the programme of mining operations;
- (b) employ and train citizens of Tanzania in accordance with his proposals as appended to the licence;
- (c) demarcate and keep demarcated in the prescribed manner the mining area;

- (d) whenever required by the Minister after consultation with the Mining Advisory Committee, provide for the posting of a rehabilitation bond, as provided for in the Regulations, to finance the costs of rehabilitating and making safe the mining area on termination of mining operations where the holder of the special mining licence has failed to meet his obligations in this respect.

#### **45. Amendments of special mining licence by holder**

- (1) The holder of a special mining licence may make amendments to—
  - (a) the programme of mining operations;
  - (b) the environmental management plan appended to the licence;
  - (c) the programme for the employment or training of citizens of Tanzania.
- (2) Particulars of the amendments, including, where appropriate, particulars of any significant impacts to the environment that any amendment could endanger, shall be served on the Minister and, subject to subsections (3) and (4), the amendment shall have effect when so served.
- (3) An amendment which substantially alters any provision which forms part of the conditions of the licence, or will adversely affect environmental management, shall not take effect without the express approval of the Minister, and where any such amendment appears to the Minister to make such a substantial alteration, he shall refer the amendment to the Mining Advisory Committee for its advice.
- (4) On receiving the advice of the Mining Advisory Committee, the Minister shall, subject to any relevant development agreement, determine whether or not to approve the amendment and, if he decides to approve the amendment, the terms and conditions if any, on which such approval is granted, shall be complied with.

### **(iii) – Mining licence (ss. 46-50)**

#### **46. Mining licence**

- (1) A mining licence may be granted under this head of this Division for minerals other than gemstones.
- (2) The maximum area for which a mining licence for minerals may be granted under this Head of this Division shall be prescribed and different areas may be prescribed for mining licences for building materials granted in accordance with section 37 and for other mining licences.
- (3) The initial period for which a mining licence may be granted is ten years, but the licence may be renewed as provided in section 50.

#### **47. Application for mining licence for minerals other than gemstones**

- (1) An application for a Mining Licence for minerals other than gemstones shall be made to the Minister in the prescribed form and shall be accompanied by the prescribed fee.
- (2) Every application under this section shall—
  - (a) in the case of an entitled applicant, identify the relevant prospecting licence;
  - (b) in the case of an applicant other than an entitled applicant, include such matters as are required by section 24 to be included in an application for a prospecting licence;
  - (c) describe the area, not exceeding the maximum area which may be prescribed for the purposes of this Head of this Division, over which a mining licence is sought, and shall be accompanied by a sketch plan in sufficient detail to enable the Minister to identify the area;
  - (d) describe the mineral deposits in the proposed area;

- (e) include a feasibility study which should set out—
  - (i) the proposed programme of mining operations including such measures as the applicant proposes to take in relation to any adverse impacts to the environment;
  - (ii) the estimated recovery rate of ore and the applicant's proposals for its treatment and disposal;
  - (iii) the applicant's estimate of the quantity of minerals to be produced for sale annually;
- (f) state the duration, not exceeding ten years, for which the mining licence is sought;
- (g) include such further information as the Minister may require for disposing of the application;
- (h) in the case of an application falling within section 64 include an environmental impact assessment on the proposed mining operations from independent consultants of international standing and an environmental management plan.

#### 48. Grant of mining licence for minerals other than gemstones

The Minister shall grant an application for a mining licence for minerals other than gemstones which has been properly made under section 47 and a successful application for a mining licence made under section 62 unless—

- (a) the applicant is a person to whom section 8 applies;
- (b) the area in respect of which a mining licence is sought is in excess of the area required to mine the deposits identified by the applicant;
- (c) the applicant is or was in default in respect of any other Mineral Right and has failed to rectify such fault;
- (d) the applicant is not an entitled applicant and—
  - (i) the area of land for which the applicant has made application or part of it is subject to another Mineral Right, other than a prospecting licence for building materials or gemstones or a primary prospecting licence unless it relates to an area which has been demarcated and registered under subsection (6) of section 65;
  - (ii) the area of land for which application has been made, or part of it, covers or includes an area designated by the Minister under section 14 as an area reserved for prospecting and mining operations by persons holding primary licences to mine minerals;
  - (iii) the area of land for which application has been made covers or includes an area of land for which application has been made by another person who has priority over the applicant under section 12;
  - (iv) except in a case of an application made in accordance with section 62, the area of land for which application has been made, or part of it, covers or includes an area designated by the Minister under section 13 as an area in respect of which applications for the grant of a Mineral Right have been, or will be, invited by tender;
- (e) the application falls within subsection (1) of section 64 and the applicant's environmental management plan fails to take proper account of the environmental impact assessment commissioned in accordance therewith or otherwise fails to conform to the Regulations, established by international standards and practice, or reasonable standards established by the Government of Tanzania for the management of mining operations.

**49. Rights and obligations of holder of mining licences for minerals other than gemstones**

- (1) A mining licence confers on the holder the exclusive right, subject to this Act and the Regulations, to carry on mining operations in the mining area for minerals other than gemstones, and for that purpose the holder, his servants and agents may, in particular—
- (a) enter on the mining area and take all reasonable measures on or under the surface for the purpose of his mining operations;
  - (b) erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered by him in the course of mining operations;
  - (c) subject to payment of royalties in accordance with this Act and the Regulations, dispose of any mineral product recovered;
  - (d) stack or dump any mineral or waste product in a manner provided for in the applicable Regulations,

and may prospect within the mining area for any minerals other than gemstones.

- (2) Subject to the provisions of this Act and the Regulations the holder of a mining licence shall—
- (a) develop the mining area and carry on mining operations in substantial compliance with his programme of mining operations with due diligence;
  - (b) demarcate and keep demarcated in the prescribed manner the mining area;
  - (c) take all appropriate measures for the protection of the environment;
  - (d) in the case of an application falling within section 64 and if required by the Minister after consultation with the Mining Advisory Committee, provide for the posting of a rehabilitation bond, as provided for in the Regulations, to finance the costs of rehabilitating and making safe the mining area on termination of mining operations where the holder of the mining licence has failed to meet his obligations in this respect.

**50. Renewal of mining licence for minerals other than gemstones**

- (1) The holder of a mining licence for minerals other than gemstones may apply to the Minister for a renewal of his licence; an application for renewal shall be in the prescribed form and shall be accompanied by the prescribed fee and, in the case of an application falling within section 64, an environmental management plan in respect of operations to be conducted during the renewal period.
- (2) On an application made under this section, the Minister shall renew the mining licence for the period for which application has been made, but not exceeding ten years, unless—
- (a) the applicant is in default;
  - (b) the development of the mining area has not proceeded with reasonable diligence;
  - (c) minerals in workable quantities do not remain to be produced;
  - (d) the applicant has failed to conduct mining operations in the mining area in strict compliance with the applicable Regulations relating to safety and environmental management or, in the case of an application falling within section 64, the environmental management plan does not satisfy the requirements set out in paragraph (e) of section 48.

#### (iv) – Gemstone mining licence (ss. 51-55)

##### 51. Application for gemstone mining licence

- (1) A gemstone mining licence shall confer on the holder the right to prospect for and mine gemstones as provided in this Division of this Part.
- (2) An application for a gemstone mining licence shall be made to the Minister in the prescribed form and shall be accompanied by the prescribed fee.
- (3) All applications for gemstone mining licences shall give particulars of the kind referred to in paragraph (a) of subsection (3) of section 24 and shall include or be accompanied by—
  - (a) a statement of the period not exceeding ten years for which the licence is sought;
  - (b) a description and sketch of the area of land, not exceeding the maximum prescribed, for which the licence is sought sufficient to enable the Minister to identify the area and to provide a plan to be annexed to the licence;
  - (c) to the best of the applicant's knowledge and belief, a statement of the gemstone deposits in the area over which the licence is sought;
  - (d) the proposed programme for prospecting and mining operations, which the applicant proposes to undertake during the first two years from the date on which the licence is granted;
  - (e) a description of such measures as the applicant proposes to take in relation to any adverse impacts to the environment;
  - (f) in the case of an application falling within section 64, an environmental impact assessment on the proposed mining operations from independent consultants of international standing and an environmental management plan;
  - (g) such further information as the Minister may reasonably require for disposing of the application.

##### 52. Grant of gemstone mining licence

- (1) The Minister shall grant an applicant for a gemstone mining licence which has been properly made under section 51 and a successful application for a gemstone mining licence made under subsection (5) of section 54 or section 62 unless—
  - (a) the applicant is a person to whom section 8 applies;
  - (b) the applicant is or was in default in respect of any other Mineral Right and has failed to rectify such fault;
  - (c) the area of land for which the applicant has made application or part of it is subject to another Mineral Right, other than a prospecting licence for building materials a prospecting licence for gemstone or a primary prospecting licence unless it relates to an area which has been demarcated and registered under subsection (6) of section 65;
  - (d) the area of land for which application has been made, or part thereof, covers or includes an area designated by the Minister under section 14 as an area reserved for prospecting and mining operations by persons holding primary mining licences;
  - (e) the area of land for which application has been made covers or includes an area of land for which application has been made by another person who has priority over the applicant under section 12;

- (f) except in a case of an application made in accordance with section 54 or section 62, the area of land for which application has been made, or part of that land, covers or includes an area designated by the Minister under section 13 as an area in respect of which applications for the grant of a Mineral Right have been, or will be, invited by tender;
  - (g) the application falls within section 64 and the applicant's environmental management plan fails to take proper account of the environmental impact assessment commissioned in accordance therewith or otherwise fails to conform to the Regulations, or reasonable standards established by the Government of Tanzania for the management of mining operations.
- (2) A gemstone mining licence shall be granted substantially in accordance with the terms of the application, shall be in such form as may be prescribed, and shall have annexed thereto a plan of the mining area.

### 53. Rights and obligations of holders of gemstone mining licence

- (1) A gemstone mining licence confers on the holder the exclusive right, subject to this Act and the regulations, to carry on mining operations for gemstones in the mining area, and for that purpose the holder, his servants and agents may, in particular—
  - (a) enter on the mining area and take all reasonable measures on or under the surface for the purpose of his mining operations;
  - (b) erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered by him in the course of mining operations;
  - (c) subject to payment of royalties in accordance with this Act and the regulations, dispose of any gemstones recovered;
  - (d) stack or dump any mineral or waste product in a manner provided for in the applicable Regulations; and may prospect within the mining area for gemstones.
- (2) Subject to the provisions of this Act and the Regulations, the holder of a gemstone mining licence shall—
  - (a) develop the mining area and carry on mining operations in substantial compliance with his programme of mining operations with due diligence;
  - (b) demarcate and keep demarcated in the prescribed manner the mining area;
  - (c) take all appropriate measures for the protection of the environment.

