

3. The Mining Act, 2003.

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3. THE MINING ACT, 2003.

An Act to repeal and replace the Mining Act, Cap. 148, with a new legislation on mining and mineral development which conforms, and otherwise gives effect, to the relevant provisions of the Constitution; to vest the ownership and control of all minerals in Uganda in the Government; to provide for the acquisition of mineral rights; and to provide for other related matters.

DATE OF ASSENT: 30th July, 2003.

Dale of commencement: See Section 1(2).

BE IT ENACTED by Parliament as follows:

Part I: Preliminary.

1. Short title and commencement

(1) This Act may be cited as the Mining Act, 2003.

(2) This Act shall come into force on a day to be appointed by the Minister by statutory instrument and different days may be appointed for the commencement of different provisions.

2. Interpretation

In this Act, unless the context otherwise requires -

"authorised officer" means a public officer to whom the Commissioner has delegated any of his or her powers, duties and functions under section 13 of this Act;

"building mineral" means rock, clay, gravel, laterite, murrum, sand, sandstone and slate, which is mined by a person from land owned or lawfully occupied by him or her for his or her own domestic use in Uganda for building, or mined by a person for his or her own use for road-making, and includes such other minerals as the Minister may from time to time declare by notice published in the Gazette, to be building minerals;

"capital" means all cash contributions, plant, machinery, equipment, buildings, spare parts, raw materials and other business assets other than goodwill;

"company" means a body corporate formed or registered under the Companies Act, Cap. 110;

"Commissioner" means the Commissioner for the Geological Survey and Mines Department appointed under section 13 of this Act;

"currency point" means the value of a currency point specified in the First Schedule to this Act;

"customs officer" has the meaning assigned to it under the Customs Management Act, Cap 337;

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"environmental impact audit" has the meaning assigned to it under the National Environment Act, Cap. 153;

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"environmental impact assessment" has the meaning assigned to it under the National Environment Act, Cap. 153;

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"environmental impact statement" has the meaning assigned to it under the National Environment Act, Cap. 153:

"excavation" means any trench, pit, shaft or other open working;

"exploration area" means the land covered by or acquired under an exploration licence;

"exploration licence" means an exploration licence acquired under the provisions of Part III of this Act;

"explore" means to define the extent and determine the economic value of a mineral deposit;

"Government" means the Government of the Republic of Uganda;

"holder" means a person to whom a licence is granted under this Act, and includes every

person to whom that licence is lawfully transferred or assigned;

"in default" means in breach of any of the provisions of this Act, the regulations, any condition of a licence or any provision of a mining agreement;

"industrial minerals" means barite, rock, clay, dolomite, feldspar, granite, gravel, gypsum, laterite, limestone, mica, magnesite, marble, phosphate rock, sand, sandstone, slate and talc, which is commercially mined by a person for use in Uganda or industrially processed into finished or semi-finished products, and includes such other minerals as the Minister may from time to time declare by notice published in the Gazette, to be industrial minerals;

"Inspector of Mines" includes the Principal Inspector of Mines, Senior Inspector of Mines and any person authorised by the Commissioner to act in any of those capacities;

"land" includes land beneath any water, the seabed and sub-soil of such land;

"location licence" means a location licence acquired under the provisions of Part IV of this Act for small scale operations;

"location licence area" means land subject of a location licence;

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"medical officer" has the meaning assigned to it under the Public Health Act;

"mine" includes any place, excavation or working where any operation connected with mining is carried on, together with all buildings, premises, erections and appliances used for or in connection with such operation, and includes a quarry where building minerals and industrial minerals are mined;

"mining" or "to mine" means intentionally to dig or excavate minerals and includes any operation directly or indirectly necessary for, or incidental to, the winning of minerals;

"mineral" means any substance, whether in solid, liquid or gaseous form occurring naturally in or on the earth, formed by or subject to a geological process, but does not include petroleum, as defined in the Petroleum (Exploration and Production) Cap 150, water or building mineral;

"mineral agreement" means an agreement entered into by the Minister relating to the matters specified in section 18 of this Act;

"mineral deposit" means a mass of naturally occurring mineral material of economic value;

"mineral right" means a prospecting licence, an exploration licence, a retention licence, a mining lease or location licence;

"mineral processing" means procedures, such as dry and wet crushing and grinding of ore or other products containing minerals, to raise concentration of the substance mined;

"mineral product" means a substance derived from an ore by mining or processing;

"mining area" means land subject to a mining lease;

"mining lease" means a mining lease acquired under the provisions of Part III of this Act;

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

"Minister" means the Minister responsible for mineral development;

"ore" means a natural aggregate of one or more minerals, which may be mined and sold at a value or from which some part may be profitably extracted;

"ore body" means a continuous well defined mass of material of sufficient ore content to make extraction economically feasible;

"passageway" means any highway, road, street, footpath, or installation of any railway, tramway, wire-line, cableway, chute, pipe, sewer, drain, tunnel, shaft, fluming or watercourse, and includes any right of way, easement or hereditament;

"person" includes an individual, a company or other corporate entity or an association or body of persons whether incorporated or unincorporated;

"precious minerals" include -

(i) precious stones, namely agate, amber, amethyst, cat's eye, chrysolite, diamond, emerald, garnet, opal, ruby, sapphire, turquoise and all other substances of a similar nature to any of them; and

(ii) precious metals, namely gold, silver, platinum, indium, osmium, palladium, ruthenium, rhodium, or any other rare earth elements;

"programme of exploration operations" means a programme of exploration operations prepared by a holder and approved by the Commissioner on the granting of an exploration licence and includes any amendments to such programme made pursuant to the provisions of this Act;

"programme of development and mining operations" means a programme of development and mining operations prepared by a holder and approved by the Commissioner on the granting of a mining lease and includes any amendments to such program made in pursuance to this Act;

"prospect" means intentionally to search for minerals and mineral deposits and includes any operations to test the mineral bearing qualities of any land or mining area;

"prospecting licence" means a prospecting licence acquired under the provisions of Part III of this Act;

"public officer" has the meaning assigned to it under the Constitution;

"registered holder", in relation to a mineral right, means the person whose name is for the time being recorded as the holder of a mineral right pursuant to section 92 of this Act;

"regulations" means regulations made under this Act;

"retention area" means land subject to a retention licence;

"retention licence" means a retention licence acquired under Part III of this Act;

"small-scale operations" means prospecting or mining operations which do not involve expenditure in excess of five hundred currency points or the use of specialised technology;

"termination" means the lapse of a mineral right by its expiry, surrender or cancellation;

"working for profit" means producing a mineral product for use or sale.

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"wetland" has the meaning assigned to it under the National Environment Act, Cap. 153;

3. Ownership of minerals

Subject to any right granted to any person under this Act, the entire property in and control of all minerals in, on or under, any land or waters in Uganda are and shall be vested in the Government, notwithstanding any right of ownership of or by any person in relation to any land in, on or under which any such minerals are found.

4. Acquisition of mineral rights

(1) Subject to the provisions of this Act, a person may acquire the right to search for, retain, mine and dispose of any mineral in Uganda by acquiring such right under and in accordance with the provisions of this Act.

(2) No person may explore or prospect for, or retain or mine or dispose of any mineral in Uganda except under, and in accordance with, a licence issued under this Act.

(3) Any person who contravenes subsection (2) of this section commits an offence and is liable on conviction -

(a) in the case of an individual, to a fine not exceeding twenty five currency points, or imprisonment for a term not exceeding one year or both; and

(b) in the case of a body corporate, to a fine not exceeding fifty currency points.

(4) Where a person is convicted of an offence under subsection (3) of this section, the court before which such person is convicted may -

(a) order the forfeiture of all minerals unlawfully obtained by such person;

(b) and in the event that the minerals cannot for any reason be forfeited, order the forfeiture of such sums of money as the court shall assess as the reasonable value of the minerals; and any minerals or their value so forfeited shall become the property of the Government and shall be disposed of as the Commissioner may direct.

(5) Notwithstanding the provisions of subsection (2) of this section, the

Commissioner may authorise any person to undertake exploration or prospecting operations without a mineral right in the course of scientific investigation into the geological or mineral resources of Uganda, subject to such conditions as the Commissioner may determine.

5. Restriction on acquisition of mineral right

No mineral right shall be granted to or held by -

(a) an individual who -

(i) is not a citizen of Uganda;

(ii) is under the age of 18 years;

(iii) is or becomes an undischarged bankrupt, as a result of having been adjudged or otherwise declared bankrupt under any written law; or

(b) a company -

(i) which has not been registered in Uganda or incorporated under the Companies Act; or

(ii) which is in liquidation, except where the liquidation is part of a scheme for the reconstruction or amalgamation of such company.

6. Transfer of mineral right

(1) A prospecting licence shall not be transferable.

(2) Without prejudice to subsection (1) of this section, the transfer of any other type of mineral right or of a share of that right shall be void and of no legal effect unless approved by the Commissioner.

(3) An application for the approval of the transfer of a mineral right of a type referred to in subsection (2) of this section shall be submitted to the Commissioner and shall contain such details as may be prescribed, together with such other information as the Commissioner may require.

(4) The Commissioner may give his or her approval for the transfer referred to in subsection (3) of this section where the proposed transferee of the mineral right is a person that controls or is controlled by, or is under joint or common control with, the holder of the mineral right; however, such transferee is not disqualified under any provisions of this Act from holding the mineral right sought to be transferred.

(5) Where the Commissioner has given his or her approval to the transfer of a mineral right under subsection (4) of this section, the transferee of such mineral right, unless otherwise exempted by the relevant transfer agreement, shall assume and be jointly and severally responsible for all rights, liabilities and duties of the transferor under the mineral right prior to the transfer.

7. Form and content of mineral right

(1) A mineral right shall be granted by the Commissioner as provided

for in this Act and shall be in such form as may be prescribed.

(2) A mineral right shall specify -

- (a) the name and address of the holder of the mineral right;
- (b) the date of the grant of the mineral right and the period for which it is granted;
- (c) a description of the area over which it is granted;
- (d) the mineral or minerals in respect of which it is granted;
and
- (e) the conditions on which it is granted.

8. Types of mineral right.

Prospecting, exploration and mining shall be carried out only under a prospecting licence, an exploration licence, a retention licence, a mining lease or a location licence as the case may be.

9. Application for mineral right

An application for a mineral right shall be made to the Commissioner and shall be in such form and contain such information as may be prescribed.

10. Further information in support of application

The Commissioner may, for the purpose of, and prior to, making a decision whether or not to grant an application for a mineral right -

- (a) request the applicant to furnish such further relevant information as he or she considers necessary; and
- (b) make such consultation or investigation as he or she considers necessary.

11. Compliance with other laws, etc

Where any act is prohibited or otherwise regulated by any written law other than this Act, nothing in this Act shall be construed as authorising the holder of a mineral right to do any such act, otherwise than in accordance with that written law.

12. Security for compliance

(1) The Commissioner may, from time to time, make arrangements as appear appropriate (o him or her to ensure that the holder of a mineral right complies with this Act and in particular shall require guarantees in respect of that compliance.

(2) Failure to provide the guarantees required under subsection (1) of this section shall constitute a contravention of this Act for the purposes of section 90 of this Act.

Part II: Administration.

13. Commissioner for Geological Survey and Mines Department.

(1) Subject to the Constitution and any other laws regulating or providing for the appointment of public officers, the President shall appoint a Commissioner for the Geological Survey and Mines Department and such other public officers as may be necessary for carrying into effect the provisions of this Act.

