

THE MINING ACT

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SCHEDULE

THE MINING ACT

[13th October, 1947.]

PART I. *General*

1. This Act may be cited as the Mining Act.
2. In this Act—
 - “this Act” includes regulations made under this Act;
 - “alluvial” includes all forms of mineral deposits which do not fall within the definition of lode, and for the purposes of this Act bauxite and laterite deposits shall be regarded as alluvial deposits;
 - “buy” includes exchange, barter, or giving or receiving as a pledge or security and “sell” includes deposit as a pledge or security;
 - “co-ordinate squares” means co-ordinate squares on the 1/50,000 topographical map of Jamaica printed in sheets identified under the hand of the Minister of Development and deposited with the Commissioner of Mines and at the Record Office on the 26th day of May, 1960;
 - “deposit” means any sum or any security therefor, deposited with the Commissioner under section 13;
 - “holder” of an exclusive prospecting licence, mining lease or water right includes any person in whom such licence, lease or water right, or a part of the rights thereunder, has become lawfully vested by transfer, assignment or otherwise;
 - “lessee” of a mining lease includes all persons having a right or interest in or under a mining lease, whether by transfer, assignment or otherwise;

Cap. 253.
 Laws
 38 of 1957,
 39 of 1958,
 21 of 1959,
 43 of 1960.
 Acts
 20 of 1974,
 30 of 1974,
 29 of 1977,
 33 of 1979,
 16 of 1983
 2nd Sch.,
 33 of 1991
 S. 22,
 36 of 1995
 3rd Sch.
 Short title.
 Interpretation.

43/1960
 S. 2.

- “licence” means an exclusive prospecting licence granted under section 21;
- “lode” includes all true fissure veins, contact veins, segregated veins, bedded veins, in metalliferous bankets, stockworks, such irregular deposits as conform generally to the above classification, and beds of any mineral such as beds of iron stone;
- “to mark out” an area means to delimit such area in the manner provided in this Act;
- “Medical Officer” means any person appointed by the Chief Medical Officer to be a Medical Officer for the purposes of this Act;
- “mine” includes any place, excavation or working whereon, wherein, or whereby, any operation in connection with mining is carried on;
- “to mine” with its grammatical variations and cognate expressions means intentionally to search for, extract or win minerals, and includes any operations necessary for the purpose;
- “minerals” except for the purposes of Part VIII of this Act has the same meaning as in the Minerals (Vesting) Act:
- “mining lease” means a mining lease granted under section 33;
- “mining rights” means rights under a mining lease;
- “owner” in relation to land includes an occupier or a lessee;
- “passageway” means any highway, road, street, footpath, right of way, easement or installation of any railway, tramway, wireline, conveyor belt, cable way, chute, pipe, sewer, drain, tunnel, shaft, fluming or water-course;
- “to prospect” with its grammatical variations and cognate expressions means to search for minerals and includes such working as is reasonably necessary to enable the prospector to test the mineral-bearing qualities of the land;

“prospecting or mining rights” means rights under a prospecting right, licence, or mining lease;

“radio-active mineral” means any substance specified in the Schedule;

39/1958
S. 2.
Schedule.

“shaft” means any vertical or inclined tunnel other than a stope or winze which is or might be used for winding, travelling, draining, or ventilating purposes in connection with prospecting or mining operations;

“tailings” means all gravel, sand, slime, or other substance which is the residue of *bona fide* mining operations;

“water-course” means any channel or duct whether natural or artificial which confines, restricts or directs the flow of water.

3. Any person who prospects or mines on any lands in this Island otherwise than in accordance with the provisions of this Act shall be guilty of unlawful prospecting or unlawful mining (as the case may be) and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding two thousand dollars or to imprisonment with hard labour for a term not exceeding twelve months, and in addition the court before which such person is convicted shall order the forfeiture of all minerals obtained in the course of such unlawful prospecting or mining, or if such minerals cannot be forfeited, the payment of such sum as the court may assess as the value of such minerals.

Unlawful
mining and
unlawful
prospecting.

4. Nothing contained in this Act shall apply to, or confer any right to prospect or mine for any mineral oil.

Act does not
apply to oils.

5.—(1) The Governor-General may appoint a Commissioner of Mines (hereinafter referred to as “the Commissioner”), a Deputy Commissioner of Mines, and such other officers as may be necessary for the carrying into effect of the provisions of this Act.

Appoint-
ment and
duties of
officers.

(2) The Chief Medical Officer may appoint an officer in the Medical Department to be a Medical Officer for the purposes of this Act.

(3) It shall be the duty of the Commissioner, in addition to any other duties provided in this Act, to exercise general supervision over all prospecting and mining operations in this Island.

Delegation
of powers.

6. The Commissioner may delegate or assign to any officer appointed under the provisions of subsection (1) of section 5 all or any of his powers, duties and jurisdiction subject to such limitations as he may specify, but in so doing the Commissioner shall not thereby divest himself of the right to exercise concurrently all or any of the powers, duties and jurisdiction conferred upon him by this Act.

Royalties.

7. All minerals obtained in the course of prospecting or mining operations shall be liable to such royalties as may be prescribed, and no minerals shall be exported except after payment or securing of royalty under such conditions as may be prescribed :

Provided that the Commissioner may, by permit under his hand, exempt from liability to royalties small quantities of minerals intended for use, or exported, as commercial samples or scientific specimens, or for the purpose of experiment or assay.

Lands ex-
cluded from
prospecting
or mining.

8.—(1) Save where otherwise provided by this Act no prospecting or mining rights shall authorize prospecting or mining on any of the following—

- (a) land dedicated or set apart for any public purpose (other than mining), or for a burial ground or within one hundred yards of such places, except with the consent of the Commissioner;
- (b) any area situated within any town or village except with the consent of the Commissioner;

- (c) land reserved for the purpose of any railway or situated within one hundred yards of any railway other than a railway constructed on the area of the mining lease by the mining lessee, except with the consent of the Commissioner;
- (d) any area which is the site of or is within one hundred yards of any building, works, reservoir or dam owned or occupied by the Government or by a public authority, except with the consent of the Commissioner;
- (e) any street, road or highway or any land within fifty yards of the centre line of any street, road or highway, other than one constructed on the area of the mining lease by the mining lessee, except with the consent of the Commissioner;
- (f) land within one hundred yards of any building, except with the consent of the occupier :

Provided that where such consent is withheld, the Commissioner may allow prospecting or mining on such land on such conditions as he may think fit;

- (g) any area closed to prospecting or mining under the provisions of section 9;
- (h) any area over which rights under a licence or a mining lease have been previously granted under the provisions of this Act until fourteen days have elapsed from the date of the *Gazette* in which notice is given of the termination of such rights or in respect of which permission to mine has been given under the provisions of section 32 and is still lawfully subsisting, except by the holder of such licence, mining lease or permit;

(i) any area over which a right of passageway is vested in the holder of a mining lease, except with the consent of such holder.

(2) Where under subsection (1) the Commissioner is empowered to authorize prospecting or mining, then—

(a) if a public authority is directly affected by the giving of consent, the Commissioner shall not give such consent without prior consultation with such public authority;

(b) where consent is given the Commissioner may impose such conditions as he may think fit.

(3) In this section—

“burial ground” means any place—

(a) vested in the Kingston and St. Andrew Corporation or a Parish Council for the purposes of a place of burial;

(b) authorized under any law to be a place of burial;

(c) attached to any place of worship and used as a place of burial;

(d) habitually used as a place of burial by the members of any sect or congregation;

“town or village” means a town or village as defined under the Parish Councils Act for spirit licence purposes or for all purposes.

Power to
close areas
to prospect-
ing, etc.
43/1960
S. 4 (1).

9. The Minister may, by notice in the *Gazette*, declare any area, other than an area over which rights under a licence or mining lease have been previously granted and are subsisting, to be closed to prospecting and mining either generally or by such persons, or for such periods, or for such minerals, as may be specified in such notice, and may re-open such area or any part thereof by further notice on any terms and conditions as to prospecting or mining and to such persons as he may think fit.

10. Where any prospecting right, licence or mining lease has been granted in pursuance of the provisions of this Act and subsequently the Minister, or in the case of a prospecting right, the Commissioner, is satisfied that such grant has been obtained as a result of any misleading, false or fraudulent representation, or in consequence of any incorrect information (whether such information be supplied wilfully or otherwise), the Minister or the Commissioner (as the case may be) may call upon the holder of such right, licence or lease to show cause within a specified time why such right, licence or lease should not be revoked; and if he fails to comply with such order within the time specified or if the cause shown be inadequate in the opinion of the Minister or the Commissioner (as the case may be), such right, licence or lease may thereupon be revoked by the Minister or the Commissioner (as the case may be) and notice of such fact shall be published in the *Gazette* and a copy of such notice shall be sent to the holder at his last known address.

