



Tuvalu

**MINERAL DEVELOPMENT LICENSING
ACT**

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Tuvalu

MINERAL DEVELOPMENT LICENSING ACT

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Tuvalu

MINERAL DEVELOPMENT LICENSING ACT

AN ACT TO MAKE PROVISION FOR THE GRANT OF LICENCES TO SEARCH FOR AND TO WIN MINERALS, AND FOR PURPOSES INCIDENTAL THERETO AND CONNECTED THEREWITH¹

Commencement [1st January 1978]²

PART I - PRELIMINARY

1 Citation

This Act may be cited as the Mineral Development Licensing Act.

2 Interpretation

In this Act, unless the context otherwise requires —

“**authorised officer**” means a person authorised by the Minister to exercise the powers conferred by section 4(1);

“**holder**” means the holder of a mineral right;

“**in default**” means in breach of any of the provisions of this Act or any of the terms or conditions of a mineral right;

“**mine**” when used as a verb, means intentionally to win minerals and includes any operations directly or indirectly necessary therefor or incidental thereto 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 water;

“**mining area**” means the land or water subject to a mining licence;

“**mineral right**” means a reconnaissance licence, prospecting licence or a mining licence;

“**mining licence**” means a licence to mine acquired under Part VI;

“**programme of mining operations**” means such a programme approved on the granting or renewal of a mining licence and includes any amendment thereto made in pursuance of the provisions of this Act;

“**prospect**” means intentionally to search for minerals and includes any work necessary to determine their extent and economic value;

“**prospecting area**” means the land or water subject to a prospecting licence;

“**prospecting licence**” means a right to prospect acquired under Part V;

“**radioactive mineral**” means a mineral which contains by weight at least one-twentieth of one per cent (0.05 per cent) of uranium or thorium or any combination thereof, including but not limited to the following —

- (a) monazite sand and other ores containing thorium;
- (b) carnotite, pitchblende and other ores containing uranium;

“**reconnaissance**” means the search for minerals by geophysical surveys, geochemical surveys and photogeological surveys or other remote sensing techniques and surface geology in connection therewith but does not include —

- (a) drilling, excavation or other subsurface techniques except where the use of such techniques has been authorised in a reconnaissance licence issued under Part IV;
- (b) investigation or research into the geology of Tuvalu where such investigation or research has been authorised in writing by the Minister;

“**reconnaissance area**” means any area of land or water subject to a reconnaissance licence;

“**reconnaissance licence**” means a licence to conduct reconnaissance acquired under Part IV;

“**reconnaissance programme**” means such a programme approved on the granting of a reconnaissance licence and includes any amendment thereto made in pursuance of the provisions of this Act;

“**termination**” means the lapse of a mineral right whether by expiry of time, surrender or cancellation, and where any surrender or relinquishment is in respect of part only of the area covered by a mineral right then the mineral licence shall be deemed to have lapsed in respect of that surrendered or relinquished area;

“**Tuvaluan**” means, a citizen of Tuvalu;

“**working for profit**” means producing a mineral product with the intention of use or sale.

PART II - ACQUISITION OF MINERAL RIGHTS

3 Acquisition of mineral rights³

- (1) No person shall in Tuvalu conduct any reconnaissance for, prospect for or mine any minerals except under the authority of a licence issued under and in accordance with this Act.
- (2) Nothing in this Act shall —
 - (a) prevent a Tuvaluan from taking to the extent and in the manner which custom permits and, subject to such conditions and restrictions as may be prescribed, minerals from any land from which it has been customary to take such minerals;
 - (b) apply to the search for or winning of minerals for use within Tuvalu as materials for building, road making or other construction.

PART III - ADMINISTRATION

4 Powers of certain officers to enter upon prospecting areas etc.

- (1) An authorised officer may, at all reasonable times, enter upon any reconnaissance area, prospecting area or mining area, or any vessel, installation, premises or workings thereon or thereunder, other than a dwelling house, for the purposes of —
 - (a) generally inspecting any such area, vessel, installation, premises or workings and examining reconnaissance, prospecting or mining operations or the treatment of minerals being performed or carried out thereon;
 - (b) ascertaining whether the provisions of this Act are being complied with;
 - (c) ascertaining whether any nuisance exists in such area, such premises or workings;
 - (d) giving directions and taking steps to enforce any provisions of this Act, or to abate or remove any nuisance;
 - (e) taking soil samples or specimens of rocks, ores, cores, concentrates, tailings or minerals situated upon such area, premises or workings for the purpose of examination or assay;
 - (f) examining books, accounts, vouchers, documents, maps, drilling logs, or records of any kind; or
 - (g) obtaining such information as he may deem necessary.

- (2) The holder of a mineral right shall provide such reasonable assistance including transport as may be necessary to any authorised officer in the exercise of his functions under subsection (1).

5 Power to require production of records

The Minister may direct the holder of a mineral right to produce for inspection by an authorised officer any books, accounts, vouchers, documents, or records of any kind concerning the mineral right.

6 Indemnity of officers

No public officer or other authorised 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 or delegated to him by or under this Act.

7 Public officers prohibited from acquiring mineral rights

- (1) No public officer shall, directly or indirectly, acquire any right or interest in any mineral right, and any document or transaction purporting to confer any right or interest on any such officer shall be null and void.
- (2) No public officer employed in the Ministry shall acquire or retain any share in a private company carrying on prospecting or mining operations in Tuvalu:

Provided that the Minister may authorise a departure from the provisions of this subsection where, in his opinion, the operations in Tuvalu of the company concerned form a negligible part of the total operations of that company.

8 Retention of cores and samples

- (1) No core or sample obtained in the course of the exercise of powers conferred by a mineral right shall be destroyed or otherwise disposed of except for the purposes of assay, identification or analysis without the permission in writing of the Minister, who may grant such permission subject to such conditions as he may deem fit to impose.
- (2) Where any core or sample is retained for the purpose of complying with subsection (1), there shall be maintained a record in such degree of particularity as the Minister may require sufficient for the identification of the core or sample and the location and geological horizon of its origin.
- (3) Any person who destroys or disposes of a core or sample in contravention of subsection (1) or fails to maintain a record as required by subsection (2) shall be guilty of an offence.

9 Preference for local products etc.

- (1) The holder of every mineral right shall, in the conduct of his operations under such right, and in the purchase, construction and installation of facilities, give preference, to the maximum extent possible consistent with safety, efficiency and economy to —
 - (a) materials and products made in Tuvalu; and
 - (b) service agencies located in Tuvalu and owned by Tuvaluans, or bodies corporate established by or under any law, in force in Tuvalu.
- (2) The holder of a mineral right shall, in all phases of his operations, give preference in employment to Tuvaluans to the maximum extent possible consistent with safety, efficiency and economy.
- (3) The holder of a mineral right shall, in his operations and in consultation with the Minister, conduct training programmes in the widest possible range of skills for the benefit of employees so that such employee may qualify for advancement.