(2) The Commissioner may delegate or assign to any public officer appointed under subsection (1) of this section, any or all of his or her powers, duties and functions under this Act, but in so doing the Commissioner shall not be taken to have divested himself or herself of the right to exercise any of those powers, duties and functions.

14. Powers of Commissioner, etc

(1) The Commissioner, an Inspector of Mines or an authorised officer may, at all reasonable times, enter upon any land, prospecting area, exploration area, mining area or mine, or any factory or premises where minerals are kept or processed on any such land, prospecting area, exploration area, mining area or mine, for the purpose of -

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

(b) ascertaining whether the provisions of this Act are being complied with;

(c) taking soil samples or specimen of rocks, ore concentrates, tailings or minerals situated upon such land or area, premises, workings or factory for the purpose of examination or assay;

(d) breaking up the surface of any such land to ascertain the rocks or minerals within or under the land;

(e) digging up any land and fixing any post, stone, mark or object to be used in the survey of such land;

(f) examining books of accounts, vouchers, documents or records of any kind required to be kept under this Act or the regulations, or the terms and conditions of any mineral right, and taking copies of such books of account, vouchers, documents or records; or

(g) obtaining such other information as he or she may deem necessary.

(2) The Commissioner, Inspector of Mines or an authorised officer may, with respect to the health and safety of persons employed by a holder of a mineral right, issue written directions to and impose restrictions on such holder or any person so employed.

(3) In exercising his or her powers under subsection (1) of this section, the Commissioner, Inspector of Mines or an authorised officer shall

ensure that as little damage and inconvenience as possible is caused to the owner or lawful occupier of the land on which the powers are exercised.

15. Obstruction of Commissioner, etc.

Any person who, without reasonable excuse, hinders or obstructs the Commissioner, Inspector of Mines, or any authorized officer or other person from carrying out any of his or her duties or functions under this Act commits an offence and is liable, on conviction to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding one year, or both.

16. Indemnity of officials,

The Minister, Commissioner, or any other public officer appointed under section 13 of this Act shall not incur any liability in respect of the exercise or performance, or purported exercise or performance, by him or her in good faith of any function under and for the purposes of this Act.

17. Prohibition of officers to acquire interest.

(1) No officer shall directly or indirectly acquire any right or interest in any mineral right and any document or transaction purporting to confer any such right or interest in any officer shall be void and of no legal effect.

(2) No officer shall acquire or retain any share in a company carrying on prospecting, exploration or mining operations in Uganda.

(3) Any officer who contravenes subsection (2) of this section commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or imprisonment for a term not exceeding one year or both.

(4) In addition to the penalty prescribed in subsection (3) of this section, a court which convicts an officer of an offence under this section shall also order that any shares or other interest involved in or connected with the commission of the offence shall be forfeited and shall be disposed of in a manner determined by the Commissioner by order published in the Gazette.

(5) For the purposes of this section, "officer" means a public officer for the time being engaged in the administration of this Act.

Part III: Mineral Agreement, Prospecting Licence, Exploration Licence, Retention Licence and Mining Lease.

18. Mineral agreements

(1) The Minister may enter into an agreement, in this section referred to as a "mineral agreement" consistent with the provisions of this Act with any person with respect to any matter relating to or connected with operations or activities under an exploration licence or a mining lease.

(2) A mineral agreement shall include the terms and conditions relating

to -

(a) minimum exploration or mining operations to be carried out and the time table determined for purposes of such operations;

(b) the minimum expenditure in respect of exploration or mining operations;

(c) the manner in which exploration or mining operations shall be carried out;

(d) the processing, whether wholly or partly in Uganda, of any mineral or group of minerals found, won or mined by the holder of a mineral right in the course of exploration or mining operations;

(e) the basis on which the market value of any mineral or group of minerals in question may from time to time be determined;

(f) financial and insurance arrangements;

(g) resolution of disputes through an international arbitration or a sole expert;

(h) any other matter incidental to or connected with the provisions of paragraphs (a) to (g) of this subsection.

(3) Any term or condition contained in a mineral agreement that is inconsistent with any provision of this Act shall, to the extent of the inconsistency, be void and of no legal effect.

(4) Nothing contained in a mineral agreement shall be construed as absolving any party to such agreement from any requirement prescribed by law.

19. Application for prospecting licence.

An application for the grant of a prospecting licence -

(a) shall be made to the Commissioner in the prescribed form and upon payment of the prescribed fee; and

(b) may contain any other matter, which the applicant wishes the Commissioner to consider.

20. Grant of a prospecting licence

(1) Subject to the provisions of this Act, the Commissioner may grant a prospecting licence and, as appropriate, revoke any such licence.

(2) The Commissioner shall, where he or she refuses to grant a prospecting licence, or decides to revoke any such licence, give the applicant a statement of his or her reasons for the refusal.

21. Restriction on prospecting licence

(1) No prospecting licence shall authorise the holder of the licence to prospect over an area of land that is, or forms part of -

(a) an exploration area, a retention area or a location licence area;

(b) a forest reserve, game reserve, national park, or an urban centre, unless the holder of the prospecting licence has first given notice to and obtained permission from the relevant authorities and complies with any conditions imposed by such authorities.

(2) Where it is necessary to fly over any land for the purpose of exercising any right under a prospecting licence, nothing in this section shall prevent any such flight from being undertaken, provided it is in accordance with the provisions of section 11 of this Act.

22. Duration of prospecting licence.

A prospecting licence shall be for the duration of one year.

23. Rights of prospecting licence holder.

(1) Subject to the provisions of this Act, a prospecting licence shall confer on the holder of such licence a non-exclusive right to carry on prospecting operations for any mineral.

(2) For the purpose of exercising the right referred to in subsection (1) of this section, the holder of a prospecting licence may, subject to the provisions of this Act and the conditions of such licence, if any, either himself or herself or by or through his or her employees or agents, enter any area not otherwise excluded from prospecting and erect camps and temporary buildings, and do any other act or thing that may facilitate the exercise of that right; however the erection of any such camps and buildings and the doing of any such other act or thing shall not be construed as conferring any right or title to or interest in the land covered by such area.

24. Obligations of prospecting licence holder

The holder of a prospecting licence shall -

(a) subject to section 21 of this Act, carry on prospecting operations in accordance with his or her licence;

(b) submit to the Commissioner quarterly, or at such other intervals as may be prescribed, geological and financial reports and such other information as may be prescribed;

(c) report any mineral discovery to the Commissioner; and

(d) remove on or before the expiration of his or her prospecting operations, any camps, temporary buildings or installations which he or she may have erected; and shall repair or make good any damage caused to the surface of the land to

the satisfaction of the Commissioner.

25. Minerals obtained during prospecting

(1) Minerals obtained in the course of prospecting under a prospecting licence shall be the property of the Government and, except such reasonable quantity as may be prescribed for the purpose of sampling, assay, analysis or other examination, shall not be disposed of by the holder of the licence or by any other person without the written consent of the Commissioner.

(2) Where the holder of a prospecting licence desires to retain or dispose of any minerals obtained in the course of prospecting, he or she 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 it is reasonably necessary to enable the applicant to test the mineral-bearing qualities of the land on which the applicant is prospecting, the Commissioner may authorise the applicant in writing to retain any such minerals or the Commissioner may authorise the applicant to dispose of the minerals upon payment of the prescribed royalties.

26. Application for exploration licence

An application for an exploration licence shall -

- (a) be made to the Commissioner in the prescribed form and upon payment of the prescribed fee;
- (b) be accompanied by a plan of the area over which the licence is sought, drawn in such a manner and showing such particulars as may be prescribed;
- (c) identify the minerals in respect of which the licence is sought;
- (d) give -
 - (i) in respect of the person or, if there is more than one person, the name and nationality of each person, making the application;
 - (ii) in the case of a body corporate, its name and place of incorporation, the names and nationalities of the directors, managers and other officers of a similar rank, and if the body corporate has a share capital, the name of any person who is the beneficial owner of more than five per cent of the issued share capital;
 - (iii) information on the financial status and the technical and industrial competence and experience of the applicant;
- (e) state the period, not exceeding three years, for which the licence is sought;
- (f) be accompanied by a proposed programme of exploration operations for the proposed period of the licence and the estimated cost of the operations;
- (g) contain evidence in support of the existence of the minerals, which the licence will cover in the proposed exploration area;

(h) contain or be accompanied by a statement giving particulars of the applicant's proposals with regard to the employment and training of Ugandan citizens; and

(i) contain any other matter or information, which the applicant wishes the Commissioner to consider.

27. Grant of exploration licence

(1) Subject to provisions of this Act, the Commissioner may grant an exploration licence and, as appropriate, revoke such licence.

(2) The area of land in respect of which an exploration licence may be granted shall not be more than five hundred square kilometres; except that a person may hold more than one exploration licence, in which case there shall be no amalgamation of the exploration licence areas for purposes of discharging obligations under this Act.

(3) There shall be attached to an exploration licence a programme of exploration operations approved by the Commissioner.

28. Restrictions on exploration licence

(1) No exploration licence shall be granted over an area of land, which is the subject of a mining lease, a retention licence or a location licence.

(2) Where an area of land is subject to an exploration licence, no other exploration licence shall be granted in respect of that area.

(3) No exploration licence shall be granted to an applicant unless the Commissioner is satisfied that -

(a) the applicant has adequate financial resources, technical competence and experience to carry on effective exploration operations;

(b) the programme of proposed exploration operations is adequate for the period of the licence;

(c) the applicant's proposal for exploration operations has provided for the employment and training of Ugandan citizens;

(d) the applicant is able and willing to comply with the terms and conditions of the exploration licence;

(e) the minerals to which the proposed exploration licence relate exist in the proposed exploration area; and

(f) the applicant is not in default.

29. Duration of exploration licence.

Subject to the provisions of this Act, an exploration licence shall be of such duration, not exceeding three years, as may be specified in the licence.

30. Renewal of exploration licence

(1) The holder of an exploration licence may, within three months before the expiration of such licence, apply for renewal of the licence in respect of an area of land, which is not greater in extent than half of the exploration area as at the date of the grant or last renewal of the licence.

(2) A renewal under subsection (1) of this section shall take effect immediately after the expiration of the exploration licence being renewed.

(3) An application under subsection (1) of this section shall -

(a) state the period, not exceeding two years, for which renewal of the licence is sought;

(b) be accompanied by -

(i) a report on exploration operations so far carried out;

(ii) the costs incurred in carrying out the operations;

(iii) a statement giving particulars of the programme of exploration operations proposed to be carried out in the renewed period;

(iv) a plan identifying the area of land in respect of which renewal of the licence is sought;

(c) indicate any alteration in the particulars specified pursuant to section 26 (d) of this Act.

(4) Subject to subsection (5) of this section, where an application has been duly made under this section for the renewal of an exploration licence, the Commissioner shall renew such licence for a period not exceeding two years.

(5) The Commissioner may reject an application for renewal of an exploration licence if the conditions specified in paragraphs a, b, c, d and e of section 28 (3) of this Act are not satisfied.

(6) Where an exploration licence has been renewed once, the Commissioner may -

(a) at the request of the holder of that licence; and

(b) if the Commissioner considers it in the public interest to do so,

in writing, extend the term of the licence with effect from the date of its expiry for a period not exceeding two years on the same terms and conditions, as the licence being renewed or extended.

(7) On the renewal of an exploration licence, the Commissioner shall

cause the licence to be amended accordingly; and there shall be appended to the licence the approved proposed programme of exploration operations to be carried out during the renewed period.