Power to revoke prospecting rights, etc., in cases of fraud, etc. 43/1960 S. 4 (1).

11. Any holder of prospecting or mining rights intending to prospect or mine on any lands shall give notice of his intention to the owner and the occupier of such land before commencing operations thereon, and shall, if so required by the owner, occupier, or the Commissioner, lodge with the Commissioner such sum, or give security therefor, as the Commissioner may direct for the payment of any compensation which may be payable under section 12, and such sum, or the balance thereof (if any), may be refunded or released in accordance with the provisions of subsections (3), (4) and (5) of section 13.

Notice and security for compensation for damage.

12.—(1) The holder of prospecting or mining rights shall, on demand being made by the owner or occupier of the land upon or under which prospecting or mining operations are being or have been carried on by him, pay such owner or occupier fair and reasonable compensation for any disturbance of his surface rights and for any damage done to the

Payment of compensation to owners or occupiers.

surface of the land or to any live or dead stock, crops, trees, buildings or works, as a result of such operations.

29/1977
S. 2(a). (2) The amount of compensation payable under subsection (1) shall be determined by agreement between the parties or, if the parties are unable to reach agreement, any of them may take proceedings in the Resident Magistrate's Court without limit of amount.

29/1977
S. 2(b). (2A) If the compensation determined by agreement in accordance with subsection (2) is not paid, the owner or occupier may take proceedings in the Resident Magistrate's Court for an order for payment without limit of amount.

(3) The sum awarded by the Resident Magistrate, or when there has been an appeal, by the Court of Appeal, as the case may be, shall be paid by such holder to the person entitled thereto, within fourteen days of the date of the decision.

(4) Without prejudice to any other means of recovery, if the sum awarded is not paid within the time specified in subsection (3) such sum may, on application to the Commissioner, be paid out of the amount lodged under section 11.

43/1960
S. 4 (1). (5) The Commissioner may, by notice to the holder of prospecting or mining rights who has failed to pay the sum awarded, suspend his mining or prospecting rights until the sum awarded has been paid and until such holder has lodged with the Commissioner such further sum as the Commissioner may demand as security for any future compensation payable and if such payment and lodgment is not made within such time as the Minister, or in the case of a prospecting right, the Commissioner, may consider reasonable the Minister or the Commissioner (as the case may be) may revoke the prospecting or mining rights of the holder in default.

(6) Where it is not practicable after reasonable enquiry to ascertain the name or address of the owner or occupier of any land upon or under which the holder of prospecting or mining rights is carrying on or has carried on prospecting or mining operations, that holder shall apply to the Resident Magistrate's Court for determination of the amount of compensation payable to that owner or occupier without limit of amount. 29/1977
S. 2(c).

13.—(1) As a guarantee for the due performance of the obligations imposed by this Act any person may be required by the Commissioner, either on application or when holding prospecting or mining rights, or a water right, to deposit (in addition to any sum lodged under section 11 or 12) with the Commissioner such sums, or security for like amounts in lieu thereof, as may be prescribed and on failure of such person to make such deposit within the time specified by the Commissioner the application may be refused or the prospecting or mining rights or the water right revoked by the Minister, or in the case of a prospecting right, by the Commissioner. General
deposits.

43/1960
S. 4 (1).

(2) The Commissioner may in any case where the depositor has failed after due notice to meet any obligation imposed upon him by this Act, take such steps as he may consider fit to fulfil the obligation and may expend from any deposit such sum as he may consider reasonable to defray any expense incurred by him in so doing; and where any deposit or portion thereof is so expended, the Commissioner may require the depositor to make good such deposit or portion and failure to do so may render any prospecting or mining rights or any water right in respect of which any deposit was made liable to revocation by the Minister or the Commissioner (as the case may be). 43/1960
S. 4 (1).

(3) Where upon the termination of all interests in any prospecting or mining rights, or water right in respect of which a deposit has been made, the original right, licence,

mining lease or water right is produced to the Commissioner and the termination of such interests is duly recorded, then the person by whom such deposit was made may make written application to the Commissioner for the refund or release of such deposit or balance thereof and, upon production of satisfactory evidence by the applicant, the Commissioner may authorize such refund or release to be made :

Provided that in the absence of such satisfactory evidence the Commissioner may withhold such refund or release until such time as he may think fit :

Provided also that such refund or release is made without prejudice to any claim or proceeding existing or which may arise through the breach by the holder of any prospecting or mining rights or water right, or by his servants, of any of the provisions of this Act.

(4) Where the interest of a depositor in any prospecting or mining rights or water right is terminated by transfer, no refund or release shall be made until the transferee has lodged a like deposit or such sum as the Commissioner may demand.

(5) Sums deposited under this section may be otherwise dealt with in such manner as may be prescribed.

Land under
mining lease,
etc., required
for public
purposes.
43/1960
S. 4 (2).

14.—(1) Whenever any land being the whole or part of the area of a mining lease is required by the Government for any public purpose the Commissioner shall give notice to that effect to the holder of such lease, and such holder shall remove therefrom before a date to be specified in such notice any works, buildings, plant or other of his property, and such mining lease shall in respect of the land required be determined as from such date.

(2) In any such case where the holder of a mining lease has received any notice under subsection (1) he shall be entitled to receive out of the Consolidated Fund compensation for any disturbance of passageways, works, build-

ings, plant or other property belonging to him, but not for disturbance of his mining rights; and compensation payable to such holder under this section shall, if not agreed upon between the parties, be determined by a Judge in Chambers in accordance with rules of court to be made for such purpose.

(3) Whenever any land temporarily occupied by the holder of a prospecting right or occupied under an exclusive prospecting licence or water right is required by the Government for any public purpose, the Commissioner shall give notice to that effect to the holder of the right or licence and such holder shall, not later than thirty days from the date of notice or within such further period as the Commissioner may allow, remove from the land so occupied any works, buildings, plant or other property belonging to him, temporarily erected or placed thereon and shall cease to occupy such land; and such holder shall not be entitled to any compensation for any such disturbance.

43/1960
S. 4 (2).

(4) A notice given under this section by the Commissioner that land is required for a public purpose shall be conclusive evidence of that fact.

PART II. *Prospecting* GENERAL

15. It shall not be lawful for any person to prospect except in pursuance of and in accordance with the terms and conditions of a prospecting right or exclusive prospecting licence.

When prospecting lawful.

16. The Minister may by notice in the *Gazette* prohibit prospecting for any specified mineral, and in such a case the holder of a prospecting right or exclusive prospecting licence shall not prospect for such specified mineral unless otherwise expressly provided in such right or licence.

Prospecting for specified minerals may be prohibited.
43/1960
S. 4 (1).

17.—(1) Minerals obtained in the course of prospecting under a prospecting right or licence shall be the property of the Crown and shall not be removed from the land or

Disposal of minerals obtained in prospecting.

disposed of by the holder of the right or licence or by any other person except with the consent of the Commissioner.

(2) The Commissioner may authorize the removal of minerals from the land from which they have been obtained subject to such conditions, if any, as he may impose.

(3) If the holder of a prospecting right or a licence desires to retain or dispose of any minerals obtained in the course of prospecting he shall make an application in writing to the Commissioner stating the kind and quantity of minerals in respect of which the application is made and the situation of the land from which the mineral was obtained, and if the Commissioner is satisfied that the applicant has been conducting only such work as is reasonably necessary to enable him to test the mineral-bearing qualities of the land, he may authorize the applicant to retain or dispose of the minerals in respect of which application is made on payment of the prescribed royalties.

Prospecting Right

18.—(1) Subject to subsection (1A) the Commissioner may, in his absolute discretion on application in the prescribed form and upon the payment of the prescribed fee, grant to any individual a prospecting right in the prescribed form:

Provided that a prospecting right shall not be granted—

- (a) to any individual who is under eighteen years of age;
- (b) to any individual who is unable to prove to the satisfaction of the Commissioner that he can understand this Act to such an extent as to enable him to carry out the obligations imposed by or under it;
- (c) to any individual to whom there has previously been issued either in his own name or as agent for any person a prospecting right which has not

been surrendered or cancelled and which is in all other respects still valid;

- (d) except with the consent of the Minister, to any individual who or whose present employer has been convicted of an offence under this Act, or who or whose present employer has previously held any prospecting or mining right which has been revoked by reason of a breach of the terms or conditions thereof;

43/1960
S. 4 (1).

- (e) to any person other than an individual.

(1A) Any licence granted under subsection (1) in respect of mining in the exclusive economic zone shall be subject to the provisions of the Exclusive Economic Zone Act or any order made under section 11 of that Act.

33/1991
S. 22.