PART IV - RECONNAISSANCE LICENCES**10 Acquisition and duration of rights to conduct reconnaissance**

- (1) Subject to the provisions of this Act the Minister may in his discretion grant to any person a reconnaissance licence over any area in Tuvalu.
- (2) No reconnaissance licence may be granted in respect of any area over which a prospecting licence or a mining licence has been granted and a reconnaissance licence shall not confer upon the licensee any exclusive right to conduct reconnaissance over the area comprised within the licence unless the licence expressly so provides.
- (3) A reconnaissance licence shall be of such duration not exceeding 2 years and subject to such conditions as the Minister may in his discretion determine.
- (4) Where application is made to the Minister in that behalf not less than 3 months before the expiration of a reconnaissance licence the Minister may if he considers that it would be in the public interest so to do renew the licence for a further period not exceeding 1 year in duration.
- (5) An application for a reconnaissance licence shall be in writing and the applicant shall provide the following information —
 - (a) his full name and nationality, and, in the case of an application by a partnership or other association of persons, the full names and nationalities of all partners or of all such persons, or, in the case of an application by a corporate body, the registered name of such body;

- (b) a description of the area for which the application is made, together with a plan thereof to such scale as the Minister may require;
- (c) a proposed reconnaissance programme, with details of the equipment expected to be used in connection therewith, and the names of the persons to be responsible for the conduct thereof;
- (d) the period within which the reconnaissance programme is expected to be completed; and
- (e) such additional information as the Minister may require.

11 Content of reconnaissance

- (1) Every reconnaissance licence issued under section 10 shall be published in the *Gazette* and shall include —
 - (a) the date of issue and the period for which it is issued,
 - (b) a description and plan of the area covered thereby;
 - (c) the conditions imposed by the Minister.
- (2) A reconnaissance licence may not be transferred or assigned but the licensee may subject to section 57 at any time relinquish all or any part of the area covered thereby.

12 Obligation of holder of reconnaissance licence

- (1) The holder of a reconnaissance licence shall at half yearly intervals commencing 6 months after the grant of the licence submit to the Minister reports on the progress of the reconnaissance and within 3 months after the expiration of the licence submit a final report setting forth the holder's evaluation of the mineral prospects in the area comprised within the licence, such report shall be accompanied by the negatives of all aerial photographs taken in the course of the reconnaissance programme together with —
 - (a) all geological, geochemical and geophysical maps, profiles, diagrams and charts made by or for such holder;
 - (b) copies of all tests and analyses made by or for such holder;
 - (c) copies of all reports made by or for such holder, including interpretations concerning the mineral prospects in the area covered by such permit; and
 - (d) a statement of the costs incurred by the holder in the reconnaissance programme.
- (2) The holder of a reconnaissance licence shall not without the written permission of the Minister and subject to such conditions as he may determine remove any mineral from a reconnaissance area except for the purpose of

having such mineral analysed, determining its value, or conducting tests thereon.

13 Rights of the holder of reconnaissance

Subject to the provisions of Part VII the holder of a reconnaissance licence may in the exercise of his rights thereunder —

- (a) in respect of any area of land comprised within the licence enter upon such land with his servants and agents and may —
 - (i) conduct reconnaissance thereon for the minerals to which his licence relates;
 - (ii) erect camps and put up temporary buildings for machinery necessary for the conduct of reconnaissance;
- (b) in respect of any area of waters comprised within the licence but subject to any limitations imposed under the terms of his licence place vessels or craft on, or erect installations in such waters and with his servants or agents conduct reconnaissance for the minerals to which his licence relates.

PART V - PROSPECTING LICENCES

14 Acquisition of rights to prospect

- (1) Subject to the provisions of this Act the Minister may in his discretion grant to any person who makes application in accordance with subsection (2) a prospecting licence over any area in Tuvalu.
- (2) An application for a prospecting licence shall be in writing and the applicant shall provide the following information —
 - (a) his full name and nationality and in the case of an application by a partnership or other association of persons, the full names and nationalities of all partners or of all such persons, or, in the case of an application by a corporate body, the registered name of such body;
 - (b) in the case of a corporate body, the full names and nationalities of the directors or officers and the full name and nationality of any shareholder who is the beneficial owner of more than 5 per cent of the issued capital;
 - (c) full information as to his financial status, technical competence and experience;
 - (d) a description of the area over which a prospecting licence is sought, together with a plan thereof to such specification as the Minister may require or as may be prescribed;

- (e) the name of the minerals for which he wishes to prospect;
- (f) the period for which the prospecting licence is required;
- (g) a proposed programme of prospecting operations and the estimated cost thereof;
- (h) the applicant's proposals with regard to the employment and training of Tuvaluans;
- (i) such further information as the Minister may require.

15 Consideration of application for prospecting licence

- (1) No prospecting licence shall be granted to an applicant unless the Minister is satisfied that —
 - (a) the applicant has adequate financial resources, technical competence and experience to carry on effective prospecting operations;
 - (b) the proposed programme of prospecting operations is adequate;
 - (c) the applicant's proposals for the employment and training of Tuvaluans are adequate;
 - (d) the proposed prospecting area does not overlap an existing prospecting area or mining area unless the application is for a different mineral;
 - (e) the applicant is not in default; and
 - (f) the applicant is able and willing to comply with any term or condition applicable to a prospecting licence.
- (2) The Minister may cause such investigations to be made or such negotiations or consultations to be carried on as he may deem necessary to enable him to decide whether or not to grant a prospecting licence.

16 Prospecting licence subject to such terms and conditions

Subject to the provisions of this Act, a prospecting licence may be issued subject to such terms and conditions as the Minister may in each case determine

17 Notification of grant or rejection

- (1) The Minister shall cause the applicant to be notified in writing of his decision on the application and, if the grant of a prospecting licence is approved, such notification shall include the terms and conditions on which it is granted.
- (2) If the applicant —
 - (a) notifies the Minister, in writing, within 60 days of the date of notification or within such further period as the Minister may allow, that he accepts the terms and conditions to be attached to the

- prospecting licence, the Minister shall cause the prospecting licence to be issued;
- (b) fails to notify the Minister in accordance with the provisions of paragraph (a), the application shall lapse.

18 Content of prospecting licence

- (1) Every prospecting licence issued under section 14 shall be published in the Gazette and shall —
- (a) include the terms and conditions on which it is granted;
 - (b) include a description and plan of the prospecting area and specify the mineral to which it relates; and
 - (c) state the period for which it is granted.
- (2) There shall be appended to a prospecting licence the programme of prospecting operations.