31. Rights of an exploration licence holder

(1) Subject to the provisions of this Act and any other written law, an exploration licence confers on the holder of such licence the exclusive right to carry on exploration operations in the area of land and for the mineral to which the licence relates.

(2) For the purpose of exercising the right under subsection (1), the holder of an exploration licence may, subject to the provisions of this Act, the regulations and the conditions of the licence, either himself or herself, or by or through his or her employees or agents, enter the exploration area and erect camps and temporary buildings, including installations in any waters forming part of the exploration area; except that the erection of any such camp or building shall not be construed as conferring any right or title to or interest in the exploration area.

32. Obligations of exploration licence holder.

(1) The holder of an exploration licence shall

(a) commence exploration not later than four months from the date of issue of such licence;

(b) demarcate and keep demarcated the exploration area in the prescribed manner;

(c) carry on exploration operations in accordance with the approved programme of exploration operations;

(d) notify the Commissioner of the discovery of any mineral other than that to which such licence relates within a period of thirty days of such discovery;

(e) unless the Commissioner otherwise stipulates, remove, within 60 days of the expiry of the exploration licence, any camps, temporary buildings or machinery erected or installed by him or her and repair or otherwise make good any damage to the surface of the land occasioned by such removal and other activities, to the satisfaction of the Commissioner;

(f) subject to the conditions of the exploration licence, expend on exploration not less than the amounts specified in the exploration programme to be expended;

(g) submit to the Commissioner at such intervals as may be prescribed such reports and such information verified in such manner as may be prescribed;

(h) employ and train citizens of Uganda in accordance with the agreed proposals, particulars of which have been appended to the licence; and

(i) keep and maintain in Uganda an address which shall be

registered with the Commissioner, and to which all communications and notices shall be sent.

(2) The holder of an exploration licence shall keep, at the address referred to in subsection (1) (i) of this section, full and accurate records to the satisfaction of the Commissioner, of his or her exploration operations which shall show -

- (a) boreholes drilled;
- (b) formation penetrated, with detailed logs of such formation;
- (c) minerals discovered;
- (d) the result of any geochemical or geophysical analysis;
- (e) the result of any analysis and identification of samples removed for such purposes;
- (f) the geological interpretation of the records maintained under paragraphs (a) to (e) of this subsection;
- (g) the number and particulars of persons employed;
- (h) any other work done under the exploration licence; and
- (i) such other matters as may be prescribed;

and shall supply, at least once every six months or at such other intervals as may be prescribed, copies of such records to the Commissioner, together with any reports prepared from or as a result of such records.

(3) Any person who intentionally or negligently provides the Commissioner with false or misleading records under this subsection commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding one year, or both.

33. Amendment of exploration programme

The holder of an exploration licence may from time to time notify the Commissioner of amendments he or she wishes to make to his or her programme of exploration operations; and the amendments shall, unless rejected by the Commissioner within two months after being notified, have effect after such a period.

34. Status of exploration licence pending grant of in mining lease.

(1) Where the holder of an exploration licence applies for a mining lease over his or her exploration area, and the application is not finally dealt with before the date of expiry of the exploration licence, the holder of such licence shall apply for a renewal of the licence.

(2) The Commissioner shall grant a mining lease to an applicant under subsection (1) of this section only if at the time of the grant the

applicant's exploration licence is current or has not expired.

35. Application for retention licence

(1) The holder of an exploration licence may apply to the Commissioner for the grant of a retention licence on the grounds that -

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

(b) such mineral deposit cannot be developed immediately by reason of adverse market conditions, economic factors and other factors beyond their reasonable control, which are of a temporary nature.

(2) An application for a retention licence shall be accompanied by the prescribed fee and the following -

(a) a full feasibility study and assessment by appropriate experts or consultants acceptable to the Commissioner on

(i) the extent and prospect for recovery and the commercial and economic significance of the mineral deposit concerned;

(ii) the impact of mining operations on the environment and ways and means of eliminating or minimising any adverse effects; and

(b) such other information as the Commissioner may reasonably require regarding the proposals of the applicant for the retention and development of the deposit.

36. Grant of retention licence

(1) Where the Commissioner is satisfied that commercial development of a mineral deposit is not presently possible for reasons specified in an application for a retention licence, but may be possible within a period of three years from the date of the application, the Commissioner may grant a retention licence to the applicant over that part of the exploration area.

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

37. Duration of retention licence

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

38. Renewal of retention licence

(1) Where the Commissioner remains satisfied that commercial development of a mineral deposit is or has not been possible at the expiry of a retention licence, that licence may, on the application of the

holder, be renewed for a single period not exceeding two years.

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

39. Rights and obligation under a retention licence

(1) A retention licence confers on the holder of such licence an exclusive right to apply for a mining lease over the area in respect of which the retention licence has been granted.

(2) The holder of a retention licence shall continue to carry out studies referred to in section 38(2) of this Act during the period of that licence.

40. Power to request retention licence holder to apply for mining lease.

Where the Commissioner is satisfied that commercial mineral development of an area that is subject to a retention licence has become possible during the currency of such licence, the Commissioner may by notice to the holder of the licence, require the holder to apply for a mining lease in respect of the area concerned and may, at anytime thereafter, cancel the retention licence.

41. Application for mining lease

(1) An application for the grant of a mining lease shall be in the prescribed form and shall be accompanied by the prescribed fee.

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

(a) be made to the Commissioner;

(b) indicate financial and technical resources available to the applicant to carry out his or her obligations under such lease;

(c) be accompanied by a full feasibility study including a plan of the area in respect of which the lease is sought;

(d) state the period for which the lease is sought;

(e) give or be accompanied by a statement giving details of the mineral deposits in the area of land over which the lease is sought, including details of all known minerals proved, as well as possible and probable ore reserves and mining conditions;

(f) be accompanied by a technological report on mining and processing techniques proposed to be used by the applicant;

(g) give or be accompanied by a statement giving particulars of the programme of proposed development and mining operations, including a statement of -

(i) the estimated capacity of production and scale of

operations;

(ii) the estimated overall recovery of the ore and mineral products; and

(iii) the nature of the mineral products;

(h) be accompanied by a report on the goods and services required for the mining operations, which can be obtained within Uganda and the applicant's proposals with respect to the procurement of those goods and services;

(i) be accompanied by a statement giving particulars of the applicant's proposals with respect to the employment and training of citizens of Uganda;

(j) be accompanied by a business plan giving a detailed forecast of capital investment, operating costs and revenues; and the anticipated type and source of financing including the year for the positive cash flow and financial plan and capital structure;

(k) set out any other matter which the applicant wishes the Commissioner to consider or as the Commissioner may require; and

(l) provide such other information as may be prescribed.

42. Disposal of application for mining lease by holder of exploration.

(1) Subject to section 43 of this Act, where an application has been duly made by the holder of an exploration licence for the grant of a mining lease then, not later than two months, or such further period as the Commissioner may allow, after the holder has given notice to the Commissioner of the discovery of orebody -

(a) in or on land subject to the exploration licence; or

(b) in respect of a mineral to which his or her licence relates,

the Commissioner shall grant the mining lease applied for on such terms and conditions as the Commissioner may determine.

(2) An application for a mining lease shall be advertised in the Gazette and copies of the accompanying plan shall be displayed at the relevant district and subcounty headquarters and such other place as the Commissioner may specify.

(3) The applicant shall show written proof that he or she has reached an agreement with the landowner of the area he or she intends to mine.

43. Restrictions on grant of mining lease

(1) Subject to section 48 (7) of this Act, no mining lease shall be granted over an area of land in, or which is, a mining area.

(2) No mining lease shall be granted to any person over land which is in an exploration area or retention licence area or a location area, unless that person is the holder of an exploration licence, a retention licence or a location licence, as the case may be, in respect of that land.

(3) No mining lease shall be granted to an applicant unless he or she satisfies the Commissioner that -

(a) the area of land over which the lease is sought is not in excess of the area reasonably required to carry out the applicant's programme of proposed mining operations;

(b) the programme of proposed mining operations takes proper account of environmental impact assessment, environmental impact research, environmental statement and safety factors;

(c) the feasibility study of the relevant ore body indicates that the mineral deposit in question can be profitably mined;

(d) the applicant has adequate financial resources, technical competence and experience to carry on effective mining operations;

(e) the applicant's proposals for the employment and training of citizens of Uganda are adequate;

(f) the applicant's proposals with respect to the procurement of goods and services obtainable within Uganda are satisfactory;

(g) the applicant demonstrates a willingness and an ability to comply with the terms and conditions applicable to the mining lease;

(h) the applicant has secured the surface rights of the land the subject of his or her application; and

(i) the applicant is not in default.

(4) The Commissioner shall not refuse an application for the grant of a mining lease on any ground referred to in subsection (3) of this section unless the Commissioner -

(a) has given notice to the applicant of his or her intention to refuse to grant the lease on that ground;

(b) specified in the notice a period within which the applicant may make appropriate proposals to correct or remedy the defect or omission which forms the basis of ground for intended refusal; and

(c) the applicant has not, before the expiration of that period, made the proposals.

44. Disposal and notice of decision on mining lease application

(1) The Commissioner shall, within sixty days after receiving an application under section 41 of this Act, cause the applicant for the

grant of a mining lease to be notified of the on Commissioner's decision on his or her application, and if the application is granted, of the details of the proposed lease.

(2) If within thirty days after an applicant is notified pursuant to subsection (1) of this section that the Commissioner is prepared to grant a mining lease, such applicant fails to give notice of his or her willingness to accept the proposed lease, his or her application shall be taken to have lapsed.

(3) The grant of a mining lease shall be published in the Gazette.

45. Contents of mining lease.

(1) A mining lease shall -

(a) specify the date of the grant of the lease and the period for which it is granted;

(b) specify the mineral(s) for which it is granted;

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

(d) specify the conditions on which it is granted;

(e) specify particulars of the applicant's proposals for the employment and training of citizens of Uganda; and

(f) specify particulars of the applicant's proposals with respect to the procurement of goods and services obtainable within Uganda, which shall form part of the lease.

(2) There may be included in a mining lease conditions with respect to the processing, disposal or sale of the mineral to be mined.

46. Duration of mining lease,

The period for which a mining lease is granted shall be specified in the lease and shall not exceed twenty one years or the estimated life of the ore body proposed to be mined, whichever is shorter.

47. Renewal of mining lease

(1) The holder of a mining lease may apply to the Commissioner for the renewal of his or her lease in respect of all, or of part of the mining area not later than one year before the expiry of such lease.

(2) An application under subsection (1) of this section shall -

(a) state the period, not exceeding fifteen years, for which renewal is sought;

(b) be accompanied by a statement giving particulars of mining

operations proposed to be carried out in the renewed period;

(c) be accompanied by a statement giving details of -

(i) the latest proved probable and possible ore reserves;

(ii) the capital investments to be made and the production costs and revenue forecasts in respect of the renewed period;

(iii) any expected changes in the method of mining, treatment, marketing and disposal of mineral products;

(iv) any likely effects on the environment and measures to be taken to mitigate such effects;

(v) such further information as the Commissioner may require, and

(d) if renewal of the lease is sought in respect of part only of the mining lease area, be accompanied by a plan and description identifying that part of the mining lease area.

(3) Subject to subsection (4) of this section, where an application is duly made under this section for the renewal of a mining lease, the Commissioner shall renew such mining lease for a period not exceeding fifteen years or the life of the ore body, whichever is shorter, subject to such conditions as the Commissioner may determine.