(2) A prospecting right may be granted to an individual as agent for a person:

Provided that in any such case there shall be forwarded with the application an undertaking by such person to be responsible for the acts and omissions of the individual (who shall also be responsible for his own acts and omissions) and where the individual is in the employ of such person, such right shall, unless such person otherwise requests, forthwith terminate on the holder leaving the service of such person.

(3) A prospecting right shall not be transferable and shall, unless terminated, remain in force for a period of one year from the date of issue, but may be renewed for further periods not exceeding one year each.

(4) The Commissioner may, by endorsement on the prospecting right, restrict prospecting under it to any specified area or to any specified minerals.

(5) A prospecting right shall be produced—

- (a) whenever demanded by the owner or occupier of land on which the holder is prospecting, or by a constable; or
- (b) whenever demanded by the Commissioner or by a Marine Officer under the Exclusive Economic

33/1991
S. 22.

[The inclusion of this page is authorized by L.N. 90/1993]

Zone Act when the holder thereof is prospecting in the exclusive economic zone.

Rights and obligations under a prospecting right.

43/1960
S. 4 (1).

19.—(1) Subject to the provisions of this Act and of the prospecting right, the holder of a prospecting right may—

- (a) enter upon and prospect on any land or water for any minerals, except minerals for which prospecting is prohibited unless the Commissioner, with the approval of the Minister, has issued authority therefor by endorsement on the prospecting right;
- (b) whilst engaged in *bona fide* prospecting on any uncultivated land (without charge, in the case of Crown land, and on payment or tender of a reasonable sum to the owner or occupier in the case of land other than Crown land)—
 - (i) erect at such place as the owner or occupier may select a temporary camp and such temporary structures as may be necessary and enter into temporary occupation thereof;
 - (ii) take fuel, other than standing timber, for his domestic use at such place;
 - (iii) graze such animals as may be necessary for the carrying on of prospecting;
- (c) take for his domestic use so much public water as may be necessary;
- (d) dig holes and trenches:

Provided all such excavations shall be fenced or secured, and on the prospector leaving the neighbourhood, filled in such a manner as to prevent persons or stock inadvertently entering therein, and if any holder of a prospecting right contravenes the provisions of this paragraph the Commissioner may cause such excavations to be filled in or may take other protective measures, and shall charge such holder such sum as was reasonably expended in so doing, and such charge shall be a lawful deduction from the deposit made by such holder; and such action by the Commissioner

and the payment of such charge by the holder shall not exempt such holder from liability under this or any other enactment for such contravention;

(e) [*Deleted by Act 36 of 1995, 3rd Sch.*]

(f) mark out and apply for an exclusive prospecting licence or a mining lease.

(2) The holder of a prospecting right shall keep full and accurate records of his prospecting operations and shall render to the Commissioner such returns as may be prescribed, and on failure so to do the Commissioner may, without prejudice to any other penalty for which the holder may be liable, refuse to accept any application by such holder for an exclusive prospecting licence or mining lease.

20. In the case of any contravention of the provisions of this Act or of the prospecting right by the holder of a prospecting right the Commissioner may call upon the holder of such right to show cause within a time specified why his right should not be revoked; and should he fail to comply with such order within the time specified or should the cause shown be inadequate in the opinion of the Commissioner, the Commissioner may, by notice in the *Gazette* (a copy of which notice shall be forwarded to the last known address of the holder), summarily revoke such right and thereupon all privileges and rights conferred thereby or enjoyed thereunder shall as from the date specified in the notice of such revocation cease :

Revocation
of a pros-
pecting
right.

Provided always that such revocation shall not in any way affect the liability of any person in respect of the breach of any provision of this Act committed by him before such revocation.

Exclusive Prospecting Licence

Grant of
exclusive
prospecting
licence.
43/1960
S. 4 (1).

21.—(1) The Minister may, on application in the prescribed form and on payment of the prescribed fee, grant an exclusive prospecting licence in the prescribed form to any person who himself holds a prospecting right or to any person whose agent is the holder of a prospecting right :

Provided that the Minister may in special circumstances grant an exclusive prospecting licence to any person.

(2) The Minister may require an applicant for a licence to satisfy him that he possesses or commands sufficient working capital to ensure the proper prospecting of the area in respect of which the application is made and for the payment of any compensation which may be payable to the owners or occupiers of the land in respect of which the licence is required.

33/1991
S. 22.

(3) A licence shall not be granted in respect of any area of land exceeding eight square miles or in respect of any part of the exclusive economic zone exceeding twenty-four thousand square miles.

(4) A licence shall be granted for a specified mineral only :

43/1960
S. 4 (1).

Provided that when the applicant or the holder has discovered other minerals on the area applied for, or the subject of the licence, the Minister may in his discretion include by endorsement on the licence such other minerals in the licence.

43/1960
S. 4 (1).

(5) Subject to the provisions of subsection (2) of section 22, a licence shall be valid for one year from the date of issue, but may be renewed for such period or periods not exceeding one year each and on such conditions as the Minister may decide.

43/1960
S. 4 (1).

(6) The Minister may grant or withhold the grant of a licence as he may think proper, or may grant it subject to such conditions as he may think fit.

(7) Any area in respect of which a licence is granted shall specifically exclude an area within its boundaries over which a licence or a mining lease for the same mineral is in existence at the date of the grant of such licence.

38/1957
S. 2.

22.—(1) Subject to the provisions of this Act and of the licence, the holder of a licence shall have the sole right of prospecting for the mineral or minerals specified in the licence upon the lands within the area of his licence, and for such purpose may—

Rights under
a licence.

- (a) enter upon the lands within such area with his agents and workmen and thereon sink shafts or wells and exercise all or any of the rights conferred upon the holder of a prospecting right;
- (b) employ in prospecting on such land any number of persons who for the purpose shall not be required to hold prospecting rights; and
- (c) on and over unoccupied land within the area of his licence erect and maintain such machinery and plant and construct such passageways as may be necessary for or in connection with his prospecting operations.

(2) The holder of a licence who has fulfilled all the conditions attached thereto may, subject to the provisions of this Act, apply for renewal of such licence, mark out and apply for the grant of a mining lease, over the whole or any part of the area the subject of the licence, or mark out a reduced area and may apply for renewal of his licence over such reduced area only:

Provided that no licensee shall hold, by a licence in respect of a reduced area or by renewal of his former licence, a licence over any ground where alluvial deposits are being explored for a period of more than three years in all, or where lode deposits are being explored, for a period of more

43/1960
S. 4 (1).

than six years in all unless the Minister is satisfied that prospecting operations have been stopped or seriously hindered by special circumstances beyond the control of the licensee, in which event he may grant a renewal for an additional year.

Obligations
under a
licence.

23.—(1) The holder of a licence shall during the currency of the licence adequately carry on to the satisfaction of the Commissioner *bona fide* prospecting operations on the lands included in the area in respect of which the licence has been granted :

43/1960
S. 4 (1).

Provided that the Minister may on the written application of the holder suspend the obligation imposed by this subsection in respect of any licence for such time as the Minister may think fit.

(2) The holder of a licence shall, during the currency of the licence, keep all excavations whether made prior to the grant of the licence or during the currency of the licence, secured to the satisfaction of the Commissioner in such a manner as to prevent persons or stock inadvertently entering them.

(3) The holder of a licence, if not personally residing on the land the subject of the licence or in the opinion of the Commissioner not residing sufficiently near to give continuous supervision to prospecting operations being conducted on such land, shall at all times have so residing a responsible agent in charge of such operations and shall forthwith notify the Commissioner of every appointment of such an agent and of any change in such appointment.

Record of
prospecting
operations.

24. The holder of a licence shall keep to the satisfaction of the Commissioner on the area of his licence, or at such place in the Island as the Commissioner may approve, full and accurate records and plans of his prospecting operations, and shall render to the Commissioner such returns

as may be prescribed; and on failure so to do the Commissioner may, without prejudice to any other penalty for which the holder may be liable, refuse to accept any application by such holder for a mining lease.

25. The holder of a licence shall forthwith notify the Commissioner of the discovery of any mineral other than that for which the licence was granted.

Discovery of minerals to be notified.
39/1958
S. 4.

26. The holder of a licence, or of any interest therein registered under Part VII, shall not transfer his licence or interest or any part or share thereof or create any interest whatsoever therein without first obtaining the consent in writing of the Minister; and any such purported transfer or creation of any such interest without such prior consent shall have no effect.

Transfer of licence.

43/1960
S. 4 (1).

27. A licence may with the consent of the Minister and on payment of the prescribed fee be surrendered at any time, and such surrender shall be in the prescribed form :

Surrender of licence.
43/1960
S. 4 (1).

Provided that such surrender shall not affect any liability incurred by the licensee before such surrender takes effect.

