

THE UNITED REPUBLIC OF TANZANIA

***SPECIAL BILL SUPPLEMENT***

***No. 1***

***10<sup>th</sup> April, 2010***

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THE MINING ACT, 2010

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**NOTICE**

This Bill to be submitted to the National Assembly is published for the general information to the public together with a statement of its objects and reasons.

Dar es Salaam,  
10<sup>th</sup> April, 2010

PHILLEMONT L. LUHANJO,  
*Secretary to the Cabinet*

**A BILL**

*for*

**An Act to re-enact with substantial amendments the provisions that regulate the law relating prospecting for minerals, mining, processing and dealing in minerals, to granting, renewal and termination of mineral rights, payment of royalties, fees and other charges and any other relevant matters.**

ENACTED by Parliament of the United Republic of Tanzania.

PART I  
PRELIMINARY PROVISIONS

Short title  
and  
commence-  
ment

**1.** This Act may be cited as the Mining Act, 2010 and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Application

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

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Disapplica- tion to petroleum	<p><b>3.</b> This Act does not apply to explore for or produce petroleum.</p>
Interpreta- tion  Cap. 245	<p><b>4.-(1)</b> In this Act, unless the context otherwise requires-</p> <p>“Agency” means the Geological Survey of Tanzania established under the Executive Agencies Act;</p> <p>"authorised officer" means the Commissioner, Chief Inspector, Inspector, or a public officer appointed under subsection 19 or a person designated as such by the Commissioner under subsection (4) of section 19;</p> <p>“Board” means the Mining Advisory Board established under section 23;</p> <p>"building materials" includes all forms of rock, stones, gravel, sand, clay, soils, volcanic ash or cinder, scoria, pumice, or other minerals being used for the construction of buildings, roads, dams, aerodromes, or similar works but does not include gypsum, limestone being burned for the production of lime, or material used for the manufacture of cement;</p> <p>“Chief Inspector” means the Chief Inspector of Mines appointed by the Minister under section 19;</p> <p>"Commissioner" means the Commissioner for Minerals appointed under subsection (1) of section 19;</p>
Cap. 212	<p>"company" means a company incorporated under the Companies Act;</p> <p>"development agreement" means an agreement referred to in section 10;</p> <p>“dispute” means all disputes as referred to under section 102;</p> <p>“energy minerals” means a group of minerals comprising of coal, peat, uranium, thorium and other radioactive minerals;</p> <p>“entitled applicant” means an applicant to whom subsection (1) of section 39 applies;</p> <p>“free carried interest” means the interest derived from holding shares of which the holder enjoys all the rights of a shareholder but has no obligation to subscribe or contribute equity capital for the shares;</p> <p>“gems” means cut and polished or engraved gemstone;</p> <p>“gemstone” means-</p> <p style="padding-left: 2em;">(a) diamonds, emerald and other gem varieties of beryl, opal, ruby, sapphire, turquoise, chrysoberyl, spinel,</p>

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topaz, tourmaline, zircon, obsidian, peridot, moonstone, chrysophase, amethyst;

- (b) other gem varieties of quartz, garnet, zoisite, tanzanite, cordierite and scapolite, in rough and uncut form;
- (c) any other rough and uncut stone which may be declared to be a gemstone by the Minister by notice in the *Gazette*:

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

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

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

"industrial minerals" means a group of minerals comprising of phosphate, kaolin, lime, gypsum, dolomite, diatomite, bentonite, zeolite, trona, pozzollana, vermiculite, salt, beach sands and other minerals other than metallic minerals, normally used in industries;

"Inspector" means an Inspector of Mines appointed by the Minister under section 19;

"land to which this Act applies" means-

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

"lawful occupier" in relation to any land means the lawful occupier of land in accordance with the Land Act, and the Village Land Act;

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

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

"licensing activities" include receiving, processing and validating applications, and granting and issuing of mineral rights;

"licensing authority" means-

- (a) where an application for a licence is to be made to the Minister, the Minister;

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(b) where an application for a licence is to be made to the Commissioner, the Commissioner; or

(c) where an application for a licence is to be made to the Zonal Mines Officer, the Zonal Mines Officer;

“licensing officer” includes a licensing authority or any other public officer authorised or appointed to perform licensing activities on behalf of the licensing authority;

“metallic minerals” means a group of minerals comprising of gold, silver, copper, iron, nickel, cobalt, tin, tungsten, zinc, chromium, manganese, titanium, aluminium, platinum group of metals and other metallic minerals;

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

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

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

“mineral rights” means licences referred to in section 7;

“mining area” means an area of land subject to a special mining licence, a mining licence, or a primary mining licence;

“mining licence” means a mining licence granted under Division B of Part IV;

“mining operations” means operations carried out in the course of mining;

“Minister” means the Minister responsible for mining;

“person” means a natural person or a body corporate or other juridical person;

Cap. 328

“petroleum” has the meaning ascribed to it in the Petroleum Act ;

“primary mining licence” means a primary licence to mine minerals

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granted under Division C of Part IV;

“processing area” means an area whether within or outside the mining area used for the purpose of milling, beneficiating and dressing mineral ores, and including smelting and refining of minerals;

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

"prospecting area" means an area of land subject to a prospecting licence;

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

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

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

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

"regulations" means regulations made under this Act;

"reserved area" means-

- (a) an area reserved in accordance with section 15 for applications for mineral rights by tender; or
- (b) an area reserved in accordance with section 16 exclusively for the grant of primary licences to mine minerals under Division C of Part IV;

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

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

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

“specified gemstone” means gemstone specified under section 17;

“Tax Authority” means the Tanzania Revenue Authority, established under the Tanzania Revenue Authority Act;

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

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- (a) a mineral right, or an area subject to such a mineral right which the applicant has entered into an agreement to purchase, or in respect of which he has an enforceable option to purchase;
- (b) a processing area;
- (c) a pending application for a mineral right;

"zonal mines office" means such an office established for any area by the Minister in accordance with section 26;

"Zonal Mines Officer" means an officer appointed under subsection (4) of section 19 to head zonal mines office.

(2) A reference in this Act to "land subject to a mineral right" is a reference to an area of land in respect of which a mineral right and or a licence for a Processing Area has been granted and subsists.

### PART II

#### GENERAL PRINCIPLES

Control  
of  
minerals

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

Authority  
required for  
prospecting  
or mining

6.-(1) No person shall, on or in any land to which this Act applies, prospect for minerals or carry on mining operations except under the authority of a mineral right granted or deemed to have been granted, under this Act.

(2) The activities carried on by the Agency in the course of geological mapping shall not be treated for the purpose of subsection (1) as prospecting for minerals or mining operations.

(3) Any person who contravenes subsection (1), commits an offence and on conviction is liable-

- (a) in the case of an individual, to a fine of not exceeding five million shillings or to imprisonment for a period not exceeding three years, or to both;
- (b) in the case of a body corporate, to a fine of not less than fifty million shillings.

(4) Any minerals obtained in the course of unauthorised prospecting or mining operations shall be forfeited.

Mineral  
rights and  
exclusivity

7.-(1) The following mineral rights may be granted under this Act-

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- (a) under Division A of Part IV-
  - (i) a prospecting licence;
  - (ii) a gemstone prospecting licence;
  - (iii) a retention licence;
- (b) under Division B of Part IV-
  - (i) a special mining licence;
  - (ii) a mining licence;
- (c) under Division C of Part IV-
  - a primary mining licence;
- (d) under division D of Part IV-
  - (i) a processing licence;
  - (ii) a smelting licence;
  - (iii) a refining licence.

(2) The licensing authority may, upon consent of the mineral right holder, grant more than one mineral right over the same mining area as follows-

- (a) mining licence or primary mining licence for building materials may be granted in an area subject for a mineral right for minerals other than building materials;
- (b) primary mining licence for gemstone may be granted in an area subject for a prospecting licence for minerals other than gemstone;

(3) Notwithstanding the foregoing provision of this section, nothing in this Act shall prevent any person engaged in the construction of tunnels, road, dams, aerodromes and similar public works of an engineering nature from utilizing as building materials any minerals derived from a source approved by the Minister in writing.

(4) The Minister shall not, for the purposes of subsection (3), approve a source in a mining area.

(5) The Minister may, at any time withdraw an approval given for the purposes of subsection (3).

Restriction  
on grant of  
mineral  
rights

**8.-(1) Mineral rights shall not be granted to-**

- (a) an individual who-
  - (i) is under the age of eighteen years;
  - (ii) is an undischarged bankrupt, having been adjudged or, otherwise declared bankrupt under

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any written law, or enters into any agreement or scheme of composition with his creditors, or takes advantage of any law for the benefit of debtors;

- (b) a body corporate-
  - (i) which is in liquidation other than a liquidation which forms part of a scheme for the reconstruction or amalgamation of the holder;
  - (ii) in respect of which an order has been made by a court of competent jurisdiction for the winding up or dissolution of the body corporate;
  - (iii) which has made a composition or arrangement with its creditors.

(2) A primary mining licence for any minerals shall not be granted to an individual, partnership or body corporate unless-

- (a) in the case of an individual, the individual is a citizen of Tanzania;
- (b) in the case of a partnership, it is composed exclusively of citizens of Tanzania;
- (c) in the case of a body corporate, it is a company and-
  - (i) its membership is composed exclusively of citizens of Tanzania;
  - (ii) its directors are all citizens of Tanzania;
  - (iii) control over the company, both direct and indirect, is exercised, from within Tanzania by persons all of whom are citizens of Tanzania.

(3) A mining licence for mining gemstone minerals shall not be granted to a non-citizen unless the licence is held in undivided participating shares with the citizen of Tanzania whose undivided participating shares amount to not less than fifty per centum either alone or in the aggregate in the case of more than one person.

(4) A special mining licence for mining gemstone shall not be granted to a non-citizen unless the licence is held by that person in undivided participating shares with a citizen or citizens of Tanzania whose undivided participating share or shares amount to not less than twenty five per centum either alone or in the aggregate, in the case of more than one person.

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(5) A mineral right shall not be granted to an individual or partnership or body corporate who is in default or any one of the partner shareholder or director is in default in another mineral right or in expired or terminated mineral right.

(6) A prospecting licence shall not be granted to an individual, partnership, body corporate, or any one of the partner, shareholders or directors of the partnership or body corporate who owns more than twenty other valid prospecting licences, unless the cumulative prospecting areas of such other prospecting licences do not exceed 2,000 square kilometres.

Mineral  
rights  
transferable

**9.-(1)** The holder of a mineral right, or where the holder is more than one person, every person who constitutes the holder of that mineral right, shall, subject to subsection (2), be entitled to assign the mineral right or, as the case may be, an undivided proportionate part thereof to another person.

(2) No special mining licence; mining licence or any undivided proportionate part thereof shall be assigned to another person without a written consent of the licensing authority.

(3) Notwithstanding subsection (2), consent of the licensing authority shall not be required for an assignment to-

- (a) an affiliate, where the obligations of the affiliate are guaranteed by the assignor or by a parent company approved by the licensing authority; and, for the purposes of this paragraph, an affiliate means any company which directly or indirectly controls or is controlled by the applicant or which is controlled directly or indirectly by a company which directly or indirectly controls the applicant;
- (b) a bank or other financial institution by way of mortgage or charge given as security for any loan or guarantee in respect of mining operations;
- (c) another person who constitutes the holder of the special mining licence or, as the case may be, the mining licence.

(4) The consent of the licensing authority where it is required under subsection (2) shall not be unreasonably withheld or delayed.

(5) A mineral right may not be assigned to a person to whom that mineral right could not have been granted under this Act.

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(6) Application for assignment or transfer of mineral rights shall be made in a prescribed form and accompanied by a prescribed fee.

Develop-  
ment  
agreement

**10.**-(1) The Minister may, on behalf of the United Republic and subject to subsection (3), enter into a development agreement, not inconsistent with this Act, with the holder of, or an applicant for, a mineral right for which he is the licensing authority relating to the grant of such a mineral right or mineral rights, the conduct of mining operations under a special mining licence, Government free carried interest and public equity participation in mining, and the financing of any mining operations under a special mining licence.

(2) The Minister may, by regulations prescribe the level of Government free carried interest and public equity participation in any mining operations under a special mining license depending on the type of minerals and level of investment requirements.

(3) The Minister shall not enter into a development agreement under subsection (1) if-

- (a) the capital expenditure of establishing a mining operations within the special mining area which is subject for the intended development agreement is below one hundred million United States Dollars or its equivalent in any convertible currencies; and
- (b) due diligence conducted on the status of the mineral right holder or applicant does not confirm the financial and technical capability for such a person of being able to efficiently undertake such a large scale investment.