### 54. Report of prospecting and mining under gemstone mining licence

- (1) Not later than twenty-one months from the date on which a gemstone mining licence was granted, the holder shall submit to the Commissioner a report giving particulars of—
  - (a) the prospecting operations and mining operations carried on by the holder since the gemstone mining licence was granted, and the results thereof;
  - (b) the programme of mining operations which the holder proposes to carry out during the remaining period of the licence, which shall include—
    - (i) the estimated recovery rate of ore and the holder's proposals for its treatment and disposal;
    - (ii) the holders' estimate of the quantity and average value per carat or gram of the gemstones to be produced annually for sale from the mining area.
- (2) If the Minister after considering the report submitted by the holder under subsection (1) and taking into account such advice as may be tendered to him by the Commissioner decides that



the programme of mining operations submitted by the holder will not ensure the efficient and beneficial use of the mineral resources of the mining area, may, by notice in writing to the holder, determine the licence.

- (3) Notwithstanding the provisions of subsections (1) and (2) the Minister shall not determine a gemstone mining licence under this section—
  - (a) without first giving to the holder an opportunity to make representations and to amend the plan of mining operations previously submitted, including the estimates referred to in paragraphs (b)(i) and (ii) of subsection (1);
  - (b) without referring the matter to the Mining Advisory Committee for its advice.
- (4) In the event that a gemstone mining licence is determined by the Minister, in accordance with subsections (2) and (3) the mining area will be put up for the grant of a gemstone mining licence by tender, on the terms and conditions of an invitation which shall be published in the *Gazette* or in a local newspaper widely circulating in this country.
- (5) An application for the grant of a gemstone mining licence by tender shall be made in the prescribed tender form and accompanied by the prescribed tender fee and shall include the applicant's programme of mining operations and estimates as required by paragraph (b) of subsection (1). All such applications shall be referred to the Mining Advisory Committee.
- (6) On receipt of a report from the Mining Advisory Committee the Minister shall consider the competing bids and select the bid, which in his opinion, will be most likely to promote the efficient and beneficial development of the gemstone resources of the mining area having regard to—
  - (a) the programme of mining operations proposed by the applicant, including his estimates, as provided under subparagraphs (i) and (ii) of paragraph (b) of subsection (1);
  - (b) the financial and technical resources of the applicant;
  - (c) the previous experience of the applicant in the conduct of mining operations,and shall notify the successful applicant accordingly.

## 55. Renewal of gemstone mining licence

- (1) The holder of a gemstone mining licence may apply to the Commissioner for a renewal of his licence.
- (2) An application for renewal shall be in the prescribed form and shall be accompanied by the prescribed fee and, in the case of an application falling within section 64, an environmental management plan in respect of operations to be conducted during the renewal period.
- (3) On an application made under this section the Commissioner shall renew a gemstone mining licence for the period for which application has been made, but not exceeding ten years, unless—
  - (a) the applicant is in default;
  - (b) the development of the mining area has not proceeded with reasonable diligence;
  - (c) minerals in workable quantities do not remain to be produced;
  - (d) the applicant has failed to conduct mining operations in the gemstone mining licence area in strict compliance with the applicable Regulations relating to safety and environmental management or, in the case of an application falling within section 64, the environmental management plan does not satisfy the requirements set out under paragraph (g) of subsection (1) of section 52.

## **Division C – Supplementary provisions affecting Mineral Rights under Divisions A and B (ss. 56-64)**

### **56. Surrender of land subject to Mineral Right**

- (1) The holder of a Mineral Right granted under Division A or B who wishes to surrender all or any part of the land subject to his licence, shall apply to the licensing authority not less than three months before the date on which he wishes the surrender to have effect, for a certificate of surrender, and, subject to subsection (3) and any relevant stipulation in a development agreement, the licensing authority shall issue to the applicant a certificate of surrender either unconditionally or subject to such conditions relating to the surrendered land as the licensing authority may determine.
- (2) An application under this section—
  - (a) shall identify the land to be surrendered and, if the application applies to only a part of the land subject to the licence, include a plan clearly identifying both the part to be surrendered and the part to be retained;
  - (b) shall state the date on which the applicant wishes the surrender to take effect;
  - (c) shall give particulars of the operations which have been carried on under the licence on the land to be surrendered; and
  - (d) shall be supported by such records and reports in relation to those operations as the licensing authority may reasonably require.
- (3) The licensing authority shall not issue a certificate of surrender—
  - (a) to an applicant who is in default;
  - (b) to an applicant who fails to comply with the reasonable requirements of the licensing authority under subsection (2);
  - (c) if the licensing authority is not satisfied that the applicant will leave the land to be surrendered and on which prospecting or mining operations have been carried on in a condition which is safe, which accords with good mining practice, and, as applicable, conforms to the requirements of the environmental management plan or the applicable Regulations relating to safety and environmental management;
  - (d) in respect of any part of the land subject to the licence if the licensing authority is not satisfied that the land which remains subject to the licence is capable of being efficiently used or developed according to the terms of the licence.
- (4) A certificate of surrender shall take effect on the date on which it is issued to the applicant.
- (5) Where the certificate relates to the whole of the land subject to the holder's licence, the licence shall be cancelled with effect from the same date; in any other case, the licence shall be amended to take account of the surrender.
- (6) Notwithstanding the issue of a certificate of surrender, the surrender of any land shall not affect any liability incurred before the date on which the surrender had effect in respect of the land, and any legal proceedings that might have been commenced or continued in respect of any liability against the holder of the licence may be commenced or continued against the holder or, as the case may be, the former holder.

## 57. Suspension and cancellation of Mineral Right

- (1) Subject to this section and any relevant stipulation in a development agreement, where the holder of a Mineral Right granted under Division A or B—
- (a) fails in a material respect to comply with any requirement of this Act or the Regulations which are binding on him;
  - (b) fails to comply with a condition of the licence (not being exempted under this Act or the Regulations from doing so);
  - (c) fails to comply with a direction lawfully given under this Act or the Regulations or with a condition on which any certificate of surrender is issued or on which any exemption or consent is given under this Act or the Regulations;
  - (d) fails to comply with the conditions relating to the exercise of his rights under his licence which are contained in a relevant development agreement;
  - (e) fails to pay any amount payable by him under this Act or the Regulations within one month after the amount becomes due,

the Minister may, on that ground but subject to subsection (2) and the provisions of any relevant development agreement, by notice in writing served on the holder of the licence, suspend or cancel the licence.

- (2) The Minister shall not suspend or cancel a licence on a ground referred to in subsection (1) unless—
- (a) he has first served on the holder a default notice specifying the grounds on which, under subsection (1), the licence is liable to be suspended or cancelled;
  - (b) the holder has failed within a period of 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;
  - (c) the matter has been referred to the Mining Advisory Committee for its advice.
- (3) For the purpose of paragraph (b) of subsection (2) in a case falling under paragraph (e) of subsection (1), a default will not be treated as having been remedied unless, in addition to paying the amount overdue within the specified time, the holder has also paid interest on that amount at such reasonable rate as the Minister may have specified in the default notice.
- (4) The Minister may, by notice in writing to the holder of a Mineral Right granted under Division A or B, cancel the relevant licence on the occurrence of an event which, as provided under subsection (1) of section 8, would render that person ineligible to be granted a Mineral Right.
- (5) Where two or more persons constitute the licensee and—
- (a) an event occurs of a kind referred to in subsection (4) in respect of one or more but not all of those persons; or
  - (b) one or more, but not all, of those persons fails to comply with an obligation which, under the terms and conditions of the licence or a relevant development agreement, is a several obligation,

the Minister shall not suspend or cancel the licence, but may serve on any such person (in this section referred to as an "affected person") a notice of compulsory assignment requiring the affected person unconditionally, without consideration and free from any encumbrance, to assign to the licence holders who are not affected persons (in this section referred to as "unaffected persons") the entire interest in the licence held by the affected person.

- (6) For the purposes of subsection (5), the affected person shall make such assignment to the unaffected persons in undivided shares in proportion to the undivided shares in which the unaffected persons hold the licence, and the unaffected persons shall be obliged to accept such assignment.
- (7) The provisions of subsection (2) and (3) shall apply to a proposal to serve on an affected person a notice of compulsory assignment as they apply to a notice suspending or cancelling a licence.
- (8) On the cancellation of a licence or a compulsory assignment under this section, the rights of the holder, or as the case may be the affected person, cease, but the cancellation or compulsory assignment does not affect any liability incurred before the cancellation or assignment and any legal proceedings that might have been commenced or continued against the former holder may be commenced or continued against him.

## **58. Extension of Mineral Rights during applications**

Where the holder—

- (a) of a Mineral Right applies, during the currency of that Mineral Right for a renewal of the licence in respect of that Right;
- (b) of a prospecting licence or a retention licence applies, during the currency of that licence, for a Mineral Right to which he is entitled,

the current licence shall remain in force until—

- (i) the date of the renewal or grant of the licence for which application is made; or
  - (ii) the application is refused,
- as the case may be.

## **59. Enlargement of certain Mineral Right**

- (1) The holder of a prospecting licence or a special mining licence may apply to the licensing authority for the enlargement of the area for which his licence is granted and the licensing authority may, subject to subsections (2) and (3) and any relevant development agreement, approve the application or refuse to do so.
- (2) Subject to the provisions of subsection (1), the licensing authority shall not approve an application under this section unless the land in respect of which the application is made is a vacant area which is not part of a reserved area and, in the case of a prospecting licence, the prospecting area will not, as enlarged, exceed the maximum area prescribed in accordance with subsection (1) of section 27.
- (3) An approval under this section may be given unconditionally or subject to such conditions as the licensing authority may determine and any such conditions shall be specified in the document signifying the licensing authority's approval.
- (4) An approval under this section, together with any conditions to which it is subject, shall be endorsed on the applicant's licence and the licence shall be deemed to be amended in accordance with the endorsement.

## **60. Holder of certain Mineral Right ceasing or suspending mining operations**

- (1) The holder of a special mining licence, a mining licence or a gemstone mining licence shall notify the licensing authority if he intends to cease or suspend production from the mining area.
- (2) Such notification shall be accompanied by a report giving details of the intended cessation or suspension and the reasons therefor.

- (3) On receiving notification under subsection (1) or, if he otherwise becomes aware of a cessation or suspension, the licensing authority shall cause the matter to be investigated and—
  - (a) in any case in which the cessation or suspension has been caused by an event beyond the reasonable control of the holder, shall give his approval to the cessation or suspension for so long as that event continues to affect mining operations;
  - (b) in any other case, after reference to the Mining Advisory Committee and subject to any relevant stipulations in a development agreement, shall—
    - (i) if it is fair and reasonable to do so, give his approval to the cessation or suspension;
    - (ii) otherwise direct the holder to continue mining operations in substantial compliance with the programme of mining operations.