28. In the case of any contravention of the provisions of this Act or of the licence by the holder of a licence or by any attorney, agent or employee of such holder, the Minister may call upon the holder of the licence to show cause within a time specified why his licence should not be revoked; and should he fail to comply with such order within the time specified, or should the cause shown be inadequate in the opinion of the Minister, the Minister may by notice in the *Gazette* (a copy of which notice shall be forwarded to the last known address of the holder) summarily revoke such licence and thereupon all privileges and rights conferred thereby or enjoyed thereunder shall as from the date specified

Revocation of licence.
43/1960
S. 4 (1).

in the notice of such revocation cease and the deposit may be declared forfeited to the Crown by the Minister :

Provided always that such revocation shall not in any way affect the liability of any person in respect of the breach of any provision of this Act committed by him before such revocation.

Obligations
of holder on
termination
of licence.

29.—(1) Every person who was the holder of a licence which has terminated, shall, not later than thirty days from the date of such termination—

38/1957
S. 3 (a).

- (a) fill in all excavations made in virtue of the licence or otherwise secure them in a permanent manner so as to prevent persons or stock inadvertently entering therein; and
- (b) remove all beacons marking out the boundaries of the area the subject of the licence; and
- (c) furnish a certificate to the Commissioner that he has complied with the provisions of this section as to the securing of excavations and the removal of beacons :

38/1957
S. 3 (b).

Provided that no such person shall be liable for securing any excavations made on the area the subject of his licence by other persons prior to the grant of the licence if on application for the licence he has shown the position of these excavations in relation to the boundaries of the area applied for on the plans submitted with his application or if he submits a plan showing the position of such excavations in relation to the boundaries of the area the subject of the licence within a period of one month from the date of grant of such licence.

(2) If any person contravenes the provisions of subsection (1) the Commissioner may cause such excavations to be filled in or may take other protective measures and shall charge such person such sum as was reasonably expended

in so doing, and such charge shall be a lawful deduction from any deposit made by such person :

Provided that such action by the Commissioner and the payment of such charge by such person shall not exempt such person from liability under this or any other enactment for such contravention.

(3) Where a licence is renewed in respect of a reduced area only, the provisions of subsections (1) and (2) shall apply to the area not included in any such renewal.

Special Exclusive Prospecting Licence

30.—(1) The Minister may, in his discretion and on payment of the prescribed fee and notwithstanding anything in this Act, grant a special exclusive prospecting licence over any area and for such period and upon such terms and conditions as he may think fit.

Grant of special exclusive prospecting licence.
43/1960
S. 4 (1).

(2) Application for a special exclusive prospecting licence shall be made in the form prescribed for an exclusive prospecting licence.

31. All the rights, powers and privileges conferred on, and all the obligations and duties imposed on, and all the provisions of this Act applicable to, the holder of an exclusive prospecting licence shall also be conferred on, imposed on, and applicable to, the holder of a special exclusive prospecting licence except where there is a specific variance therewith by reason of any special terms and conditions imposed by the Minister.

Rights, etc., under licence applicable to special licence.

43/1960
S. 4 (1).

PART III. *Mining*

GENERAL

32. It shall not be lawful for any person to mine except in pursuance of and in accordance with the terms and conditions of a mining lease :

When mining lawful.

Provided that where application has been made for a mining lease and pending the grant of such lease the Minister may grant permission in the prescribed form to the applicant

43/1960
S. 4 (1).

to mine on the area applied for on such conditions and subject to such restrictions as the Minister may think fit, and such permission may at any time be withdrawn by the Minister.

Grant of a
mining lease.
43/1960
S. 4 (1).

33.—(1) The Minister may in his discretion grant a mining lease subject to such covenants and conditions (which may include the payment of any financial consideration) as he may think fit to any person who himself holds a prospecting right or a licence, or to any person whose agent is the holder of a prospecting right :

Provided that where the applicant is the holder of a licence the area of the lease applied for shall be wholly within the boundaries of that licence.

(2) Application for a mining lease shall be made in the prescribed form and manner and shall be subject to the prescribed conditions.

43/1960
S. 4 (1).

(3) The Minister may require an applicant for a mining lease to satisfy him that he possesses or commands sufficient working capital to ensure the proper development and carrying on of mining operations on the area applied for, and for the payment of any compensation which may be payable to the owners or occupiers of the land or to the Commissioner in respect of that part of the exclusive economic zone, in respect of which the lease is required, and may require any reports on the area made by prospectors or engineers to be submitted for his information; and in the event of the applicant failing so to satisfy the Minister, the Minister may refuse the application but the applicant may make a new application at any time.

33/1991
S. 22.

(4) A mining lease shall be granted for a specified mineral only :

43/1960
S. 4 (1).

Provided that the Minister may in his discretion include by endorsement on the lease other minerals.

(5) Mining leases shall be of such kinds or classes and shall be subject to such terms or conditions and in

respect of such areas or boundaries as may be prescribed, and special provisions may be prescribed in relation to the persons to whom mining leases may be granted for specified minerals.

34.—(1) A mining lease may be granted for such term, not being more than twenty-five years, as the Minister may think fit:

Duration of lease.
43/1960
S. 4 (1).

Provided that when permission to mine on the area is granted under section 32 pending the grant of the lease, such term shall commence from the date of such permission being given.

(2) If at the expiration of the term originally granted by a mining lease or of any renewal thereof the lessee is carrying on work in a normal and businesslike manner, and the lease is not at that time liable to be revoked under any of the provisions of this Act, and the lessee applies to the Minister in the prescribed manner for a renewal of his lease, then the lessee shall be entitled on payment of the prescribed fee to obtain a renewal of the lease for a further term not exceeding twenty-five years upon the conditions which are then generally applicable to new mining leases; but shall not have the right to any subsequent further renewal of the lease.

43/1960
S. 4 (1).

35.—(1) In so far as it may be necessary for or in connection with his mining operations and subject to the provisions of this Act, a mining lessee shall have, on the lands included in his lease, the following rights—

Rights under a mining lease.
33/1991
S. 22.

(a) the right to enter upon the lands the subject of the

- lease, the exclusive right to prospect or mine on such lands and the right to remove and dispose of the mineral specified in the lease on payment of the prescribed royalty;
- (b) the right to make all necessary excavations thereon and to stack or dump any of the products of mining thereon;
 - (c) the right to erect, construct and maintain houses and buildings for his use and for the use of his agents and servants;
 - (d) the right to erect, construct and maintain such engines, machinery, buildings, workshops and other erections as may be necessary or convenient;
 - (e) [*Deleted by Act 36 of 1995, 3rd Sch.*]
 - (f) [*Deleted by Act 36 of 1995, 3rd Sch.*]
 - (g) the right to construct and maintain all such passageways as may be necessary;
 - (h) the right, subject to the directions of the Conservator of Forests, which directions shall be obtained before the exercise of any right under this paragraph, to cut, take and use any tree.

33/1991
S. 22.

(2) Subject to the provisions of this Act, a mining lessee shall have, in the exclusive economic zone and included in his lease, the right to construct any artificial island, installation or structure and the right to operate, maintain and use such artificial island, installation or structure.

Obligations
under a
mining
lease.

36.—(1) The holder of a mining lease shall, within a period of six months from the date of the lease, commence and thereafter during the currency of the lease adequately carry on to the satisfaction of the Commissioner *bona fide* mining operations on the land included in the lease:

Provided that the Minister may on the written application of the holder suspend the obligation imposed by this subsection for such time as the Minister may think fit. ^{43/1960}
S. 4 (1).

(2) The holder of a mining lease shall during the currency of the lease keep all excavations whether made prior to the grant of the lease or during the currency of the lease secured to the satisfaction of the Commissioner in such manner as to prevent persons or stock inadvertently entering them.

(3) The holder of a mining lease, if not personally residing on the land the subject of the lease or in the opinion of the Commissioner not residing sufficiently near to give continuous supervision to mining operations being conducted on such land, shall at all times have so residing a responsible agent in charge of such operations, and shall forthwith notify the Commissioner of every appointment of such an agent and of any change in such appointment.

(4) The holder of a mining lease shall take all due and proper precautions for the safety of all persons employed by him in mining operations.

(5) The Commissioner may require that the holder of a mining lease shall employ a person who possesses either adequate mining experience or qualifications in mining and that such person shall personally supervise the mining operations under the lease.

37. The holder of a mining lease shall keep to the satisfaction of the Commissioner on the land included in his lease, or at such place in the Island as the Commissioner may approve, full and accurate records and plans of his mining operations and of the calculated ore reserves, and shall render to the Commissioner such returns as may be prescribed.

Record of
mining
operations.

Discovery of minerals to be notified.
39/1958
S. 5.

38. The holder of a mining lease shall forthwith notify the Commissioner of the discovery of any mineral other than that for which the lease was granted.

39. [Repealed by section 2 of Law 21 of 1959]*.

Transfer of a mining lease.