(4) The agreement under subsection (1) shall be in the standard model as prescribed in the regulations and may contain provisions binding on the United Republic and the mineral right holder relating to a special mining licence or mining operations to be conducted under a special mining licence-

- (a) which guarantee the fiscal stability of a long term mining project, by reference to the law in force at the effective date of the agreement, with respect to the range and applicable rates of royalties and corporate tax, and the manner in which liability in respect thereof is calculated;
- (b) relating to the circumstances or the manner in which the Minister or the Commissioner will exercise any

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discretion conferred on them by this Act or the Regulations;

- (c) relating to environmental matters, including in respect of matters which are project specific and not covered by regulations of general application, provisions intended to define the scope, and, as may be appropriate in any particular case, limit the extent of the obligations or liabilities of the holder of a special mining licence;
- (d) dealing with the settlement of disputes arising out of or relating to the development agreement, the administration of this Act, or the terms and conditions of a special mining licence, including provisions relating to the settlement of any such dispute by international arbitration;
- (e) relating to employment, training and succession plan; and
- (f) relating to Government and members of the public equity participation.

(5) Where this Act or the Regulations confer on the Minister or the Commissioner discretion, the Minister or, as the case may be, the Commissioner shall exercise that discretion subject to and in accordance with any relevant stipulation contained in a development agreement made under this section.

(6) The Minister shall, prior to entering into development agreement under this section, refer the proposal to enter into such development agreement to the Board for its advice.

Validity of  
development  
agreement

**11.** The development agreement to be entered under this Act shall be valid for the lifespan of the mine or the special mining licence, whichever period is lesser.

Review of  
development  
agreement

**12.** The development agreement entered under section 10 shall be subject to periodic performance review by parties after every five years.

Joint and  
several  
obligations

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

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conditions of that mineral right or a relevant development agreement otherwise provide.

Priority  
between  
competing  
applications

**14.-(1)** Where two or more persons, not acting together as partnership or joint venture, each make a specified application for the grant of a mineral right over the same area of land, or over areas of land, parts of which are the same area, the person whose application was first registered under this Act shall, if the circumstances in subsection (3) are satisfied, be granted the mineral right for which he has applied.

(2) Where two or more specified applications are received on the same day by an authorised officer or officers during the hours of business appointed by the Commissioner for the receipt of applications, those applications shall be deemed to have been received simultaneously and priority between them shall be determined by the licensing authority in such manner as may be prescribed in the regulations.

(3) The circumstances referred to in subsection (1) and (2) are-

- (a) that the applicant is not disqualified for a grant of the mineral right by section 8;
- (b) that the applicant is entitled, otherwise than as provided in this section, to a grant of the mineral right over the area of land for which application is made.

(4) For the purpose of this section, a specified application means an application for the grant of-

- (a) a prospecting licence;
- (b) a special mining licence or a mining licence by a person who is not an entitled applicant;
- (c) a primary mining licence.
- (d) A processing licence, smelting licence, or refining licence.

Applications  
for Mineral  
Rights by  
tender

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

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- (a) a prospecting licence or licences;
- (b) a mining licence or licences; or
- (c) a special mining licence or licences.

(2) The area of a prospecting licence or part thereof which has been expired or relinquished by the holder in accordance with subsection (3) of section 32 shall, within a period of four months from the date of expiry or relinquishment, be deemed to have been designated under this section as an area for which the Minister may-

- (a) invite the application for tender, or
- (b) declare such an area to be exclusive for allocation to small scale miners in accordance with the procedures stipulated under section 16,

or on the expiry of the four months period, the area or areas shall fall vacant.

Exclusive areas for primary licensees

**16.** Where the Minister, after consultation with the Board, determines that it would be in the interests of the orderly development of the mining industry in Tanzania, he may, by order published in the *Gazette*-

- (a) designate any vacant area; or
- (b) declare any area deemed to have been designated under subsection (2) of section 15,

as an area exclusively reserved for prospecting and mining operations by persons holding primary mining licences issued under Division C of Part IV.

Specified gemstone

**17.** Where the Minister after consultation with the Board, determines that it would be in the interests of the development of the gemstone industry in Tanzania, he may by order published in the *Gazette*, designate any gemstone to be a specified gemstone for special conditions on mining trading and disposal.

Offences relating to unauthorised trading of minerals

**18.-(1)** Subject to subsection (2), no person other than a mineral right holder, a licensed dealer, or licensed broker shall have in his possession, or dispose of, any mineral or minerals, unless as an employee, agent or contractor, he has acquired and holds the mineral or minerals for or on behalf of a mineral right holder, licensed dealer or a licensed broker.

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(2) Subsection (1) shall not be construed to restrict any member of the public to have in his possession, or dispose of common salt and building materials which are commonly used for domestic purposes.

(3) No person shall export from Tanzania any mineral or minerals unless he is a mineral right holder, or a licensed dealer, and-

- (a) in the case of a mineral right holder, has paid the royalty or provisional royalty due on such mineral or minerals;
- (b) in the case of a licensed dealer has made the payment or provisional payment in lieu of royalty due on the export of the mineral or minerals; or
- (c) in any case, has given security to the satisfaction of the Commissioner for the payment of any such amount.

(4) Any person who contravenes the provisions of subsections (1) and (3) commits an offence and on conviction is liable-

- (a) in the case of an individual, to a fine not exceeding ten million shillings or to imprisonment for a period not exceeding three years or to both;
- (b) in the case of a body corporate, to a fine not exceeding fifty million shillings.

### PART III

#### ADMINISTRATION

Appointment  
of Commi-  
ssioner for  
Minerals

**19.-(1)** The President shall appoint a suitably qualified public officer to be a Commissioner for Minerals.

(2) The Commissioner appointed under subsection (1) shall exercise and perform the functions conferred or imposed upon him by this Act or by any other written law and shall supervise and regulate the proper and effectual carrying out of the provisions of this Act.

(3) The Minister in consultation with the Commissioner may appoint a Chief Inspector of Mines, Zonal Mines Officers,

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Resident Mines Officers, inspectors of mines and other public officers as may be required for the better performance of functions under this Act.

(4) The Commissioner may, by notice in the *Gazette*, designate any person to be an authorised officer for the purpose of all or any of the provisions of this Act.

(5) There shall be appointed in accordance with the Public Service Act, Assistant Commissioners of such number as is necessary for proper performance of the functions of the Commissioner.

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Execution and  
delegation of  
functions of  
Commissioner

**20.**-(1) Where the office of Commissioner is vacant or the Commissioner is, owing to absence or inability to act from illness or other cause, unable to exercise and perform the functions of his office, the Minister shall authorise one of the Assistant Commissioners to perform the functions of the Commissioner during the period of his absence.

(2) The Commissioner may, by notice published in the *Gazette*, subject to such conditions, qualifications or exemptions as may be prescribed delegate to any public officer the exercise or performance of any of the functions conferred or imposed on him by this Act.

(3) The Commissioner may exercise powers or perform any function notwithstanding that he has delegated the exercise of powers or performance of such functions to another person.

(4) The Commissioner shall not delegate any of the functions stipulated under Part VIII.

Geological  
services

**21.** The Agency shall be responsible for all matters related to geological activities other than prospecting and mining activities, and in particular shall-

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

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Geological  
survey,  
mapping and  
prospecting

**22.** The Agency, shall, for the purpose of carrying out the geological mapping of Tanzania-

- (a) enter upon any land for the purpose of carrying out such mapping;
- (b) carry out any operations which may be carried out in accordance with this Act.

Mining  
Advisory  
Board

**23.-(1)** There is established a Board to be known as the Mining Advisory Board.

(2) The functions of the Board shall be to advise the Minister on-

- (a) the matters which under the provisions of this Act are required to be referred to the Board;
- (b) the sound development of the gemstone industry and undertake other matters relating to gemstone as prescribed by regulations;
- (c) such other matters in connection with the administration of this Act and its regulations as may be referred to the Board by the Minister.

(3) The Board established under subsection (1) shall be composed of-

- (a) the Chairman who shall be appointed by the President from amongst persons with knowledge and experience in mining matters; and
- (b) not more than seven other members who shall be appointed by the Minister as follows:
  - (i) Commissioner;
  - (ii) one member appointed from the Ministry responsible for finance;
  - (iii) one member appointed from the Ministry responsible for protection of the environment;
  - (iv) one member appointed from the Ministry responsible for lands;
  - (v) a state attorney of the rank of Senior or above appointed from the Attorney General's Office;
  - (vi) one member appointed from higher learning institution; and

## *Mining*

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(vii) one member representing the Tanzania Chamber of Minerals and Energy.

(4) The Assistant Commissioner, or any person authorised by him, shall be the Secretary to the Board.

(5) The Minister shall, in appointing members under this section ensure that-

(a) the appointment of a member is made from three proposed names as nominated by the relevant ministry or office;

(b) at least one third of members of the Board is constituted by women members.

(6) Provisions of the First Schedule shall have effect as to the tenure of office of members, proceedings of the meeting of the Board and other matters relating to the Board.

(7) The Minister may amend any provision of the Schedule.

(8) Where, in accordance with this Act, any matter is required to be referred to the Board for advice, the Board shall submit the advice to the Minister and, in the event that the Minister proposes to dispose of that matter otherwise than in accordance with the advice of the Board, the Minister shall, before disposing of the matter, publish in the newspapers the report of the Board.

Committees of  
the Board

**24.**-(1) The Board shall, for the purpose of facilitating the performance of functions of the Board establish such number of committees to advise the Board on matters relating to mining and minerals.

(2) The committee shall perform the functions as may be assigned to it by the Board upon such terms and restrictions as the Board may determine.

(3) The provisions of the First Schedule shall apply *mutatis mutandis* to the proceedings of committees

Prohibition  
against the  
disclosure of  
information

**25.**-(1) Subject to subsection (2), no information furnished, or information in a report submitted, pursuant to section 100 by the holder of a mineral right shall, for so long as that mineral right or another mineral right granted to the holder has effect over the land to which the information relates, be disclosed, except with the consent of the holder of the mineral right.

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

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

(3) Any person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction-

- (a) in the case of an individual, to a fine not exceeding shillings two million or to imprisonment for a period not exceeding twelve months, or to both;
- (b) in the case of a body corporate, to a fine not exceeding twenty million shillings.

Zonal Mines  
Offices

**26.**-(1) The Minister shall, in consultation with the Commissioner establish Zonal Mines Offices for the purpose of this Act, and appoint the area of Tanzania for which each such Zonal Mines Office shall be responsible.

(2) The establishment of Zonal Mines Offices and the designation of the areas for which they are responsible shall be set forth in a notice published in the *Gazette*.

(3) The Minister shall, in consultation with the Commissioner, make regulations prescribing functions and procedures to be observed by Zonal Mines Officers and Resident Mines Officers in the performance of their functions.

Indemnity

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

## *Mining*

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### PART IV MINERAL RIGHTS

#### DIVISION A: Prospecting Licence and Retention Licence

##### *(i) Prospecting Licence*

Application  
for  
prospecting  
licence

**28.**-(1) An application may be made under this Division of this Part for a prospecting licence for minerals falling under any of the following groups:

- (a) metallic minerals;
- (b) energy minerals;
- (c) gemstone excluding kimberlitic diamond;
- (d) kimberlitic diamond;
- (e) industrial minerals; or
- (f) building materials.

(2) An application for a prospecting licence including an application in respect of land in an area reserved for applications by tender for prospecting licences shall be made to the Commissioner and shall be in the prescribed form and accompanied by the prescribed fee.

(3) An application for the grant of a prospecting licence-

(a) shall contain-

- (i) in the case of an individual, his full names and nationality, physical and postal addresses, and attach his recent passport size photograph; or
  - (ii) in the case of a body corporate, its corporate name and the place where it was incorporated, name and nationality of subscribers and directors, and attach their recent passport size photograph;
  - (iii) in the case of more than one person, particulars referred in items (i) and (ii) of each of that person.
- (b) shall state the type of minerals and its relevant group, as indicated in subsection (1);
- (c) shall state the size of the area of land over which it

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is sought, which shall not exceed the maximum area prescribed as provided under section 31, and be accompanied by a plan of the area;

- (d) shall contain a statement giving particulars of the financial and technical resources available to the applicant; and
- (e) shall contain details of any Mineral Right previously granted to the applicant.

(4) Every application for a prospecting licence made in the prescribed form by an applicant who has tendered to the licensing authority the prescribed fee, shall be registered immediately in the register maintained for such applications under this Act.

(5) Each application registered under subsection (4) shall be assigned a number and the date on which it was received and shall be indicated on an official receipt handed to the applicant or his authorised agent or sent to the applicant by registered mail.

Prospecting  
licence by  
tender

**29.**(1) An application for a prospecting licence in an area designated as an area for which applications for such a licence are invited by tender shall-

- (a) be in the prescribed tender form and accompanied by the prescribed tender fee; and
- (b) subject to the terms and conditions of the invitation to tender, include the matters required to be included in applications by section 28.

(2) Applications made under subsection (1) shall be submitted to the Board for its advice.

(3) On receipt of a report from the Board, the licensing authority shall consider the competing bids and shall select the bid which is most likely to promote the expeditious and beneficial development of the mineral resources of the area having regard to-

- (a) the programme of prospecting operations which the applicant proposes to carry out and the commitments as regards expenditure which the applicant is prepared to make;
- (b) the financial and technical resources of the applicant; and

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(c) the previous experience of the applicant in the conduct of prospecting and mining operations, and the successful application shall be treated as an application under section 14 which has priority over any other application and the applicant shall be notified accordingly.