19 Duration, renewal of prospecting licence

- (1) Subject to the provisions of this Act, a prospecting licence shall be valid for such period not exceeding 3 years, as may be specified therein.
- (2) The holder of a prospecting licence may, at any time not later than 3 months before the expiry of such licence, apply to the Minister for renewal thereof; subject to the provisions of this Act, a renewal may be granted for a period not exceeding 2 years and for a further period not exceeding 2 years thereafter.
- (3) Any application for renewal of a prospecting licence shall state the period for which renewal is sought and shall be accompanied by —
- (a) a report on prospecting operations so far carried out and the costs incurred thereby;
 - (b) a proposed programme of prospecting operations to be carried out during the period of renewal and the estimated cost thereof; and
 - (c) such other information as the Minister may require.
- (4) Notwithstanding the provisions of subsection (2), the Minister may renew a prospecting licence for a period in excess of the period specified in that subsection where, in his opinion, special circumstances exist justifying such further period.
- (5) The Minister shall not renew a prospecting licence if —
- (a) the applicant is in default; or
 - (b) he considers that the proposed programme of prospecting operations is inadequate:

Provided that —

- (i) before rejecting an application for renewal under paragraph (a), the Minister shall give notice of the default to the applicant and shall call upon the applicant to remedy such default within such time as he may allow; and
 - (ii) before rejecting an application for renewal under paragraph (b), he shall give the applicant opportunity to make satisfactory amendments to the proposed programme of prospecting operations upon such terms as the Minister may determine.
- (6) On the renewal of a prospecting licence the Minister shall cause such licence to be amended accordingly and there shall be appended thereto the programme of prospecting operations.

20 Discovery of minerals not included in prospecting licence

- (1) If, in the course of exercising his rights under a prospecting licence, the holder thereof discovers any mineral not included therein, he may apply to the Minister for an amendment of his prospecting licence to include such mineral.
- (2) An application for amendment to a prospecting licence under subsection (1) shall specify the mineral discovered, shall give particulars of the situation and circumstances of the discovery and shall have appended thereto a proposed programme of prospecting operations in connection therewith.
- (3) Subject to the provisions of subsection (4), the Minister may, in his discretion, permit the amendment of a prospecting licence to include the mineral concerned.
- (4) An amendment of a prospecting licence shall not be permitted if any person other than the applicant is the holder of a prospecting licence or a mining licence in respect of the mineral concerned over the area in which it was discovered.

21 Size of prospecting area

- (1) Subject to the provisions of this Act, a prospecting licence shall cover such area as may be specified therein.
- (2) Subject to the provisions of subsection (4), the prospecting area shall be reduced in size to eliminate therefrom —
 - (a) at the end of the initial term of the prospecting licence, any area in excess of half of the area included in the licence where it was granted; and
 - (b) at the end of any period of renewal, half of the remaining area, or such lower proportion as the Minister may in any case agree.

- (3) The holder of a prospecting licence shall designate, prior to the end of each of the periods referred to in subsection (2), the area or areas to be eliminated from the prospecting area and, in default thereof, the designation shall be made by the Minister.
- (4) Where a person holds 2 or more prospecting licences for the same mineral or minerals the Minister may, for the purposes of the elimination, under subsection (2), of part of the areas thereof, permit the areas covered thereby to be deemed to be one area, the subject of one such prospecting licence.

22 Rights of holder of prospecting licence

Subject to the provisions of Part VII the holder of a prospecting licence may in the exercise of his rights thereunder —

- (a) in respect of any area of land comprised within the licence enter upon such land with his servants and agents and may —
 - (i) prospect thereon for the minerals to which his prospecting licence relates;
 - (ii) erect camps and put up temporary buildings for machinery necessary for prospecting purposes;
- (b) in respect of any area of waters comprised within the licence may subject to any limitations imposed under the terms of his licence place vessels or craft on, or erect installations in such waters and with his servants or agents prospect for the minerals to which his prospecting licence relates.

23 Obligations of holder of prospecting licence

- (1) The holder of a prospecting licence shall —
 - (a) commence prospecting operations within 3 months, or such further period as the Minister may allow, of the date of issue of his licence;
 - (b) carry on prospecting operations in accordance with the programme of prospecting operations;
 - (c) notify the Minister of the discovery of the mineral to which his prospecting licence relates within a period of 30 days of such discovery;
 - (d) notify the Minister of the discovery of any mineral deposit of possible economic value within a period of 30 days of such discovery;
 - (e) backfill, plug or otherwise make safe any borehole or excavation made during the course of his prospecting operations;
 - (f) unless the Minister otherwise stipulates, remove, within 60 days of the expiry of his prospecting licence, any camp, temporary buildings or machinery erected or installed by him, and repair or otherwise make

- good any damage to the surface of the ground occasioned by such removal, to the satisfaction of the Minister;
- (g) subject to the conditions of his prospecting licence and to the provisions of section 24, expend on prospecting, not less than such amount as may be specified in his prospecting licence; and
 - (h) submit to such persons at such intervals such reports and such affidavits containing such information and supported in such manner as may be prescribed.
- (2) Any moneys required to be spent under the provisions of subsection (1)(g) and which are not so spent shall be a debt due to Government recoverable in a court of competent jurisdiction.
- (3) The holder of a prospecting licence shall keep, to the satisfaction of the Minister, full and accurate records of his prospecting operations which shall show —
- (a) boreholes drilled;
 - (b) strata penetrated, with detailed logs of such strata;
 - (c) minerals discovered;
 - (d) the results of any seismic survey, geochemical or geophysical analysis;
 - (e) the results of any analysis or identification of minerals removed under section 26;
 - (f) the geological interpretation of the records maintained under paragraphs (a) to (e) inclusive;
 - (g) the number of persons employed;
 - (h) other work done in connection with the prospecting licence;
 - (i) costs incurred; and
 - (j) such other matters as may be prescribed,
- and shall supply, at least once in every 3 months, copies of such records to the Minister, together with any reports prepared as a result of such records:
- Provided that the Minister may, in his discretion and on application being made to him in that behalf, dispense with or modify any or all of the requirements of this subsection.
- (4) Any person who fails to keep any record required to be kept under subsection (3) or who fails to supply any record to the Minister or who supplies any false or misleading record shall be guilty of an offence.

24 Amendment of programme

- (1) The holder of a prospecting licence may, from time to time, notify the Minister of amendments he wishes to make to his programme of prospecting operations and such amendments shall, unless the Minister rejects the same within 2 months after being so notified, have effect after such period.