40. The holder of a mining lease, or of any interest therein registered under Part VII, shall not transfer his lease or interest or any part or share thereof or create any interest whatsoever therein without first obtaining the consent in writing of the Minister; and any such purported transfer or creation of any such interest without such prior consent shall have no effect.

43/1960
S. 4 (1).

Surrender of lease.
43/1960
S. 4 (1).
33/1979
S. 2(a), (b).

41.—(1) Subject to subsection (2), a mining lease may with the consent of the Minister and on payment of the prescribed fee be surrendered either in whole or in part at any time after six months' notice in writing has been given to the Commissioner of the intention to surrender, and such surrender shall be in the prescribed form:

Provided that such surrender shall not affect any liability incurred by the holder before such surrender takes effect, and no rent shall be refunded.

33/1979
S. 2(c).

(2) The Minister may, having regard to the circumstances of the case, reduce the period of notice specified in subsection (1), in relation to any mining lease, to such period as he thinks fit.

Revocation of lease.
43/1960
S. 4 (1).

42.—(1) The Minister may revoke a mining lease under this Act in the following cases—

- (a) if the holder, or any attorney, agent or employee of the holder commits any contravention of the provisions of this Act, or of any requirements thereunder, or of any conditions of the lease, and does not repair such contravention within such period, not being less than one month, as the

* But see section 50(5).

Commissioner may allow from the date of the receipt by the holder of a notice in writing from the Commissioner so to do or such extended period as the Commissioner may think fit; or

- (b) if the holder wholly ceases work in, on or under the land the subject of the lease during a continuous period of six months, without the written consent of the Minister :

Provided that such consent shall not unreasonably be withheld.

(2) Such revocation shall not affect any liability already incurred by the holder.

(3) Where the Minister has revoked a mining lease under this section notice of such fact shall be published in the *Gazette* and a copy of such notice shall be sent to the holder at his last known address.

43/1960
S. 4 (1).

43.—(1) Any person who was the holder of a mining lease which has terminated may, within thirty days of such termination apply to the Commissioner for leave to enter the land comprised in the lease and treat or remove any tailings, ore or stone stacked or dumped by him on the surface prior to such termination, and the Commissioner may grant such leave and may fix a time within which such treatment or removal is to be completed.

Treatment
of tailings
after termin-
ation of
lease.

(2) If such leave is not applied for within thirty days or such treatment or removal is not completed within the time fixed any tailings, ore or stone remaining on the land shall become the absolute property of the Crown.

44.—(1) The owner of any plant, machinery, engines or tools on any land the subject of a mining lease, or water right, which has terminated or which are in, on, or over any passageway used in connection therewith, may within three months from the date of such termination, or within such further time as the Commissioner may allow, remove

Owner may
remove
plant, etc.,
on termina-
tion of lease
or water
right.

such plant, machinery, engines or tools, but shall not remove or interfere with any timber in any mine; and if such plant, machinery, engines or tools are not so removed they may be sold by auction by order of the Commissioner at the risk of such owner and the net proceeds of such sale, after deducting the costs thereof and any sum which the person who was the holder of such lease or water right is required by law to pay to Government, shall be retained by the Commissioner and held until applied for by such owner :

Provided that where such plant, machinery, engines and tools cannot be sold by auction they shall become the property of the Crown and may be dealt with and disposed of in such manner as the Minister may direct.

43/1960
S. 4 (1).

(2) Any person who removes or interferes with any timber in a mine other than that which it may be necessary to remove in the course of normal mining operations shall be guilty of an offence against this Act and liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred dollars or to imprisonment with hard labour for a term not exceeding six months or to both fine and imprisonment.

Special
mining
lease.
43/1960
S. 4 (1).

45.—(1) The Minister may, notwithstanding anything in this Act, grant a special mining lease of any land, if he is satisfied that by reason of the difficulties and cost attending the mining in, on or under such land or for any other cause it is necessary that such a lease be granted.

29/1977
S. 3.

(2) The form and duration of any special mining lease granted under subsection (1), the right to surrender that special mining lease and the conditions of surrender, the area to be comprised therein, the surface and subterranean limits of that area, the rent and royalty to be paid, and the provisions to be contained therein in relation to the holder thereof and his agents, employees and contractors, as to their rights of access, rights of entry and rights of way as to mining, prospecting, exploration,

development, transportation, passageways, storage, stacking, dumping, reporting, labour and other matters, shall be such as the Minister may approve but except where there is a specific variation therein, that special mining lease shall be subject in all respects to the provisions of this Act.

46.—(1) Notwithstanding anything in this Act the Minister may grant a special mining lease of any lands for the purpose of mining bauxite or laterite if he is satisfied that all such lands (whether or not they are contiguous)—

Special
mining
lease for
bauxite
or laterite.
43/1960
S. 3.

- (a) are held by the applicant under title in fee simple registered in accordance with the Registration of Titles Act; and
- (b) are so located that they would appear within such number of contiguous co-ordinate squares as the Minister in relation to each application, may consider appropriate.

(2) In any special mining lease granted pursuant to this section the lands included may, in lieu of any other mode of description, be described by reference to the volume and folio and the description of such lands in the Register Book kept under the Registration of Titles Act.

(3) A special mining lease granted pursuant to this section shall be published by the Commissioner in the *Gazette* and (save as otherwise provided in this section, in section 47 or in any condition in such special mining lease) shall be subject in all respects to the provisions of this Act applicable to mining leases.

[The inclusion of this page is authorized by L.N. 96/1998]

Power of
Minister to
approve
additions to
area of
special
mining
lease for
bauxite or
laterite.
43/1960
S. 3.

47.—(1) On the application of the lessee, the Minister, subject to such conditions (which may include the payment of any financial consideration) as he thinks fit, may, by instrument in writing, modify or amend a special mining lease granted pursuant to section 46 by adding thereto lands which fulfil the requirements of paragraphs (a) and (b) of subsection (1) of section 46 but did not do so when application for the special mining lease aforesaid was made.

(2) The modification or amendment of a special mining lease by the addition of lands pursuant to this section shall not affect the duration of the special mining lease as originally determined but all such lands shall be subject to the covenants and conditions contained in such special mining lease.

(3) Any addition to a special mining lease pursuant to this section shall be published by the Commissioner in the *Gazette* and shall be registered in accordance with the provisions of Part VII and for this purpose the instrument in writing issued by the Minister pursuant to subsection (1) shall be deemed to be an instrument creating an interest in a mining lease.

Minister
may
prescribe
minimum
amount of
minerals
to be
extracted.
30/1974
S. 2.

47A.—(1) The Minister may by order require that the holder of a mining lease or a special mining lease shall, during each of such periods as may be prescribed by the order, extract or win not less than such amount as may be so prescribed of the mineral from which mining lease or special mining lease was granted.

(2) An order made under this section may prescribe—

- (a) different periods and amounts for different kinds of minerals;
- (b) different amounts for different holders of mining leases or special mining leases in respect of the same kind of mineral.

(3) Any requirement in an order made under this section shall, while such requirement remains in force, be deemed to be a condition subject to which any holder of a mining lease or special mining lease to whom the requirement relates holds such mining lease or special mining lease.

PART IV. *[Deleted by Act 36 of 1995, 3rd Sch.]*

48. *[Deleted by Act 36 of 1995, 3rd Sch.]*

49. *[Deleted by Act 36 of 1995, 3rd Sch.]*

50. *[Deleted by Act 36 of 1995, 3rd Sch.]*

51. *[Deleted by Act 36 of 1995, 3rd Sch.]*

52. *[Deleted by Act 36 of 1995, 3rd Sch.]*

53. *[Deleted by Act 36 of 1995, 3rd Sch.]*

54. *[Deleted by Act 36 of 1995, 3rd Sch.]*

55. *[Deleted by Act 36 of 1995, 3rd Sch.]*

56. *[Deleted by Act 36 of 1995, 3rd Sch.]*

57. *[Deleted by Act 36 of 1995, 3rd Sch.]*

PART V. *Passageways*

58.—(1) No holder of prospecting or mining rights or of a water right shall at any time, in the exercise of the rights granted under this Act, interfere with or perform any act which may tend to interfere with the exercise of any right of passageway or perform any act which may damage or tend to damage any passageway without first obtaining the consent in writing of the holder of such right of passageway :

**Interference
with
passage-
ways.**

Provided that in the case of public rights of passageway or where the holder of the right of passageway cannot be found by the person requiring his consent, the consent of the Commissioner shall be deemed sufficient consent.

(2) Nothing in this section shall prevent the holder of a licence, mining lease, or water right, or an applicant for a mining lease to whom permission to mine has been granted under section 32 from diverting any public path within the area of his licence, mining lease, or water right, or covered by the application, if such diversion is made entirely within the area held by or applied for by him and is aligned and maintained to the satisfaction of the Commissioner; and on the conclusion of mining or prospecting operations, or operations under the water right, affecting such public path, it shall, if required by the Commissioner, be remade as and where it was before such interference.