(4) The Commissioner shall refuse to renew a mining lease, if -

(a) the applicant is in default;

(b) the development of the mining lease area has not proceeded with reasonable speed;

(c) minerals do not remain in reasonable quantities to be produced profitably;

(d) the programme of mining operations proposed to be carried out is not adequate or satisfactory and the renewal will be contrary to national interest;

(e) the Commissioner has given to the applicant notice of his or her intention to refuse to renew the mining lease -

(i) giving in the notice particulars of the ground for the intended refusal;

(ii) stating a date before which the applicant may take appropriate action or make representations with respect to the ground for the intended refusal; and

(iii) the applicant has not, before that date made appropriate amendments to his or her application or

made representations, which, in the opinion of the Commissioner, remove the ground for the intended refusal.

48. Amendment of programme of operations of mining lease

(1) Subject to subsection (2) of this section and the conditions of the lease, if any, the holder of a mining lease may, from time to time, notify the Commissioner of amendments he or she wishes to make to his or her programme of development and mining operations; and such amendments shall, unless the Commissioner rejects them within three months after being so notified, have effect after such period.

(2) An amendment, which substantially alters a programme of development and mining operations, shall not have effect unless the Commissioner has agreed to such an amendment.

(3) Where in the course of exercising his or her rights under a mining lease the holder of the mining lease discovers any mineral for which the lease does not relate, he or she shall, within thirty days after the discovery, notify the Commissioner of the discovery, giving particulars of the mineral discovered and the site and circumstances of the discovery; and the holder of the lease may apply to the Commissioner to have the mining of such mineral included in his or her mining lease, giving in his or her application a proposed programme of mining operations in respect of the discovery.

(4) Where the Commissioner is satisfied with a proposed programme of mining operations submitted under subsection (3) of this section, the Commissioner may approve such programme on such terms and conditions as he or she thinks fit and may amend the mining lease accordingly.

(5) Where the Commissioner has approved a proposed programme of mining operations under subsection (3) of this section, the holder of the relevant mining lease may apply to the Commissioner to have his or her mining area enlarged and the Commissioner may, subject to the provision of subsection (6) of this section, approve such application.

(6) A mining lease area shall not be enlarged so as to include any area over which the applicant could not by reason of this Act, be granted a mining lease.

(7) Where the holder of a mining lease does not wish to develop a newly discovered mineral or minerals, and it is in the national interest to do so, the Commissioner may grant a mineral right under this Act to a third party subject to the reasonable rights of the holder.

49. Rights of mining leaseholder.

Subject to the provisions of this Act, any other written law, the regulations, and any condition of a mining lease, the holder of a mining lease shall have the exclusive right to carry on exploration and mining operations in his or her mining area; and may in the exercise of such right, enter upon the land to which his or her mining lease relates with his or her employees, agents and contractors and may -

- (a) take all reasonable measures on and under the surface of his or her mining

area to mine and process the minerals to which his or her mining lease relates;

(b) erect the necessary equipment, plant, machinery and buildings for the purpose of mining, transporting, dressing, treating, smelting and refining the minerals or mineral products recovered by him or her during mining operations;

(c) dispose of any mineral products recovered; and

(d) stack or dump any mineral or waste product in accordance with the prescribed mining industry practice.

50. Obligations of mining leaseholder

(1) Subject to the provisions of this Act, the holder of a mining lease shall -

(a) develop and mine the mineral deposits covered by his or her lease in accordance with the approved programme of development and mining operations and the terms and conditions of his or her lease;

(b) commence production on or before the date specified in the programme of development and mining operations as the proposed date of such production;

(c) demarcate and keep demarcated his or her mining area in such a manner as may be prescribed;

(d) keep and maintain in Uganda an address which shall be registered with the Commissioner, and to which all communications and notices shall be addressed.

(2) The holder of a mining lease shall -

(a) maintain at the address referred to in subsection (1) (d) of this section and submit monthly to the Commissioner complete and accurate records of operations relating to his or her lease including -

(i) copies of all maps, geological reports, including interpretations, sample analyses, aerial photographs, cores, logs and tests and all other data obtained and compiled by the holder of such mining lease;

(ii) systematic financial statements and such other books of account as the Commissioner may require, and where the holder is engaged in any activity not connected with his or her operations under the mining lease, he or she shall maintain separate books of account of his or her operations under the mining lease; and

(iii) such other reports and information as the Commissioner may request;

(b) permit an authorised officer at any time to inspect the books and records maintained in pursuance of paragraph (a) of this subsection;

and shall deliver to the Commissioner, without charge, copies of any part of such books and records as may be required;

(c) within ninety days after the end of each financial year, furnish the Commissioner with a copy of his or her audited annual financial report, showing the profit or loss for the financial year and the state of financial affairs of the holder of the mining lease for the year in question.

51. Wasteful mining and treatment practices.

(1) Where the Commissioner considers that the holder of a mining lease is using wasteful mining or treatment practices, the Commissioner may notify the holder accordingly and require him or her to show cause—within such period as the Commissioner may specify, why he or she should not cease to use such practices.

(2) Where, within the period specified in any notice issued under subsection (1) of this section the holder of the mining lease fails to satisfy the Commissioner that he or she is not using wasteful mining or treatment practices, or that the use of such practices is justified, the Commissioner may order the holder of the mining lease concerned to cease using such practices within such period as the Commissioner may specify.

(3) Where the holder of the mining lease fails, after being so ordered, to cease using wasteful mining or treatment practices, the Commissioner may cancel that mining lease or may suspend the mining lease for such period as the Commissioner thinks fit.

52. Coordination of mining operations

(1) Where the Commissioner considers that the public interest or the interests of the holders of mining leases and location licences covering neighbouring or contiguous mining or location licence areas would best be served with regard to the efficient and economic exploitation of minerals by the co-ordination of all or part of the mining operations of the holders, the Commissioner may direct the holders to effect such co-ordination by entering into an agreement, to be approved by the Commissioner, to effect the co-ordination within such time as the Commissioner may specify.

(2) Before giving any directions under subsection (1) of this section, the Commissioner shall afford the holders of the mining leases and location licences concerned reasonable opportunity to make representations to him or her in writing.

53. Cessation, suspension and curtailment of production.

(1) Subject to subsection (3) of this section, the holder of a mining lease shall notify the Commissioner -

(a) one year in advance, if he or she proposes to cease production from his or her mine;

(b) six months in advance, if he or she proposes to suspend production from his or her mine;

(c) three months in advance, if he or she proposes to curtail

production from his or her mine;

and shall, in all cases, give good technical and economic reasons for such cessation, suspension or curtailment.

(2) Where for reasons beyond his or her reasonable control, the holder of a mining lease ceases, suspends or curtails production from his or her mine without complying with subsection (1) of this section, he or she shall within fourteen days of the cessation, suspension or curtailment notify the Commissioner.

(3) Where the Commissioner receives a notification referred to in subsection (1) or subsection (2) of this section, or where the Commissioner otherwise becomes aware of any cessation, suspension or curtailment of production, he or she shall cause the matter to be investigated; and shall, subject to any relevant requirement contained in the mining lease, give his or her approval to the cessation, suspension or curtailment.

(4) Approval of cessation, suspension or curtailment may be given subject to such conditions as the Commissioner may impose.

Part IV: Location Licence.

54. Application of Act to location licence

(1) The Minister may, with the approval of the Cabinet, by statutory instrument, exclude or modify any of the provisions of this Act, which would otherwise apply to the granting of a location licence.

(2) For the purposes of subsection (1) of this section, "location licence" means a licence for prospecting and mining operations by methods which do not involve substantial expenditure and the use of specialised technology; and for the purposes of this subsection "substantial expenditure" means expenditure in excess of five hundred currency points necessary to bring the mine into production or such other amount as may be prescribed.

55. Location licence

(1) Any person who wishes to carry on small-scale prospecting and mining operations shall apply for a location licence.

(2) A location licence shall be granted, in the case of an individual, only to a citizen of Uganda, and in the case of a body corporate, only where citizens of Uganda hold at least fifty one percent of the beneficial ownership of such a body.

56. Application for location licence

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

(2) An application for a location licence -

(a) shall state the full name of the applicant and, in the case of

a partnership or other association of persons, the full names and nationalities of all such persons; and in the case of a body corporate, the registered name of such body corporate and particulars of its shareholders, if any;

(b) shall identify the mineral in respect of which the licence is sought;

(c) shall identify the area in respect of which the licence is sought;

(d) shall be accompanied by a statement giving particulars of the nature of the mining operations proposed to be carried out, the capital and experience available to the applicant to conduct prospecting and mining operations of the mineral efficiently and effectively; and

(e) may set out any other matter which the applicant wishes the Commissioner to consider or as the Commissioner may request.

57. Grant of location licence

(1) Subject to the provisions of this Act, the Commissioner may grant a location licence in a prescribed form.

(2) The Commissioner shall, before refusing to grant a location licence to an applicant -

(a) give to the applicant notice of the grounds of his or her intended refusal;

(b) in such notice, require the applicant to correct or remedy within a reasonable time any defect or omission which forms the basis of the grounds for the intended refusal; and

shall only refuse to grant the licence if the applicant fails to correct or remedy such defect or omission within such reasonable time.

58. Size of area covered by location licence.

The area covered by a location licence shall not exceed such area as shall be prescribed and shall be demarcated by the applicant in such a manner as may be prescribed or as an authorized officer may, in the circumstances, consider appropriate.

59. Duration renewal and revocation of location licence.

(1) Subject to subsections (2) and (3) of this section, a location licence shall be valid for a period, not exceeding two years; however, on application made to the Commissioner, such period may be renewed for further periods not exceeding two years at a time.

(2) The Commissioner may revoke a location licence if -

(a) he or she is satisfied that, in the case of an individual, the holder of such licence has entered into an arrangement with a person who is not a citizen of Uganda, the effect of which is to

transfer to that person the benefit of such licence; or in the case of a body corporate, the holder is no longer a body corporate of which at least fifty one percent of the beneficial ownership is held by citizens of Uganda;

(b) within a period of six months from the date the licence was granted or renewed no mining operations have commenced under the licence; or

(c) if the location licence is not being worked to the satisfaction of the Commissioner.

(3) The Commissioner shall not renew a location licence under subsection (1) of this section if -

(a) the Commissioner is satisfied that the applicant has not carried on, in good faith, within the limits of his or her competence and resources, prospecting and mining in the licensed area and intends to continue doing so;

(b) the applicant has not carried out effective restoration of the surface areas to the satisfaction of the Commissioner; or

(c) the applicant is in default.

(4) Without prejudice to subsection (3) of this section, the holder of a location licence who fails or neglects to carry out the restoration referred to in paragraph (b) of subsection (3) of this section commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding one year or both.

60. Rights and duties of location licence

(1) The holder of a location licence has the right to enter his or her licence area and, subject to this Act, the regulations, and the conditions of the licence, has the exclusive right to prospect for and mine in that area, and to remove and dispose of the mineral in respect of which the licence was issued.

(2) The holder of a location licence shall -

(a) within the limits of his or her competence and resources carry on, in good faith, in the licensed area prospecting and mining operations;

(b) furnish the Commissioner with such information relating to those operations as the Commissioner may reasonably require;

(c) carry out promptly any directives relating to his or her prospecting or mining operations which may be given to him or her by the Commissioner or an authorised officer for the purpose of ensuring safety or good mining practices;

(d) before beginning or ceasing any prospecting or mining operations, notify in writing the appropriate local authority and an authorized officer of his or her intention to begin or cease

any such prospecting or mining operations;

(e) keep accurate records of the minerals and mineral products obtained or mined by him or her; and such records shall be submitted for inspection every calendar month and whenever demanded by the Commissioner or an authorised officer;

(f) carry out rehabilitation and reclamation of mined out areas;

(g) submit to the nearest office of the Commissioner monthly returns of his or her operations not later than fourteen days after the preceding month.