- (2) The Minister may, on application being made to him by the holder of a prospecting licence, limit or suspend the obligation to carry on prospecting as required by section 23(1)(b), or to expend moneys as required by section 23(1)(g); for such period and on such terms as he may specify.

25 Transfer of prospecting licence

- (1) No prospecting licence shall be transferred or assigned without the approval of the Minister and any purported transfers without such approval shall be void and of no effect.
- (2) In any application for the approval of a transfer, the applicant shall give to the Minister such details of the transferee as would be required in the case of an application for a prospecting licence, together with such other information as the Minister may require.
- (3) Subject to the provisions of subsection (4), the Minister may, in his discretion, refuse to give approval to the transfer of a prospecting licence.
- (4) The Minister shall give his approval where the proposed transferee of a prospecting licence is a person controlling, controlled by, or under joint or common control with, the holder of the prospecting licence, provided that such transferee is not disqualified under any provision of this Act from holding a prospecting licence and the Minister is satisfied in accordance with the provisions of section 15.
- (5) Where the Minister has given his approval to the transfer of a prospecting licence, the transferee shall assume and be responsible for all rights, liabilities and duties incurred by the transferor under the prospecting licence prior to the transfer.

26 Removal and disposal of minerals

The holder of a prospecting licence shall not, without the written permission of the Minister and subject to such conditions as he may determine, remove any mineral from a prospecting area except for the purpose of having such mineral analysed, determining its value or to conduct tests thereon.

PART VI - MINING LICENCES

27 Mineral Development Licensing

- (1) Where the holder of a prospecting licence has by notice in writing informed the Minister that minerals to which his licence relates have been discovered in commercial quantities within the area comprised in his licence he may make an application to the Minister for the grant of a mining licence.

- (2) An application for a mining licence shall be made within 2 months from the date of the notice referred to in subsection (1) or such longer period as the Minister may in any particular case permit and the applicant shall provide the following information —
- (a) his full name and nationality, or in the case of an application by a partnership or other association of persons, the full names and nationalities of all partners or of all such persons, or, in the case of an application by a corporate body, the registered name of such body;
 - (b) in the case of a corporate body, the full names and nationalities of the directors or officers and the full name and nationality of any shareholder who is the beneficial owner of 5 percent or more of the issued capital;
 - (c) full information as to his financial status, technical competence and experience;
 - (d) the number of his prospecting licence;
 - (e) the names of the minerals which it is intended to mine;
 - (f) details of the mineral deposit and a comprehensive report thereon which shall include details of all known minerals, proved, estimated and inferred, ore reserves and mining conditions;
 - (g) details, illustrated by a plan, of the area in respect of which the application is made;
 - (h) the period for which the licence is sought;
 - (i) a technological report on mining and treatment possibilities and the intention of the applicant in relation thereto;
 - (j) a proposed programme of mining operations which shall include —
 - (i) the date by which the applicant intends to work for profit;
 - (ii) the capacity of production and scale of operations;
 - (iii) the estimated overall recovery of ore and mineral products;
 - (iv) the nature of the product;
 - (v) a detailed programme for the prevention or treatment of pollution, the safeguarding of fishing and navigation, the progressive reclamation and rehabilitation of lands disturbed by mining and for the minimisation of the effects of such mining on water areas and adjoining land;
 - (k) a detailed forecast of capital investment; operating costs and sales revenues and the anticipated type and source of financing;
 - (l) a programme for the employment and training of Tuvaluans;
 - (m) a report of the goods and services required for the mining operations which can be obtained within Tuvalu and the applicant's intention in relation thereto;

- (n) details of expected infrastructure requirements; and
- (o) such further information as the Minister may require or as may be prescribed.

28 Consideration of application

- (1) The Minister shall consider every application for a mining licence and shall, subject to the provisions of this section and section 29, cause a mining licence to be issued to the applicant.
- (2) No mining licence shall be issued to an applicant pursuant to section 29 unless the Minister is satisfied that —
 - (a) the proposed programme of mining operations will ensure the most efficient and beneficial use of the mineral resources in the proposed mining area;
 - (b) the proposed mining area is not the same as or does not overlap an existing prospecting area or mining area, unless the Minister is satisfied that the rights of the holder of any existing mineral right in respect of such area will not be prejudiced thereby;
 - (c) the area for which application has been made is not in excess of the area reasonably required to carry out the proposed programme of mining;
 - (d) the applicant has adequate financial resources, technical competence and experience to carry on effective mining operations;
 - (e) the applicant is able and willing to comply with any term or condition applicable to a mining licence; and
 - (f) the applicant is not in default.
- (3) The Minister shall not reject an application on any of the grounds referred to in —
 - (a) subsection (2)(a) or (c) unless the applicant has been so notified and has failed to propose amendments satisfactory to the Minister to his proposed programme of mining operations or to the proposed mining area as the case may be within such reasonable time as the Minister may allow; and
 - (b) subsection (2)(f), unless the applicant has been given details of the default and has failed to remedy the same within such reasonable time as the Minister may allow.
- (4) The Minister may cause such investigations to be made or such negotiations or consultations to be carried on as he may deem necessary to enable him to decide whether or not to grant a mining licence.

29 Mining licence subject to terms and conditions

Subject to the provisions of this Act, a mining licence shall be issued subject to such terms and conditions as the Minister may in each case determine, including, in particular, conditions concerning the processing, disposal or sale of the mineral.

30 Notification of approval

- (1) The Minister shall cause the applicant to be notified of his decision on such application and, if the grant of a mining licence is approved, the notification shall include the terms and conditions upon which the mining licence will be issued.
- (2) If the applicant —
 - (a) notifies the Minister in writing within 60 days of the date of the notification referred to in subsection (1) that he accepts the terms and conditions upon which the application is approved, the Minister shall issue a mining licence containing such terms and conditions;
 - (b) fails to notify the Minister in accordance with paragraph (a) his application shall lapse.

31 Content of mining licence

- (1) Every mining licence issued under section 28 shall be published in the *Gazette* and shall —
 - (a) include a description and plan of the area and the name of the minerals to which it relates;
 - (b) state the period for which it is granted; and
 - (c) include the terms and conditions upon which it is granted.
- (2) There shall be appended to a mining licence a programme of mining operations.