#### **61. Maximum area for which licence may be granted**

The maximum area for which a mining licence or a gemstone mining licence may be granted shall be prescribed and for that purpose the Regulations may prescribe different maximum areas for different minerals and in respect of different Mineral Rights.

#### **62. Allocation of mining licence or gemstone mining licence by tender**

- (1) An application for a mining licence or gemstone of mining licence in an area designated as an area in which applications for the relevant licence are invited by tender shall be—
  - (a) in the prescribed tender form;
  - (b) accompanied by the prescribed tender fee; and
  - (c) subject to the terms and conditions of the invitation to tender, shall include the matters required to be included in applications of Division B of this Part.
- (2) All applications under this section shall be referred to the Mining Advisory Committee for its advice.
- (3) On receipt of a report from the Mining Advisory Committee, the Minister shall consider the competing bids and shall select the bid which in his opinion will be most likely to promote the expeditious and beneficial development of the mineral resources of the area having regard to—
  - (a) the programme of prospecting or as the case may be, mining operations which the applicant proposes to carry out and the commitments as regards expenditure which the applicant is prepared to make;
  - (b) the financial and technical resources of the applicant;
  - (c) the previous experience of the applicant in the conduct of prospecting and mining operations.
- (4) The successful application under this section shall be treated as an application under section 47, section 51 or section 54, as the case may be, which has priority over any other application.

#### **63. Termination of mining licence or gemstone mining licence where production is insufficient**

Where over a continuous period, not being less than three years, the holder of a mining licence for minerals other than gemstones, or, as the case may be, the holder of a gemstone mining licence, has in each year of production recovered less than fifty *per centum* of—

- (a) in the case of the holder of a mining licence for minerals other than gemstones, the quantity of ore which should have been recovered under the estimated recovery rate specified in his feasibility study submitted in accordance with section 47; or

- (b) in the case of the holder of a gemstone mining licence—
  - (i) the quantity of ore which should have been recovered under the estimated recovery rate specified in the report submitted in accordance with section 54; and
  - (ii) the annual quantity of gemstone production measured by carats or grams estimated in that report; and
- (c) in either case, the shortfall in the quantities recovered has not been caused by events beyond the reasonable control of the holder and the continuous period does not include any period during which the Minister under section 60, has approved the cessation or suspension of production, the Minister may, after referring the matter to the Mining Advisory Committee, terminate the licence.

#### **64. Additional requirements for certain mining licences and gemstone mining licences**

- (1) Where the mining operations intended to be carried out under a mining licence or a gemstone mining licence fall within a scale of mining operations set out in the Regulations, the applicant for the mining licence or the gemstone mining licence shall commission and produce an environmental impact assessment on the proposed mining operations from independent consultants of international standing shortlisted by the Government of the United Republic and an environmental management plan as set out in the Regulations.
- (2) The Minister may—
  - (a) where a particular applicant requires consideration of environmental information and is subject to subsection (1) on environmental regulations;
  - (b) after consultation with the Mining Advisory Committee,direct that, that applicant be exempt from the operation of such regulations.

### **Division D – Primary licences (ss. 65-72)**

#### **65. Application for, and grant of, primary prospecting licence**

- (1) Any person who is not disqualified under section 8, may apply to the Commissioner for the grant of a primary prospecting licence.
- (2) An application under this section shall be as in the prescribed form and be accompanied by the prescribed fee.
- (3) An application made under subsection (1) shall give in respect of the person or, if there is more than one person of each person making the application—
  - (a) in the case of an individual, his full name and place of residence;
  - (b) in the case of a Company its corporate name and particulars of the relevant entry in the companies registry.
- (4) An applicant who has fulfilled the requirements of subsections (1), (2) and (3) shall be granted a licence under this section.
- (5) A primary prospecting licence granted to an applicant under subsection (4) shall, subject to the provisions of this Act and the Regulations, authorise the holder to prospect for minerals in any area located in the zone for which the Zonal Mines Officer established under section 23, has responsibility other than—
  - (a) an area subject to another Mineral Right, (not being a primary prospecting licence save in respect of an area which has been demarcated and registered under subsection (6));

- (b) an area designated by the Minister under section 14 as an area reserved for prospecting and mining operations by persons holding primary licences to mine minerals;
  - (c) an area designated by the Minister under section 13 as an area in respect of which applications for the grant of a Mineral Right have been, or will be, invited by tender.
- (6) The holder of a primary prospecting licence shall inform the zonal mines office of the area within which he intends to protect his prospecting activities which shall not exceed the maximum area prescribed for that purpose and shall demarcate and register the area and pay fees in respect thereof in the manner prescribed.
- (7) A primary prospecting licence shall be granted under this section for a period of one year and, on payment of the prescribed fee, may be renewed for a like period or periods. The rights of the holder of an area which has been demarcated and registered under subsection (6) shall subsist for a period commencing with registration and terminating six months later or on the date when the primary prospecting licence terminates whichever first occurs.
- (8) Except in the case of an area which has been demarcated and registered under subsection (6) a primary prospecting licence does not confer on the holder an exclusive right to search for minerals or establish for the holder any priority in respect of the grant of a primary mining licence.

## 66. Application for primary mining licence

The holder of a primary prospecting licence and any other person not disqualified under section 8, may apply to the Commissioner for the grant of a primary mining licence. Every such application shall—

- (a) be in the prescribed form and accompanied by the prescribed fee;
- (b) describe the area (not exceeding the maximum area prescribed) over which the licence is sought.

## 67. Minimum and maximum areas

Subject as provided under Regulations made for the purposes of subsection (2) of section 70, the minimum or maximum area for a primary mining licence shall be prescribed.

## 68. Grant of primary mining licence

- (1) The Commissioner shall grant an application for a primary mining licence which has been properly made under section 66 unless—
- (a) the applicant is or was in default in respect of any other Mineral Right and has failed to rectify such fault;
  - (b) the area for which application has been made or part of it covers or includes an area which is —
    - (i) subject to another Mineral Right, not being a primary prospecting licence, unless it relates to an area which has been demarcated and registered under subsection (6) of section 65;
    - (ii) an area designated by the Minister under section 14 as an area reserved for prospecting and mining operations by persons holding primary mining licences;
    - (iii) an area designated by the Minister under section 13 as an area in respect of which applications for the grant of a Mineral Right have been, or will be, invited by tender.
- (2) A primary mining licence granted under this section shall be valid for a period of five years and may be renewed under section 69.
- (3) A primary mining licence to mine minerals granted under this section shall confer on the holder the exclusive right, subject to this Act and the Regulations including the Regulations applicable to

safety and the protection of the environment, to carry on mining operations in the mining area, and for that purpose the holder, his servants and agents (being persons not disqualified under subsection (2) of section 8 from holding a primary mining licence) may, in particular—

- (a) enter on the mining area and take all reasonable measures on or under the surface for the purpose of mining operations;
- (b) erect the necessary equipment, plant and buildings for the purpose of mining, transporting, dressing or treating the minerals recovered by him in the course of mining operations;
- (c) subject to payment of royalties in accordance with this Act and the Regulations dispose of any mineral recovered;
- (d) stack or dump any mineral or waste product in compliance with the applicable Regulations;
- (e) carry on prospecting operations in the mining area.

#### **69. Renewal of primary mining licence**

- (1) Not later than three months before the expiry date of primary mining licence, the holder may apply to the Zonal Mines Officer for renewal of the licence.
- (2) The zonal mines officer shall renew the licence on an application made under subsection (1) and accompanied by the prescribed fee.
- (3) An application for renewal of the licence under this section may be refused if—
  - (a) the applicant is in default;
  - (b) the development of the mining area has not proceeded with due diligence;
  - (c) minerals in workable quantities do not remain to be produced;
  - (d) the applicant has failed to conduct mining operations in the mining area in strict compliance with the applicable Regulations relating to safety and environmental management.

#### **70. Allocation of primary mining licences to mine in exclusive primary area**

- (1) Primary mining licences in an area designated under section 14 shall be allocated in accordance with a scheme of allocation provided for by the Regulations and no application for any such licence may be made under section 66.
- (2) A scheme of allocation made by the Regulations pursuant to this section, shall make provision for the renewal of primary mining licences to mine in the designated area.
- (3) Regulations made for allocation of primary mining licences in a designated area shall not come into effect unless they have been referred to the Mining Advisory Committee.

#### **71. Conversion of primary mining licences to certain mineral rights under Division B**

- (1) The holder of one or more primary mining licences may—
  - (a) at any time before those licences expire;
  - (b) if the holder has tendered the prescribed fee, is not in default and has provided particulars which would be required in an application under sections 47 and 51 as the case may be, apply to the Commissioner to convert the licence or licences to a mining licence or a gemstone mining licence.
- (2) An application made in accordance with subsection (1) shall be granted by the Commissioner and the mining licence or gemstone mining licence, as the case may be, shall be issued forthwith.



- (3) When granting the licence under this section the remaining period of the former licences shall not be taken into account.

## 72. Cancellation of primary licence

The Commissioner may, by notice in writing to the holder of a primary prospecting licence or a primary mining licence, cancel the relevant licence on the occurrence of an event which, as provided in subsection (2) of section 8, would render that person ineligible to be granted the primary licence.

## Part V – Licences for dealing in raw gold, gemstones and other minerals (ss. 73-85)

### (i) – Dealer's licence (ss. 73-79)

## 73. Application for dealer's licence

- (1) An application for a dealer's licence shall be addressed to the Minister in the prescribed form and be accompanied by the prescribed fee.
- (2) The application under subsection (1) shall state whether the licence sought is for raw gold or gemstones, or where an Order has been made by the Minister pursuant to subsection 5 of section 15 for another mineral to which that Order applies.
- (3) No dealer's licence shall be granted to or held by a person who by reason of subsection (1) or (2) of section 8 is not qualified to be granted a primary mining licence unless the dealer's licence is held by such person in undivided participating shares with a person or persons qualified to hold the licence under subsection (1) or (2) of section 8 and whose undivided participating share or shares amount to not less than twenty five *per centum* either alone, in the case of one person, or in the aggregate, in the case of more than one person.

## 74. Grant of dealer's licence

- (1) An applicant for a dealer's licence whose application was properly made as provided in section 73 shall be entitled to the grant of a dealer's licence for which he has applied unless—
  - (a) he has previously held a dealer's licence and—
    - (i) he is not entitled to renew that dealer's licence as provided in subsection (4) of section 75; or
    - (ii) he has surrendered his dealer's licence without sufficient reason for so doing;
  - (b) he has been convicted of a criminal offence relating to the buying and selling or possession of raw gold or gemstones.