Acquisition
of right
of passage-
ways.

59.—(1) If the holder of a licence, or mining lease, or a person having permission under section 32 to mine on an area the subject of an application, is desirous of obtaining a right of passageway over lands outside the area covered by the licence, lease or application, or if the holder of a water right is desirous of obtaining a right of passageway for the purpose of such water right, but is unable to obtain consent to such right, or on such terms as he considers reasonable, from the owner or occupier of the land over which the right is desired, he may apply to a Resident Magistrate for an order granting such right of passageway; and for the purposes of such application the holder of the licence, mining lease or water right, or the person having permission under section 32 to mine, may authorize in writing a land surveyor, together with his servants and workmen, to enter at all reasonable times on any land after giving to the occupier thereof not less than three days' notice of the date upon which such entry is proposed to be made: and any damage done by such surveyor, his servants, or workmen, shall be deemed for the purposes of section 12 to be damage done by such holder or person in the course of prospecting or mining operations.

(2) If on any application under subsection (1) the Resident Magistrate is satisfied—

- (a) that it is necessary either for prospecting or mining operations or for the transportation, treatment, processing or storage of any mineral mined, that the applicant should have the right of passageway; and
- (b) that it is reasonable for such right to be granted over the particular land which is the subject of the application,

he may make an order granting to the applicant the right of passageway and shall determine the compensation to be paid to the owner or occupier of the land over which the right of passageway was granted.

(3) In assessing the compensation payable under this section the Resident Magistrate shall have regard to the disturbance of surface rights and to any damage done, or likely to be done, to the surface of the land and shall include in such assessment the sum due for rental of any land occupied under such right of passageway.

(4) A copy of such order shall be forwarded by the Clerk of Courts to the Commissioner.

(5) Where the Minister revokes, or accepts the surrender of, a mining lease (hereafter in this subsection referred to as “the original lease”) and grants instead thereof another mining lease (hereafter in this subsection referred to as “the substituted lease”) to the holder of the original lease or his assignee, any right of passageway granted under this section in respect of the original lease shall apply in respect of the substituted lease—

29/1977
S. 4.

- (a) from the commencement of the term of the substituted lease until the date on which the original lease would, but for the revocation or surrender thereof, have expired; and
- (b) to the same extent and for the same purposes as it applied in respect of the original lease.

Duration of
right to
passage-
ways.

60. Any right of passageway acquired under section 59 shall expire when the licence, mining lease or water right is terminated, or the permission to mine is determined, as the case may be, and thereupon the holder shall comply with the provisions of sections 29 and 44 in so far as they are applicable.

Use of
mining road.

61. The holder of a right of passageway who has constructed a road under such right shall not hinder or prevent any person over whose land such right of passageway exists from having access to or using such road :

Provided that—

- (a) where any such person uses such road in such a manner as, in the opinion of the holder, to do appreciable damage thereto, or to enhance substantially the cost of upkeep thereof, the holder may call upon such user to contribute to the cost of upkeep;
- (b) where any such person uses such road in a manner as to interfere materially with the free use and enjoyment of such road by the holder, such holder may call upon such user to limit his use of the road so as to cease such interference.

PART VI. *Inspections and Accidents*

General
inspections.

62.—(1) The Commissioner, any labour officer (as defined in the Labour Officers (Powers) Act), appointed by the Commissioner, a medical officer or any other person appointed by the Commissioner, at all reasonable times by day or night but so as not unreasonably to impede or obstruct the work in progress, may—

- (i) enter, inspect and examine any land on which prospecting or mining operations are being conducted, or which is the subject of any prospecting or mining rights, water right or right of passageway;
- (ii) examine into and make enquiry respecting the condition and ventilation of any mine and any

building connected with prospecting or mining operations or any water right or passageway and all matters relating to the safety, welfare and health of the persons employed therein;

- (iii) inspect and examine the condition of the external parts of the machinery used upon or in any mine or for the purposes of any water right or passageway, and the condition of all plant and works;
- (iv) inspect the storage of explosives upon any mine and direct in what manner they shall be stored;
- (v) exercise all powers necessary for carrying this Act into effect.

(2) The Commissioner or a person appointed by him for the purpose may call for, examine and take extracts from all books, accounts, vouchers, documents and plans relating to prospecting or mining operations or to any minerals obtained by such operations and examine and take samples of any material being mined.

63.—(1) If any officer specified in section 62 finds in any respect any mine or any matter, thing or practice in or connected with prospecting or mining operations or any water right or passageway to be dangerous or defective so as in his opinion to threaten or tend to the bodily injury, or to be detrimental to the welfare or health, of any person, or to the injury of stock, he shall give notice in writing thereof to the holder of the prospecting or mining right, water right or right of passageway, or his agent in charge of the operations or mine, and shall state in such notice the particulars in which he considers such mine, matter, thing or practice to be dangerous or defective, and shall require it to be remedied, either forthwith or within such time as he may specify, and he may order work to be suspended until the danger is removed to his satisfaction.

Power to
remedy
dangerous
practice, etc.

(2) On receipt of such notice the holder of the prospecting or mining right, water right or right of passageway, or his agent, shall comply therewith, or, if such notice

was given by any officer other than the Commissioner and he objects thereto, he shall immediately state his objection in writing to the Commissioner.

(3) Where the holder of the prospecting or mining right, water right or right of passageway, or his agent, states his objection to the Commissioner under subsection (2) he shall cease to use the mine, or part thereof, machine, plant, matter, thing or practice as to which such notice has been given, and shall withdraw all men from the danger indicated by such officer until such time as the matter is determined by the Commissioner:

Provided that if, in the opinion of the officer giving such notice, there is no immediate danger, such officer may allow work to proceed during the time the matter is being determined, under such restrictions and upon such conditions to ensure safety as he may consider necessary and may specify in writing.

Penalty on failure to comply with notice.

64. If the holder of any prospecting or mining right, water right or right of passageway, or his agent, fails to comply with the requisition of any notice given under section 63, or with the decision of the Commissioner when an objection has been determined, he shall be guilty of an offence against this Act and liable on summary conviction before a Resident Magistrate to a fine not exceeding two thousand dollars, or to imprisonment with hard labour for a term not exceeding one year.

Proceedings in case of accident.

65.—(1) Whenever an accident occurs in connection with prospecting or mining operations causing or resulting in loss of life or serious injury to any person, the person in charge of the operations shall report in writing with the least possible delay the facts of the matter so far as they are known to him to the Commissioner.

(2) In the event of such accident the Commissioner shall hold an enquiry into the cause thereof and shall record a finding.

(3) The Commissioner shall, for the purpose of an enquiry under subsection (2), have the powers of a Resident Magistrate to summon witnesses, to call for the production of books and documents and to examine witnesses and parties concerned on oath.

(4) Any person summoned to attend or to produce books or documents under this section, and refusing or neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the Commissioner, shall be guilty of an offence against this Act and liable on summary conviction before a Resident Magistrate to a fine not exceeding forty dollars :

Provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such enquiry, be entitled to the same privileges to which he would be entitled if giving evidence before a court of justice.

(5) Any witness attending at the request of or upon summons by the Commissioner holding such enquiry shall, subject to any order made by such officer, be entitled to like expenses as if summoned to attend the Resident Magistrate's Court.

PART VII. *Registration*

66. All prospecting rights, licences, mining leases and water rights shall be registered in the office of the Commissioner.

Licences,
etc., to be
registered.

67.—(1) When any exclusive prospecting licence, mining lease or water right is transferred to, vests in, or devolves upon any person, such person shall within thirty days thereafter, or of the date of approval where approval is required, apply to register such transfer, vesting or devolution in the office of the Commissioner.

Transfers of
interests in
licences, etc.,
to be regis-
tered.

(2) Where any interest in an exclusive prospecting licence, mining lease or water right with the written consent of the Minister, as the case may be, has been created,

43/1960
S. 4 (1).

renewed or determined, the person in whose favour such interest has been created, renewed or determined, shall apply to register the instrument creating, renewing or determining such interest within thirty days of the date of the execution thereof in the office of the Commissioner.

(3) The Commissioner for good cause shown may extend the period for the making of an application for the registration under this section.

Registration
not to cure
defect.

68. Registration shall not cure any defect in any document registered or confer upon it any effect or validity which it would not otherwise have had.

Searches of
register.

69. The Commissioner shall, on payment of the prescribed fees, allow searches in a register at all reasonable times and shall give copies of or extracts from any entry in a register.

Mining
leases, etc.,
to be regis-
tered or
recorded.