32 Duration and renewal of mining licence

- (1) Subject to the provisions of this Act, a mining licence shall be valid for such period, not exceeding 25 years, as may be specified therein.
- (2) the holder of a mining licence may apply to the Minister for the renewal of the licence at any time not later than 1 year before the expiry of such licence and, subject to the provisions of subsection (4) and (7), the Minister may, at his discretion, grant a renewal of such licence.
- (3) An application for renewal of a mining licence shall state the period for which renewal is sought and shall be accompanied by —

- (a) a proposed programme of mining operations to be carried on in the period of renewal; and
 - (b) details of —
 - (i) the latest proved, estimated and inferred reserves;
 - (ii) the capital investment to be made in, and production costs and revenue forecasts in respect of, the period of renewal;
 - (iii) any expected changes in methods of mining and treatment; and
 - (iv) such further information as the Minister may require, and shall be presented in such a way as to give a clear indication of any expected increase or reduction in mining activities and the estimated life of the mine.
- (4) The Minister shall reject an application for the renewal if —
- (a) the applicant is in default;
 - (b) the Minister is not satisfied that —
 - (i) development of the mining area has proceeded with reasonable diligence;
 - (ii) minerals in workable quantities remain to be produced; or
 - (iii) the proposed programme of mining operations will ensure the most efficient and beneficial use of the mineral resources in the mining area.
- (5) The Minister shall not reject an application on the ground referred to in —
- (a) subsection (4)(a), unless the applicant has been given details of the default and has failed to remedy the same within such reasonable time as the Minister may allow;
 - (b) subsection (4)(b)(i) or (ii), unless the applicant has been given reasonable opportunity to make written representations thereon to the Minister; or
 - (c) subsection (4)(b)(iii), unless the applicant has been so notified and has failed to propose amendments to his proposed programme of mining operations satisfactory to the Minister within such time as the Minister may allow.
- (6) The period of renewal of a mining licence shall be for such period, not exceeding 25 years, as the Minister may determine.
- (7) The renewal of mining licence shall be subject to such terms and conditions as the Minister may determine.
- (8) On the renewal of a mining licence, the Minister shall amend the licence accordingly and append thereto the programme of mining operations to be carried out in the period of renewal.

33 Amendment of mining programme

The holder of a mining licence may, from time to time, notify the Minister of the amendments he wishes to make to his programme of mining operations and such amendments shall, unless the Minister rejects them within 2 months after being so notified, have effect after such period.

34 Rights conferred by mining licence

- (1) Subject to the provisions of Part VII, any other written law and any condition in his mining licence, the holder of a mining licence may, in the exercise of his rights thereunder —
 - (a) take all reasonable measures in his mining area to mine the mineral to which his mining licence relates including the use of necessary equipment and the erection of necessary installations, plants and buildings for the purposes of mining, transporting, dressing, treating, smelting or refining the mineral recovered by him during mining operations;
 - (b) dispose of any mineral product recovered;
 - (c) prospect within his mining area for the mineral for which he holds a mining licence and for any other mineral except one for which a prospecting licence is held over the same area by another person; and
 - (d) stack or dump any mineral or waste products in manner approved by the Minister.
- (2) If, in the course of exercising his rights thereunder, the holder of a mining licence discovers any further deposits of the mineral for which he holds a mining licence or any mineral not included in such licence, he shall, within 31 days after such discovery, notify the Minister thereof, giving particulars of the mineral discovered and the site and circumstances of the discovery, and may apply to the Minister to have the mining of such deposit or such mineral included in his mining licence, giving in his application a proposed programme of mining operations in respect of that mineral.
- (3) If the Minister is satisfied with the proposed programme of mining operations submitted under subsection (2), he may approve such application on such terms and conditions as he thinks fit and shall amend the mining licence accordingly.
- (4) The holder of a mining licence may apply to the Minister to have his mining area enlarged and the Minister may, subject to the provisions of subsection (5), approve of such application if he is satisfied that such approval will ensure the most efficient and beneficial use of the mineral resources of Tuvalu.

- (5) A mining area shall not be enlarged so as to include any area over which a person other than the applicant is the holder of a prospecting licence or a mining licence in respect of the same mineral.

35 Obligations of holder of mining licence

- (1) Subject to the provisions of this Act, the holder of a mining licence shall —
- (a) commence production on or before the date referred to in the programme of mining operations as the date by which he intends to work for profit;
 - (b) develop and mine the mineral covered by his licence in accordance with the programme of mining operations:
Provided that the Minister may, on application being made to him by the holder of a mining licence, limit or suspend such programme for such period and on such terms as he may specify if he is satisfied that, in the circumstances, it is fair and reasonable so to do;
 - (c) demarcate and keep demarcated the mining area in such manner as may be prescribed;
 - (d) keep and maintain an address in Tuvalu, full particulars of which shall be registered with the Minister, to which all communications and notices may be addressed; and
 - (e) notify the Minister as soon as he begins to work his mining area for profit.
- (2) The holder of a mining licence shall —
- (a) maintain at the address kept in accordance with subsection (1)(d) —
 - (i) complete and accurate technical records of his operations in the mining area in such form as the Minister may approve;
 - (ii) copies of all maps, geological reports, including interpretations, mineral analyses, aerial photographs, core 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 accounts and financial records as the Minister may require; if such holder is engaged in any other activity not connected with his operations under the mining licence, he shall maintain separate books of account of his operations under such licence;
 - (b) permit an authorised officer at any time to inspect the books and records maintained in pursuance of paragraph (a) and shall deliver to the Minister, without charge, copies of any part of such books and records as the Minister may from time to time require;

- (c) submit to the Minister such reports, records and other information as he may from time to time require concerning the conduct of his operations in the mining area; and
 - (d) furnish the Minister with a copy of every annual financial report within 3 months of the end of each financial year showing the profit or loss for such year and the state of financial affairs of the holder at the end of each financial year.
- (3) If the holder of a mining licence fails, after being ordered so to do, to cease using wasteful mining or treatment practices, the Minister may cancel the mining licence or may suspend such mining licence for such period as he deems fit.

36 Wasteful mining or treatment practices

- (1) If the Minister considers that the holder of a mining licence is using wasteful mining or treatment practices he may notify such holder accordingly and require him to show cause, within such time as the Minister shall specify, why he should not cease to use such practices.
- (2) If, within the time specified in any notice issued under subsection (1), the holder of a mining licence fails to satisfy the Minister that he is not using wasteful mining or treatment practices, or that the use of such practices is justified, the Minister may order the holder to cease using such practices within such time as he may specify.
- (3) If the holder of a mining licence fails, after being ordered so to do, to cease using wasteful mining or treatment practices, the Minister may cancel the mining licence or may suspend such mining licence for such period as he deems fit.

37 Merger or co-ordination of mining licences

- (1) If the Minister considers that the public interest or the interests of the holders of mining licences covering neighbouring or contiguous mining areas would best be served with regard to the efficient and economic exploitation of minerals by the merger or co-ordination of all or part of the mining operations of such holders, he may direct such holders to effect such merger or co-ordination within such time and on such terms as he may specify.
- (2) Before giving any directions under subsection (1), the Minister shall afford the holders of the mining licences concerned reasonable opportunity to make representations to him in writing.