Minimum expenditure

**30.**-(1) The amount per square kilometre which the holder of a prospecting licence shall expend annually on prospecting operations shall be prescribed and for that purpose the Regulations may prescribe different amounts in respect of prospecting licences for building materials and gemstones minerals groups from those for prospecting licences for metallic and energy minerals groups or industrial minerals group.

(2) The expenditure per square kilometre specified in subsection (1) shall be different amounts for the different periods specified under subsection (1) of section 32 including making provision for a lump sum payment.

Condition for grant of prospecting licence

**31.** An applicant for a prospecting licence whose application was properly made under section 28 and an applicant whose application has been declared to be a successful application under section 29 shall be entitled to the grant of a prospecting licence for which he has applied unless-

- (a) he is disqualified from holding a prospecting licence under section 8;
- (b) he is the holder of another mineral right and is, in respect of that other mineral right, in default;
- (c) the area of land for which he has made application or part thereof is subject to another mineral right;
- (d) the area of land for which application has been made, or any part of it, covers or includes an area designated by the Minister under section 16 as an area reserved for prospecting and mining operations by persons holding primary mining licences;
- (e) the area of land for which application has been made covers or includes an area of land for which application has been made by another person who has priority over the applicant under section 14;
- (f) except in a case to which section 29 applies, the area of land for which application has been made, or any part of it, covers or includes an area deemed to have

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been designated or designated by the Minister under section 15 as an area in respect of which applications for the grant of a mineral right shall be invited by tender.

Grant,  
renewal and  
relinquishme  
nt of  
prospecting  
licence

**32.**-(1) Where an applicant is entitled to the grant of a prospecting licence under section 31, the licensing authority shall issue to the applicant the prospecting licence as provided in that section and the licence so issued shall subsist for the following periods-

- (a) for the initial prospecting period for which the applicant has applied, a period not exceeding four years;
- (b) where application for renewal has been made by the holder in the prescribed form, for the first period of renewal for which the applicant has applied, a period not exceeding three years;
- (c) where application for renewal has been made by the holder in the prescribed form, for the second period of renewal for which the applicant has applied, a period not exceeding two years;
- (d) where the holder is not in default and at the end of the second period of renewal a further period is required to complete a feasibility study, already commenced by the holder, for such further period as may be reasonably required for that purpose, but not exceeding two years.

(2) A holder of the licence who intends to renew the licence shall, not later than one month before expiry date of the licence, submit an application for renewal of the prospecting licence.

(3) The licensing authority shall, on application of the holder of licence granted under subsection (1) of this section and on payment of prescribed fees for renewal, renew the prospecting licence-

- (a) at the end of the initial prospecting period or, as the case may be, at the end of the first renewal period, for the period referred to in paragraphs (b) and (c) of subsection (1);

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(b) at the end of the second renewal period, in a case falling under paragraph (d) of subsection (1), for the period required to complete the feasibility study.

(4) The obligation of the licensing authority to renew a prospecting licence is subject to the condition that-

(a) the holder is not in default except that the licensing authority shall not reject an application to renew a prospecting licence on the grounds that the holder is in default, without first serving on the holder a notice giving particulars of the default and requiring the holder within a reasonable time specified in the notice to remedy the default; and

(b) the holder, on renewal under paragraph (a) of subsection (3), has relinquished in the case of a first renewal fifty per centum of the area held during the initial prospecting period and in the case of a second renewal fifty per centum of the balance, and has by notice in writing to the licensing authority given a sufficient description of the areas he is relinquishing.

(5) The relinquished areas shall be displayed on the notice board at the Ministry headquarters, Zonal and Resident Mines Offices on monthly basis.

(6) A prospecting licence for gemstones other than kimberlitic diamonds, and a prospecting licence for building materials shall subsist for one year from the date of grant and shall not be subject to renewal.

(7) The obligations of the licensing authority under paragraph (b) of subsection (4) shall not apply in the case where the prospecting area is not more than twenty square kilometres.

Notification  
of grants

**33.**-(1) The licensing authority shall, within four weeks from the date on which an application under section 28 for the grant of a prospecting licence was registered and consideration of the application, notify the applicant that the application has been granted or rejected.

(2) The applicant shall, within four weeks of the notification under subsection (1) give notice to the licensing authority of his willingness to accept the proposed licence and pay the fees stipulated in the notification.

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(3) The licensing authority shall, within four weeks from the notice given by the applicant, grant the application and cause the licence to be issued to the applicant.

(4) Not later than six weeks from the date on which application is made for the renewal of a prospecting licence, the licensing authority shall, in accordance with subsection (2) of section 32, grant the application or-

- (a) in a case of default, serve on the holder a notice of the kind referred to in paragraph (a) of subsection (3) of section 32; or
- (b) where the holder has failed to provide the licensing authority with a sufficient description of the areas he is relinquishing in order to satisfy the requirements of subparagraph (i), or (ii), of paragraph (b) of subsection (3) of section 32 serve a notice on the holder calling on him within a reasonable time to satisfy those requirements;
- (c) where the holder has not satisfied the licensing authority as required under paragraph (b), require the holder to provide further description of the area for relinquishment; or;
- (d) in the case of an application under paragraph (d) of section 32, if the conditions for the grant of an extension in accordance with that provision have not been satisfied, serve a notice on the holder stating why.

Content of  
prospecting  
licence

**34.**-(1) A prospecting licence shall-

- (a) state the names, postal and physical address and status of the licensee;
- (b) state the date of the grant of the licence and the period for which it is granted;
- (c) state the commencement and expiry dates;
- (d) include a description and plan of the area of land over which it is granted;
- (e) append the prospecting programme and its financial expenditure estimate;
- (f) state whether the licence applies to:
  - (i) metallic minerals group and the type of mineral;

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- (ii) energy minerals group and the type of mineral;
- (iii) gemstone minerals group and the type of mineral;
- (iv) industrial minerals group and the type of mineral;
- (v) building materials group and the type of mineral.

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

Rights of holder of prospecting licence

**35.**-(1) Subject to the provisions of this Act and the Regulations, a prospecting licence confers on the holder the exclusive right, to carry on prospecting operations in the prospecting area for minerals to which the licence applies.

(2) In the exercise of the rights conferred by this section, the holder may, subject to section 95, either himself or by his employees or agents, enter upon the prospecting area and erect camps and temporary buildings and may erect installations in any water forming part of the prospecting area.

(3) The holder of a prospecting licence for gemstones, who in the course of carrying out prospecting operations under the prospecting licence recovers gemstones, may dispose of the gemstones by sale to a licensed dealer and shall promptly following any such sale submit particulars thereof to the Commissioner, showing the name and business address of the dealer, a description of the stones, their weight and a copy of a receipt given by the purchaser for the price received.

(4) The holder of a prospecting licence for gemstones who recovers gemstones in the course of prospecting operations shall for the purpose of holding the gemstones and selling them pursuant to subsection (3) be deemed to be a mineral right holder.

Obligations of holder of a prospecting licence

**36.**- (1) The holder of a prospecting licence shall-

- (a) commence prospecting operations within a period of three months, or such further period as the licensing authority may allow, from the date of the grant of the licence or such other date as is stated in the licence on

- commencement period;
  - (b) give notice to the licensing authority of the discovery of any mineral deposit of potential commercial value;
  - (c) adhere to the prospecting programme appended to the prospecting licence; and
  - (d) expend on prospecting operations not less than the amount prescribed.
- (2) A person who-
- (a) contravenes any provision of subsection (1), shall be in default;
  - (b) makes false statement or presentation to the licensing authority regarding the obligations of the licensee under subsection (1) commits an offence, and on conviction is liable to a fine of not less than twenty million shillings

*(ii) Retention Licence*

Application  
for retention  
licence

**37.**-(1) The holder of a prospecting licence other than a prospecting licence for building materials or gemstones may apply to the Minister for the grant of a retention licence on the grounds that –

- (a) he has identified a mineral deposit within the prospecting area which is potentially of commercial significance; and
  - (b) the mineral deposit cannot be developed immediately by reason of technical constraints, adverse market conditions or other economic factors which are, or may be, of a temporary character.
- (2) An application for a retention licence shall be accompanied by studies and assessments by appropriate independence experts or consultants on-
- (a) the extent, prospects for recovery, and the commercial significance of the mineral deposit, and the relevant market conditions, trends, technical and economic factors;
  - (b) the impact of mining operations for the recovery of the mineral deposit on the environment and the manner of eliminating or minimising any adverse effects; and
  - (c) such other information as the Minister may

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reasonably require as to the proposals of the applicant for the retention and development of the deposit.

(3) An application for a retention licence shall be submitted to the Board for advice.

Grant of  
retention  
licence

**38.**-(1) Where the commercial development of the deposit is not presently possible for the reasons specified in the application, but may be possible within a period of ten years, the Minister may grant a retention licence to the applicant over that part of the prospecting area which the Minister, after consultation with the applicant, anticipates is required to mine the deposit identified by the applicant.

(2) A retention licence shall, so long as it subsists, entitle the holder to apply for a special mining licence within the area for which the retention licence has been granted and, where such application is made, the provisions of this Act relating to the grant of special mining licences shall apply, as if the holder of the retention licence is the holder of a prospecting licence for that area.

(3) A retention licence may be granted for a period not exceeding five years and on such conditions for the preservation of the mineral deposit and the protection of the environment as the Minister may determine and cause to be specified in the licence or in a relevant development agreement.

(4) Where the commercial development is not presently possible, a retention licence may, on the application of the holder, be renewed for a single period of five years; but, before renewing such a licence, the Minister may require the holder to provide him with such updated studies and assessments of the prospects of the development and commercial exploitation of the mineral deposit as may reasonably be required and shall refer the application to the Board for advice.

(5) The Minister may, by notice in writing, require the holder of a retention licence to show cause why he should not apply for a special mining licence in respect of the area of land subject to the retention licence.

(6) Where the holder of a retention licence fails to show cause within a reasonable time, specified in the notice referred to in subsection (5), or adduces reasons which the Minister considers insufficient, the Minister may by a further notice require the holder

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to apply for a special mining licence within a period of sixty days from the service of that further notice or surrender the retention licence.

(7) The Minister shall, before serving a notice on the holder of a retention licence, under subsection (6), refer the matter to the Board for its advice.

### DIVISION B: Special Mining Licence and Mining Licence

#### *(i) Applications for Special Mining Licence and Mining Licence*

Applicants

**39.**-(1) Subject to section 42 or 51, as the case may be, the holder of a prospecting licence or a retention licence hereinafter in this Division of this Part referred to as an "entitled applicant" is entitled-

- (a) on application to the Minister, pursuant to section 41, to the grant of a special mining licence;
- (b) on application to the Minister pursuant to section 50 to the grant of a mining licence;

for the mining within the prospecting area or the retention area of minerals to which the prospecting licence, or the retention licence, applies.

(2) Where a person who is not an entitled applicant has made an application to the licensing authority for a special mining licence or mining licence in the prescribed form and tendered the prescribed fee, the application shall be registered immediately in the register maintained for such applications in accordance with this Act.

(3) The application registered under subsection (2) shall be assigned a number, the date and time at which it was received shall be indicated on an official receipt and handed to the applicant or his authorised agent or sent to the applicant by registered mail.

(4) Every applicant applying for a special mining licence or a mining licence under the provisions of this Act shall submit copies of his application to such persons as the Minister may prescribe in the Regulations.

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Effect of application under this head on prospecting licence

**40.**-(1) Where an application is made for a special mining licence or a mining licence for an area which includes an area subject to a prospecting licence issued to another person, the licensing authority shall on the advices of the Board serve notice on the holder of the prospecting licence terminating the licence.

(2) Where notice has been served in pursuance to the provisions of subsection (1), the prospecting licence shall be deemed to have been terminated after thirty days from the date on which the notice was received.

(3) At any time between the date of the receipt of such notice and the date of termination of the prospecting licence, the holder of the licence shall be entitled, on application made to the licensing authority for the grant of a special mining licence or mining licence within the area of his prospecting licence.

(4) Every application under subsection (3) shall have equal priority over an application referred to in subsection (1), and the provisions of section 15 which provides for applications by tender, shall apply.

### *(ii) Special Mining Licence*

Application for special mining licence

**41.**-(1) An application for a special mining licence shall be in the prescribed form and shall be accompanied by the prescribed fee.

(2) In addition to the requirements in subsection (1), an application by an entitled applicant shall identify the relevant prospecting licence or, as the case may be, retention licence and provide a full description of the land within the prospecting area or retention area for which the special mining licence is sought and a plan of the proposed mining area drawn in the manner and showing particulars as the Minister may reasonably require.

(3) In addition to the requirements of subsection (2), an applicant other than an entitled applicant shall include in his application such matters as are required by section 28 to be included in an application for a prospecting licence.