70. The Commissioner shall forward a copy of every mining lease and water right, and of any instrument transferring, renewing, creating or determining such lease or water right or any interest therein, which is registered in his office and of any order made under section 59—

- (a) in the case of land under the Registration of Titles Act, to the Registrar of Titles who shall register such lease or water right in accordance with the provisions of that Act;
- (b) in the case of land not under that Act to the Deputy Keeper of the Records who shall record such lease or water right;
- (c) in the case of a mining lease for mining in the exclusive economic zone, to the Permanent Secretary in the Ministry of Foreign Affairs who shall record such lease.

33/1991
S. 22.

PART VIII. *Possession and Purchase of Minerals*

Interpreta-
tion for
this Part.
43/1960
S. 4 (1).

71. In this Part—
“minerals” means minerals to which the Minister may by order apply the provisions of this Part; and any such order may specify the stage of processing at which such provisions shall cease to apply;

“licensed mineral dealer” means a person licensed under this Part.

72. No person shall possess any mineral unless, in respect of the minerals of which he is in possession—

Possession
of minerals.

- (a) he is a licensed mineral dealer; or
- (b) he is the holder of a prospecting right or an exclusive prospecting licence; or
- (c) he is the holder of a mining lease or is a person to whom permission to mine has been granted under section 32; or
- (d) he is a person to whom a permit to possess small quantities of a mineral has been granted by the Commissioner under section 76 and such possession is in accordance with the conditions of the permit; or
- (e) he is the duly authorized employee of any person specified in paragraphs (a) to (d).

73.—(1) No person shall sell any minerals to any person in the Island other than a licensed mineral dealer or a person to whom a permit has been granted under section 76.

Sale and
purchase of
minerals.

(2) No person shall buy any minerals unless he is a licensed mineral dealer or a person to whom a permit has been granted under section 76.

74.—(1) The Commissioner may grant to any person a mineral dealer’s licence in the prescribed form and on payment of the prescribed fee, and subject to such conditions as he may think fit.

Mineral
dealer’s
licence.

(2) Every mineral dealer’s licence shall expire on the 31st December in the year in which the licence is granted, and shall not be transferred without the consent of the Commissioner endorsed on such licence.

Obligations
of licensed
mineral
dealer.

75.—(1) Every licensed mineral dealer shall be liable for the due payment to the Commissioner of all royalties due on any minerals bought, received or exported by him, and if so required by the Commissioner shall give security for the due payment of all such royalties; and, subject to agreement to the contrary, the licensed mineral dealer who pays any royalty on minerals may recover or retain the amount from the person on whose behalf he sold or from whom he received such mineral.

(2) Every licensed mineral dealer shall—

- (a) keep a register showing all purchases and sales of minerals made by him, the nature and weight of such minerals, the date of each transaction, the name and address of the vendor and his title to be in possession of such minerals, and the name and address of the purchaser or consignee to whom such minerals are sold or consigned; and
- (b) cause every transaction to be entered in such register within twenty-four hours of being made; and
- (c) produce and exhibit such register to the Commissioner, or to any constable whenever so required; and
- (d) tender to the Commissioner such returns as the Commissioner may require.

(3) A licensed mineral dealer shall not deal in or be in possession of any minerals except in accordance with the conditions of his licence.

Permit for
small
quantity of
minerals.

76. The Commissioner may grant to any person a permit to possess or buy small quantities of minerals subject to such conditions as may be specified in the permit.

This Part
not to apply
to any
Government
department.

77. Nothing in this Part shall apply to or restrict the operations of any Government department.

[The inclusion of this page is authorized by L.N. 96/1998]

PART IX. *Miscellaneous*

78. Before granting a mining lease, or water right, the Minister may require the area of the land to be included or occupied to be surveyed by a surveyor in the Survey Department or by a surveyor approved by the Director of Surveys and the cost of such survey shall be paid by the applicant for such lease or right.

Survey.
43/1960
S. 4 (1).

79. The lateral limits of any exclusive prospecting licence, or mining lease, shall be vertical planes passing through the sides by which the licence or lease is bounded :

Lateral
limits.

Provided that the Minister may grant a special lease under section 45 of a subterranean area larger than the limits of the surface of land comprised in such lease; and in such case so much of the surface lying above the subterranean area of such lease as is not included in the lease shall be excluded from any prospecting or mining operations whatsoever, except in so far as the holder thereof may be permitted, in the case of Crown Lands, by the Minister, and in the case of lands other than Crown Lands by the owner thereof, to enter upon any part of the surface line above the area of his lease but not included in the surface limits of such lease for the purpose of constructing thereon such works, plant and buildings, as may be necessary for the proper working of the lease and on payment of such rent and such compensation for the use of such surface as the Commissioner or owner, as the case may be, may determine.

43/1960
S. 4 (1).

80.- (1) Subject to the provisions of subsection (2), in the event of any areas subject to licences or mining leases being found to overlap, the area overlapping shall be considered to be within the area of the licence or lease first granted and no compensation shall be payable in respect thereof to the holder of the licence or lease subsequently granted.

Overlapping
areas.
38/1957
S. 4 (a)
& (b).
21/1959
S. 3.

(2) The provisions of subsection (1) shall not apply where the overlapping areas are subject to—

38/1957
S. 4 (c).

- (a) two or more licences; or
- (b) two or more mining leases; or
- (c) one or more mining leases and one or more licences,

if no two such licences or mining leases, or no such mining lease and licence, as the case may be, are for the same mineral.

Priority of application.

81. If application for a licence or mining lease is received for the same area or for overlapping areas from two or more persons, that application which is first received in order and in proper form shall have priority; and the decision of the Commissioner on any question of priority shall be final.

Rights subsequently granted.

82. The Governor-General may without liability for payment of compensation to any person and notwithstanding the previous grant of any prospecting or mining rights make any grant of the land (not being a licence or mining lease) comprised in such rights which he is empowered by law to make, and the person to whom any such grant is made shall be entitled to obtain compensation as provided in section 12 from the holder of a prospecting right, licence or mining lease, by reason of the exercise by such holder of the rights conferred upon him by his right, licence, or mining lease, but only in respect of any disturbance or acts committed by such holder subsequent to the date of such grant to such person.

Power to take clay, etc.
43/1960
S. 5.

83. The Minister responsible for public works may at any time take from any land comprised in any licence or mining lease, any clay, gravel, stone, brushwood, timber or other materials required for the construction of roads, buildings or other public works, but compensation shall be payable to the holder of such licence, or mining lease, in respect

of any damage done to any passageways, works, buildings or plant belonging to the holder as may be agreed or determined in the manner provided in subsection (2) of section 14.

84.—(1) No person shall export any minerals from the Island unless he holds a certificate granted by the Commissioner that all prescribed royalties thereon have been paid for, secured to the satisfaction of the Commissioner or that no royalties are payable; and there shall be charged for such certificate such fee as may be prescribed.

Restrictions
on export
of minerals.
20/1974
S. 2 (a).

(2) Where a person neglects to furnish any prescribed information or extracts or wins, during any period prescribed by an order made under section 47A, less than the amount of mineral prescribed by the order, the Minister may cause that person to be served with notice (in this section referred to as an “embargo notice”) that as from such date as may be specified in the notice the provisions of subsection (3) shall have effect in relation to that person.

20/1974
S. 2 (b).
30/1974
S. 3.

(3) Where an embargo notice has been served on any person pursuant to subsection (2) the following provisions shall apply in relation to him—

- (a) he shall not export or deliver to any other person for export any alumina, bauxite or other mineral unless he does so pursuant to and in accordance with a permit granted in that behalf by the Minister in his discretion; and any person who contravenes the foregoing provisions of this paragraph shall be guilty of an offence and liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years;
- (b) after the expiration of such period as may be specified in the embargo notice he shall, in the event of his being in default as respects any requirement to furnish prescribed information, be liable

on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding ten thousand dollars for each day (not being a day of the period specified as aforesaid) during which his default continues, or to a term of imprisonment not exceeding two years, or to both such fine and imprisonment;

- (c) in proceedings against any person for an offence pursuant to paragraph (b) an averment in any process that he was able to furnish the prescribed information in question shall, unless the contrary is proved, be sufficient evidence that he was so able.

(4) The Minister may by further notice in writing revoke an embargo notice at any time if he thinks fit; so, however, that any such revocation shall not prejudice any criminal liability incurred while the embargo notice was in force or effect the enforcement of that liability.

Export of
radio-active
mineral
restricted.
39/1958
S. 6.

85. Notwithstanding anything to the contrary no person shall export, or attempt to export, from Jamaica any radio-active mineral except under and in accordance with a permit granted by the Minister in that behalf.

Report of
discovery
of radio-
active
mineral.
39/1958
S. 6.

86. If any radio-active mineral is discovered on any land the person by whom such mineral is discovered shall forthwith report such discovery to the Commissioner, and no such mineral shall be removed from such land without the consent of the Commissioner.