## 75. Duration and renewal of dealer's licence

- (1) A dealer's licence granted under section 74 shall be valid for a period of fifteen months from the date of issue.
- (2) A holder of a dealer's licence may, not less than one month from the date on which his licence or any renewal thereof would expire, apply in the prescribed form, accompanied by the prescribed fee, for a renewal of the licence.
- (3) Any application made under subsection (2) shall be accompanied by evidence of turnover for the period of twelve months immediately before the date of his application in the form of official receipts for the making of payment *in lieu* of royalty.

- (4) The holder of a dealer's licence who applies in the proper manner shall be granted a renewal of his licence for a further period of fifteen months unless—
- (a) he is in default;
  - (b) he is disqualified from holding or renewing a dealer's licence under subsection (3) of section 73 or subsection (2) of section 78.

## **76. Rights of holder of dealer's licence**

- (1) Subject to the provisions and the Regulations made under this Act, a dealer's licence shall authorise the holder—
- (a) to buy or otherwise acquire or to sell or otherwise dispose of raw gold or, as the licence specifies, gemstones, and, for the purpose of carrying on business as a dealer, to have possession thereof;
  - (b) to export raw gold or, as the licence specifies, gemstones, and where an Order has been made by the Minister under subsection (5) of section 15, any other mineral to which an Order made under subsection (5) of section 15 applies.
- (2) The Commissioner may authorise a dealer's licence holder to be an authorised lapidary.

## **77. Holder to keep records and accounts**

The holder of a dealer's licence shall keep full and accurate records and accounts of all transactions undertaken by him as a dealer and such records and accounts shall be kept in such form and shall include details as may be prescribed.

## **78. Minimum turnover requirements**

- (1) The Minister, after referring the matter to the Mining Advisory Committee, may by notice in the *Gazette*, publish minimum turnover requirements for the holder of a dealer's licence.
- (2) A holder of a dealer's licence who in three successive years fails to disclose, by production of official receipts for payments *in lieu* of royalty, evidence of a turnover of not less than fifty *per centum* of the minimum turnover requirement referred to in subsection (1) shall be disqualified from obtaining a renewal of his licence.

## **79. Termination of dealer's licence for default**

Where the holder of a dealer's licence is in default the Minister may serve on the holder a default notice specifying the nature of the default and if within such reasonable time as the Minister may specify in the default notice, the default has not been corrected the Minister may by notice to the holder terminate the dealer's licence.

## **(ii) – Broker's licence (ss. 80-85)**

## **80. Application for broker's licence**

- (1) An application for the grant of a broker's licence shall be addressed to the Commissioner in the prescribed form and be accompanied by the prescribed fee.
- (2) The application shall state whether the licence is sought for raw gold or gemstones.
- (3) No broker's licence shall be granted to or held by a person who by reason of subsection (1) or (2) of section 8 is not qualified to be granted a primary mining licence.

**81. Grant of broker's licence**

- (1) An applicant for a broker's licence whose application was properly made as provided under section 80 shall be entitled to the grant of a broker's licence unless—
  - (a) he is disqualified from holding a broker's licence under subsection (3) of section 80;
  - (b) he previously held a broker's licence and was disqualified from obtaining a renewal of that licence under section 83;
  - (c) he has been convicted of a criminal offence relating to the buying, possession, export or selling of raw gold or gemstones.
- (2) A broker's licence granted under this section shall be valid for a period of twelve months from the date of issue.

**82. Duration and renewal of a broker's licence**

- (1) Any holder of a broker's licence may, not less than one month from the date on which his licence or any renewal would expire, apply in the prescribed form and on payment of the prescribed fee for a renewal of the licence.
- (2) A holder of a broker's licence who applies in the proper manner shall be granted a renewal of his licence unless—
  - (a) he is in default;
  - (b) he is disqualified from holding a broker's licence under subsection (1) of section 81.

**83. Rights of holder of broker's licence**

- (1) A broker's licence shall authorise the holder of the licence to buy or acquire raw gold or, as the licence may specify gemstones from an authorised miner and to sell or dispose of raw gold or gemstones so acquired to a licensed dealer.
- (2) A brokers licence shall not authorise the holder to export any raw gold or gemstones.

**84. Holder to keep records and accounts**

The holder of a broker's licence shall keep full and accurate records and accounts of all transactions undertaken by him as a broker and such records and accounts shall be kept in such form and shall include details as may be prescribed.

**85. Termination of broker's licence for default**

- (1) Where the holder of a broker's licence is in default, the Commissioner may serve on the holder a default notice specifying the nature of the default.
- (2) If within such reasonable time as the Commissioner default may specify in the notice, the default has not been corrected, the Commissioner may by notice to the holder terminate the broker's licence.

## Part VI – Financial provisions (ss. 86-93)

### 86. Royalties

- (1) Every authorised miner shall pay to the Government of the United Republic a royalty on the net back value of minerals produced under his licence at the rate—
  - (a) in the case of diamonds, of five *per centum*; and
  - (b) in the case of any other mineral, of three *per centum*.
- (2) Notwithstanding the provisions of subsection (1) an authorised miner of raw gold or gemstones who elects to sell his production to a licensed dealer or licensed broker the royalties of such minerals shall be paid by the licensed dealer in accordance with the provisions of section 88.
- (3) In this section—

"market value" means the realised price adjusted if necessary for a sale FOB at point of export from Tanzania or point of delivery within Tanzania;

"net back value" means the market value of minerals FOB at the point of export from Tanzania or, in the case of consumption within Tanzania, at the point of delivery within Tanzania, less—

  - (a) the cost of transport, including insurance and handling charges, from the mining area to the point of export or delivery; and
  - (b) the cost of smelting and refining or other processing costs unless such other processing costs relate to processing normally carried out in Tanzania in the mining area.
- (4) The Minister where he considers that the realised price does not correspond to the price which would have been paid for the minerals if they had been sold on similar terms in a transaction at arms length between a seller and a buyer, may give notice to that effect to the licence holder.
- (5) Where such notice has been given under subsection (4) the amount of the market value shall be settled by agreement between the Minister and the licence holder or, if no agreement is reached, the matter shall be referred for determination by an independent expert appointed in a manner prescribed by the Regulations.
- (6) Subject to this section, samples of minerals acquired for the purposes of assay, analysis or other technical examination shall be exempt from royalty payment.

### 87. Remission and deferment of royalties

- (1) The Minister shall, on application by an authorised miner who is liable to pay royalty under subsection (1) of section 86, defer payment of royalty due if, during any period for which a payment of royalty is due (in this section referred to as "the royalty payment period", the cash operating margin of the authorised miner in respect of mining operations in the mining area falls below zero. 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.
- (2) Where the payment of any royalty is deferred under subsection (1)—
  - (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;

- (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.
- (3) The provisions of subsections (1) and (2) shall not apply to any person who, immediately before the first day of July, 2001 was not the holder of a mineral right granted under this Act.
- (4) In this section, the "cash operating margin" means the amount derived by deducting operating costs from revenue, where—
  - (a) "operating costs" means cash expenditures incurred in mining operations after the commencement of production from the mining area other than—
    - (i) capital expenditure;
    - (ii) provision for depreciation;
    - (iii) financing charges, including interest on loans and fees and related charges in respect thereof;
    - (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; and
  - (b) "revenue" means the gross value of all sales and other disposals of minerals.

## 88. Payment *in lieu* of royalties

- (1) Every person who is a licensed dealer shall in accordance with the terms and conditions of his licence, this Act, and the Regulations make to the Government of the United Republic a payment *in lieu* of royalty on the net back value of any raw gold or gemstones which are—
  - (a) exported by him; or
  - (b) in the case of gold, sold to a gold refinery in Tanzania; or
  - (c) in the case of gemstones, sold to a duly authorised lapidary.
- (2) This section shall not apply where the licensed dealer is an authorised miner who has paid royalty on those minerals in accordance with the provisions of subsection (1) of section 86.
- (3) For the purpose of subsection (1), "net back value" has the meaning attributed to those words in subsection (3) of section 86 and that provision shall apply, with the necessary variations, to the export or a sale of minerals by a licensed dealer as they apply under section 86 to the payment of royalty by an authorised miner.

## 89. Provisional assessment of royalties

- (1) The Minister may where for any reason, it is impractical to assess the amount of any royalty, or payment *in lieu* of royalty, assess, and the authorised miner, or as the case may be, the licensed dealer, shall be liable to pay, a provisional royalty, or make a provisional payment *in lieu* of royalty.
- (2) When, in any such case, the amount of the royalty or payment *in lieu* of royalty is ascertained, the authorised miner, or the licensed dealer, shall be liable for any balance or, as the case may be, shall be repaid any excess sum paid by him on such provisional assessment.

## 90. Sorting fees

The Minister shall by notice published in the *Gazette* prescribe the fees to be payable for purposes of sorting and valuation of gemstones produced or acquired by an authorised miner who opts to sell the gemstone produced or acquired by him to the company which is in the control of such authorised miner whose names shall be published in the *Gazette*.

## 91. Prohibition on disposal of minerals

- (1) If an authorised miner or a licensed dealer fails to pay any royalty or provisional royalty, or make any payment or provisional payment *in lieu* of royalty on or before the due date, or any extension allowed by the Minister, the Minister may—
  - (a) in the case of any such authorised miner, by order served on him, prohibit the disposal of any mineral from the mining area concerned, or from any other mining area held by that person; or
  - (b) in the case of a licensed dealer, prohibit the disposal of any mineral by that dealer until all outstanding royalties or payments *in lieu* of royalties have been paid or until an arrangement has been made acceptable to the Minister for the payment thereof.
- (2) Any authorised miner, or licensed dealer, who contravenes or fails to comply with an order given under subsection (1), and any person who, knowing of such order and receives any mineral the disposal of which has been prohibited, commits an offence and is liable on conviction—
  - (a) in the case of an individual, to a fine not exceeding one million shillings or to imprisonment for a period not exceeding two years, or to both;
  - (b) in the case of a body corporate, to a fine not exceeding five million shillings;
  - (c) in the case of a person receiving minerals knowing their disposal have been prohibited to forfeiture of the minerals or where the Court is satisfied that the minerals so obtained by the defendant are no longer in his possession or under his control to a penalty payable to the United Republic in an amount equal to the estimated market value of the minerals for which the defendant and the authorised miner or dealer shall be jointly and severally liable.

## 92. Charges in respect of Mineral Rights and licences

- (1) In addition to any application fee there shall be payable to the Government of the United Republic in respect of every Mineral Right, dealer's licence or broker's licence granted under this Act an annual charge payable on the grant of the Mineral Right or dealer's or broker's licence and thereafter annually on the anniversary of the grant so long as the Mineral Right subsists.
- (2) The annual charges referred to in subsection (1) shall be of such amount as may be calculated and prescribed in the Regulations.

## 93. Recovery of fees

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

## Part VII – Restrictions, reports and the right of entry (ss. 94-100)

## 94. Security of gold and gemstones mining operations

- (1) The Minister may, for the security of operations and by notice in the *Gazette*—
  - (a) establish any area which is subject to gold or gemstones mining operations as a controlled area;
  - (b) amend any existing diamond protection area established under the Diamond Industry Protection Act <sup>3</sup>, and saved under and subject to the Second Schedule of this Act.