61. Inquire into disputes

(1) The Commissioner or an authorised officer may inquiry into and decide any dispute between persons engaged in small-scale mining operations, either amongst themselves or as between themselves and third parties, concerning any of the matters referred to in subsection (2) of this section; and may make any order which may be necessary for the purpose of giving effect to his or her decisions and to order the payment by any party to the dispute of such compensation to any other party as may be reasonable.

(2) The matters referred to in subsection (1) of this section are -

(a) disputed boundaries;

(b) any wrongful act committed, or any act wrongfully omitted, in the course of small-scale operations, by any licensed person against any other person;

(c) acts, omissions, or matters in the course of, connected with, or auxiliary to small-scale mining operations; and

(d) assessment of payment of compensation under small-scale mining operations in accordance with section 82 of this Act.

62. Inquiry proceedings

(1) Proceedings in an inquiry under subsection (1) of section 61 of this Act shall be as follows -

(a) the person complaining shall lodge a memorandum containing his or her complaint with the Commissioner;

(b) the memorandum shall be in the prescribed form and shall contain a summary of the subject matter of the complaint and the relief claimed;

(c) upon receipt of such memorandum the Commissioner or an authorised officer shall give notice, in the prescribed form, to the party against whom the complaint has been lodged of the nature of the complaint and the time and place at which the complaint will be heard and determined; and the Commissioner or an authorised officer may, if he or she thinks it fit to do so, call upon the person against whom the complaint has been

lodged to submit his or her defence to the complaint in writing;

(d) at the time and place appointed to hear and determine the complaint, the parties shall attend and state their respective cases before the Commissioner or authorised officer and may call evidence on oath in support of their cases; and the Commissioner or an authorised officer shall give his or her decision on the complaint after hearing such statement and evidence; and

(e) the Commissioner or the authorised officer may, at any time during an inquiry into or the hearing of a complaint under this section, seize or cause to be seized any minerals which are the subject matter of the dispute and may retain them pending his or her decision.

(2) The law for the time being regulating proceedings before a court established under the Magistrates Courts Act, Cap 16, and the powers of such court in the exercise of its civil jurisdiction shall, with necessary modifications, apply to proceedings before the Commissioner or an authorised officer under this section, and to the enforcement of any decision of the Commissioner or an authorised officer, as if such decision were the decision of that court.

(3) Nothing in this section shall prevent the Commissioner or an authorised officer from settling forthwith and without regard to the provisions of this section, any dispute between any parties, where it is practicable to do so and the settlement is at the written request of the parties; and in such a case, the request shall be deemed an undertaking by the parties that any decision arising from the settlement will be accepted as final.

63. Legality of proceedings

(1) Proceedings before the Commissioner or an authorised officer under section 62 of this Act shall be admissible in any court of law.

(2) Nothing in sections 61 and 62 of this Act shall be construed as preventing any person from instituting in any of the courts of Uganda any proceedings he or she may think fit to institute as provided by law.

Part V: Inspection of Operations under Mineral Rights.

64. Powers of Commissioner to inspect

The Commissioner, an authorised officer or any other person empowered to do so under any other law, may at all reasonable times -

(a) enter, inspect, and examine any land on which prospecting, exploration, mining, or mineral processing operations are being conducted or land which is the subject of any mineral right;

(b) enter any area, structure, vehicle, vessel, aircraft or building that, in his or her opinion, has been or is to be used in connection with prospecting, exploration, mining or mineral processing operations;

(c) examine and inquire into the condition and ventilation of any mine or any

building used in or connected with prospecting, exploration, mining or mineral processing operations and all matters relating to safety, welfare and health of persons employed in any such mine or building;

(d) inspect and test any machinery, plant or equipment that, in his or her opinion, has been, is being or is to be used in connection with prospecting, exploration, mining or mineral processing operations; or

(e) inspect the storage of explosives and any explosives that, in his or her opinion, have been, are being or are to be used in connection with exploration or mining operations; and

(f) exercise all powers necessary for carrying this part of this Act into effect.

65. Powers to order the remedy of dangerous or defective operations.

(1) Where in any respect the Commissioner or an authorised officer or other person referred to in section 64 of this Act finds any mine or any machine, plant, thing or practice used in or connected with prospecting, exploration or mining operations to be dangerous or defective so as, in his or her opinion, to threaten or tend to cause injury to any person or to be detrimental to the welfare or health of any person, the Commissioner, an authorised officer or such other person shall give notice in writing to the holder of the mineral right concerned, or his or her agent in charge of the operations or mine; and shall state in such notice the particulars in respect of which such mine, machine, plant, thing or practice is considered to be dangerous or defective, and may order work to be suspended until the danger or defect is remedied or removed to his or her satisfaction.

(2) On receipt of the notice referred to in subsection (1) of this section, the holder of the mineral right concerned or his or her agent shall comply with the requirements of the notice, or if the holder objects to the notice, he or she shall immediately state his or her objection in writing to the Commissioner who shall make a determination on the objection.

(3) Where such notice is given by an authorised officer and the holder of the mineral right concerned objects to the Commissioner under subsection (2) of this section, the holder of the mineral right shall nevertheless cease to operate the mine or use the machine, plant, thing or practice to which the notice relates, and shall withdraw all workers from the danger indicated by the authorised officer until such time as the objection has been determined by the Commissioner; except that if in the opinion of the authorised officer, there is no immediate danger, the authorised officer may allow work to proceed during the time that the objection is being determined, subject to such restrictions and upon such conditions to ensure safety as the authorized officer shall specify in writing.

66. Powers of authorised medical and public officers to make inspections

(1) Any authorised medical officer, or authorised public officer may inspect, examine and inquire into the health and welfare of persons employed in or connected with prospecting, exploration or mining operations, and may exercise any of the powers prescribed for that purpose under this or any other Act.

(2) Where in any respect an authorised medical officer or authorised

public officer referred to in subsection (1) of this section finds any matter, thing or practice in or connected with prospecting, exploration or mining operations to be detrimental to the health or welfare of persons referred to in subsection (1) of this section, such authorised medical or authorised public officer shall give notice to the holder of the mineral right concerned or to his or her agent in charge of the operations under the mineral right; and shall slate in the notice the matter, thing or practice which the authorised medical or public officer considers detrimental, and shall require the matter, thing or practice to be remedied within such time as he or she may specify.

(3) Where the holder of the mineral right or his or her agent objects that the matter, thing or practice complained of in any notice under subsection (2) of this section is detrimental to the health or welfare of any person, he or she shall, immediately after the receipt of the notice, state his or her objection in writing to the Commissioner and thereupon the objection shall be determined by the Commissioner or an authorised officer.

(4) Nothing in this section shall affect or detract from the provisions of any other written law relating to public health or the employment of labour.

(5) In this section, "authorised medical officer or authorised public officer" means a medical officer or a public officer authorised by the Commissioner to carry out any function under this Act.

67. Requirements of Act not subject to exemption by agreement

No person shall be precluded or exempted by any agreement from doing any acts that may be necessary for complying with the provisions of sections 65 and 66 of this Act, nor shall any person be exempted by or under any agreement from liability to any damages, penalty or forfeiture for not doing any such acts.

68. Report of accidents.

(1) Whenever an accident occurs during the course of any prospecting, exploration or mining operations and the accident -

(a) results or is likely to result in loss of life or injury to any person; or

(b) results or is likely to result in any person's incapacity to work for a period of five days or more;

the person in charge of such operations shall, notwithstanding the provisions of any other written law, without delay make a report in writing of the accident and all the circumstances relating to the accident to the Commissioner or an authorised officer.

(2) Where an accident of a type referred to in subsection (1) of this section occurs, the Commissioner shall hold an inquiry into the cause of the accident and shall record his or her findings.

(3) A person holding an inquiry under subsection (2) of this section shall, for the purpose of such inquiry, have all the powers of a court of law to summon witnesses, to call for production of books and documents and to examine witnesses and the parties concerned on

oath.

(4) Any person who is summoned to attend or to produce books or documents in pursuance of subsection (3) of this section and who refuses or neglects to do so, or refuses to answer any question put to him or her by or with the concurrence of the officer holding the inquiry commits an offence under this Act.

Part VI: Buying, Selling and Dealing in Minerals.

69. Persons authorised to buy or sell minerals.

(1) No person may buy or sell, either as principal or agent, any minerals unless he or she is a licensed mineral dealer.

(2) A licensed mineral dealer may only buy minerals in the course of his or her business from a person who acquired his or her minerals lawfully or in accordance with the provisions of this Act or the regulations.

(3) Notwithstanding the provisions of subsection (1) of this section, the holder of a mineral right may sell any minerals acquired by him or her under this Act without obtaining a mineral dealer's licence.

70. Mineral dealer's licence.

(1) The Commissioner may, upon application and proof that a person is in possession of or commands sufficient working capital to ensure the carrying on of his or her business satisfactorily, issue to such person a mineral dealer's licence on payment of the prescribed fee.

(2) Every mineral dealer's licence shall expire on 31st December in the year in which the licence is granted.

(3) The Commissioner may refuse to issue a mineral dealer's licence or may revoke such licence, provided a notice of particulars of the grounds for the intended refusal or intended revocation has been given to the applicant.

71. Liability of mineral dealers for royalties.

Every holder of a mineral dealer's licence shall be liable for the due payment to the Commissioner of all royalties due on any minerals bought, received or exported by the holder and shall give the Commissioner such security as may be prescribed for the due payment of all such royalties.

72. Records to be kept by mineral dealers

(1) Every holder of a mineral dealer's licence shall keep a register showing -

(a) all purchases and sales of minerals made by such holder and the nature and weight of the minerals;

(b) the price paid or received for the minerals and the date of each purchase or sale;

(c) the name and address of the vendor and his or her right to be in possession of such minerals;

(d) the name and address of the purchaser or consignee to whom the minerals are sold or consigned; and shall -

(i) cause every transaction to be recorded in the register within twenty four hours of being made; and

(ii) produce and exhibit the register to the Commissioner, an authorised officer or any police officer not below the rank of Assistant Superintendent of Police whenever so required.

(2) Every holder of a mineral dealer's licence shall deliver to the Commissioner in the months of March, June, September and December, a copy of the record referred to in subsection (1) of this section for the preceding three months, together with a declaration that the record is correct.

(3) A holder of a mineral dealer's licence who fails to comply with any of the provisions of subsection (1) and (2) of this section commits an offence.

73. Goldsmith's licence

(1) No person shall manufacture any article from any precious mineral or from any substance containing any precious mineral unless such person has obtained a goldsmith's licence.

(2) An application for a goldsmith's licence shall be made to the Commissioner in the prescribed form and, subject to subsection (4) of this section, the Commissioner may grant a licence to the applicant on payment of the prescribed fee.

(3) A goldsmith's licence shall continue in force until the 31st day of December of the year of issue.

(4) The Commissioner shall, before refusing to grant or renew a goldsmith's licence -

(a) give to the applicant a notice of particulars of the grounds for his or her intended refusal;

(b) in such notice, require the applicant to correct or remedy within a reasonable time any defect or omission which forms the basis of the grounds for the intended refusal; and

shall only refuse to grant the licence if the applicant fails to correct or remedy such defect or omission within such reasonable time.