(4) Every application for a special mining licence shall include or be accompanied by-

- (a) a statement of the period for which the licence is sought;
- (b) a comprehensive statement by the applicant, so far as

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- he knows, of the mineral deposits in the proposed area, and details of all known minerals proved, estimated or inferred, ore reserves and mining conditions;
- (c) the proposed programme for mining operations, including a forecast of capital investment, the estimated recovery rate of ore and mineral products, and the proposed treatment and disposal of ore and minerals recovered;
  - (d) proposed plan for relocation, resettlement and compensation of people within the mining areas in accordance with the Land Acquisition Act;
  - (e) the applicant's environmental certificate issued in terms of the Environment Management Act;
  - (f) details of expected infrastructure requirements;
  - (g) proposed plan with respect to the Employment and training of citizens of Tanzania and succession plan for expatriate employees, if any as may be required by the Employment and Labour Relations Act; and
  - (h) such other information as the Minister may reasonably require for the disposal of the application.
- (5) An application under this section shall be submitted to the Board for advice.

Grant of  
special  
mining  
licence

**42.-**(1) Subject to the provisions of this Act, the Minister shall grant a special mining licence to an entitled applicant for the mining of minerals, in respect of the area of land requested in his application if, taking account of any relevant stipulation in a development agreement-

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

## *Mining*

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

- (d) taking account of the size and nature of the proposed mining operations, the applicant's proposals for the employment and training of citizens of Tanzania and expatriate's plan are adequate;
- (e) the applicant is not in default in respect of any of the obligations under his prospecting licence, or as the case may be his retention licence.

(2) Notwithstanding paragraph (e) of subsection (1) the Minister shall not reject an application for the grant of a special mining licence on the grounds that the applicant is in default without first serving on the applicant a notice giving particulars of the default and requiring the applicant within a reasonable time specified in the notice to remedy the default or, where a default is not capable of remedy, the applicant has not offered in respect thereof reasonable compensation.

(3) In the event that an application for a special mining licence made by an entitled applicant is rejected by the Minister on the grounds that the application does not satisfy one or more of the requirements set forth in subsection (1), the Minister shall cause a notice to be served on the entitled applicant giving full particulars of the respects in which the applicant fails to satisfy those requirements.

(4) The Minister shall give notice to an applicant to which subsection (1) refers of his decision on the application, and, if he intends to grant it, on the terms and conditions of the special mining licence.

(5) Where within sixty days of the service of such notice, the applicant fails to inform the Minister of his willingness to accept the proposed special mining licence, his application shall be deemed to have lapsed.

Duration  
of special  
mining  
licence

**43.** A special mining licence granted to an entitled applicant shall be for the estimated life of the ore body indicated in the feasibility study report, or such period as the applicant may request.

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Content of  
special mining  
licence

- 44.**-(1) A special mining licence shall-
- (a) state names, physical and postal address, and status of the licence holder;
  - (b) state the date of the grant of the licence and the period for which it is granted;
  - (c) include a description and plan of the area of land over which it is granted;
- (2) There shall be appended to a special mining licence-
- (a) the programme of mining operations;
  - (b) the applicant's environmental management plan;
  - (c) the applicant's proposals for the employment and training of citizens of Tanzania and succession plan, as required by the Employment and Labour Relations Act which shall form part of the licence.
- (d) state conditions on -
- (i) the programme of mining operations;
  - (ii) the environmental management plan;
  - (iii) the employment and training of citizens of Tanzania and succession plan, as required by the Employment and Labour Relations Act ; and
  - (iv) other matters as may be required.

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Renewal of  
special mining  
licence

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

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

- (a) a statement on the implementation of the conditions of licence;
- (b) a statement of the period not exceeding twenty-five years for which the renewal is sought;
- (c) details of-
  - (i) the latest proved, estimated and inferred ore reserves;
  - (ii) the capital investment to be made in, and production costs and revenue forecasts in respect of, the period of renewal;
  - (iii) any expected changes in methods of mining and treatment;

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- (iv) any expected increase or reduction in mining activities and the estimated life of the mine;
  - (d) a proposed programme of mining operations for the period of renewal;
  - (e) an environmental certificate, issued under the Environment Management Act; in respect of operations to be conducted during the renewal period;
  - (f) if the renewal is sought in respect only of part of the mining area, a plan identifying that part.
- (3) An application for renewal shall be referred to the Board for advice.
- (4) Save as provided in subsection (5), on an application duly made under this section, a special mining licence shall be renewed by the Minister for a period not exceeding the lifespan of the remaining orebody and the Minister may, subject to any relevant development agreement and after consultation with the applicant, renew the licence with variation of conditions of the licence.
- (5) The Minister may reject an application for renewal after taking account of any relevant stipulation in a development agreement if-
- (a) the applicant is in default, provided that the Minister shall not reject an application on the grounds that the applicant is in default without first serving on the applicant a notice giving particulars of the default and requiring the applicant within a reasonable time specified in the notice to remedy the fault or, where a default is not capable of remedy, requiring the applicant to offer in respect thereof reasonable compensation;
  - (b) the development of the mining area has not proceeded with reasonable diligence;
  - (c) minerals in workable quantities do not remain to be produced;
  - (d) the programme of intended mining operations will not ensure the proper development of the mineral resources of the mining area and their recovery in accordance with good mining practice;

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Rights of holder of special mining licence

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

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

and may prospect within the mining area for any mineral specified in the licence.

Obligations of holder of special mining licence

**47.** Subject to the provisions of this Act and the Regulations, the holder of a special mining licence shall, as a condition of the licence-

- (a) develop the mining area and carry on mining operations in substantial compliance with the programme of mining operations and his environmental management plan and commence production in accordance with the programme of mining operations;
- (b) employ and train citizens of Tanzania and implement succession plan in accordance with his proposals as appended to the special mining licence;
- (c) demarcate and keep demarcated in the prescribed manner the mining area;
- (d) prepare and update mine closure plans for making safe the mining area on termination of mining operations in a manner as prescribed in the relevant regulations

## *Mining*

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Amendments  
of special  
mining  
licence by  
holder

**48.**-(1) The holder of a special mining licence may make amendments to-

- (a) the programme of mining operations;
- (b) the programme for the employment or training of citizens of Tanzania.

(2) Particulars of the amendments, including, where appropriate, particulars of any significant impacts to the environment that any amendment could endanger, shall be served on the Minister and, subject to subsections (3) and (4), the amendment shall have effect when so served.

(3) An amendment which substantially alters any provision which forms part of the conditions of the licence, shall not take effect without the express approval of the Minister, and where any such amendment appears to the Minister to make such a substantial alteration, he shall refer the amendment to the Board for its advice.

(4) On receiving the advice of the Board, the Minister shall, subject to any relevant development agreement, determine whether or not to approve the amendment and, if he decides to approve the amendment, the terms and conditions if any, on which such approval is granted, shall be complied with.

### *(iii) Mining Licence*

Application  
for mining  
licence

**49.**-(1) An application for a mining licence for minerals shall be made to the Minister in the prescribed form and shall be accompanied by the prescribed fee.

(2) Every application under this section shall-

- (a) identify the relevant prospecting licence;
- (b) describe the area, not exceeding the maximum area which may be prescribed for the purposes of this Head of this Division, over which a mining licence is sought, and shall be accompanied by a sketch plan in sufficient detail to enable the Minister to identify the area;
- (c) describe the mineral deposits in the proposed area;
- (d) include a feasibility study which should set out-
  - (i) the proposed programme of mining operations including such measures as the applicant proposes to take in relation to any adverse impacts to the environment;

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- (ii) the estimated recovery rate of ore and the applicant's proposals for its treatment and disposal;
- (iii) the applicant's estimate of the quantity of minerals to be produced for sale annually;
- (e) state the duration, not exceeding ten years, for which the mining licence is sought;
- (f) append plan on employment and training and train of Tanzania and implement succession plan in accordance with the Employment and Labour Relations Act, as appended to the special mining licence;
- (g) include such further information as the Minister may require for disposing of the application;

Grant of  
mining  
licence

**50.**-(1) The Minister shall grant an application for a mining licence for minerals which has been properly made under section 49 and a successful application for a mining licence made under section 72 unless-

- (a) the applicant is a person to whom section 8 applies;
- (b) the area in respect of which a mining licence is sought is in excess of the area required to mine the deposits identified by the applicant;
- (c) employment and training programme for citizens of Tanzania and succession plan in accordance with his proposals is not satisfactory;
- (d) the applicant is or was in default in respect of any other mineral right and has failed to rectify such fault;
- (e) the applicant is not an entitled applicant and-
  - (i) the area of land for which the applicant has made application or part of it is subject to another mineral right, other than a prospecting licence for building materials or gemstones;
  - (ii) the area of land for which application has been made, or part of it, covers or includes an area designated by the Minister under section 14 as an area reserved for prospecting and mining

- operations by persons holding primary licences to mine minerals;
- (iii) the area of land for which application has been made covers or includes an area of land for which application has been made by another person who has priority over the applicant under section 14;
- (iv) except in a case of an application made in accordance with section 72, the area of land for which application has been made, or part of it, covers or includes an area designated by the Minister under section 15 as an area in respect of which applications for the grant of a mineral right have been, or will be, invited by tender.

(2) The maximum initial period for which a mining licence may be granted is ten years but the licence may be renewed as provided in section 53.

Rights  
of holder of  
mining  
licences

**51.** A mining licence confers on the holder the exclusive right, subject to this Act and the Regulations, to carry on mining operations in the mining area for the stated minerals, and for that purpose the holder, his servants and agents may, in particular-

- (a) enter on the mining area and take all reasonable measures on or under the surface for the purpose of facilitating and under taking his mining operations;
- (b) erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered by him in the course of mining operations;
- (c) subject to payment of royalties in accordance with this Act and the Regulations, dispose of any mineral product recovered;
- (d) stack or dump any mineral or waste product in a manner provided for in the applicable Regulations,
- (e) employ and train citizens of Tanzania and implement succession plan in accordance with the Employment and Labour Relations Act,

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

Obligations  
of holder of  
mining  
licences

**52.** Subject to the provisions of this Act and the Regulations the holder of a mining licence shall-

- (a) develop the mining area and carry on mining operations in substantial compliance with his programme of mining operations with due diligence;
- (b) demarcate and keep demarcated in the prescribed manner the mining area;
- (c) take all appropriate measures for the protection of the environment;
- (d) implement the proposed plan for relocation, resettlement and compensation of people within the mining areas in accordance with the Land Acquisition Act;
- (e) employ and train citizens of Tanzania and succession plan in accordance with the Employment and Labour Relation Act.

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Renewal of  
mining  
licence

**53.**-(1) The holder of a mining licence may, not later six month prior to expiry date of the licence, apply to the Minister for a renewal of his licence; an application for renewal shall be in the prescribed form and shall be accompanied by the prescribed fee and tax clearance certificate issued by the Tax Authority in respect of operations to be conducted during the renewal period.

(2) On an application made under this section, the Minister shall renew the mining licence for the period for which application has been made, but not exceeding ten years, unless-

- (a) the applicant is in default;
- (b) the development of the mining area has not proceeded with reasonable diligence;
- (c) minerals in workable quantities do not remain to be produced;
- (d) the applicant has failed to conduct mining operations in the mining area in strict compliance with the applicable Regulations relating to safety and environmental management.

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### DIVISION C: Primary Mining Licences

Application  
for primary  
mining  
licence

**54.** (1) Any person not disqualified under section 8, may apply to the Zonal Mines Officer for the grant of a primary mining licence.

(2) Every such application shall-

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

Grant and  
validity of  
primary  
Mining  
licence

**55.**-(1) The Zonal Mines Officer of the respective Zone shall grant an application for a primary mining licence which has been properly made under section 54 unless-

- (a) the applicant is or was in default in respect of any other mineral right and has failed to rectify such default;
- (b) the area for which application has been made or part of it covers or includes an area which is:
  - (i) subject to another mineral right or an area which subsection (3) of section 7 relates;
  - (ii) an area designated by the Minister under section 16 as an area reserved for prospecting and mining operations by persons holding primary mining licences;
  - (iii) an area designated by the Minister under section 15 as an area in respect of which applications for the grant of a mineral right have been, or will be, invited by tender.

(2) A primary mining licence granted under this section shall be valid for a period of five years and may be renewed under section **56**.

(3) A primary mining licence to mine minerals granted under this section shall confer on the holder the exclusive right, subject to this Act and the Regulations including the Regulations applicable to safety and the protection of the environment, to carry on mining operations in the mining area, and for that purpose the holder, his servants and agents (being persons not disqualified under subsection (2) of section 8 from holding a

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primary mining licence) may, in particular-

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

Renewal of  
primary  
mining  
licence

**56.**-(1) Not later than three months before the expiry date of primary mining licence, the holder may apply to the Zonal Mines Officer for renewal of the licence.

(2) The Zonal Mines Officer shall renew the licence on an application made under subsection (1) and accompanied by the prescribed fee.

(3) An application for renewal of the licence under this section may be refused if-

- (a) the applicant is in default;
- (b) the development of the mining area has not proceeded with due diligence;
- (c) minerals in workable quantities do not remain to be produced;
- (d) the applicant has failed to conduct mining operations in the mining area in strict compliance with the applicable Regulations relating to safety and environmental management.