38 Suspension of production

- (1) The holder of a mining licence shall notify the Minister —

- (a) 1 year in advance, if he proposes to cease production from his mine;
 - (b) 6 months in advance, if he proposes to suspend production from his mine;
 - (c) 3 months in advance, if he proposes to curtail such production,and shall in all cases give reasons for such cessation, suspension or curtailment.
- (2) If, for reasons beyond his control, the holder of a mining licence terminates, suspends or curtails production from his mine, he shall, within 14 days of such termination, suspension or curtailment, notify the Minister thereof.
- (3) On receiving notification under subsections (1) and (2), or if he otherwise becomes aware of any cessation, suspension or curtailment of production, the Minister shall cause the matter to be investigated and shall either —
 - (a) give his approval to such cessation, suspension or curtailment; or
 - (b) direct the holder of the mining licence to resume full production at the mine by such date as he may specify.
- (4) Approval of cessation, suspension or curtailment may be given subject to such conditions as the Minister may impose.

39 Export of radioactive minerals

- (1) No person shall export any radioactive mineral except under and in accordance with the terms and conditions of a permit granted by the Minister.
- (2) The grant of a permit under subsection (1) shall be in the discretion of the Minister.
- (3) A permit issued under subsection (1) shall be in such form and shall be subject to the payment of such fee and such terms and conditions as the Minister may determine.

40 Transfer or assignment of mining licence

- (1) No mining licence or any interest therein shall be transferred, assigned, mortgaged or dealt with in any other way without the approval of the Minister, and any purported transfer, assignment, mortgage or dealing without such approval shall be void and of no effect.
- (2) In any application to the Minister for his approval under subsection (1), the applicant shall give such particulars concerning the proposed transferee, assignee, mortgagee or other party concerned as the Minister may require.
- (3) The Minister may, in his discretion, grant or refuse his approval to any transfer, assignment or mortgage or other dealing with any mining licence or interest therein, and may impose such conditions as he may deem fit.

41 Restriction on transfer of shares

Without the prior written approval of the Minister, no person shall dispose of and no person shall acquire, directly or indirectly any interest in a company which is the holder of a mining licence which would confer a voting right or other financial interest exceeding 20 per cent of the total or any right to appoint directors, and, in considering any application for such approval, the Minister may call for and obtain such information as he considers necessary.

PART VII - MINERAL RIGHTS AND SURFACE RIGHTS**42 Restriction on the exercise of mineral rights**

- (1) Notwithstanding any other provisions of this Act or any agreement to which he may be a party no holder of a mineral right shall exercise any right thereunder without the written consent of the Minister upon —
 - (a) any land used as a place of burial,
 - (b) any land not being Crown land set aside or used for the purposes of Government.
- (2) Where the holder of a mineral right in the exercise of his rights thereunder makes any find of historical or archaeological significance or discovers any wreck he shall promptly inform the Minister and the Minister may give such directions for the preservation or disposition of such find or wreck as he may consider to be appropriate having regard to all the relevant circumstances.
- (3) No holder of a mineral right shall exercise any right thereunder upon any land without the written consent of the owner or lawful occupier thereof:

Provided, however, that where consent is unreasonably withheld the Minister may authorise the holder of a mineral right to exercise all or any of his rights thereunder on such land subject to such conditions as he may deem fit.

43 Acquisition of exclusive rights by holder of mining licence

- (1) The holder of a mining licence may, if he requires the exclusive use of the whole or any part of the mining area, and shall if so requested by the owner or lawful occupier of any part of such area, obtain a lease thereof upon such terms as to rents to be paid therefor, the duration thereof or the extent or area of the land to which such lease shall relate as may be agreed between such holder and such owner or lawful occupier, or, failing such agreement as may be determined by arbitration.
- (2) In assessing any rent payable under the provisions of this section, an arbitrator shall determine the matter in relation to values at the time of arbitration current in the area in which the mining lease is situated for land of a similar

nature to the land concerned but without taking into account any enhanced value due to the presence of minerals.

44 Compensation for disturbance of rights etc.

- (1) The holder of a mineral right shall, on demand being made by the owner or lawful occupier of any land subject to such right, pay such owner or occupier fair and reasonable compensation for any disturbance of the rights of such owner or occupier and for any damage done to the surface of the land by such operations and shall, on demand being made by the owner of any crops, trees, buildings or works damaged during the course of such operations, pay compensation for such damage:

Provided that —

- (i) payment of rent under the provisions of section 43 shall be deemed to be adequate compensation for deprivation of the use of land to which such rent relates;
 - (ii) in assessing compensation payable under this section, account shall be taken of any improvement effected by the holder of the mineral right or by his predecessor-in-title, the benefit of which has or will enure to the owner or lawful occupier thereof;
 - (iii) the basis upon which compensation shall be payable for damage to the surface of any land shall be the extent to which the market value of the land (for which purpose it shall be deemed saleable) upon which the damage has occurred has been reduced by reason of such damage, but without taking into account any enhanced value due to the presence of minerals.
- (2) If the holder of a mineral right fails to pay compensation when demanded under the provisions of this section, or if the owner or lawful occupier of any land is dissatisfied with any compensation offered, the dispute shall be determined by arbitration.
 - (3) A claim for compensation under the provisions of subsection (1) shall be made within a period of 4 years from the date when such claim has accrued, failing which, notwithstanding the provisions of any other written law, such claim shall not be enforceable.

45 Interference, damage to fishing etc.

- (1) Where it appears to the Minister, having regard to any representations that may have been made to him or otherwise, that the holder of any mineral right over any area of the territorial sea, or over any lagoon or inland waters or any part of the foreshore has in the exercise of his rights thereunder interfered with or caused substantial damage to fishing, the gathering of crustaceans, shells or plants or to any other activity customarily carried on in such area and

where the Minister finds that any person has been adversely affected by such interference or damage the Minister may order the holder of the mineral right to pay to such person such compensation as the Minister considers fair and reasonable.

- (2) Any sum which the holder of a mineral right has been ordered to pay as compensation shall be recoverable as though the same were a judgment debt due to the person in whose favour such order has been made.

46 Appeals to Senior Magistrate's Court

Where the holder of a mineral right, the owner or lawful occupier of any land subject to such right or any other person having or claiming to have a right to compensation, rent or other payment under sections 43, 44, or 45 is aggrieved by a decision of the Minister in regard to such compensation, rent or payment, such person may appear to the Senior Magistrate's Court which after hearing the appeal may confirm, quash or vary the decision of the Minister as to the payment or otherwise of such compensation, rent or other payment or make such other order in the matter as it may think fit.