74. Retail shopkeepers.

The Commissioner may in his or her discretion, and notwithstanding the provisions of section 73 of this Act, authorise any retail shopkeeper to manufacture and sell articles partly manufactured from precious minerals without being licensed as a goldsmith, if the shopkeeper satisfies the Commissioner that the selling of such articles shall not

constitute the sole or principal portion of his or her business.

75. Register to be kept by showing goldsmiths.

(1) Every licensed goldsmith shall keep a register -

(a) all purchases and sales of articles of commerce containing precious minerals made by him or her;

(b) purchases of unwrought precious minerals made by him or her;

(c) the nature, weight, price paid or received and the date of each purchase or sale of the articles and minerals referred to in paragraphs (a) and (b) of this subsection;

(d) the name and address of the respective vendor and purchaser of any of the items referred to in paragraphs (a) and (b) of this subsection; and shall -

(i) cause every transaction to be recorded in the register within twenty four hours of being made, and

(ii) produce and exhibit the register to the Commissioner, an authorised officer or any police officer not below the rank of Assistant Superintendent of Police whenever so required.

(2) Copies of records referred to under subsection (1) of this section shall be submitted to the Commissioner quarterly.

(3) A licensed goldsmith who fails to comply with any of the provisions of subsection (1) and (2) of this section commits an offence.

76. Compliance with mineral dealer's licence.

(1) No licensed mineral dealer shall -

(a) deal in minerals in a manner which is not specifically authorised by the terms of his or her licence;

(b) store any mineral at a place other than in or on premises specified in his or her licence; or

(c) buy, sell, deal in, receive either as principal or agent any mineral at any place other than in or on premises specified in his or her licence.

(2) A licensed mineral dealer or goldsmith who fails to comply with the provisions of subsection (1) of this section commits an offence.

77. Cancellation of mineral dealer's licence on conviction.

Where any licensed mineral dealer or goldsmith is convicted of an offence under this Act or the regulations and the time limit for appeal against the decision has elapsed or the appeal has been refused, the Commissioner shall cancel the licence of such mineral

dealer or goldsmith.

Part VII: Mineral Rights and Surface Rights.

78. Restriction on exercise of mineral rights.

(1) The holder of a mineral right shall not exercise any of his or her rights under that mineral right -

(a) in respect of or on any land set apart for any public purpose, other than mining, or on any land which is -

(i) dedicated as a place of burial; or

(ii) a place of religious significance; or

(iii) the site of a public building,

except with the written consent of the appropriate Minister or other relevant authority;

(b) in respect of or on any land which is the site of, or which is within two hundred metres, or such greater distance as may be prescribed, of any inhabited, occupied or temporarily unoccupied house or building, or any land -

(i) within five metres or such greater distance as may be prescribed, of land which has been cleared or ploughed or otherwise prepared in good faith for the growing of, or upon which there are growing agricultural crops; or

(ii) which is the site of, or within one hundred metres, or such greater distance as may be prescribed, of any cattle dip, tank, or similar body of water, except with the written consent of the owner or lawful occupier or the duly authorised agent the owner or lawful occupier of that land;

(c) in respect of or on any land reserved for the purpose of any railway track, or which is within fifty metres, or such distance as may be prescribed, of the boundaries of any land so reserved, except with the written consent of the responsible railway administration;

(d) in respect of or on any land within two hundred metres, or such greater distance as may be prescribed, of the boundaries of any township, except with the written consent of the authority having control over the township;

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(e) in respect of or on any land within two hundred metres from any lake or within one hundred metres from any river, except with a permit issued under the National Environment

Act Cap 153;

(f) in respect of or on any land comprising a street, road, power station, aerodrome or oil well heads, except with the written consent of the authority having control of any such land;

(g) in a national park or game reserve, except with the written consent of the authority having control of the park or game reserve;

(h) within a forest reserve without the written consent of the authority having control of the forest reserve; or

(i) in respect of or on any land, which is held communally for cultural rites, without the written consent of the community concerned.

(2) Any consent under subsection (1) of this section may be given 'subject to such conditions as are specified in the instrument of consent.

(3) For the purpose of subsection (1) (a) of this section, "public purpose" means a purpose prescribed as such.

(4) A person exercising any right under a mineral right on any land shall, if required to do so by any lawful occupier of any such land, produce evidence that he or she is the holder of such mineral right or an agent or employee of the holder; and if he or she fails to do so he or she may be treated as a trespasser.

79. Rights under mineral right to be exercised reasonably

The rights conferred by a mineral right shall be exercised reasonably and in such a manner as not to adversely affect the interests of any owner or occupier of the land on which the rights are exercised.

80. Right to graze stock and cultivate

(1) The owner or lawful occupier of any land within an area which is the subject of a mineral right shall retain the right to graze stock upon or to cultivate the surface of such land, so far as the grazing or cultivation does not interfere with the proper working in such area for prospecting, exploration or mining purposes; and in so far as the grazing or cultivation does not constitute a danger or hazard to livestock or crops.

(2) Where the owner or lawful occupier of any land exercises the right conferred by and under subsection (1) of this section -

(a) any loss or damage to stock or crops arising out of the exercise of such right shall be borne by the owner or lawful occupier of the land; and

(b) any interference by the owner or lawful occupier with the proper working or operation in such area for prospecting, exploration or mining purposes shall be a ground for terminating such right.

81. Acquisition of exclusive rights by holder of mining lease.

(1) The holder of a mining lease may, if he or she requires the exclusive use of the whole or any part of the mining area concerned, and if so requested by the owner or lawful occupier of any part of such area, obtain a land lease or other rights to use the area upon such terms as to duration or the extent of the land to which the lease shall relate, as may be agreed between the holder and the owner or lawful occupier of the land in question, or failing an agreement, as may be determined by arbitration.

(2) In assessing any rent payable under this section, an arbitrator shall determine the rent 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, but without taking into account any enhanced value due to the presence of minerals.

82. Compensation for disturbance of rights

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

(i) 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 or her predecessor in title the benefit of which has or will accrue to the owner or lawful occupier of the land;

(ii) 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 upon which the damage occurred has been reduced by reason of the damage;

(iii) no compensation shall be payable to the occupier of a state grant land in respect of any operations under a mineral right existing at the date of such state grant.

(2) If the holder of a mineral right fails to pay compensation when so demanded under 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 subsection (1) of this section shall be made within a period of one year from the date when the act which is the basis for such claim occurred, failing which, notwithstanding the provisions of any other written law, the claim shall not be enforceable.

83. Option for compensation by landowner

The owner or lawful occupier of any land subject to a mineral right is entitled to compensation under either section 82 of this Act or to a share of royalties under section

98 of this Act.

84. Interference with passageways

(1) No holder of a mineral 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 in the area covered by such mineral right, nor shall he or she perform any act which may damage or tend to damage any passageway, without first obtaining the consent in writing of the holder of the right of passageway; except that in the case of customary public rights of passageway, or where the holder of the right of passageway cannot be found by the person requiring his or her consent, the consent of the Chief Administrative Officer of the district concerned shall be deemed sufficient consent.

(2) Nothing in this section shall prevent the holder of an exploration licence or mining lease from diverting any public path within the area of his or her licence or lease, if the diversion is made entirely within the area held by him or her and is aligned and maintained to the satisfaction of the Chief Administrative Officer of the district concerned; and on conclusion of the exploration or mining operations, the affected public path is restored to the condition in which it was before the interference.

85. Access to public roads.

Cap 350

(1) Notwithstanding any provision of the Access to Roads Act, Cap 350, the holder of a mineral right may, subject to this section, construct a road to give access to a public road from the area covered by his or her mineral right.

(2) Where the holder of a mineral right constructs an access road under subsection (1) of this section, he or she shall not hinder or prevent any other person from having access to or using that road; except that -

(a) where any person uses the road in such a manner as to do appreciable damage to the road, or to enhance substantially the cost of the road's upkeep or maintenance, the person who constructed the road may call upon such user to contribute to the cost of the upkeep or maintenance of the road; and

(b) where any person uses the road in such a manner as to interfere materially with the free use and enjoyment of the road by the person who constructed the road, the person who constructed the road may call upon such user to limit his or her use of the road so as to stop the interference.

(3) Where any dispute arises from or in connection with the matters referred to in subsection (2) of this section, either party may lodge a complaint with the Minister for his or her decision on the dispute.

86. Rights in waters and wetlands

Cap 152

Except as otherwise provided in this Act, all rights in wetlands and in the waters of any spring, stream, river, watercourse, pond or lake on or under public land, are vested in the Government; and no such wetlands or water shall be obstructed, dammed, diverted, polluted or otherwise interfered with, directly or indirectly, except in accordance with the provisions of Part II of the Water Act Cap 152.

87. Grant of water rights

(1) Every application for a mineral right shall indicate whether the applicant intends -

(a) to utilise for prospecting, exploration and mining operations any water existing within the boundaries of his or her mineral right;

(b) to utilise any natural source of water existing at the site to which mining products are conveyed for washing;

(c) to obtain and convey to the area of his or her mineral right from any natural water supply outside the boundaries of the mineral right such specified volume of water as may be required for the relevant operations;

(d) to occupy any land that may be required for the construction of a dam, reservoir or pumping station and for the conveyance of such water to the area where the water is utilised, by means of pipes, duets, flumes, furrows or otherwise, and for such conveyance to have a right of passageway;

(e) to construct any works necessary for the collection, storage or conveyance of such water.

Cap 152

(2) Part II of the Water Act, Cap 152, shall apply in relation to and for the purpose of acquiring the right to use water in any manner or for any purpose or object specified in subsection (1) of this section.

Part VIII: Surrender, Cancellation and Suspension of Mineral Rights.

88. Withdrawal of application for mineral right

(1) An applicant for a mineral right or any renewal of such mineral right may withdraw his or her application at any time before the application is approved or rejected, by notifying the Commissioner in writing that he or she wishes to withdraw the application.

(2) Where an applicant referred to in subsection (1) of this section withdraws his or her application after the application has been lodged and has been substantially or wholly approved, any applicable prescribed fee paid shall not be refunded.

89. Surrender of area covered by mineral right

(1) Subject to section 53 of this Act and the regulations made under

this Act, the holder of a mineral right may, subject to any conditions of his or her licence, surrender the area covered by his or her mineral right or part of such right by -

(a) giving the Commissioner, not less than three months notice of his or her intention to surrender the whole or part of the area concerned; and

(b) applying to the Commissioner for and obtaining a certificate of surrender.

(2) Where the application for a certificate of surrender is in respect of part only of the area covered by the mineral right, the holder shall -

(a) in his or her application

(i) if it relates to a mining lease area, provide a diagram of the area to be surrendered;

(ii) in the case of any other mineral right, provide a plan, in a form acceptable to the Commissioner, of the area to be surrendered;

(iii) in all cases give records and reports with respect to his or her prospecting, exploration or mining operations; and

(b) if the application is approved, demarcate the remaining area in the prescribed manner.

(3) No surrender of any area covered by a mineral right shall be effective unless and until the Commissioner has issued a certificate of surrender in respect of the 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 such surrender.

(5) On the issue of a certificate of surrender the Commissioner shall -

(a) where the surrender is in relation to the whole area covered by a mineral right, cancel such right; or

(b) where the surrender is in respect of part only of the area covered by a mineral right, amend such right accordingly.

(6) No certificate of surrender shall be issued unless all the technical data relating to the mineral right in question has been deposited with the Commissioner.

(7) Any person who contravenes any of the provisions of this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred and fifty currency points or imprisonment for a term not exceeding two years, or both.