Allocation of  
primary  
mining  
licences to  
mine in  
exclusive  
primary  
area

**57.**-(1) Primary mining licences in an area designated under section 16 shall be allocated in accordance with a scheme of allocation provided for by the regulations and no application for any such licence may be made under section 54.

(2) A scheme of allocation made by the regulations pursuant to this section, shall make provision for the renewal amalgamation and conversion of such primary mining licences in the designated area.

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Conversion of primary mining licences to mining licences

**58.**-(1) The holder of one or more primary mining licences may-

(a) at any time before the licences expire;

(b) if the holder has tendered the prescribed fee, is not in default and has provided particulars which would be required in an application under sections 49 as the case may be,

apply to the Commissioner to convert the licence or licences to a mining licence.

(2) An application made in accordance with subsection (1) shall be granted by the Commissioner and the mining licence shall be issued by the Minister forthwith.

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

### DIVISION D

#### *Mineral Processing, Smelting and Refining*

Mineral right holder to set aside minerals for processing, smelting or refining

**59.** The mineral right holder shall be required to set aside certain amount of minerals at such percentage as the Minister may determine for processing, smelting or refining within the country.

Application and grant of licence for processing Minerals

**60.**-(1) A person who is not entitled to process minerals in any area within or outside the area subject to a mineral right may apply to the Commissioner for a licence for processing minerals.

(2) An application under subsection (1) shall be made in the prescribed form and accompanied by-

(a) prescribed fee;

(b) environment management plan as described in relevant regulations;

(c) process plant layout;

(d) procurement, haulage and processing inputs plan;

(e) compensation, relocation and resettlement plan, if required; and

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(f) such other documents and information as may be required by the licensing authority.

(3) The Commissioner shall, if satisfied with the content of the application under subsection (2), register the applicant and issue the licence upon such terms and conditions as may be prescribed in the licence.

(4) The Processing Licence issued under this section shall be valid for a period not exceeding ten years and shall be subjects to renewal.

(5) Procedures for application and granting of licence for processing minerals under this section shall be prescribed in the regulations.

Application and grant of licence for smelting or refining minerals

**61.**-(1) A person who wishes to smelt or refine minerals shall submit an application to that effect to the Minister for a smelting licence or as the case may be, a refining licence.

(2) The application under subsection (1) shall be made in the prescribed form and shall be accompanied by-

- (a) prescribed fee;
- (b) environment management plan as prescribed in relevant regulations;
- (c) smelter or refinery plant layout;
- (d) waste disposal management plan;
- (e) compensation relocation and resettlement plan;
- (f) such other documents or information as may be required by the licensing authority;

(3) The smelting licence or a refining licence issued under this section shall be valid for a period not exceeding twenty five years and shall be subject for renewal.

### DIVISION E:

#### *Supplementary Provisions Affecting Mineral Rights*

Surrender of land subject to mineral right

**62.**-(1) The holder of a mineral right who wishes to surrender all or any part of the land subject to his licence, shall apply to the licensing authority not less than three months before the date on which he wishes the surrender to have effect, for a certificate of surrender, and, subject to subsection (3) and any relevant stipulation in a development agreement, the licensing

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authority shall issue to the applicant a certificate of surrender either unconditionally or subject to such conditions relating to the surrendered land as the licensing authority may determine.

(2) An application under this section-

- (a) shall identify the land to be surrendered and, if the application applies to only a part of the land subject to the licence, include a plan clearly identifying both the part to be surrendered and the part to be retained;
- (b) shall state the date on which the applicant wishes the surrender to take effect;
- (c) shall give particulars of the operations which have been carried on under the licence on the land to be surrendered; and
- (d) shall be supported by such records and reports in relation to those operations as the licensing authority may reasonably require.

(3) The licensing authority shall not issue a certificate of surrender-

- (a) to an applicant who is in default;
- (b) to an applicant who fails to comply with the reasonable requirements of the licensing authority under subsection (2);
- (c) if the licensing authority is not satisfied that the applicant will leave the land to be surrendered and on which prospecting or mining operations have been carried on in a condition which is safe, which accords with good mining practice, and, as applicable, conforms to the requirements of the environmental management plan or the applicable Regulations relating to safety and environmental management;
- (d) in respect of any part of the land subject to the licence if the licensing authority is not satisfied that the land which remains subject to the licence is capable of being efficiently used or developed according to the terms of the licence.

(4) A certificate of surrender shall take effect on the date on which it is issued to the applicant.

(5) Where the certificate relates to the whole of the land subject to the holder's licence, the licence shall be cancelled with

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effect from the same date; in any other case, the licence shall be amended to take account of the surrender.

(6) Notwithstanding the issue of a certificate of surrender, the surrender of any land shall not affect any liability incurred before the date on which the surrender had effect in respect of the land, and any legal proceedings that might have been commenced or continued in respect of any liability against the holder of the licence may be commenced or continued against the holder or, as the case may be, the former holder.

Suspension  
and cancellation of  
Mineral  
Right

**63.**-(1) Subject to this section and any relevant stipulation in a development agreement, where the holder of a mineral right-

- (a) fails in a material respect to comply with any requirement of this Act or the Regulations which are binding on him;
- (b) fails to comply with a condition of the licence (not being exempted under this Act or the Regulations from doing so);
- (c) fails to comply with a direction lawfully given under this Act or the Regulations or with a condition on which any certificate of surrender is issued or on which any exemption or consent is given under this Act or the Regulations;
- (d) fails to comply with the conditions relating to the exercise of his rights under his licence which are contained in a relevant development agreement,

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

(2) The Licensing Authority shall not suspend or cancel a licence on a ground referred to in subsection (1) unless-

- (a) he has first served on the holder a default notice specifying the grounds on which, under subsection (1), the licence is liable to be suspended or cancelled;
- (b) the holder has failed within a period of thirty days from the date on which the default notice was served or such longer period as the Licensing Authority may allow to remedy the default specified or, where such default is not capable of being remedied, has failed

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to offer in respect thereof reasonable compensation;

- (c) for matters related to licences other than primary licences the matter has been referred to the Board for advice.

(3) The Licensing Authority may, by notice in writing to the holder of a mineral right, cancel the relevant licence on the occurrence of an event which, as provided under subsection (1) of section 8, would render that person ineligible to be granted a mineral right.

(4) Where two or more persons constitute the licensee and-

- (a) an event occurs of a kind referred to in section 8 in respect of one or more but not all of those persons; or
- (b) one or more, but not all, of those persons fails to comply with an obligation which, under the terms and conditions of the licence or a relevant development agreement, is a several obligation,

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

(5) For the purposes of subsection (4), the affected person shall make such assignment to the unaffected persons in undivided shares in proportion to the undivided shares in which the unaffected persons hold the licence, and the unaffected persons shall be obliged to accept such assignment.

(6) The provisions of subsection (2) and (3) shall apply to a proposal to serve on an affected person a notice of compulsory assignment as they apply to a notice suspending or cancelling a licence.

(7) On the cancellation of a licence or a compulsory assignment under this section, the rights of the holder, or as the case may be the affected person, cease, but the cancellation or compulsory assignment does not affect any liability incurred before the cancellation or assignment and any legal proceedings that might have been commenced or continued against the former holder may be commenced or continued against him.

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Abandonment  
of land subject  
to mineral  
rights

**64.**-(1) The holder of a mineral right who wishes to abandon all or any part of the land subject to licence shall apply to the Chief Inspector, not later than ninety days before the date on which he wishes the abandonment to have effect, for a certificate of abandonment.

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

(3) An application under this section-

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

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

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

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

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

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

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

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

Appeals

**65.**-(1) Any person aggrieved by a decision of the licensing authority other than the Minister for suspension and cancellation of mineral rights and compulsory assignment of undivided shares under this Act, may within sixty days from the

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date of decision appeal to the Minister.

(2) Any person aggrieved by a decision of the Minister for suspension and cancellation of mineral rights and compulsory assignment of undivided shares and or any other matter under this Act, may within sixty days from the date of decision appeal to the High Court.

(3) Procedures for lodging complaints and appeals under this Act shall be prescribed in the regulations.

Penalty for failure to pay royalty

**66.**-(1) Where the holder of a mineral right fails to pay annual rent, royalty or to make payment in lieu of royalty payable by him under this Act or the regulations, shall, after ninety days from the date upon which such amount becomes due, in addition to the amount payable by him, pay a penalty-

- (a) in case of an individual person, twenty five per centum of the amount which is due; and
- (b) in case of a body corporate, fifty per centum of the amount which is due.

(2) The liability to pay penalties under this section shall not exempt any person from any other liability under this Act.

(3) Any unpaid annual rent, royalty or payment in lieu of royalty, shall be a debt which shall be recovered in a court of competent jurisdiction.

Extension of Mineral Rights during applications

**67.** Where the holder-

(a) of a mineral right applies, during the currency of that mineral right for a renewal of the licence in respect of that mineral right;

(b) of a prospecting licence or a retention licence applies, during the currency of that licence, for a mineral right to which he is entitled, the current licence shall remain in force until-

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

as the case may be.

Enlargement of mineral right

**68.**-(1) The holder of mineral right may apply to the licensing authority for the enlargement of the area for which his

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licence is granted and the licensing authority may, subject to subsections (2) and (3) and any relevant development agreement, approve the application or refuse to do so.

(2) Subject to the provisions of subsection (1), the licensing authority shall not approve an application under this section unless the land in respect of which the application is made is a vacant area which is not part of a reserved area and the relevant area shall not, as enlarged, exceed the maximum area prescribed in accordance with section 70.

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

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

Holder of  
certain Mineral  
Right  
suspending  
mining  
operations

**69.**-(1) The holder of a mineral right other than a mineral right under Division A shall, within two weeks prior to the date of suspension notify the licensing authority if he intends to suspend production from the mining area.

(2) Such notification shall be accompanied by a report giving details of the intended suspension, the reasons therefor and the duration of such suspension.

(3) On receiving notification under subsection (1) or, if he otherwise becomes aware of a cessation or suspension, the licensing authority shall cause the matter to be investigated and-

- (a) in any case in which the cessation or suspension has been caused by an event beyond the reasonable control of the holder, shall give his approval to the cessation or suspension for so long as that event continues to affect mining operations or processing operations, as the case may be;
- (b) in any other case, after reference to the Board and subject to any relevant stipulations in a development agreement, shall-
  - (i) if it is fair and reasonable to do so, give his approval to the cessation or suspension;

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- (ii) otherwise direct the holder to continue mining operations in substantial compliance with the programme of mining operations or processing operations as the case may be.

(4) A person who fails to comply with the requirement or direction given under this section shall be deemed to be in default, and the licensing authority may, in addition to other penalties under this Act, cancel the licence in accordance with the provisions of this Act.

Maximum  
area for  
Mineral  
Rights

**70.** The maximum area for which a mineral right may be granted shall be prescribed and for that purpose the Regulations may prescribe different maximum areas for different minerals and in respect of different mineral rights.

Allocation  
of mining  
licence by  
tender

**71.-(1)** An application for a mining licence in an area designated as an area in which applications for the relevant licence are invited by tender shall be-

- (a) in the prescribed tender form;
- (b) accompanied by the prescribed tender fee; and
- (c) subject to the terms and conditions of the invitation to tender, shall include the matters required to be included in applications of Division B of this Part.

(2) All applications under this section shall be referred to the Board for its advice.

(3) On receipt of a report from the Board, the Minister shall consider the competing bids and shall select the bid which in his opinion will be most likely to promote the expeditious and beneficial development of the mineral resources of the area having regard to-

- (a) the programme of prospecting or as the case may be, mining operations which the applicant proposes to carry out and the commitments as regards expenditure which the applicant is prepared to make;
- (b) the financial and technical resources of the applicant;
- (c) the previous experience of the applicant in the conduct of prospecting and mining operations.

(4) The successful application under this section shall be treated as an application under section 49, which has priority over

any other application.

Termination  
of mining  
licence where  
production is  
insufficient

**72.**-(1) Where over a continuous period, not being less than three years, the holder of a mining licence has in each year of production recovered less than fifty per centum of-

- (a) in the case of the holder of a mining licence for minerals specified in the licence the quantity of minerals which should have been recovered under the estimated recovery rate specified in his feasibility study submitted in accordance with section 49; or
- (b) the shortfall in the quantities recovered has not been caused by events beyond the reasonable control of the holder and the continuous period does not include any period during which the Minister under section 69, has approved the cessation or suspension of production,

the Minister may, on the advice of the Board, terminate the licence.

(2) The Minister shall, upon termination of the mining licence under section (1) notify the licence holder in writing requiring him to cease the operations with effect from the date specified in the notification, and pay all liabilities, including employees entitlement, mine closure and environmental rehabilitation costs as may be necessary for the termination of mining operations.

## PART V

### LICENCES FOR DEALING IN MINERAL OR MINERALS

#### *(i) Dealer Licence*

Application  
for dealer  
licence

**73.**-(1) An application for a dealer licence shall be addressed to the relevant Zonal Mines Officer in the prescribed form and be accompanied by the prescribed fee.

(2) The applicant under subsection (1) shall state the type of mineral or minerals for which the licence is sought.

(3) The application for dealer licence in respect of gemstones shall be accompanied by commitment statement indicating the capacity to undertake lapidary.