- (2) The Minister may by notice published in the *Gazette* amend or cancel any area declared to be a controlled area or any notice declaring to do so under subsection (1).

## 95. Restriction of rights of entry of holder of a Mineral Right

- (1) The holder of a Mineral Right shall not exercise any of his rights under his licence or under this Act —

- (a) except with the written consent of the responsible Minister, in respect of—
  - (i) any land dedicated or set apart for any public purpose other than mining;
  - (ii) any land dedicated as a place of burial;
  - (iii) any land which is the site of or is within 100 metres of any building, reservoir or dam owned by the Government;
  - (iv) any land forming part of a licensed or Government aerodrome or of any Government landing ground, or which is within 1,000 metres of the boundaries thereof;
  - (v) any land on which there is a military installation, or on land which is within 100 metres of the boundaries thereof; or
  - (vi) any reserved area, or any protected monument declared under the Antiquities Act <sup>4</sup>;
- (b) except with the written consent of the lawful occupier thereof, in respect of—
  - (i) any land which is the site of, or which is within 200 metres of, any inhabited, occupied or temporarily unoccupied house or building;
  - (ii) any land within 50 metres of land which has been cleared or ploughed or otherwise prepared in good faith for the growing of agricultural crops or upon which agricultural crops are growing;
  - (iii) any land from which, during the year immediately preceding, agricultural crops have been reaped; or
  - (iv) any land forming part of an aerodrome, other than an aerodrome referred to in paragraph (a)(iv),

where any consent so required is, in the opinion of the Minister and on advice of the Mining Advisory Committee being unreasonably withheld, the Minister may, on such conditions if any as he may impose, direct that the need for the consent shall be dispensed with, and in that event this paragraph shall not have effect in so far as it required the consent of the lawful occupier to be given;

- (c) in respect of land in a national park declared under the National Parks Act <sup>5</sup>, in any forest reserve declared under the Forests Act <sup>6</sup>, in any game reserve declared under the Wildlife Conservation Act <sup>7</sup>, in a range development area declared under the Range Development and

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[Cap. 333](#)

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[Cap. 282](#)

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[Cap. 323](#)

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[Cap. 283](#)

Management Act <sup>8</sup>, or in the Ngorongoro Conservation Area Act <sup>9</sup>, except with the written consent of the authority having control over the park, reserve or area;

- (d) in respect of any land reserved for the purpose of any railway, or which is within 100 metres of the boundaries of any land so reserved, except with the written consent of the responsible railway authority;
  - (e) in respect of any land within any city, municipality, township registered villages or demarcated settlement, except with the written consent of holders of surface rights and of the responsible Minister or the authority having control over the city, municipality, township registered villages or demarcated settlement;
  - (f) in respect of any street, road or highway, and any land within 100 metres of any bridge, public ferry, culvert or drift in any street, road or highway, pipeline or power line, except with the written consent of the responsible Minister or of the authority having the control of the street, road, highway, bridge, ferry, culvert, drift, pipeline or power line;
  - (g) in respect of any land within 100 metres of every point which has been notified to the Commissioner by a licensee under the Petroleum Exploration and Production) Act <sup>10</sup>, as a site for the drilling of a well in connection with exploring for petroleum, except with the written consent of the Minister;
  - (h) in respect of any land over which an exploration licence or a development and production licence has been granted under the Petroleum Exploration and Production Act <sup>11</sup>, except with the written consent of the Minister;
  - (i) in respect of any land occupied by any installations or works used in the course of prospecting operations by the holder of a prospecting licence who has prospecting rights over the same area of land as the holder of the first mentioned Mineral Right.
- (2) Any consent by the Minister or the responsible Minister under this section may be given unconditionally or subject to such conditions as are specified in the instrument of consent.
- (3) In this section, "the responsible Minister", in relation to any matter, means the Minister for the time being having responsibility for that matter.

## 96. Rights under a Mineral Right to be exercised reasonably

- (1) The rights conferred by a Mineral Right shall be exercised reasonably and shall not be exercised so as to affect injuriously the interest of any owner or occupier of the land over which those rights extend.
- (2) The lawful occupier of land in a mining area shall not erect any building or structure in the area without the consent of the registered holder of the Mineral Rights concerned; but if the Minister considers that the consent is being unreasonably withheld, he may give his consent to the lawful occupier to do so.
- (3) Where, in the course of prospecting or mining operations, any disturbance of the rights of the lawful occupier of any land or damage to any crops, trees, buildings, stock or works thereon is

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Act [No. 51 of 1964](#)

9

[Cap. 284](#)

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[Cap. 328](#)

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[Cap. 328](#)



caused, the registered holder of the Mineral Right by virtue of which the operations are carried on, is liable to pay the lawful occupier fair and reasonable compensation in respect of the disturbance or damage according to the respective rights or interests of the lawful occupier in the property concerned.

- (4) Where the value of any land has been enhanced by prospecting or mining operations, compensation payable pursuant to subsection (3) in respect of the land shall not exceed any amount which would be payable if the value had not been so enhanced.
- (5) Where the amount of compensation to be paid pursuant to subsection (3) in any particular case is in dispute, either party may refer the matter to the Commissioner who shall, subject to section 101, deal with the matter in accordance with Part VIII.

## 97. Removal of minerals

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

## 98. Wasteful practices

- (1) Where the Commissioner considers that a holder of a Mineral Right is using wasteful mining practices he shall give notice to the holder accordingly (giving in the notice particulars of the practices) and require the holder to show cause, by notice within such period as the Commissioner shall specify in the notice, why he should not cease to use those practices.
- (2) Where, within the period specified in the notice given under subsection (1), the holder fails to satisfy the Commissioner that he is not using the wasteful practices concerned, or that the use of those practices is justified, the Commissioner may give notice to the holder directing him to cease using all of those practices, or the practices specified in the notice, by such date as is specified in the notice, and the holder shall do as directed.
- (3) Where the holder of a Mineral Right is aggrieved by a notice given by the Commissioner under subsection (2) he may appeal to the Minister against the directions given in the notice.

## 99. Reports, records and information

- (1) The holder of a Mineral Right shall submit reports, keep records and furnish information as required in Part I of the Third Schedule.
- (2) The holder of a Mineral Right shall maintain an address in Tanzania to which communications may be sent and shall give notice to the Commissioner of that address and of any changes of such address.
- (3) The Commissioner may direct the holder of a Mineral Right, at a reasonable time and place specified in the direction, to make available to, or to produce for inspection by, himself or the Zonal Mines Officer or any public officer specified in the direction any books, accounts, vouchers, documents or records of any kind concerning the Mineral Right, and the holder of the Mineral Right shall comply with the direction.
- (4) Without prejudice to subsection (3), the provisions of Part II of Schedule 3 shall apply with regard to the obtaining of information relating to minerals obtained, or the value of minerals obtained, in exercise of a Mineral Right.

**100. Authorised officer's power of entry**

- (1) The Commissioner or an authorised officer may at any time, enter upon any area over which a Mineral Right has been granted or any premises or working places other than a dwelling house for the purpose of—
  - (a) inspecting that area, premises or working places and examining prospecting or mining operations or the treatment of minerals being performed or carried out;
  - (b) ascertaining whether or not the provisions of this Act or the Regulations, or the conditions of a Mineral Right, are being complied with;
  - (c) ascertaining whether any nuisance exists upon that area, premises or working places;
  - (d) giving directions, and taking steps, to enforce any provision of this Act or the Regulations, or to abate or remove any nuisance;
  - (e) taking soil samples or specimens of rocks, ores concentrates, tailings or minerals situated upon that area, premises or working places for the purpose of examination or assay;
  - (f) examining books, accounts, vouchers, documents, maps, drilling logs, or records of any kind; or
  - (g) obtaining any information which he may deem necessary for the administration of this Act.
- (2) The Commissioner or an authorised officer may, at all reasonable times, inspect and take copies of any book of accounts, vouchers, documents, maps, drilling logs or records of any kind, kept by the holder of a Mineral Right, dealer's or broker's licence pursuant to the provisions of this Act and Regulations made thereunder.
- (3) Any person who, without reasonable excuse, hinders or obstructs the Commissioner or an authorised officer in carrying out any function under subsection (1) or (2) commits an offence and on conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term, not exceeding twelve months, or to both such fine and imprisonment.
- (4) Where the Commissioner has reasonable grounds to believe that evidence relating to the commission of an offence under this Act may be located in any premises, vehicle, vessel or aircraft, he may, without warrant enter the premises, vehicle, vessel or aircraft in question and search for such evidence.

**Part VIII – Disputes (ss. 101-104)****101. Commissioner may decide disputes**

- (1) The Commissioner may inquire into and decide all disputes between persons engaged in prospecting or mining operations, either among themselves or in relation to themselves and third parties other than the Government not so engaged, in connection with—
  - (a) the boundaries of any area subject to a Mineral Right;
  - (b) the claim by any person to be entitled to erect, cut, construct or use any pump, line of pipes, flume, race, drain, dam or reservoir for mining purposes, or to have priority of water taken, diverted, used or delivered, as against any other person claiming the same;
  - (c) the assessment and payment of compensation pursuant to this Act; or
  - (d) any other matter which may be prescribed.
- (2) The Commissioner may refuse to decide any dispute referred to him under this Part.

- (3) The Commissioner may make any order which may be necessary for the purpose of giving effect to the decision in proceedings pursuant to this Part, and may order the payment, by any party to a dispute, of such compensation as may be reasonable, to any other party to the dispute.

#### **102. Enforcement of Commissioner's orders**

- (1) The Commissioner may send a copy, certified under his hand, of any order made by him to any civil court within the local limits of whose jurisdiction the subject-matter of the order is situated, and the civil court shall enforce the order of the Commissioner in the same manner in which it would enforce its own orders.
- (2) The fees payable upon the enforcement of an order are those which would be payable upon the enforcement of a like order made by the civil court concerned.

#### **103. Appeal to High Court**

- (1) Any person aggrieved by a decision or order of the Commissioner made or given pursuant to this Part may appeal to the High Court within the period of thirty days from the date on which the decision or order is given or made.
- (2) No appeal lies to a court against a refusal of the Commissioner under subsection (2) of section 101.

#### **104. Rules**

The Commissioner may make rules providing for the initiation and conduct of proceedings under section 101 and the keeping of records and notes of evidence concerning any such proceedings.