47 Compulsory purchase of land

- (1) Where the Minister considers that any land, is required to secure the development or utilisation of the mineral resources of Tuvalu he may compulsorily acquire such land.
- (2) Acquisition of land under this section shall be deemed to be for a public purpose in terms of the provisions of the Crown Acquisition of Lands Act and any acquisition under this section shall be effected in accordance with the provisions of that Act.

PART VIII - FINANCIAL

48 Royalties

- (1) The holder of a mining licence shall, in accordance with the provisions of this Act, pay royalties on any minerals obtained by him in the exercise of his rights thereunder.
- (2) Royalties shall be paid on minerals obtained by the holder of a mining licence at the rate of 2 per cent of the gross market value of the minerals.
- (3) For the purpose of this section the "gross market value" of minerals shall mean their gross market value free on board at the port of export from Tuvalu.

- (4) In the case of minerals obtained by the holder of a mining licence from any area of the territorial sea or lagoon or inland water or any other area which is Crown land the royalty payable under this section shall be paid to the Government and shall form part of the Consolidated Fund and in any other case shall be paid to the Government to be applied in accordance with a scheme to be approved by the Minister for the benefit of those whose rights, interests or welfare are likely in the opinion of the Minister to be significantly affected by the mining operations in respect of which the royalty is payable.
- (5) Where the Minister has for the purpose of subsection (4) approved a scheme he shall before it is implemented submit the scheme for approval to Parliament and Parliament may approve or disallow the same.
- (6) Where Parliament has disallowed a scheme submitted for approval under subsection (5) the Minister shall as soon as possible thereafter submit to Parliament for approval an alternative scheme.

49 Agreement concerning royalties

- (1) The Minister may, on behalf of the Government enter into an agreement concerning royalties with any person who is or may become liable to the payment of royalties under this Act.
- (2) No agreement entered into under this section shall have effect unless and until it is ratified by an Act but upon ratification an agreement shall be deemed to have come into operation on the date specified in that agreement.
- (3) An agreement entered into under this section may vary the provisions of this Act in so far as such provisions —
 - (a) impose liability to royalties; or
 - (b) regulate the imposition of such liability.
- (4) If any agreement entered into under this section imposes any liability to royalties, such liability shall be deemed to be a liability imposed under this Act and the provisions of this Act shall apply thereto.

50 Provisional royalty

- (1) Where, for any reason, it is impracticable to assess the amount of any royalty due, the Minister may assess a provisional royalty.
- (2) When any royalty due has been ascertained, the holder of the mining licence concerned shall pay any sum which may be required to complete such ascertained royalty or be entitled to be repaid any sum paid in excess of the ascertained royalty as the case may be.

51 Failure to pay royalties etc.

- (1) If the holder of a mining licence fails to pay any royalty or provisional royalty due in respect of that licence on or before the due date or any extension thereof, the Minister may, by order served on the holder of the mining licence concerned at the address maintained pursuant to section 35(1)(d) prohibit the disposal of any mineral from such mining area, or from any other mining area held by such holder until all outstanding royalties have been paid or until an arrangement has been made, acceptable to the Minister, for the payment of such royalties.
- (2) Any holder of a mining licence who contravenes or fails to comply with the provisions of an order given under subsection (1) and any person who, knowing of such an order and contrary thereto, transports or receives any mineral from the mining area concerned, shall be guilty of an offence.

52 Annual charges for a mineral right

- (1) There shall be paid to Government by every holder of a mineral right an annual charge in such amount as the Minister may determine or as may be prescribed.
- (2) The annual charge payable under the provisions of subsection (1) shall be paid on the issue of a mineral right and thereafter annually on the anniversary thereof until the termination of such right.

53 Guarantees for performance etc.

The Minister may, from time to time, make such arrangements as to him appear appropriate to secure that the holder of a mineral right complies with the provisions of this Act, and, without prejudice to the generality of the foregoing, may accept guarantees, whether from shareholders or otherwise, in respect of such compliance.

PART IX - WITHDRAWAL OF APPLICATIONS, SURRENDER AND TERMINATION OF MINERAL RIGHTS**54 Withdrawal of applications**

An applicant for a prospecting licence or a mining licence or any renewal thereof may withdraw his application at any time before such application is approved or rejected by notifying the Minister, in writing, that he withdraws such application.

55 Surrender of prospecting and mining licence

- (1) Subject to the provisions of section 38 and of any condition in his licence the holder of a prospecting licence or a mining licence may surrender the area covered by his licence or part thereof by —
 - (a) giving the Minister not less than 3 months' notice of his intention to surrender the whole or part of the area concerned;
 - (b) applying to the Minister for and obtaining a certificate of surrender; and
 - (c) complying with such conditions as the Minister may determine.
- (2) If the application for a certificate of surrender is in respect of part only of the area covered by a prospecting licence or mining licence, the holder thereof shall —
 - (a) in his application,
 - (i) if it relates to a mining area, provide a diagram of the area to be surrendered;
 - (ii) in the case of a prospecting area, provide a reliable plan, in a form acceptable to the Minister, of the area to be surrendered; and
 - (iii) in either case give the results of any prospecting carried out; and
 - (b) if the application is approved, demarcate the remaining area in the prescribed manner.
- (3) No surrender of any area covered by a prospecting licence or mining licence shall be effective until the Minister has issued a certificate of surrender in respect of that area.
- (4) A surrender shall be without prejudice to any liabilities or obligations incurred by the holder in relation to the area surrendered prior to the date of surrender.
- (5) On the issue of a certificate of surrender the Minister shall —
 - (a) if the surrender is in relation to the whole area covered by a prospecting licence or mining licence, cancel such licence; or
 - (b) if the surrender is in respect of part only of the area covered, amend the licence accordingly.

56 Suspension or cancellation of a mineral right

- (1) Subject to the provisions of this section, the Minister may suspend or cancel a mineral right if the holder thereof —
 - (a) fails to make any of the payments required by or under this Act on the due date;
 - (b) contravenes any provision of this Act or the conditions of his mineral right or the provisions of any other written law relating to mines, and minerals;

- (c) dies or becomes insolvent or commits any act of bankruptcy or enters into any agreement or scheme of composition with his creditors or takes advantage of any written law for the benefit of debtors or, in the case of a company, goes into liquidation, except as part of a scheme for the reconstruction or amalgamation of the holder thereof;
 - (d) makes any statement to the Government (including any public officer) in connection with his mineral right which he knows or ought to have known was false.
- (2) Before suspending or cancelling a mineral right under paragraphs (a) and (b) of subsection (1), the Minister shall give the holder thereof notice in writing specifying the particular failure or contravention and calling upon the holder to remedy the same within such period, being not less than 30 days, as may be specified in such notice.