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(4) No dealer licence shall be granted to or held by a person who by reason of subsection (1) or (2) of section 8 is not qualified to be granted a primary mining licence unless the dealer licence is held by such person in undivided participating shares with a person or persons qualified to hold the licence under subsection (1) or (2) of section 8 and whose undivided participating share or shares amount to not less than twenty five per centum either alone, in the case of one person, or in the aggregate, in the case of more than one person.

(5) For the purpose of this section, dealer licence shall be applied for any of the following mineral or minerals-

- (a) gold;
- (b) metallic minerals;
- (c) coloured gemstones;
- (d) diamond;
- (e) coal; and
- (f) industrial minerals.

Grant of  
dealer  
licence

**74.**(1) An applicant for a dealer licence whose application was properly made as provided in section 73 shall be entitled to the grant of a dealer licence for which he has applied unless-

- (a) he has previously held a dealer licence and-
  - (i) he is not entitled to renew that dealer licence as provided in subsection (4) of section 75; or
  - (ii) he has surrendered his dealer licence without sufficient reason for so doing;
- (b) he has been convicted of a criminal offence relating to the buying and selling or possession of mineral or minerals.

Duration  
and renewal  
of dealer  
licence

**75.**(1) A dealer licence granted under section 74 shall be valid for a maximum period of twelve months from the date of issue, and shall expire on 30<sup>th</sup> June of each year.

(2) A holder of a dealer licence may, not less than one month from the date on which his licence or any renewal thereof would expire, apply in the prescribed form, accompanied by the prescribed fee, for a renewal of the licence.

(3) Any application made under subsection (2) shall be accompanied by evidence of turnover for the last ten months or

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less immediately following the date of the application made or issued in the form of official receipt for the making of payment instead of payment of royalty.

(4) The holder of a dealer licence who applies in the proper manner shall be granted a renewal of his licence for a maximum period of twelve months unless-

- (a) he is in default;
- (b) he is disqualified from holding or renewing a dealer licence under subsection (3) of section 73 or subsection (2) of section 78.

Rights of holder of dealer Licence

**76.** Subject to the provisions and the regulations made under this Act, a dealer licence shall authorise the holder-

- (a) to buy or otherwise acquire or to sell or otherwise dispose of minerals as specified in the licence, and, for the purpose of carrying on business as a dealer, to have possession thereof;
- (b) to export minerals specified in the licence.

Holder to keep records and accounts

**77.** The holder of a dealer licence shall keep full and accurate records and accounts of all transactions undertaken by him as a dealer and such records and accounts shall-

- (a) be kept in such form and shall include details as may be prescribed; and
- (b) be submitted to the Zonal Mines Officer on quarterly basis.

Minimum turnover requirements

**78.**-(1) The Minister, after referring the matter to the Board, may by notice in the *Gazette*, publish minimum turnover requirements for the holder of a dealer licence.

(2) A holder of a dealer licence who in three successive years of his licence fails to disclose, by production of official receipts for payments in lieu of royalty, evidence of a turnover of not less than fifty per centum of the minimum turnover requirement referred to in subsection (1) shall be disqualified from obtaining a renewal of his licence.

Termination of dealer licence for default

**79.** Where the holder of a dealer licence is in default the Minister may serve on the holder a default notice specifying the nature of the default and if within thirty days from the date of

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receipt of the default notice, the default has not been corrected the Minister shall, by notice to the holder terminate the dealer licence.

### *(ii) Broker Licence*

Application  
for broker  
licence

**80.**-(1) An application for the grant of a broker licence shall be addressed to the respective Zonal Mines Officer in the prescribed form and be accompanied by the prescribed fee.

(2) The application shall-

- (a) state the names and physical address of the applicant;
- (b) state the mineral or minerals sought; and
- (c) append two recent passport size photographs.

(3) No broker licence shall be granted to or held by a person who by reason of subsection (1) or (2) of section 8 is not qualified to be granted a primary mining licence.

Grant of  
broker  
Licence

**81.**-(1) An applicant for a broker licence whose application was properly made as provided under section 80 shall be entitled to the grant of a broker licence unless-

- (a) he is disqualified from holding a broker licence under subsection (3) of section 80;
- (b) he previously held a broker licence and was disqualified from obtaining a renewal of that licence under section 82;
- (c) he has been convicted of a criminal offence relating to the buying, possession, export or selling of mineral or minerals.

(2) A broker licence granted under this section shall be valid for a maximum period of twelve months from the date of issue, and shall expire on the 30<sup>th</sup> June of each year.

Duration  
and renewal  
of a broker  
licence

**82.**-(1) Any holder of a broker licence may, not less than one month from the date on which his licence or any renewal would expire, apply in the prescribed form and on payment of the prescribed fee for a renewal of the licence.

(2) A holder of a broker licence who applies in the proper manner shall be granted a renewal of his licence unless-

- (a) he is in default;
- (b) he is disqualified from holding a broker licence under subsection (1) of section 81.

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Rights of holder of broker licence

**83.**-(1) A broker licence shall authorise the holder of the licence to buy or acquire gold or, as the licence may specify gemstones from an authorised miner and to sell or dispose of mineral or minerals so acquired to a licensed dealer.

(2) A broker licence shall not authorise the holder to export any mineral or minerals.

Holder to keep records and accounts

**84.** The holder of a broker licence shall keep full and accurate records and accounts of all transactions undertaken by him as a broker and such records and accounts shall-

- (a) be kept in such form and shall include details as may be prescribed; and
- (b) be submitted to the Zonal Mines Officer on expiry of his licence.

Termination of broker licence for default

**85.**-(1) Where the holder of a broker licence is in default, the respective Zonal Mines Officer may serve on the holder a default notice specifying the nature of the default.

(2) If within such reasonable time as the default may specify in the notice, the default has not been corrected, the Zonal Mines Officer may, by notice to the holder terminate the broker licence.

Prohibition against dealing in certain minerals

**86.** No person, being a licensing authority shall grant or issue a dealer licence or a broker licence to another person for dealing in uranium minerals.

### PART VI

#### ROYALTIES, FEES AND OTHER CHARGES

Royalties

**87.**-(1) Every authorised miner shall pay to the Government of the United Republic a royalty on the gross value of minerals produced under his licence at the rate-

- (a) in the case of uranium, of five per centum;
- (b) in the case of gemstone and diamond, of five per centum;
- (c) in the case of metallic minerals such as copper, gold, silver, and platinum group minerals, of four per centum;

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- (d) in the case of gem, of one per centum; and
- (e) in the case of other minerals, including building materials, salt, all minerals within the industrial minerals group, of three per centum.

(2) Notwithstanding the provisions of subsection (1), where an authorised miner of any mineral elects to sell his production to a licensed dealer or licensed broker, the royalties of such minerals shall be paid by the licensed dealer or broker in accordance with the provisions of this Act.

(3) The Minister where he considers that the realised price does not correspond to the price which would have been paid for the minerals if they had been sold on similar terms in a transaction at arms length between a seller and a buyer, may give notice to that effect to the licence holder.

(4) Where such notice has been given under subsection (3) the amount of the market value shall be settled by agreement between the Minister and the licence holder or, if no agreement is reached, the matter shall be referred for determination by an independent expert appointed in a manner prescribed by the Regulations.

(5) Subject to this section, samples of minerals acquired for the purposes of assay, analysis or other technical examination shall be exempt from royalty payment if the market value of such samples of minerals is not more than shillings fifty thousand.

(6) In this section-

"gross value" means the market value of minerals at the point of refining or sale or, in the case of consumption within Tanzania, at the point of delivery within Tanzania.

Payment  
in lieu of  
royalties

**88.**-(1) Every person who is a licensed dealer shall, in accordance with the terms and conditions of his licence and this Act, make to the Government payment in lieu of royalty on the gross value of any mineral specified in subsection (1) of section 87-

- (a) exported by him;
- (b) in the case of gold or any metallic minerals, sold to a smelter or refinery in Tanzania;
- (c) in the case of gemstones, sold to a duly authorised lapidary or jewellery maker in Tanzania; or
- (d) in the case of industrial minerals, energy minerals and building materials groups, sold to any user in

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### Tanzania.

(2) This section shall not apply where the licensed dealer is a mineral right holder who has paid royalty on the minerals in accordance with the provisions of subsection (1) of section 87.

(3) For the purpose of subsection (1), "gross value" has the meaning attributed to those words in subsection (6) of section 87 and that provision shall apply, with the necessary variations, to the export or a sale of minerals by a licensed dealer as they apply under section 87 to the payment of royalty by a mineral right holder.

Provisional  
assessment  
of royalties

**89.**-(1) The Minister may, where for any reason, it is impractical to assess the amount of any royalty, or payment in lieu of royalty, assess, and the mineral right holder or as the case may be, the licensed dealer, shall be liable to pay, a provisional royalty, or make a provisional payment in lieu of royalty.

(2) When, in any such case, the amount of the royalty or payment in lieu of royalty is ascertained, the mineral right holder or the licensed dealer shall be liable for any balance or, as the case may be, repay any excess sum paid by him on such provisional assessment.

Sorting fees

**90.**-(1) There shall be a sorting fee which shall be payable to the Government by mineral right holder who opts to sell the gemstone produced or acquired by him to the company which is in the control of such mineral right holder.

(2) The Minister shall, by notice published in the *Gazette*, prescribe the fees to be payable for purposes of sorting and valuation of gemstones produced or acquired by the mineral right holder.

Prohibition  
on disposal  
of minerals

**91.**-(1) If an authorised miner or a licensed dealer fails to pay any royalty or provisional royalty, or make any payment or provisional payment in lieu of royalty on or before the due date, or any extension allowed by the Minister, the Minister may-

- (a) in the case of any such mineral right holder, by order served on him, prohibit the disposal of any mineral from the mining area concerned, or from any other mining area held by that person; or
- (b) in the case of a licensed dealer, prohibit the disposal of any mineral by that dealer until all outstanding

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royalties or payments in lieu of royalties have been paid or until an arrangement has been made acceptable to the Minister for the payment thereof.

(2) mineral right holder, or licensed dealer, who contravenes or fails to comply with an order given under subsection (1), and any person who, knowing of such order and receives any mineral the disposal of which has been prohibited, commits an offence and is liable on conviction-

- (a) in the case of an individual, to a fine not exceeding ten million shillings or to imprisonment for a period not exceeding two years, or to both;
- (b) in the case of a body corporate, the fine not exceeding fifty million shillings;
- (c) in the case of a person receiving minerals knowing their disposal have been prohibited, to forfeiture of the minerals, or where the Court is satisfied that the minerals so obtained by the defendant are no longer in his possession or under his control, to a penalty payable to the Government in an amount equal to the estimated market value of the minerals for which the defendant and the mineral right holder or dealer shall be jointly and severally liable.

Charges in  
respect of  
mineral rights  
and licences

**92.**-(1) In addition to any application fee there shall be payable to the Government in respect of every mineral right, dealer's licence or broker's licence granted under this Act an annual charge payable on the grant of the mineral right or dealer's or broker's licence and thereafter annually on the anniversary of the grant so long as the mineral right subsists.

(2) The annual charges referred to in subsection (1) shall be of such amount as may be calculated and prescribed in the regulations.

Recovery  
of fees

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

**PART VII**

**RESTRICTIONS, REPORTS AND THE RIGHT OF ENTRY**

Security of  
gold and  
gemstones  
mining  
operations

**94.-(1)** The Minister may, for the security of operations and by notice in the *Gazette*, establish any area which is subject to gold or gemstones mining operations as a controlled area.