### **Part IX – Registration of Mineral Rights (ss. 105-106)**

#### **105. Registers of Mineral Rights**

- (1) The Commissioner shall—
  - (a) maintain a central register of all Mineral Rights which shall include a record of all applications, grants, variations and dealings in, assignments, transfers, suspension and cancellation of the rights;
  - (b) cause similar registers to be maintained in each zonal mines office with regard to all Mineral Rights over areas for which the zonal mines office has responsibility.
- (2) A register required to be maintained under this section shall be open to public inspection on payment of the prescribed fee.

#### **106. Evidentiary provisions**

A certificate of the Commissioner that—

- (a) a Mineral Right was granted, transferred, suspended or cancelled on, or with effect from, a date specified in the certificate;
- (b) any land identified in the certificate is, or was, on a date specified in the certificate the subject of a specified Mineral Right;
- (c) a mineral specified in the certificate is a mineral of which a Mineral Right relates;
- (d) any condition specified in the certificate is, or was, on a date so specified a condition of a Mineral Right;

- (e) a certificate of surrender was issued in respect of land identified, and on a date specified, in the certificate;
- (f) any condition specified in the certificate is a condition on which a certificate of surrender was issued or on which any consent or approval so specified was given;
- (g) a person named in the certificate is, or was, on a date specified in the certificate the holder of a specified Mineral Right,

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

## **Part X – Miscellaneous provisions (ss. 107-113)**

### **107. Radioactive minerals**

- (1) No person shall export or import any radioactive mineral except under and in accordance with the terms and conditions of a permit granted by the Minister.
- (2) An application for a permit to export or import radioactive minerals shall be in the prescribed form and shall be accompanied by the prescribed fee.
- (3) Any person who exports or imports or attempts to export or import any radioactive mineral otherwise than under and in accordance with a permit granted under this section commits an offence and on conviction is liable—
  - (a) in the case of an individual, to a fine not exceeding three million shillings or imprisonment for a period not exceeding three years, or to both;
  - (b) in the case of a body corporate, to a fine not exceeding fifteen million shillings.
- (4) In this section, "radioactive mineral" means a mineral which contains by weight at least one-twentieth of one *per centum* of uranium or thorium or any such combination and includes—
  - (a) monazite, sand and other ores containing thorium;
  - (b) carbonite, pitchblende and other ores containing uranium.

### **108. Transfer of control over company**

- (1) Where a Mineral Right or dealer's licence is granted to a company, or other body corporate, the company, or such body corporate, shall not, after the date of the grant of the Right, without the written consent of the licensing authority—
  - (a) register the transfer of any share or shares in the company to any particular person or his nominee; or
  - (b) enter into an agreement with any particular person,  
if the effect of doing so would be to give that person control of the company or other body corporate.
- (2) On an application for consent under this section, the licensing authority may call for and obtain such information as is reasonably necessary.
- (3) For the purpose of this section—
  - (a) a person is deemed to have control of a company or other body corporate—
    - (i) if the person or his nominee holds, or the person and his nominee hold, a total of fifty *per centum* or more of the equity shares of the company; or

- (ii) if the person is entitled to appoint, or to prevent the appointment of, half or more than half of the number of directors of the company;
  - (b) "equity shares" means shares other than preference shares;
  - (c) "preference shares" means shares which carry the right to the payment of a dividend of a fixed amount or not exceeding a fixed amount in priority to another class or classes of shares, whether with or without other rights.
- (4) The consent of the licensing authority under this section shall not be unreasonably withheld.

## 109. Insurance and indemnities

- (1) Subject to any qualifications, exceptions or limitations that may be set out in a development agreement the holder of a Mineral Right under Division A or Division B of Part IV and his contractors shall—
  - (a) obtain and at all times during the subsistence of the Mineral Right maintain in respect of mining operations insurance coverage of such amounts and against such risks as are customarily or prudently insured in the international mining industry in accordance with good international mining industry practice; and
  - (b) furnish to the Minister certificates evidencing that such coverage is in effect and provide copies of any policies requested.
- (2) The insurance under paragraph (a) shall cover—
  - (a) loss or damage to all installations, equipment and other assets for so long as they are used in or in connection with mining operations;
  - (b) loss of property damage or bodily injury suffered by any third party, incurred in the course of or as a result of mining operations;
  - (c) pollution and environmental damage, caused in the course of or as a result of mining operations for which the holder or the United Republic may be held responsible;
  - (d) liabilities of the holder to indemnify the United Republic pursuant to subsection (4); and
  - (e) the holder's liability to its employees engaged in mining operations.
- (3) The holder of a Mineral Right granted under Division D of Part IV shall—
  - (a) if so directed by the Commissioner 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 Commissioner may consider reasonably necessary in the public interest;
  - (b) Where the holder of any such mineral right considers that any obligation imposed under this subsection, is onerous or unreasonable, he may appeal against the direction of the Commissioner to the Minister.
- (4) The holder of a Mineral Right shall indemnify, defend and hold the United Republic harmless against all actions, claims, demands, injury, losses or damages of any nature whatsoever, including claims for loss or damage to property or injury or death to persons, resulting from any act or omission in the conduct of mining operations by or on behalf of the holder.
- (5) Such indemnity under subsection (4) shall not apply to the extent, if any, that any action, claim, demand, loss, damage or injury has resulted from any direction given by, or wrongful act committed on behalf of, the United Republic.

## 110. Regulations

- (1) The Minister may make regulations for the better carrying into effect of this Act.

- (2) In particular, but without limiting the generality of subsection (1) such regulations may provide for —
- (a) any matter which, in accordance with this Act, is to be provided for by the regulations or which may be prescribed;
  - (b) the making of applications and the fees to be paid on applications, whether or not provided for in the foregoing provisions of this Act;
  - (c) any other fee, charge, rent, due, royalty or other sum which may be charged under this Act or the regulations and the manner of calculation of the same;
  - (d) the procedures for inviting tenders and the conditions for tendering in response to such invitations;
  - (e) the allocation of primary mining licences within areas declared to be reserved for such primary licences and for the regulation of Mineral Rights in such areas;
  - (f) the demarcation of prospecting and mining areas;
  - (g) the proper and efficient working of prospecting areas, mining areas and mines;
  - (h) the avoidance of wasteful practices as described in this Act or otherwise;
  - (i) prescribing safety standards for work and machinery connected with prospecting and mining;
  - (j) the avoidance of pollution to the air, surface and ground waters and soils and the regulation of all matters relating to the protection of the environment and the minimisation of all adverse impacts to the environment including the restoration of land on which mining operations have been conducted;
  - (k) the regulation of all matters relating to sanitation and health, including the establishment of cemeteries, as regards mining areas;
  - (l) the reporting of accidents and deaths occurring on any prospecting area or mining area in connection with prospecting or mining;
  - (m) making safe any land, works or machinery over or with which prospecting or mining operations have been conducted;
  - (n) such further matters as may be necessary or expedient for the security of operations for the mining, recovery, treatment, storage and transport of raw gold or gemstones;
  - (o) the circumstances and procedures for referring matters for determination of an expert, and the procedures for selecting and appointing an expert;
  - (p) the inspection of records, accounts, books and documents.
- (3) Regulations made under this Act may—
- (a) make separate provision in respect of mineral rights granted under Divisions A, B and D of Part IV;
  - (b) provide for the Minister, the Commissioner, the Zonal Mines Officer or an authorised officer to give directions.
- (4) Where any matter is to be provided for by Regulations relating to royalties, fees or other charges, the Minister shall, before making such Regulations, consult the Minister responsible for financial matters.
- (5) Any regulations made under this Act may prescribe for any breach thereof a fine not exceeding two million shillings or imprisonment for a period not exceeding twelve months or both such fine and imprisonment.

### 111. Obstruction of holder of Mineral Rights

Any person who, without reasonable excuse, obstructs or hinders the holder of a Mineral Right from doing any act which that holder is authorised to do by this Act, the Regulations or his Mineral Right commits an offence and on conviction is liable to a fine not exceeding five hundred thousand shillings or imprisonment for a period not exceeding twelve months or to both.

### 112. Miscellaneous offences

Any person who—

- (a) in any application under this Act knowingly makes any statement which is false or misleading in a material particular;
- (b) in any report, return or affidavit submitted in pursuance of any provision of this Act, knowingly includes or permits to be included any information which is false or misleading in a material particular;
- (c) places or deposits, or is accessory to the placing or depositing of, any material in any place with the intention of misleading any other person as to the mineral possibilities of that place;
- (d) mingles or causes to be mingled with any sample of ore any substance which will enhance the value or in any way change the nature of the ore with the intention to cheat, deceive or defraud,

commits an offence and on conviction is liable—

- (i) in the case of an individual, to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding twelve months or to both; or
- (ii) in the case of a body corporate, to a fine not exceeding three million shillings.

### 113. Offence committed by body corporate

Where an offence which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or of any person who was purporting to act in any such capacity, he, as well as the body corporate, commits an offence and shall be punished accordingly.

## Part XI – Repeals, savings transitional and temporary provisions (ss. 114-117)

### 114. Repeal of Act **No. 17 of 1979**

*[Repeals the Mining Act with saving and transitional provisions set out in the Fourth Schedule.]*

### 115. Repeals with savings

*[Repeals the laws set out in Part I of the Fifth Schedule with transitional and savings provisions set out in Part II of the Fifth Schedule.]*

### 116. Transitional and temporary provisions

- (1) For the purposes of section 6, a provisional licence shall be deemed to be a Mineral Right granted under this Act.

- (2) The grant of a Mineral Right in accordance with Schedule 4 shall be deemed to have been made under the relevant provision of Part IV, subject to the modifications set out in respect of the particular grant in the Fourth Schedule.
- (3) *[Omitted: Spent.]*
- (4) *[Omitted: Spent.]*

### 117. Saving of subsidiary legislation

Notwithstanding the repeal of the laws specified in section [114](#) and the Fifth Schedule any subsidiary legislation made under any of those laws shall have effect as if made or done under section [110](#) of this Act until they are revoked or replaced.

## First Schedule (Section 20)

### Mining Advisory Committee

1. (1) Subject to paragraph [3](#), the Mining Advisory Committee shall consist of—
  - (a) the Chairman who shall be appointed by the President.
  - (b) six other members, of which two shall be appointed by the Minister who shall also appoint two alternates and one each by the Minister of Finance, the Minister responsible for protection of the environment the Minister responsible for lands and the Attorney General who shall each also appoint an alternate;
  - (c) a representative from the Ministry of Industries and Trade.
- (2) The Minister shall work on a procedure in which he may seek and receive the advice from the members and persons who are customarily dealing in or acquainted with mining affairs.
2. The Minister may appoint one of the members of the Committee to become the Deputy Chairman.
3. An alternate member, but no other person, shall be entitled to act in place of the substantive member if the latter is for any reason unable to attend any meeting of the Committee, provided that, in the absence of the Chairman, his functions shall be exercised by the Deputy Chairman or, as the case may be, the alternate for the Deputy Chairman.
4. In the exercise of their functions as members of the Committee, the Chairman and each of the members, and where applicable each of their alternates, shall act in accordance with his own judgment and shall not be subject to direction from any other person or authority.
5. The Committee shall meet as often as is necessary to carry out its functions and at such times and places as the Chairman, or in his absence the Deputy Chairman, directs.
6. At a meeting of the Committee—
  - (a) the Chairman, or in his absence the Deputy Chairman or his alternate and three other members shall form a quorum;
  - (b) all matters arising shall be decided by a majority of votes;
  - (c) the Chairman, or in his absence the Deputy Chairman or his alternate, shall have a deliberative vote and, in the event of an equality of votes, also a casting vote.
7. Subject to paragraphs [5](#) and [6](#), the Committee shall regulate its own procedure.