If the holder of a mineral right fails to remedy any failure or contravention specified in paragraphs (a) and (b) of subsection (1) within the period specified in a notice issued under subsection (2), or if there is an event specified in paragraphs (c) or (d) of subsection (1), the Minister may, by notice to the holder thereof, cancel the mineral right forthwith.

On cancellation of a mineral right under the provisions of this section, the rights of the holder thereof shall cease but without prejudice to any liabilities or obligations incurred in relation thereto prior to the date of cancellation.

57 Record etc. to be delivered on termination

- (1) Upon termination of any mineral right the holder shall deliver to the Minister —
- (a) all records which the holder is obliged under the provisions of this Act to maintain;
 - (b) all plans or maps of the area covered by the mineral right prepared by the holder or at his instructions; and
 - (c) such other documents relating to the mineral right as the Minister may direct.
- (2) Any person who fails to deliver any document required to be delivered under the provisions of subsection (1) within 14 days of being called upon so to do by the Minister shall be guilty of an offence.

58 Extension of period of prospecting or mining licence

Where the holder of —

- (a) a prospecting licence has made application for a renewal thereof or for a mining licence over part of the area covered by his prospecting licence; or

(b) a mining licence has made application for a renewal thereof,
the Minister may extend the period of validity of such prospecting licence or mining licence, as the case may be, pending his decision on the application.

PART X - REGULATIONS

59 Regulations

- (1) The Minister may make regulations for the better carrying into effect of this Act and, in particular and without prejudice to the generality of the foregoing, regulations may provide for the following matters or purposes —
- (a) prescribing anything which in terms of this Act is to or, may be prescribed;
 - (b) for making of returns of minerals won and for the valuation of such minerals, and the sampling, weighing and testing of any mineral;
 - (c) the manner in which applications under this Act shall be made, and any additional information to be supplied by applicants;
 - (d) the shape of the areas over which mineral rights may be granted;
 - (e) the manner in which areas and boundaries shall be marked, buoyed beacons and surveyed and the fees payable in respect of such survey;
 - (f) the returns to be rendered and the nature of the accounts, books and plans to be kept by the holders of mineral rights;
 - (g) the method of calculation of the amount of royalties and the manner and time of payment thereof;
 - (h) the fees to be paid in respect of any matter or thing done under this Act;
 - (i) the amalgamation of mineral rights;
 - (j) prohibiting the defiling or wasting of water, wherever situated and wherever obtained;
 - (k) the nature of any plan or diagram required for the purposes of this Act;
 - (l) providing for the examination of mineral consignments and the issue of export permits in respect thereof;
 - (m) conferring upon any public officer specified therein such powers of inspection and enquiry as may be reasonably necessary for the proper carrying out of the provisions of this Act;
 - (n) ensuring the safety of navigation and shipping and the marking of installations;
 - (o) preventing pollution and protecting the living resources of the sea;
 - (p) promoting the safety of workers;
 - (q) preventing damage to or interference with communications.
- (2) Regulations made under this section may specify as a penalty for the contravention thereof a fine not exceeding \$200 and imprisonment not exceeding 6 months.

PART XI - PENALTIES AND OFFENCES

60 Offences

Any person who —

- (a) fails, neglects or refuses to allow or provide all reasonable facilities and assistance to an authorised officer;
- (b) fails, neglects or refuses to comply with any direction given under section 5;
- (c) obstructs, hinders or delays an authorised officer in the performance of his duties under this Act;
- (d) conducts reconnaissance, prospects or mines otherwise than in accordance with the provisions of this Act;
- (e) in making application for a mineral right or any renewal thereof, knowingly makes any statement which is false or misleading in any material particular;
- (f) in any report, return or affidavit submitted in pursuance of the provisions of this Act, knowingly includes any information which is false or misleading in any material particular;
- (g) fails to notify the Minister in pursuance of the provisions of section 23(1)(e) or 35(1)(e);
- (h) removes or disposes of any mineral contrary to the provisions of section 26;
- (i) exports any radioactive mineral in contravention of section 39 or fails to comply with the terms or conditions of a permit issued under that section;
- (j) places or deposits, or is accessory to the placing or depositing of, any mineral in any place with the intention to mislead any other person as to the mineral possibilities of such place;
- (k) 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 such ore with the intention to cheat, deceive or defraud; or
- (l) being engaged in the business of milling, leaching, sampling, concentrating, reducing, assaying, transporting or dealing in ores, metals or minerals, keeps or uses any false or fraudulent scales or weights for weighing such ores, metals or minerals, or uses any false or fraudulent assay scales or weights or enriched fluxes used for ascertaining the assay value of minerals, knowing them to be false or fraudulent,

shall be guilty of an offence.

61 Penalties

- (1) Any person guilty of an offence under this Act shall be liable, on first conviction, to a fine of \$1000 and to imprisonment for 12 months.

- (2) On a second or subsequent conviction for an offence under this Act, a court may impose a penalty which does not exceed double the penalty referred to in subsection (1).
- (3) Proceedings under this section shall be by way of summary trial before the Senior Magistrate.

PART XII - RECORDS AND INFORMATION

62 Records to be maintained of minerals

- (1) The Minister shall maintain records of all mineral rights issued under the Act in sufficient detail to show —
 - (a) the name of the holder of the mineral right;
 - (b) the area subject to the mineral right;
 - (c) the date of issue and duration of the mineral right; and
 - (d) the mineral for which the right is granted.
- (2) Records maintained under subsection (1) shall be open to inspection by members of the public during normal government office hours, and members of the public shall be permitted to take copies thereof.

63 Information to be confidential

Subject to such further or other provision contained in any agreement to which the Government and the holder of a mineral right are parties, information or records supplied to the Minister under sections 12, 23(3) and 35(2)(b) and (c) shall so long as the person supplying the same or his successor in title retains a mineral right over the area to which the records relate, be treated as confidential and shall not be divulged without the consent of the person supplying the same or his successor in title, such consent not to be unreasonably withheld:

Provided that nothing in this section shall prohibit the disclosure of any confidential information —

- (i) where such disclosure is necessary for the purposes of this Act;
- (ii) for the purposes of a prosecution under this Act;
- (iii) to any person being a consultant to or officer employed by the Government who is approved by the Minister to receive such confidential information.

ENDNOTES

¹ Act 7 of 1977, LN 26/1977

Amended by Act 5 of 1996, commencement 1/9/96 by LN 8/96

² LN 26/77

³ Amended by Act 5 of 1996