90. Suspension or cancellation of mineral right

(1) Subject to the provisions of this section, the Commissioner may suspend or cancel a mineral right if the holder of such mineral right -

(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, the regulations or the conditions of his or her mineral right or the provisions of any other written law relating to mines and minerals;

(c) dies, or becomes insolvent or bankrupt, or enters into any agreement or scheme of composition with his or her creditors, or takes advantage of any written law for the benefit of his or her debtors or goes into liquidation, except as part of a scheme for the reconstruction of the holder's business organisation;

(d) makes any statement to the Commissioner in connection with his or her mineral right which he or she knows or ought to have known to be false; or

(e) for any reason becomes ineligible to apply for a mineral right under section 4 of this Act.

(2) The Commissioner shall, before suspending or cancelling any mineral right give to the holder of the mineral right a written notice and shall, in such notice, require the holder to remedy, within a reasonable time, any breach of the conditions of his or her mineral right; and where the breach cannot be remedied, to show cause to the satisfaction of the Commissioner why the mineral right concerned should not be suspended or cancelled.

(3) Upon cancellation of a mineral right under this section, the rights of the holder of the mineral right shall cease, but without prejudice to any liabilities or obligations incurred under or in relation such mineral right prior to the date of cancellation.

91. Assets on termination

(1) Subject to the provisions of this Act, the regulations and any provision to the contrary under any mineral right, the former holder of any such mineral right may, within six months after the date of termination of his or her mineral right, remove from the prospecting, exploration or mining area any building, fixed machinery or other movable property and any mineral product which may have been extracted from those areas.

(2) Where the Commissioner certifies that any buildings or fixed machinery are necessary for the continued maintenance of any area, which is the subject of a mineral right, those buildings or fixed machinery shall not be removed without the consent of the Minister.

(3) In any case where the Minister refuses to consent to the removal of any such buildings or fixed machinery by the former owner of those buildings or machinery under subsection (2) of this section, the Government shall pay adequate compensation to the owner of the

buildings or fixed machinery concerned.

92. Delivery of documents on termination of mineral right

Upon the termination of any mineral right, the former holder of the mineral right shall deliver to the Commissioner within such period as may be prescribed, all the records which, prior to the termination, the former holder was obliged to maintain under the provisions of this Act.

Part IX: Registration and Records.

93. Register

(1) The Commissioner shall cause a record of every mineral right, other than a prospecting licence, granted under this Act and of any dealings with or affecting every such mineral right to be kept in a register, in this Part referred to as "the register".

(2) When a mineral right, other than a prospecting licence, is granted, the Commissioner shall cause the name of the person to whom the mineral right is granted to be recorded in the register as the registered holder of that mineral right.

(3) Where the Commissioner is satisfied that a mistake has been made or that some matter has been incorrectly entered in the register, the Commissioner shall rectify the register by correcting that mistake or incorrect entry.

(4) The grant, renewal, suspension or termination of all mineral rights, other than prospecting licences, and all mineral dealers' licences and goldsmiths' licences shall be published in the Gazette.

94. Offences in relation to register

A person who willfully -

(a) makes, or causes to be made or concurs in making a false entry in the register; or

(b) produces or tenders in evidence a document falsely purporting to be a copy of, or an extract from, an entry in the register or of or from an instrument lodged with the Commissioner under this Part,

commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty currency points or imprisonment for a term of not exceeding two years, or to both.

95. Inspection of register.

The register shall at all reasonable times be open for inspection by any person on payment of the prescribed fee; and a person may make copies of any entry in the register on payment of the prescribed fee.

96. Replacement of original instrument.

Where the original of any instrument creating or evidencing any right under this Act is lost or destroyed or so obliterated as to become illegible, the Commissioner may, at the

request of the holder of the instrument, cause a copy of the instrument to be prepared and endorsed with all the entries that were in the original instrument, so far as these can be ascertained from the records in the Commissioner's office and other available information; and the Commissioner shall make and sign a memorandum on the copy stating that such copy is a substitute to be used in place of the original.

97. Evidentiary provision.

(1) The Commissioner may give a certificate with respect to any matter referred to in subsection (2) of this section and such certificate shall be received in proceedings before any court as evidence of any such matter, but without prejudice to the right to adduce evidence in rebuttal.

(2) A certificate referred to in subsection (1) of this section is a certificate of the Commissioner that -

(a) a mineral right was granted, transferred, suspended or cancelled on or with effect from a date specified in such certificate;

(b) any land, identified in the certificate is or was on a date specified in the certificate subject to a mineral right;

(c) a mineral specified in the certificate is or was on a date specified in the certificate subject to a mineral right;

(d) any condition specified in the certificate is or was on a date so specified a condition of a mineral right;

(e) a certificate of surrender was issued in respect of land identified on a date specified in the certificate;

(f) any condition specified in the certificate is a condition on which a certificate of surrender was issued or on which any consent or approval so specified was given; or

(g) a person named in the certificate is or was on a date specified on the certificate the holder of a mineral right.

Part X: Financial Provisions.

98. Royalties

(1) Subject to section 100 of this Act, all minerals obtained or mined in the course of prospecting, exploration, mining or mineral beneficiation operations shall be subject to the payment of royalties on the gross value of the minerals based on the prevailing market price of the minerals at such rates as shall be prescribed.

(2) Royalty shall be shared by the Government, Local Governments and owners or lawful occupiers of land subject to mineral rights in the manner specified in the Second Schedule to this Act.

(3) Samples of minerals for the purposes of assay, analysis or other examination, and in such quantities as shall be determined by the

Commissioner, shall be exempted from the payment of any royalty.

(4) For the purposes of this section, "mineral beneficiation" means the process of improving the grade or quality of mineral ore using various mining processes.

99. Waiver of royalty, etc

The Minister may, with the approval of the Cabinet, waive in whole or in part, any royalty payable on any mineral obtained or mined from a particular deposit, for such period as the Minister may determine, if he or she considers it expedient to do so in the interests of the production of any such mineral.

100. Provisional royalties.

Where for any reason it is impractical to assess the amount of any royalty due, the Commissioner may, with the approval of the Minister, assess a provisional royalty.

101. Valuation of minerals.

The value of any mineral, whether for export or for domestic consumption, shall be determined in such manner as shall be prescribed.

102. Royalty on stockpiled minerals.

Where a mineral is to be stockpiled by the producer, a notice to stockpile shall be given to the Commissioner who shall assess the value of the mineral for the determination of royalty due; and the royalty so determined shall be paid as though the mineral has been disposed of commercially,

103. Due date of royalty

The assessed royalty on any mineral shall be due within thirty days from the date of the assessment, and delay in payment shall attract an interest on the unpaid royalty at the rate of 2% per annum above the commercial bank lending rate as established by the Bank of Uganda; and interest on any such unpaid royalty shall not be deductible for purposes of assessing taxable income.

104. Failure to pay royalty on due date.

(1) Where the holder of a mineral right fails to pay any royalty payable by him or her on or before the due date, the Commissioner shall, by notice served on the holder, prohibit the holder from disposing of any mineral obtained or mined by him or her from the mining area concerned, or from any other mining area held by that holder, until all outstanding royalties have been paid or until an arrangement has been made, acceptable to the Commissioner, for the payment of the royalties, and the holder shall comply with the notice.

(2) Any holder of a mineral right who contravenes or fails to comply with a notice given under subsection (1) of this section, commits an offence.

105. Recovery of royalty, etc.

(1) Royalty and any annual surface rent payable under this Act are debts owed to the Government and are recoverable as such by civil

action in a court of competent jurisdiction.

(2) In any proceedings under subsection (1) of this section, a certificate of the Commissioner certifying that a specified amount of royalty, or an annual surface rent of a specified amount, is payable by an identified person shall be received as evidence of that fact; but without prejudice to the right to adduce evidence in rebuttal

(3) Where two or more persons are the joint holders of a mineral right when royalty becomes payable, those persons are jointly and severally liable for the payment of the royalty or annual surface rent without prejudice to any agreement, express or implied existing between or among them.

106. Annual mineral rents.

(1) There shall be payable to the Commissioner by an applicant for, or the holder of, a mining lease, a location licence, a retention licence or an exploration licence, an annual mineral rent of such amount as shall be prescribed.

(2) The annual rent payable under subsection (1) of this section is payable on the application for the grant of a mining lease, a location licence, a retention licence or an exploration licence and thereafter annually on the anniversary of the grant until the termination of the mineral right concerned.

107. Commissioner's power to require for information.

(1) Where the Commissioner has reason to believe that a person is capable of giving information or producing or making available books or documents relating to minerals obtained or mined by the holder of a mineral right or the value of such minerals, the Commissioner may, in writing order that person

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

(b) to attend before him or her or a person specified in the instrument, at a specified time and place, and there to answer questions relating to minerals obtained or mined by such holder or the value of such minerals' or

(c) to produce or make available to a person specified in the instrument, at a specified time and place, books or documents in his or her custody, power or control, relating to minerals obtained or mined by such holder or the value of such minerals.

(2) A person is not excused from furnishing information, answering a question or producing or making available books or documents when required to do so under this Act merely because the information to be so furnished, the answer to the question or the production or making available of any such books or documents, might tend to incriminate him or her or make him or her liable to a penalty; but the information so furnished is not admissible in evidence against such person in any proceeding other than proceedings for an offence against this section.

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

(4) A person shall not -

(a) refuse or fail to comply with a requirement under subsection (1) of this section to the extent to which that person is capable of complying with such requirement;

(b) in purported compliance with such a requirement, knowingly furnish information that is false or misleading in a material particular;

(c) when attending before the Commissioner or an authorised officer in pursuance of such a requirement, knowingly make a statement or produce a document which is, or knowingly produce books which are false or misleading in a material particular; or

(d) when making available books or documents in pursuance of such a requirement, knowingly make available books which are, or a document which is, false or misleading in a material particular.

(5) Any person who contravenes subsection (4) of this section commits an offence and is liable on conviction to a fine of not less than one hundred and fifty currency points or to a term of imprisonment not exceeding one year, or both.

Part XI: Protection of the Environment.

108. Environmental Impact assessment and environmental audits.

Cap 153

(1) Every holder of an exploration licence or a mining lease shall carry out an environmental impact assessment of his or her proposed operations in accordance with the provisions of the National Environment Act, Cap 153.

(2) The holder of a licence referred to in subsection (1) of this section shall commence his or her operations under this Act only after securing a certificate of approval of his or her proposed operations from the National Environment Management Authority.

(3) The holder of a licence referred to in subsection (1) of this section shall carry out an annual environmental audit, and shall keep records describing how far the operations conform to the approved environmental impact assessment.

(4) The provisions of subsections (1) and (3) of this section relating to environmental impact assessment and audit shall not apply to the holder of a location licence.

109. Environmental protection standards.

Cap 153

(1) There shall be included in every exploration licence or mining lease granted under this Act a condition that the holder of such licence or lease takes all necessary steps to ensure the prevention and minimisation of pollution of the environment in accordance with the standards and guidelines prescribed under the National Environment Act, Cap 153.

Cap 153.

(2) Notwithstanding the provisions of subsection (1) of this section, the holder of an exploration licence or a mining lease may exceed the standards and guidelines prescribed under the National Environment Act, Cap 153, if authorised by a pollution licence issued under the National Environment Act, Cap 153.

(3) The holder of an exploration licence or a mining lease shall submit to the Commissioner and the Executive Director of the National Environment Management Authority an environmental management plan indicating the type and quality of wastes to be generated from any exploration or mining operations under this Act and the method of its final disposal.