## Second Schedule (Section 94)

### Saving of existing controlled areas and diamond protection areas

Subject to any cancellation or amendment made under Section 94 of this Act, any area which is, immediately before the date on which the present Act comes into force—

- (a) a controlled area declared as such under the Mining (Controlled Areas) Ordinance;
- (b) a diamond protection area established as such in accordance with the Diamond Industry Protection Regulations 1948,

shall be deemed to be a controlled area established in accordance with Section 94 of this Act.

## Third Schedule (Section 99)

### Part I – Reports and records

1. (1) Subject to subparagraph (2), the holder of a prospecting licence shall—
  - (a) keep at the address referred to subsection (2), of section 99, full and accurate records of his prospecting operations which indicate—
    - (i) boreholes drilled;
    - (ii) aerial photographs;
    - (iii) strata penetrated with detailed logs of the strata;
    - (iv) minerals discovered;
    - (v) the results of any seismic survey or geochemical or geophysical analysis;
    - (vi) the results of any analysis or identification of minerals;
    - (vii) the geological interpretations of the records maintained under items (i) to (vi) inclusive;
    - (viii) the number of persons employed;
    - (ix) other work done in connection with the prospecting licence;
    - (x) costs incurred; and
    - (xi) such other matters as may be prescribed;
  - (b) submit, at least once in every three months of the term of the licence, copies of those records to the Commissioner, together with any reports prepared as a result of those records.
- (2) The Minister may, on the application of the holder of a prospecting licence, dispense with or modify any of the requirements of subparagraph (1).
2. The holder of a special mining licence shall—
  - (a) keep at the address referred to in subsection (2) of section 99—
    - (i) complete and accurate technical records of his operations in the mining area, including the implementation of his environmental management plan, in such form as the Minister may approve;

- (ii) copies of all maps, geological reports, including interpretations, mineral analyses, aerial photographs, ore logs, analyses and tests and all other data obtained and compiled by the holder in respect of the mining area;
    - (iii) accurate and systematic financial records of his operations in the mining area and such other books of account and financial records as the Minister may require; records of the production of minerals from the mining area; records of the number of persons employed by the holder in the mining area and the capacity in which they are employed and of the employment and training of citizens of Tanzania;
  - (b) submit to the Minister such reports, records and other information as the Minister may require concerning the conduct of operations in the mining area; and
  - (c) furnish the Minister with a copy of every annual financial report within three months of the end of each financial year showing the profit and loss for the year and the state of the financial affairs of the holder at the end of each financial year.
3. The holder of a mining licence or a primary mining licence shall keep at the address referred to in section 99(2) the records, and shall furnish to the licensing authority, the reports, specified in paragraph 2 of this Schedule as may be endorsed on his licence.
4. In addition to the records required to be kept by the holder of a mining licence, the holder of a gemstone mining licence shall keep at the address referred to in subsection (2) of section 99 such records as will enable him to furnish the Minister with a full and accurate report as required by section 54 of this Act.
5. Where—
- (a) a mineral right terminates in accordance with provisions of this Act; or
  - (b) the term of a prospecting licence or a special mining licence expires, the person who was the holder of the Mineral Right immediately before the termination or expiration shall deliver to the licensing authority concerned—
    - (i) all records which the former holder maintained in accordance with this Act with respect to the Mineral Right;
    - (ii) all plans or maps of the area of land that was subject to the Mineral Right and which were prepared by or on the instructions of the former holder;
    - (iii) such other documents as the licensing authority concerned may, by notice in writing given to the former holder, require him to so deliver.
6. Where the term of a mining licence, gemstone mining licence or primary mining licence expires, the person who was the holder of the Mineral Right immediately before the expiration shall deliver to the licensing authority concerned, all records that he was required to keep under this Schedule and all plans or maps of the prospecting operations or mining operations on the area.

## Part II – Provisions for obtaining information

7. Where the Commissioner has reason to believe that a person is capable of giving information or producing or making available books or documents relating to minerals obtained or the value of minerals obtained, he may, by notice in writing served on that person, require that person—
- (a) to furnish to him in writing, within the period and in the manner specified in the notice, any such information;
  - (b) to attend before him or a person specified in the notice at such time and place as is so specified and there to answer questions relating to minerals obtained, or the value of minerals obtained; or

- (c) to make available to a person specified in the notice at such time and place as is so specified books or documents in his custody or power relating to minerals obtained or the value of minerals obtained.
8. A person is not excused from furnishing information, answering a question or making available books or documents when required to do so under this Part of this Schedule on the ground that the information so furnished, the answer to the question, or the production of, or making available, any books or documents might tend to incriminate him or make him liable to a penalty, but the information so furnished shall not be admissible in evidence against him in any proceedings other than proceedings for a contravention of paragraph 10.
  9. Where books or documents are made available in accordance with paragraph 7, the person to whom they are made available may make copies of, or take extracts from, the books or documents.
  10. (1) A person shall not—
    - (a) refuse or fail to comply with a requirement under paragraph 7 to the extent that he is capable of complying with it;
    - (b) in purported compliance with such a requirement, knowingly furnish information that is false or misleading in a material particular;
    - (c) when attending the Commissioner or any other person in accordance with such a requirement, knowingly make a statement or produce a book or document that is false or misleading in a material particular; or
    - (d) when making available books or documents in accordance with such a requirement, knowingly make available a book or document that is false or misleading in a material particular.
  - (2) Any person who contravenes subparagraph (1) of paragraph 10 shall be guilty of an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a period not exceeding six months or to both.

#### Fourth Schedule (Section 114)

#### Savings and transitional provisions in respect of the repeal of the Mining Act, 1979

##### 1. Interpretation

In this Schedule—

- (a) "**Agreement with the Minister**" means an agreement with the Minister made under section 15 of the Mining Act, 1979 <sup>12</sup> by the holder of a mineral right granted under that Act, and includes an agreement made pursuant to paragraph 13 of this Schedule;
- (b) "**the commencement**" means the date on which this Act comes into force;
- (c) "**holder of a provisional licence**" means the holder of a provisional licence referred to in paragraph 2;
- (d) "**provisional licence**" means a provisional licence referred to in paragraph 2;
- (e) the "interim period", in respect of provisional licence, means the period during which that provisional licence remains valid in accordance with subparagraph (2) of paragraph 2;
- (f) the 1979 Act means the Mining Act, 1979 repealed by section 114;

- (g) unexpired period of the relevant licence means the unexpired period of the mineral right or claim at the commencement, less the period between the commencement and the grant of a mineral right in accordance with this Schedule.

## 2. **Provisional licences**

- (1) Any person who, immediately before the commencement, was the holder of a Mineral Right, Claim or Prospecting Right under the 1979 Act shall be deemed to have become on the commencement, the holder of provisional licence.
- (2) The provisional licence shall remain valid until—
  - (a) the first anniversary of the commencement;
  - (b) the date on which the relevant Mineral Right, Claim or Prospecting Right under the 1979 Act would have expired in accordance with that Act or, where the provisional licence is to expire within six months of the commencement, six months after the commencement;
  - (c) the date on which a mineral right under this Act is granted in respect of the provisional licence in accordance with this Schedule,whichever first occurs, and shall then expire.

## 3. **Prospecting and mining operations under provisional licence**

- (1) During the Interim Period, the holder of a provisional licence is authorised to carry on the prospecting operations or the mining operations, as the case may be, which he was authorised to carry on immediately before the commencement under the mineral right, claim or prospecting right of which he was the holder under the 1979 Act, and in carrying on those operations he shall enjoy all the rights and be subject to all the obligations which would have been applicable in respect of those operations under the 1979 Act.
- (2) The holder of a provisional licence may, during the Interim Period, assign or charge the provisional licence where he has satisfied the conditions which would have been applicable to an assignment or charge of the Mineral Right or Claim held by him under the 1979 Act, and any assignee shall succeed to all the rights and be subject to all the obligations which the holder of the provisional licence had under this Schedule prior to the assignment.
- (3) Notwithstanding the repeal of the 1979 Act the Minister, the Commissioner, and any authorised officer shall have and may exercise in respect of a provisional licence and the holder thereof, the powers and functions which they had and could have exercised under the 1979 Act in respect of the prospecting or mining operations which the holder of the provisional licence is authorised to carry on by this Schedule during the interim period.

## 4. **Entitlement of holders of provisional licences to the grant of a mineral right under this Act**

- (1) At any time during the interim period, the holder of a provisional licence may apply for, and, if he so applies, shall be entitled to the immediate grant of, a mineral right under this Act in accordance with the following provisions of this Schedule.
- (2) All mineral rights granted under this Schedule shall be granted over the area covered by "the mineral right", or "claim as the case may be", held under the 1979 Act, by the holder of provisional licence or his predecessor in title immediately before the Commencement.

## 5. **Environmental management**

- (1) In the case of a special mining licence granted to the holder of provisional licence, or a mining licence or gemstone mining licence granted to the holder of a provisional licence which falls within section 64 of this Act, it shall be a condition of the licence that the holder draw up and submit to the Minister for approval an environmental management plan which satisfies the requirements of paragraph (d) of subsection (1) of section 39, paragraph (e) of subsection (1) of section 48 or paragraph (g) of subsection (1) of section 52 and following approval the Minister may require the

holder to conduct mining operations under the licence in substantial compliance with the plan as approved.

- (2) Where the Minister considers that the proposed environmental management plan does not satisfy the requirements of paragraph (d) of subsection (1) of section 39, paragraph (e) of subsection (1) of section 48 or paragraph (g) of subsection (1) of section 52 and declines to approve it, the matter or matters in issue between the Minister and the holder of the licence shall, unless resolved by negotiation, be referred to a third party expert chosen by agreement between them whose opinion on those matters shall be final and binding.
- (3) Where the Minister and the holder are unable to agree on the choice of a third party expert, the third party expert will be chosen by the Secretary General of the International Centre for the Settlement of Investment Disputes.