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

Restriction of  
rights of entry  
of holder of a  
mineral right

**95.-(1)** The holder of a mineral right shall not exercise any of his rights under his licence or under this Act-

- (a) except with the written consent of the responsible Minister, in respect of:
- (i) any land dedicated or set apart for any public purpose other than mining;
  - (ii) any land dedicated as a place of burial;
  - (iii) any land which is the site of or is within 100 metres of any building, reservoir or dam owned by the Government;
  - (iv) any land forming part of a licensed or Government aerodrome or of any Government landing ground, or which is within 1,000 metres of the boundaries thereof;
  - (v) any land on which there is a military installation, or on land which is within 100 metres of the boundaries thereof; or
  - (vi) any reserved area, or any protected monument declared under the Antiquities Act;

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- (b) except with thorough consultation with the relevant Local Government Authority, including the Village Council, and thereafter, the written consent of the lawful occupier, in respect of:
- (i) any land which is the site of, or which is within 200 metres of, any inhabited, occupied or temporarily unoccupied house or building;
  - (ii) any land within 100 metres of land which has been cleared or ploughed or otherwise prepared in good faith for the growing of agricultural crops or upon which agricultural crops are growing;
  - (iii) any land from which, during the year immediately preceding, agricultural crops have been reaped;
  - (iv) any land forming part of an aerodrome, other than an aerodrome referred to in paragraph (a) (iv); or
  - (v) land use plan, compensation, relocation and resettlement matters involved,
- where any consent so required is, in the opinion of the Minister and on the advice of the Board being unreasonably withheld, the Minister may, on such conditions if any as he may impose, direct that the need for the consent shall be dispensed with, and in that event this paragraph shall not have effect in so far as it required the consent of the lawful occupier to be given;
- (c) in respect of land in a national park declared under the National Parks Act, in any forest reserve declared under the Forests Act, in any game reserve declared under the Wildlife Conservation Act, in a range development area declared under the Range Development and Management Act or in the Ngorongoro Conservation Area Act, except with the written consent of the authority having control over the park, reserve or area;
- (d) in respect of any land reserved for the purpose of any

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Cap.323

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railway, or which is within 100 metres of the boundaries of any land so reserved, except with the written consent of the responsible railway authority;

(e) in respect of any land within any city, municipality, township registered villages or demarcated settlement, except with the written consent of holders of surface rights and of the responsible Minister or the authority having control over the city, municipality, township registered villages or demarcated settlement;

(f) in respect of any street, road or highway, and any land within 100 metres of any bridge, public ferry, culvert or drift in any street, road or highway, pipeline or power line, except with the written consent of the responsible Minister or of the authority having the control of the street, road, highway, bridge, ferry, culvert, drift, pipeline or power line;

(g) in respect of any land within 100 metres of every point which has been notified to the Commissioner by a licensee under the Petroleum Act, as a site for the drilling of a well in connection with exploring for petroleum, except with the written consent of the Minister;

Cap. 328

(h) in respect of any land over which an exploration licence or a development and production licence has been granted under the Petroleum Act, except with the written consent of the Minister;

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(i) in respect of any land occupied by any installations or works used in the course of prospecting operations by the holder of a prospecting licence who has prospecting rights over the same area of land as the holder of the first mentioned mineral right.

(2) Any consent by the Minister or the responsible Minister under this section may be given unconditionally or subject to such conditions as are specified in the instrument of consent.

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

Rights under a mineral right to be exercised reasonably

**96.**-(1) The rights conferred by a mineral right shall be exercised reasonably and shall not be exercised so as to affect injuriously the interest of any owner or occupier of the land over which those rights extend.

(2) The lawful occupier of land in a mining area shall not erect any building or structure in the area without the consent of the registered holder of the mineral rights concerned but if the Minister considers that the consent is being unreasonably withheld, he may give his consent to the lawful occupier to do so.

(3) Where, in the course of prospecting or mining operations, any disturbance of the rights of the lawful occupier of any land or damage to any crops, trees, buildings, stock or works thereon is caused, the registered holder of the mineral right by virtue of which the operations are carried on, is liable to pay the lawful occupier fair and reasonable compensation in respect of the disturbance or damage according to the respective rights or interests of the lawful occupier in the property concerned.

(4) Where the value of any land has been enhanced by prospecting or mining operations, compensation payable pursuant to subsection (3) in respect of the land shall not exceed any amount which would be payable if the value had not been so enhanced.

(5) Where the amount of compensation to be paid pursuant to subsection (3) in any particular case is in dispute, either party may refer the matter to the Commissioner who shall, subject to section 102, deal with the matter in accordance with Part VIII.

Compensation, relocation and resettlement

**97.** (1) Where the rights conferred by a mineral right cannot reasonably be exercised without affecting injuriously the interest of any owner or occupier of the land over which those rights extend as required under section 96, the mineral right holder shall -

- (a) advise the owner or occupier of the land to vacate the area, and consult the relevant local government authority on amendment of the land use plan;
- (b) submit a proposed plan on compensation, relocation and resettlement of the owner or occupier of the land as per the Land Acquisition Act.

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(2) The procedures established under the Land Act and

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Cap 113  
and 114

the Village Land Act with regard to establishing the market value of land shall apply in determining fair and reasonable compensation of land referred in this section and section 96.

Removal  
of  
minerals

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

Wasteful  
practices

**99.**-(1) Where the Commissioner considers that a holder of a mineral right is using wasteful mining practices he shall give notice to the holder accordingly (giving in the notice particulars of the practices) and require the holder to show cause, by notice within such period as the Commissioner shall specify in the notice, why he should not cease to use those practices.

(2) Where, within the period specified in the notice given under subsection (1), the holder fails to satisfy the Commissioner that he is not using the wasteful practices concerned, or that the use of those practices is justified, the Commissioner may give notice to the holder directing him to cease using all of those practices, or the practices specified in the notice, by such date as is specified in the notice, and the holder shall do as directed.

(3) Where the holder of a mineral right is aggrieved by a notice given by the Commissioner under subsection (2) he may appeal to the Minister against the directions given in the notice.

Reports,  
records and  
information

**100.**-(1) The holder of a mineral right shall keep records within the Mining areas or at the mineral rights holders' office located in Tanzania for as long as the mineral right subsist, and shall submit reports and furnish such information as required in the Second Schedule.

(2) The holder of a mineral right shall maintain an address in Tanzania to which communications may be sent and shall give notice to the Commissioner of that address and of any changes of such address.

(3) The Commissioner may direct the holder of a mineral right, at a reasonable time and place specified in the direction, to make available to, or to produce for inspection by, himself or the Zonal Mines Officer or any public officer specified in the

direction any books, accounts, vouchers, documents or records of any kind concerning the mineral right, and the holder of the mineral right shall comply with the direction.

(4) Without prejudice to subsection (3), the provisions of Second Schedule shall apply with regard to the obtaining of information relating to minerals obtained, or the value of minerals obtained, in exercise of a mineral right.

Authorised  
officer's  
power of  
entry

**101.-**(1) The Commissioner or an authorised officer may at any time, enter upon any area over which a Mineral Right has been granted or any premises or working places other than a dwelling house for the purpose of-

- (a) inspecting that area, premises or working places and examining prospecting or mining operations or the treatment of minerals being performed or carried out;
- (b) ascertaining whether or not the provisions of this Act or the Regulations, or the conditions of a mineral right, are being complied with;
- (c) ascertaining whether any nuisance exists upon that area, premises or working places;
- (d) giving directions, and taking steps, to enforce any provision of this Act or the Regulations, or to abate or remove any nuisance;
- (e) taking soil samples or specimens of rocks, ores concentrates, tailings or minerals situated upon that area, premises or working places for the purpose of examination or assay;
- (f) examining books, accounts, vouchers, documents, maps, drilling logs, or records of any kind; or
- (g) obtaining any information which he may deem necessary for the administration of this Act.

(2) The Commissioner or an authorised officer may, at all reasonable times, inspect and take copies of any book of accounts, vouchers, documents, maps, drilling logs or records of any kind, kept by the holder of a mineral right, dealer's or broker's licence pursuant to the provisions of this Act and Regulations made thereunder.

(3) The holder of the mineral right shall provide such reasonable assistance (including the provision of necessary means

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of transport) as is required to enable the Commissioner or an authorised officer to exercise or perform any power or function under this section.

(4) Any person who, without reasonable excuse, hinders or obstructs the Commissioner or an authorised officer in carrying out any function under subsection (1) or (2) commits an offence and on conviction is liable to a fine not exceeding twenty five million shillings or to imprisonment for a term, not exceeding twelve months, or to both such fine and imprisonment.

(5) Where the Commissioner or authorized officer has reasonable grounds to believe that evidence relating to the commission of an offence under this Act may be located in any premises, vehicle, vessel or aircraft, he may, without warrant enter the premises, vehicle, vessel or aircraft in question and search for such evidence.

### PART VIII

#### DISPUTES SETTLEMENT

Commissioner  
may decide  
disputes

**102.-(1)** The Commissioner may inquire into and decide all disputes between persons engaged in prospecting or mining operations, either among themselves or in relation to themselves and third parties other than the Government not so engaged, in connection with-

- (a) the boundaries of any area subject to a mineral right;
- (b) the claim by any person to be entitled to erect, cut, construct or use any pump, line of pipes, flume, race, drain, dam or reservoir for mining purposes, or to have priority of water taken, diverted, used or delivered, as against any other person claiming the same;
- (c) the assessment and payment of compensation pursuant to this Act; or
- (d) any other matter which may be prescribed.

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

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Enforcement  
of Commis-  
sioner's orders

**103.**-(1) The Commissioner may send a copy, certified under his hand, of any order made by him to any civil court within the local limits of whose jurisdiction the subject-matter of the order is situated, and the civil court shall enforce the order of the Commissioner in the same manner in which it would enforce its own orders.

(2) The fees payable upon the enforcement of an order are those which would be payable upon the enforcement of a like order made by the civil court concerned.

Appeal to  
High Court

**104.** Any person aggrieved by a decision or order of the Commissioner made or given pursuant to this Part may appeal to the High Court within the period of thirty days from the date on which the decision or order is given or made.

Rules

**105.** The Commissioner may make rules providing for the initiation and conduct of proceedings under section 102 and the keeping of records and notes of evidence concerning any such proceedings.

### PART IX

#### REGISTRATION OF MINERAL RIGHTS

Registers  
of Mineral  
Rights

**106.**-(1) The Commissioner shall-

- (a) maintain a central register of all mineral rights which shall include a record of all applications, grants, variations and dealings in, assignments, transfers, suspension and cancellation of the rights;
- (b) cause similar registers to be maintained in each zonal mines office with regard to all mineral rights over areas for which the zonal mines office has responsibility.

(2) A register required to be maintained under this section shall be open for public inspection on payment of the prescribed fee.

Evidentiary  
provisions

**107.** A certificate of the Commissioner that-

- (a) a mineral right was granted, transferred, suspended or cancelled on, or with effect from, a date specified

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- in the certificate;
- (b) any land identified in the certificate is, or was, on a date specified in the certificate the subject of a specified mineral right;
  - (c) a mineral specified in the certificate is a mineral of which a mineral right relates;
  - (d) any condition specified in the certificate is, or was, on a date so specified a condition of a mineral right;
  - (e) a certificate of surrender was issued in respect of land identified, and on a date specified, in the certificate;
  - (f) any condition specified in the certificate is a condition on which a certificate of surrender was issued or on which any consent or approval so specified was given;
  - (g) a person named in the certificate is, or was, on a date specified in the certificate the holder of a specified mineral right,

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

### PART X

#### MISCELLANEOUS PROVISIONS

Radioactive  
minerals

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**108.**-(1) A person shall not export or import any radioactive mineral except in accordance with the terms and conditions as stipulated under the Atomic Energy Act.

(2) An application for a permit to export or import radioactive minerals shall be submitted to the Commissioner in the prescribed form and shall be accompanied by the prescribed fee and such other information as the Commissioner may require or as may be prescribed.

(3) Any person who exports or imports or attempts to export or import any radioactive mineral otherwise than required by the preceding provisions of this section shall be proceeded against in accordance with the provisions of the Atomic Energy Act.

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(4) In this section, "radioactive mineral" means a mineral which contains by weight at least one-twentieth of one per centum of uranium or thorium or any such combination and includes-

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- (a) monazite sand and other ores containing thorium;
    - (b) carbonite, pitchblende and other ores containing uranium.
  - (5) The Minister shall make special regulations for the purpose of ensuring public safety and-
    - (a) regulating mining, processing, hauling, transporting, conveying, marketing and disposition of radioactive minerals; and
    - (b) such regulations shall not be inconsistent with the Atomic Energy Act and its regulations made thereunder.
- Cap. 188
- Listing with a stock exchange
- Cap. 79
- Transfer of control over company
- 109.** The Minister shall, in consultation with holders of special mining licence, make regulations prescribing the minimum shareholding requirement and procedure for selling shares to the Government and, in accordance with the provisions of the Capital Market and Securities Act, offering shares to the public through listing with the stock exchange.
- 110.**-(1) Where a mineral right or dealer's licence is granted to a company, or other body corporate, the company, or such body corporate, shall not, after the date of the grant of the right, without the written consent of the licensing authority-
- (a) register the transfer of any share or shares in the company to any particular person or his nominee; or
  - (b) enter into an agreement with any particular person, if the effect of doing so would be to give that person control of the company or other body corporate.
- (2) On an application for consent under this section, the Licensing Authority shall require the applicant to submit document and information which are necessary for the purpose of obtaining a consent.
- (3) For the purpose of this section-
- (a) a person is deemed to have control of a company or other body corporate-
    - (i) if the person or his nominee holds, or the person and his nominee hold, a total of fifty per centum or more of the equity shares of the company; or
    - (ii) if the person is entitled to appoint, or to prevent the appointment of, half or more

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than half of the number of directors of the company;

- (b) "equity shares" means shares other than preference shares;
- (c) "preference shares" means shares which carry the right to the payment of a dividend of a fixed amount or not exceeding a fixed amount in priority to another class or classes of shares, whether with or without other rights.
- (4) The consent of the licensing authority under this section shall not be unreasonably withheld.