(4) The environmental management plan referred to in subsection (3) of this section may be revised from time to time either by the holder of the exploration licence or mining lease, or if required by the Commissioner or the Executive Director of the National Environment Management Authority.

110. Environmental restoration plant

(1) There shall be included in an exploration licence or a mining lease granted under this Act, a condition that the holder shall submit an environmental restoration plan of the exploration or mining area that may be damaged or adversely affected by his or her exploration or mining operations.

(2) The environmental restoration plan shall include the following -

(a) an identification of the exploration or mining area concerned, its current uses and productivity prior to exploration or mining operations;

(b) a detailed time table of the accomplishment of each major step to be carried out under the restoration plan which may include -

(i) the reinstatement, levelling, re-vegetation, reforestation and contouring of the affected land;

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

(iii) any other method that may be prescribed;

(c) the use to which the land is proposed to be put following restoration, including a statement of the utility and capacity of the restored land to support a variety of alternative uses.

(3) In making a decision whether to accept the environmental restoration plan, the Commissioner shall take into account -

(a) the steps taken to comply with applicable environmental protection standards, existing land use policies and plans and any applicable health and safety standards; and

(b) the consideration that has been given in developing the environmental restoration plan in a manner consistent with local physical, environmental and climatological conditions.

111. Direction for protection of environment.

(1) Where an exploration licence or a mining lease over any land is wholly or partly terminated, the Commissioner may, by notice served on the person who was the last holder of the exploration licence or mining lease concerned, direct the person to take such steps within such time as may be specified in the notice to give effect, in relation to the land which is no longer subject to such licence or lease, to any conditions included in his or her exploration licence or mining lease under sections 109 and 110 of this Act.

(2) Any person to whom a direction is given under subsection (1) of this section who, without reasonable excuse, fails or neglects to comply with such direction commits an offence and is liable on conviction -

(a) in the case of an individual, to a fine of not less than one hundred currency points or to imprisonment for a term of not less than two years or both; and

(b) in the case of a body corporate, to a fine of not less than five hundred currency points.

(3) Where a person to whom a direction is given under subsection (1) of this section does not comply with such direction, the Commissioner may take or cause to be taken any steps specified in the notice containing the direction.

(4) Costs and expenses incurred pursuant to subsection (3) of this section are a debt due to the Government and are recoverable as such from the guarantees provided under section 12 (1) of this Act or from the environment performance bond executed under section (1)2 of this Act or by civil action in a court of competent jurisdiction.

(5) In any proceedings instituted for the recovery from a person to whom a direction was given under subsection (1) of this section of a debt due by that person to the Government under subsection (4) of this section, a certificate of the Commissioner that a specified amount is the amount of the debt due shall be received as evidence of that fact without prejudice to the right to adduce evidence in rebuttal.

(6) A debt due by any person to the Government under subsection (4)

of this section is recoverable notwithstanding that that person has been convicted of an offence under subsection (2) of this section.

(7) Where two or more persons are the Joint holders of an exploration licence or a mining lease, those persons are jointly and severally liable for the payment of any costs and expenses which may be recovered under this section from the person who is or was the last holder of the licence without prejudice to any right to contribution existing between them.

112. Environmental performance bond

(1) The Commissioner may require the holder of an exploration licence or a mining lease to execute an environmental performance bond to ensure the fulfillment of all the environmental requirements under this Act.

(2) The amount of such bond shall depend on the environmental restoration plan and shall reflect the probable difficulty of restoration, taking into consideration such factors as topography, geology of the site, hydrology and re-vegetation potential.

(3) Liability under the bond shall be for the duration of the mining and restoration operations.

(4) The amount of the bond required may be adjusted by the Minister by statutory instrument.

Part XII: Miscellaneous Provisions.

113. Preference for Uganda products and employment of Uganda citizens

(1) The holder of a mineral right shall in the conduct of his or her operations give preference to -

(a) materials and products made in Uganda; and

(b) service agencies located in Uganda,

to the maximum extent possible and consistent with safety, efficiency and economy.

(2) The holder of a mineral right shall, in all phases of his or her operations, give preference in employment to citizens of Uganda to the maximum extent possible and shall carry out all operations in a manner consistent with safety, efficiency and economy.

114. Underground work for women, etc.

Notwithstanding the provisions of any other law to the contrary, a woman may be employed in any underground work in any mine or in any operation or activity relating to or associated with mining.

115. Disposal of minerals

(1) No minerals shall be disposed of in any manner whether for the

purposes or sampling, assay, analysis or otherwise except -

- (a) with the written consent of the Commissioner;
- (b) in accordance with the terms of the mineral right concerned; or
- (c) as otherwise permitted by or under this Act.

(2) Any person who contravenes subsection (1) of this section commits an offence and is liable, on conviction, to a fine of not less than two hundred and fifty currency points or to imprisonment for a term of not less than two years, or both.

116. Export of minerals

(1) The Commissioner may grant to any person a permit to export minerals from Uganda on conditions determined by or under this Act and specified in such permit.

(2) The grant of any such permit shall not exempt the person concerned from complying with the requirements of any other law relating to the export of minerals.

(3) Any person who exports any mineral from Uganda without complying with the requirements of subsection (1) of this section commits an offence and is liable, on conviction, to a fine of not less than two hundred and fifty currency points or to imprisonment for a term of not less than two years, or both.

117. Import of minerals

(1) The Commissioner may grant to any person an import permit to import minerals into Uganda on conditions prescribed by or under this section and specified in such permit.

(2) A person who imports any minerals into Uganda under this section shall make a declaration before a customs officer regarding the type and quantity of minerals imported, after which the customs officer shall certify the import permit.

(3) An import permit under subsection (1) of this section shall be issued only on payment of the prescribed fee.

(4) Before any minerals are re-exported from Uganda, the relevant import permit shall be surrendered to a customs officer who shall submit it to the Commissioner.

(5) Any person who imports any minerals into Uganda without complying with the requirements of this section commits an offence and is liable, on conviction, to a fine of not less than two hundred and fifty currency points or to imprisonment for a term of not less than two years, or both.

118. Administrative review by Minister.

(1) Any person aggrieved by any decision of the Commissioner may, within thirty days after being notified of the decision, request, in writing, an administrative review of the decision by the Minister.

(2) The Minister may, within sixty days after receipt of a request for administrative review under this section, confirm, set aside or vary the decision complained of.

(3) The Minister shall give reasons in writing for his or her decision on a review under this section.

119. Judicial review of Minister's decision

(1) Any person aggrieved by -

(a) the rejection by the Minister of a request for administrative review under section 118 of this Act; or

(b) any direction, decision or order by the Minister under this Act; or

(c) any other act or omission by the Minister under this Act,

may, within forty five days after receipt of notification of the act or omission complained of, or, if the Minister fails to decide on an administrative review within thirty days after the period prescribed under subsection (2) of section 118 of this Act, apply to the High Court for judicial review.

(2) On an application to the High Court, under this section, the High Court may make such orders as it may consider just.

120. Miscellaneous offences

(1) Any person who shall -

(a) place or deposit or be an accessory to the placing or offences, depositing of any mineral in any spot or place for the purpose of misleading any person as to the nature, quality or quantity of the mineral naturally occurring at such spot or place; or

(b) mingle or cause to be mingled with any sample of metal, mineral ore or any substance which will increase or decrease the value or in any way change the nature of such metal, mineral or ore, with intent to defraud any person, commits an offence and is liable, on conviction, to a fine not exceeding two hundred and fifty currency points or to imprisonment for a term not exceeding five years, or both.

(2) Any person who without lawful authority -

(a) wilfully breaks, defaces or removes, or in any way interferes with any boundary mark, beacon, pillar, peg or post erected for any of the purposes of this Act; or under the

regulations; or

(b) wilfully removes or alters any such mark, beacon, pillar, peg or post after it has been delineated on a plan or survey,

commits an offence and is liable, on conviction, to a fine not exceeding two hundred and fifty currency points or to imprisonment for a term not exceeding two years, or both.

(3) Any person who -

(a) interferes with any prospecting, exploration or mining operations authorised by or under this Act;

(b) obstructs any holder of a mineral right in the exercise of any right conferred by or under this Act; or

(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,

commits an offence and is liable, on summary conviction, to a fine not exceeding two hundred and fifty currency points or to imprisonment for a term not exceeding two years, or both.

(4) Any person who commits a breach of any of the provisions of this Act for which no penalty is expressly provided shall be liable, on summary conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding one year, or both.

(5) Where any person is convicted of an offence under this section and the time limited for appeal has elapsed or the appeal has been refused, the Commissioner shall cancel any mineral right, which has been granted to any such person under this Act.

121. Regulations

(1) The Minister may make regulations for the conservation and development of mines and minerals on new areas or areas already gazetted as such and otherwise for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) of this section, the regulations may include provisions for or with respect to -

(a) anything, which may be prescribed under this Act;

(b) the manner in which applications under this Act shall be made, the form of documents required and information to be supplied by an applicant;

(c) the shape of the area over which a mineral right may be granted and the manner in which areas and boundaries shall be marked, beacons and surveyed and the fees payable in respect of such surveys;

(d) the rejection of an application for a mineral right and the

renewal, transfer, assignment or surrender of a mineral right;

(e) the returns to be rendered and the nature of the accounts, books and plans to be kept by the holder of a mineral right;

(f) the valuation, sampling, weighing and testing of mineral;

(g) the method of calculation of the amount of royalties and the manner of payment of such royalties;

(h) the fees to be paid in respect of any service rendered or matter or thing done under this Act;

(i) the restriction or prohibition of prospecting, exploration or mining operations for environmental reasons;

(j) the safety of the public and the safety and welfare of persons employed in mines and the carrying on of prospecting, exploration and mining operations in a safe, proper and effective manner;

(k) the notices and other safety measures necessary to protect the owner or lawful occupier of any land who exercises his or her right to graze stock upon or cultivate the surface of such land under section 80 of this Act;

(l) the inspection of mines by authorised officers;

(m) the proper and efficient working of exploration and mining areas and mines, as well as the avoidance of wasteful mining practices or wasteful metallurgical practices;

(n) the penalties, not exceeding one hundred currency points or imprisonment for a term not exceeding one year, for breach of any offence under the regulations or anything which is to be prescribed; and

(o) requiring any person who is the holder of a mineral right on the date of commencement of this Act to comply with such provisions of this Act as the Minister may from time to time specify.

122. Repeal of Mining Act

Cap. 148.

(1) The Mining Act, Cap 148, is repealed.

(2) Notwithstanding the repeal referred to in subsection (1) of this section -

(a) any public officer or other employee holding office or employment under the repealed Act on the date of commencement of this Act shall continue to hold such office or employment as if appointed or employed under this Act;

(b) any regulations made under the repealed Act shall, in so far as they are consistent with the provisions of this Act, continue in force as if they were made under this Act.

123. Amendment of Schedule.

The Minister may, by statutory instrument, after consultation with the Minister responsible for finance and with the approval of the Cabinet, amend the Schedules to this Act.

124. Transitional provisions relating to existing mineral rights, etc.

Notwithstanding the repeal referred to in section 122 of this Act, any right or title granted under the repealed enactment and subsisting immediately before the date of commencement of this Act shall continue in force; except that any such right or title shall be limited as prescribed by the law under which it was granted.

SCHEDULES.

FIRST SCHEDULE

Section 2

A currency point is equivalent to twenty thousand shillings.

SECOND SCHEDULE.

Section 98(3)

Government 80%

Local Governments 17%

Owners or lawful occupiers of land subject to mineral rights 3%