## 6. Former mining licences

- (1) The holder of a provisional licence who immediately before the commencement held a mining licence under the 1979 Act and was, in respect of that licence, a party to an agreement with the Minister, shall, on application in the prescribed form, be granted a special mining licence under this Act.
- (2) A special mining licence granted in accordance with subparagraph (1) shall be granted on terms and conditions which are consistent with the rights and obligations set forth in the agreement with the Minister made by a person who became the holder of a provisional licence or his predecessor in title which subsisted immediately before the commencement, and with such conditions as will give effect to subparagraph (4) of this paragraph.
- (3) The holder of a provisional licence who immediately before the commencement held a mining licence under the 1979 Act but was not a party to an agreement with the Minister shall, on application in the prescribed form, be granted, at his election, either a special mining licence or a mining licence under this Act.
- (4) A special mining licence granted to the holder of a provisional licence in accordance with subparagraph (1) or (3) shall—
  - (a) be granted for a period equal to the unexpired period of the relevant licence, and may be renewed in accordance with this Act;
  - (b) require compliance with the programme of mining operations and the proposals for the employment and training of citizens of Tanzania which were appended to the mining licence held under the 1979 Act immediately before the commencement,

and, subject to the foregoing provisions of this paragraph, shall be held in accordance with the provisions relating to special mining licences set out in Part IV Division B of the present Act.

- (5) A mining licence granted to the holder of a provisional licence in accordance with subparagraph (3) shall—
  - (a) be granted for a period equal to the unexpired period of the relevant licence but not exceeding ten years, and may be renewed in accordance with this Act;
  - (b) require compliance with the programme of mining operations and the proposals for the employment and training of citizens of Tanzania which were appended to the mining licence held under the 1979 Act at the commencement,

and, subject thereto, shall be held in accordance with the provisions relating to mining licences in Part IV Division B of this Act.

## 7. Former prospecting licences for minerals other than building materials or gemstones

- (1) The holder of a provisional licence who immediately before the commencement held a prospecting licence for minerals other than building materials or gemstones under the Mining Act, 1979<sup>13</sup> shall, on application in the prescribed form, be granted a prospecting licence under this Act.
- (2) A prospecting licence granted in accordance with subparagraph (1) shall be granted for a period equal to the unexpired period of the relevant licence and may be renewed in accordance with this Act:

Provided that any renewal of the prospecting licence under section 50 of the Mining Act, 1979<sup>14</sup> shall be deemed to have been a renewal for a like period already granted under paragraph (c) of subsection (1) of section 29 of this Act.

- (3) A prospecting licence granted in accordance with subparagraph (1) shall entitle the holder to prospect for all minerals other than building materials and gemstones and shall be held subject to the provisions relating to prospecting licences for minerals other than building materials and gemstones set out or referred to in Part IV Division A of this Act, except that—
  - (a) in the case of a prospecting licence granted to an applicant who is a party to an agreement with the Minister, that agreement shall take effect notwithstanding any inconsistent or different provisions set out or referred to in Part IV Division A of this Act; and
  - (b) where the prospecting licence granted under the Mining Act, 1979<sup>15</sup> did not, immediately before the commencement, grant the holder exclusive prospecting rights over the prospecting area, the prospecting rights under the licence granted under subparagraph (1) shall be exercisable in common with the holder of any other such prospecting licence granted in accordance with subparagraph (1) of this Act.
- (4) Where the holder of a provisional licence applies for a prospecting licence and where he or his predecessor in title has previously expended sums on prospecting operations in accordance with the requirements of the licence held under the Mining Act, 1979<sup>16</sup>, that are in excess of the prescribed amounts in respect of the prospecting licence being applied for, the Minister shall take account of any such excess sums previously expended by the applicant in determining the annual expenditure under the prospecting licence granted in accordance with this paragraph; and the amount so determined shall be deemed to be the prescribed amount in respect of that prospecting licence.

## 8. Former prospecting licences for gemstones

- (1) The holder of a provisional licence who immediately before the commencement held a prospecting licence for gemstones under the Mining Act, 1979<sup>17</sup> shall, on application in the prescribed form, be granted prospecting licence for gemstones under the present Act.
- (2) A gemstone prospecting licence granted in accordance with this paragraph shall be held subject to the provisions relating to prospecting licences for gemstones set out in Part IV Division A of this

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Act and, notwithstanding any period for which the holder of a provisional licence held a prospecting licence for gemstones before the commencement, shall be held for two years and shall not be renewable.

- (3) The provisions of paragraphs [7\(3\)\(a\)](#) and [\(b\)](#) and [7\(4\)](#) shall apply in the case of a former prospecting licence for gemstones as they apply *mutatis mutandis* in the case of a former prospecting licence for minerals other than gemstones.

#### 9. Former prospecting licence for building materials

- (1) The holder of a provisional licence who immediately before the commencement held a prospecting licence for building materials under the Mining Act, 1979 <sup>18</sup> shall, on application in the prescribed form, be granted a prospecting licence for building materials.
- (2) The provisions of paragraph [7\(2\)](#), [\(3\)](#) and [\(4\)](#) shall apply, *mutatis mutandis*, to the prospecting licence for building materials as they apply under those provisions to a prospecting licence for minerals other than building materials and gemstones.

#### 10. Former reconnaissance licence

- (1) The holder of a provisional licence who immediately before the commencement held a reconnaissance licence under the Mining Act, 1979 <sup>19</sup> shall, on application in the prescribed form, be granted a prospecting licence for minerals other than building materials and gemstones in respect of which he shall be deemed to have applied for and been granted a preliminary reconnaissance period in accordance with section [25](#) of this Act.
- (2) The preliminary reconnaissance period granted in accordance with subparagraph [\(1\)](#) shall be granted for a period equal to the unexpired period of the relevant licence and the provisions of paragraph [7\(2\)](#) and [\(3\)](#) shall apply to the prospecting licence granted in accordance with this paragraph.

#### 11. Former claims

- (1) The holder of a provisional licence who immediately before the commencement was the holder of a claim under the Mining Act, 1979 <sup>20</sup> shall, on application in the prescribed form be granted a primary mining licence.
- (2) A primary mining licence granted in accordance with subparagraph [\(1\)](#) shall be granted for a period of five years from the date of application and may be renewed in accordance with this Act. The licence so granted shall be held subject to the provisions relating to primary mining licences set out in Part IV Division D of this Act.

#### 12. Former prospecting rights

- (1) The holder of a provisional licence who immediately before the commencement was the holder of a prospecting right under the Mining Act, 1979 <sup>21</sup> shall, on application in the prescribed form, be granted a primary prospecting licence under the present Act.
- (2) A primary prospecting licence granted in accordance with subparagraph [\(1\)](#) shall be granted for a period of one year and may be renewed in accordance with the present Act. The licence so

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Act [No. 17 of 1979](#)

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Act [No. 17 of 1979](#)

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Act [No. 17 of 1979](#)

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Act [No. 17 of 1979](#)

granted shall be held subject to the provisions relating to primary prospecting licences to search for minerals set out in Part IV Division D of the present Act.

### 13. Continuance of agreements under the Mining Act, 1979

Where at any time before the commencement date the holder of a mineral right under the Mining Act, 1979<sup>22</sup> entered into an agreement with the Minister, the agreement shall continue in full force and effect after the commencement date, notwithstanding the repeal of the Mining Act, 1979 and for that purpose shall be read and construed with such modifications and adaptations as may be required in order to enable the substance of the agreement to take effect thereunder.

### 14. Provision for new agreements

- (1) At any time after the commencement date the Minister may, by Order in the *Gazette*, publish for the purpose of this Schedule a model fiscal terms for an agreement to be made under section 10 of this Act, and where any such agreement has been published, a holder of a provisional licence who is a party to an agreement with the Minister may elect to become a party to another agreement with the Minister substantially on the terms and conditions of his existing agreement save that for any provisions in his existing agreement relating to—

- (i) royalties, taxes, duties, fees or other fiscal imposts;
- (ii) the acquisition by the United Republic without cash payment of fully paid up shares in the issued share capital in any mining company set up by the licensee pursuant to the agreement but only to the extent that such acquisition does not exceed ten *per centum* of the issued capital,

there shall be substituted the model fiscal terms set out in the Minister's Order.

- (2) Where the holder of a provisional licence has elected to become a party to a new agreement in accordance with this paragraph, the agreement with the Minister made by that person or his predecessor in title under section 15 of the Mining Act, 1979<sup>23</sup> shall be discharged and be of no further force or effect, and references in this Schedule to an agreement with the Minister shall be construed as references to the new agreement.

## Fifth Schedule (Section 115)

### Part I – Repealed laws

The Mining (Controlled Areas) Ordinance

The Mining (Loans) Ordinance

The Gold Trading Ordinance

The Diamond Industry Protection Ordinance<sup>24</sup>

The Gemstone Industry (Development and Protection) Act [11 of 1967](#)

<sup>22</sup>

Act [No. 17 of 1979](#)

<sup>23</sup>

Act [No. 17 of 1979](#)

<sup>24</sup>

R.L. Cap. 312



## Part II

### 1. Transitional and savings provisions

In this Part of this Schedule, "the commencement" means the date on which this Act comes into force.

2. Subject to paragraph 7, any person who, immediately before the commencement was the holder of a current [master] gold dealer's licence issued under the Gold Trading Ordinance shall be deemed, during the period for which that licence was valid under that Ordinance, to be the holder of a dealer's licence granted under section 74 of this Act in respect of gold.
3. A banker within the meaning of the Gold Trading Ordinance shall be deemed, during the period of six months following the commencement to be the holder of a dealer's licence granted under section 74 of this Act in respect of raw gold bought or sold at the head office or any branch of the bank.
4. Subject to paragraph 7, any person who, immediately before the commencement, was the holder of a current diamond dealer's licence issued under the Diamond Industry Protection Ordinance shall be deemed, during the period for which that licence was valid under that Ordinance, to be the holder of a dealer's licence granted under section 74 of this Act in respect of gemstones.
5. Subject to paragraph 7, any person who, immediately before the commencement, was the holder of a current gemstone dealer's licence issued under the Gemstone Industry (Development and Protection) Act, 1967<sup>25</sup> shall be deemed, during the period for which that licence was valid under that Ordinance, to be the holder of a dealer's licence granted under section 74 of this Act in respect of gemstones.
6. Subject to paragraph 7 any person who, before the commencement was the holder of the current gemstones dealer's licence (broker) issued under the Gemstone Industry (Development and Protection) Act, 1967<sup>26</sup> shall be deemed, during the period for which the licence was valid under that Act, to be the holder of a broker's licence granted under section 81 of this Act.
7. Notwithstanding the repeal of the relevant laws, the Commissioner may exercise all such powers and functions in relation to a person who is deemed to be the holder of a dealer's licence or broker's licence under the foregoing provisions of this Part of this Schedule as were exercisable under the relevant law by the Commissioner or the Commissioner for Mines, as the case may be.

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Act [No. 11 of 1967](#)

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Act [No. 11 of 1967](#)