Recovery of
rents, etc.

87. Rents, fees and royalties payable under this Act or reserved by any mining lease may be recovered, without prejudice to any other method of recovery, in accordance with the provisions of the Tax Collection Act.

88. No action or other legal proceedings whatsoever, civil or criminal, shall be instituted in any court of law against the Commissioner or other officer or any person acting under his authority for or on account of or in respect of anything done or purported to be done in good faith in the execution of his duty under this Act.

No action against officer for acts done in execution of duties.

89. Where an enquiry or examination of any area is by this Act required to be made by any Government officer such reasonable charges as may be determined by the Commissioner may be made.

Charges for enquiry by Government officers.

90. Any person who represents that he holds any exclusive prospecting licence or mining lease and thereby induces or attempts to induce any person to buy any interest in such licence or lease or to invest capital in any company or syndicate connected therewith, before he has obtained the grant of such licence or lease, or when such licence or lease has been forfeited, revoked or determined, as the case may be, shall be liable to forfeit any right to the grant of such licence or lease where such has been applied for and if he is already the holder of a prospecting right, licence, or mining lease shall be liable to have such right, licence, or lease revoked:

Fraudulent representation.

Provided that nothing in this section shall relieve any person from liability to civil action or a criminal prosecution in respect of such representation.

91. Any person who in connection with any return, statement or document in respect of which information is or may be required to be given under this Act wilfully or recklessly gives false or misleading information or makes a false or misleading statement, whether oral or in writing, shall be guilty of an offence against this Act.

False or misleading information.

92. Any person who places or deposits or is accessory to the placing or depositing of any minerals in any place with

Salting.

[The inclusion of this page is authorized by L.N. 96/1998]

the intent to mislead any person as to the payable nature of the minerals naturally occurring in such place or who mixes or causes to be mixed with any ore, any valuable mineral or substance whatsoever that will increase the value or in any way change the nature of such ore with intent to deceive or defraud shall be guilty of an offence against this Act.

Placing mineral on premises with intent.

93. Any person who places any mineral in the possession of or on the premises of any other person, with intent that such other person be convicted of any offence against this Act shall himself be guilty of an offence against this Act.

Obstructing person in execution of duty.

94. Any person who wilfully obstructs, hinders, assaults or resists any other person in the exercise or execution of any right, power or duty under this Act, or wilfully disobeys an order of any such other person, other than an order for the payment of money, shall be guilty of an offence against this Act and liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred dollars or to imprisonment with hard labour for a period not exceeding six months or to both such fine and imprisonment.

Interference with mining or boundary marks, etc.

95. Any person who—

- (a) interferes with any prospecting or mining operations authorized by or under this Act;
- (b) obstructs any person in the exercise of any right conferred by or under this Act;
- (c) interferes with any machinery, plant, works or property established on, in, under or over any land in exercise of a right conferred by or under this Act; or
- (d) without lawful authority wilfully breaks, defaces or removes, or in any other way interferes with any boundary mark, beacon or post erected for any of the purposes of this Act,

shall be guilty of an offence against this Act and liable on summary conviction before a Resident Magistrate to a fine

not exceeding two hundred dollars or to imprisonment with hard labour for a term not exceeding six months or to both such fine and imprisonment.

96.—(1) Any Justice who has reason to suspect that any mineral with respect to which an offence against this Act has been committed is concealed in any place may issue a warrant authorizing any constable with his assistants at any time within one month from the date of the warrant to enter and search that place and all buildings and things therein using such force as may be necessary and to seize any minerals and arrest any person found therein.

Search
warrants.

(2) Any person arrested and mineral seized under such a warrant shall as soon as possible be brought before a Justice or Resident Magistrate to be dealt with according to law.

97. Any constable may without warrant arrest any person whom he finds committing, or whom he reasonably suspects of having committed, an offence against this Act, and such person arrested shall be taken, with as little delay as possible, before a Justice or Resident Magistrate to be searched and dealt with according to law.

Power of
arrest.

98. Any person who contravenes any of the provisions of this Act, or commits any offence against this Act, for which contravention or offence a penalty is not expressly provided shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one thousand dollars or to imprisonment with hard labour for a term not exceeding one year, or to both such fine and imprisonment.

General
penalty.

99.—(1) Notwithstanding anything in any Law, enactment or agreement, the Minister may make regulations generally for giving effect to the provisions of this Act, and accordingly nothing in any such law, enactment or agreement shall be construed as derogating from regulations

Regulations.
30/1974
S. 4 (a).

made under this Act or any obligations arising under such regulations, or give rise to any cause of action in respect of any act done in accordance with this Act or regulations made thereunder.

(2) Without prejudice to the generality of the power conferred by subsection (1), regulations made under that subsection may provide for—

- (a) the manner of application for, and the form and conditions of, and the renewal, transfer, surrender, revocation or registration of rights under any licence, mining lease or water right;
- (b) the fees, rents and payments to be paid and deposits to be made in respect of any prospecting right, licence, mining lease, or water right, or any renewal, transfer, surrender, or revocation thereof, or any creation of an interest therein;
- (c) the manner in which areas and boundaries shall be marked, beaconed and surveyed, and the removal of obsolete beacons;
- (d) the construction and use of passageways;
- (e) the cutting down and use of timber for the purposes of carrying on prospecting and mining operations;
- (f) the safety, welfare, health and housing conditions of persons employed in mines, and the carrying on of prospecting or mining operations in a safe, sanitary, proper and effectual manner;
- (g) the restriction or prohibition of the employment of children in mining operations;
- (h) the possession and disposal of and dealing in the products of mining;
- (i) the registration of prospecting rights, licences, mining leases and the registration of instruments under which any right or interest in licences, mining

leases or water rights is transferred, surrendered or otherwise dealt in and the fees payable on such registration;

- (j) the agents and the representatives to be appointed, the returns to be rendered and the nature of the records, accounts, books and plans to be kept by the holders of prospecting or mining rights, and the furnishing by such holders of any information required by the Minister or by the Commissioner; 20/1974
S. 3 (a).
- (k) the rates of royalties to be paid to Government, the method of calculation of the amount of such royalties, and the manner and time of payment thereof;
- (l) the disposal of any poisonous or noxious products, the result of mining operations;
- (m) the working obligations under a licence or mining lease and the amalgamation of working obligations under two or more licences or mining leases held by the same holder;
- (n) the furnishing of such other information as the Minister may from time to time require to enable him to make, review, or confirm any arrangements or agreements he considers necessary for the encouragement, expansion and development of mining and of the bauxite and alumina industry. 20/1974
S. 3 (c).

(3) Regulations made under this section may provide that those regulations shall come into force on such date, which may be earlier than the date of publication of those regulations in the *Gazette* but shall not be earlier than the 1st day of January, 1974, as shall be specified in those regulations. 30/1974
S. 4 (b).

100.—(1) It shall not be lawful for any person to prospect or mine for phosphates except in accordance with the provisions of this section.

Provisions
applicable to
gypsum and
phosphates.
16/1983.
2nd Sch.

(2) Subject to the provisions of this section, the owner of any land may grant to any person the right to prospect or mine phosphates on such land.

(3) The provisions of sections 2, 5, 6, 8, 9, 14, 24, 25, 37, 38, 88, 89, 91, 92, 94, 95, 96, 97, 98 and 99, and the provisions of Parts IV, V, VI, and VII shall, so far as they are applicable, apply to prospecting or mining for phosphates as if phosphates were included in the definition of minerals and as if the person having the right under subsection (2) to prospect or mine therefor were the holder of prospecting or mining rights.

(4) The Commissioner may require the person having the right under subsection (2) to prospect or mine phosphates to comply with such provisions of any regulations made under section 99 as he may specify by notice in writing.

101. The Minister may from time to time by order alter, vary or in any manner amend the Schedule.

Power of
Minister to
amend
Schedule.
39/1958
S. 6.
43/1960
S. 4 (1).

SCHEDULE (Sections 2 and 101)

Radio-active Minerals

39/1958
S. 10.

1. Any mineral containing uranium or thorium and, in particular and without prejudice to the generality of this paragraph, the substances hereinafter set out in this Schedule.
2. Minerals of the pitchblende group, including pitchblende, uraninite, ulrichite, broeggerite, cleveite and related mineral species.
3. Secondary uranium minerals including torbernite, autunite, uranite, rutherfordine, uranophane, gummite, thorogummite, uranocircite, kasolite, becquerelite, and other silicates, hydrates, carbonates, phosphates or arsenates of uranium.
4. Carnotite, tyuyamunite, and related uranium-bearing vanadate ores.
5. Uranium-bearing niobate-titanate-tantalate ores, including euxenite, polycrase, blomstrandine, priorite, samarskite, fergusonite, betafite and related minerals.
6. Monazite, thorite, and thorianite.