Insurance  
and  
indemnities

**111.**-(1) Subject to any qualifications, exceptions or limitations that may be set out in a development agreement the holder of a mineral right under Division A, B or D of Part IV and his contractors shall-

- (a) obtain and at all times during the subsistence of the mineral right maintain in respect of mining operations insurance coverage of such amounts and against such risks as are customarily or prudently insured in the international mining industry in accordance with good international mining industry practice; and
  - (b) furnish to the Minister certificates evidencing that such coverage is in effect and provide copies of any policies requested.
- (2) The insurance under paragraph (a) shall cover-
- (a) loss or damage to all installations, equipment and other assets for so long as they are used in or in connection with mining operations;
  - (b) loss of property damage or bodily injury suffered by any third party, incurred in the course of or as a result of mining operations;
  - (c) pollution and environmental damage, caused in the course of or as a result of mining operations for which the holder or the United Republic may be held responsible;
  - (d) liabilities of the holder to indemnify the United Republic pursuant to subsection (4); and
  - (e) the holder's liability to its employees engaged in mining operations.

(3) The holder of a mineral right granted under Division C of Part IV shall-

- (a) if so directed by the Commissioner by a notice in writing, obtain and maintain in force in respect of the mining operations carried on by the holder such insurance cover as the Commissioner may consider reasonably necessary in the public interest;
- (b) where the holder of any such mineral right considers that any obligation imposed under this subsection, is onerous or unreasonable, he may appeal against the direction of the Commissioner to the Minister.

(4) The holder of a mineral right shall indemnify, defend and hold the United Republic harmless against all actions, claims, demands, injury, losses or damages of any nature whatsoever, including claims for loss or damage to property or injury or death to persons, resulting from any act or omission in the conduct of mining operations by or on behalf of the holder.

(5) Such indemnity under subsection (4) shall not apply to the extent, if any, that any action, claim, demand, loss, damage or injury has resulted from any direction given by, or wrongful act committed on behalf of, the United Republic.

Regulations

**112.**-(1) The Minister may make regulations for any matter which, in accordance with this Act, is to be provided for by the regulations or which may be prescribed.

(2) In particular, but without limiting the generality of subsection (1) such regulations may provide for-

- (a) the making of applications and the fees to be paid on applications and issuances of licences, whether or not provided for in the foregoing provisions of this Act;
- (b) any other fee, charge, rent, due, royalty or other sum which may be charged under this Act or the regulations and the manner of calculation of the same;
- (c) the procedures for inviting tenders and the conditions for tendering in response to such invitations;
- (d) the allocation of primary mining licences within areas declared to be reserved for such primary licences and for the regulation of Mineral Rights in

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- such areas;
- (e) the demarcation of prospecting and mining areas;
  - (f) the standard model of development agreement and other various forms to be used under this Act;
  - (g) the proper and efficient working of prospecting areas, mining areas and mines;
  - (h) the avoidance of wasteful practices as described in this Act or otherwise;
  - (i) prescribing safety standards for work and machinery connected with prospecting and mining;
  - (j) the avoidance of pollution to the air, surface and ground waters and soils and the regulation of all matters relating to the protection of the environment and the minimisation of all adverse impacts to the environment including the restoration of land on which mining operations have been conducted;
  - (k) the regulation of all matters relating to sanitation and health, including the establishment of cemeteries, as regards mining areas;
  - (l) the reporting of accidents and deaths occurring on any prospecting area or mining area in connection with prospecting or mining;
  - (m) making safe any land, works or machinery over or with which prospecting or mining operations have been conducted;
  - (n) procedures for renewal, suspension and cancellation of licences issued under this Act;
  - (o) procedures for termination, of mining operations and closure of mines;
  - (p) procedures for lodging complaints, handling complaints and appeals;
  - (q) such further matters as may be necessary or expedient for the security of operations for the mining, recovery, treatment, storage and transport of raw gold or gemstones;
  - (r) the circumstances and procedures for referring matters for determination of an expert, and the procedures for selecting and appointing an expert;
  - (s) the inspection of records, accounts, books and documents.
- (3) Regulations made under this Act may-

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- (a) make separate provision in respect of mineral rights granted under Divisions A, B and D of Part IV;
- (b) the Minister, the Commissioner, authorized officers the Zonal Mines Officer, the Resident Mines Officer or an authorised officer to give directions.

(4) Where any matter is to be provided for by Regulations relating to royalties, fees or other charges, the Minister shall, before making such Regulations, consult the Minister responsible for financial matters.

(5) Where any matter is to be provided for by Regulations relating to protection of environment and rehabilitation bond, the Minister shall, before making such Regulations, consult the Minister responsible for environment matters.

(6) Any regulations made under this Act may prescribe for any breach thereof a fine not exceeding two million shillings or imprisonment for a period not exceeding twelve months or both such fine and imprisonment.

Obstruction  
of holder of  
mineral Rights

**113.** Any person who, without reasonable excuse, obstructs or hinders the holder of a mineral right from doing any act which that holder is authorised to do by this Act, the regulations or his mineral right commits an offence and on conviction is liable to a fine not exceeding ten million shillings or imprisonment for a period not exceeding twelve months or to both.

Miscellaneous  
offences

**114.** Any person who-

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

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in any way change the nature of the ore with the intention to cheat, deceive or defraud, commits an offence and on conviction is liable –

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

Offence  
committed  
by body  
corporate

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

## PART XI

### REPEALS AND SAVINGS PROVISIONS

Repeal and  
savings Cap.  
123  
Act No. 5 of  
1998

**116.**-(1) The Mining Act, is hereby repealed.

(2) Notwithstanding the repeal of the Mining Act, under subsection (1) any subsidiary legislation made under the repealed Act shall continue to have effect as if made or done under this Act until they are revoked or replaced.

(3) Notwithstanding the repeal of the Mining Act, under subsection (1), all mineral rights, licences, permits and authorisations granted or issued and Agreements entered in accordance with the provisions of the repealed Act shall be deemed to have been granted, issued or authorised under this Act, subject to the modifications as may be determined under this Act in respect of the particular grant or authorisation.

(4) All Agreements made and entered in terms of the repealed Act, all appointments and decisions made under the repealed Act shall be deemed to have been made under this Act, until terminated, surrendered, reviewed, removed, cancelled or

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expired.

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### **FIRST SCHEDULE**

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(Section 23)

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#### PROCEDURES RELATING TO MINING ADVISORY BOARD

Tenure of  
office of  
members

**1.**-(1) Subject to the provisions of this schedule, every member of the Board shall hold office for the period of three years from the date of his appointment but may be eligible for re-appointment for one more term.

(2) Notwithstanding subparagraph (1), a member may resign at any time by giving notice in writing to the appointing authority and from the date specified in the notice or, if no notice is specified in the notice, from the date of receipt of the notice by the appointing authority he shall cease to be a member.

(3) Person who is a member by virtue of his holding some other office shall cease to be a member upon ceasing to hold the office by virtue of which he is a member.

Termination  
of  
appointment

**2.** Where any member of the Board absents himself from three consecutive meetings of the Board without reasonable excuse, the Board shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of such a member and appoint a new member in his place.

Cessation of  
membership

**3.** Where a member of the Board ceases to be such a member by resignation, or death or is unable to perform his functions as such member by reason of his absence from the United Republic or by reason of any infirmity of the body or mind or where the appointing authority terminates his appointment under paragraph 2, the appointing authority may appoint another member in his place and a member so appointed shall be subject to the provisions of this schedule, hold office for the remainder of the term of his predecessor.

Vice  
Chairman

**4.** The Board shall elect one of its members to be a Vice Chairman and any member elected as a Vice Chairman shall, subject to his continuing to be a member hold office of Vice Chairman for a term to be fixed by the Board and shall be eligible for re-election at the end of that period.

Meetings and  
procedures of  
the Board

**5.**-(1) The Chairman shall preside at all meetings of the Board, and where at any meeting of the Board the Chairman is absent then the Vice Chairman shall preside.

(2) In the absence of both the Chairman and Vice Chairman at any meeting of the Board the members present may from amongst their number elect a temporary chairman who shall preside at that meeting.



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- maintained under items (i) to (vi) inclusive;
  - (viii) the number of persons employed;
  - (ix) other work done in connection with the prospecting licence;
  - (x) costs incurred; and
  - (xi) such other matters as may be prescribed;
- (b) submit within the first month of every calendar quarter to the Commissioner copies of records of his prospecting operations together with any records prepared as a result of those records.
- (2) The Minister may, on the application of the holder of a prospecting licence, modify any of the requirements of subparagraph (1).

**2.** The holder of a special mining licence shall-

- (a) keep at the address referred to in subsection (2) of section 100 –
  - (i) complete and accurate technical records of his operations in the mining area, including the implementation of his environmental management plan, in such form as the Minister may approve;
  - (ii) copies of all maps, geological reports, including interpretations, mineral analyses, aerial photographs, ore logs, analyses and tests and all other data obtained and compiled by the holder in respect of the mining area;
  - (iii) accurate and systematic financial records of his operations in the mining area and such other books of account and financial records as the Minister may require; records of the production of minerals from the mining area; records of the number of persons employed by the holder in the mining area and the capacity in which they are employed and of the employment and training of citizens of Tanzania;
- (b) submit within the first month of every calendar quarter to the Minister such reports, records and other information concerning the conduct of operations; and
- (c) furnish the Minister with a copy of every annual financial report within three months of the end of each financial year showing the profit and loss for the year and the state of the financial affairs of the holder at the end of each financial year.

**3.** The holder of a mining licence or a primary mining licence shall keep the address referred to in section 100(2) such of the records, and shall furnish to the licensing authority, within the first month of every calendar quarter such of the reports specified in paragraph 2 of this Schedule.

**4.** Where-

- (a) a mineral right terminates in accordance with provisions of this Act; or
- (b) the term of a prospecting licence or a special mining licence expires, the person who was the holder of the Mineral Right immediately before the termination or expiration shall deliver to the licensing authority concerned\_

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- (i) all records which the former holder maintained in accordance with this Act with respect to the Mineral Right;
- (ii) all plans or maps of the area of land that was subject to the Mineral Right and which were prepared by or on the instructions of the former holder;
- (c) such other documents as the licensing authority concerned may, by notice in writing given to the former holder, require him to so deliver.

**5.** Where the term of a mining licence, gemstone mining licence or primary mining licence expires, the person who was the holder of the Mineral Right immediately before the expiration shall deliver to the licensing authority concerned, all records that he was required to keep under this Schedule and all plans or maps of the prospecting operations or mining operations on the area.

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

- (a) to furnish to him in writing, within the period and in the manner specified in the notice, any such information;
- (b) to attend before him or a person specified in the notice at such time and place as is so specified and there to answer questions relating to minerals obtained, or the value of minerals obtained; or
- (c) to make available to a person specified in the notice at such time and place as is so specified books or documents in his custody or power relating to minerals obtained or the value of minerals obtained.

**7.** A person is not excused from furnishing information, answering a question or making available books or documents when required to do so under this Part of this Schedule on the ground that the information so furnished, the answer to the question, or the production of, or making available, any books or documents might tend to incriminate him or make him liable to a penalty, but the information so furnished shall not be admissible in evidence against him in any proceedings other than proceedings for a contravention of paragraph 9.

**8.** Where books or documents are made available in accordance with paragraph 6, the person to whom they are made available may make copies of, or take extracts from, the books or documents.

9.-(1) A person shall not-

- (a) refuse or fail to comply with a requirement under paragraph 6 to the extent that he is capable of complying with it;
- (b) in purported compliance with such a requirement, knowingly furnish information that is false or misleading in a material particular;
- (c) when attending the Commissioner or any other person in accordance with such a requirement, knowingly make a statement or produce a book or document that is false or misleading in a material particular; or
- (d) when making available books or documents in accordance with such a requirement, knowingly make available a book or document that is false or misleading in a material particular.

(2) Any person who contravenes subparagraph (1) of paragraph 9 shall be guilty of an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a period not exceeding six months or to both.

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## **OBJECTS AND REASONS**

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This Bill make comprehensive provision for prospecting for minerals, mining, processing and dealing in minerals, for the granting, renewal and termination of mineral rights, for payment of royalties, fees and other charges and for any other relevant matters.

This Bill is a response to challenges faced and experience gained during twelve years of the implementation of the Mining Act. Cap. 123, that was enacted in the year 1998.

Among those challenges are low integration of the mineral sector with other sector of the economy, low contribution to the Gross Domestic Product (GDP) compared to the sector growth and low capacity of the Government to administer the sector.

In order to address the challenges, the Government formed various committees to evaluate performance of the mineral sector.

These committees include: the Committee to Establish a Source of Conflict Between AFGEM Company and Small Scale Miners at Mirerani Mine, 2002, Committee to Review the Mineral Policy, 2004, Committee to Review the Mining Development Agreement and Fiscal Regime for Mineral Sector, 2006, Government Negotiation Team on Mining Development Agreement and Fiscal Regime for Mineral Sector, 2006 and The Presidential Committee to Advise the Government on Administering the Mineral Sector, 2007. All Committees made reports containing recommendations on what is to be done in order for Tanzania to benefit more from the mineral sector. The main recommendation was to review both the Mineral Policy of 1997 and the Mining Act that was enacted in the year 1998.

This Bill incorporates some major recommendations of the Committees and it is hoped that if it is enacted into law, Tanzania would benefit more from the mining sector.

The Bill is divided into Eleven Parts. Part I deals with preliminary provisions such as short title and commencement, application and interpretation.

Part II deals with general principles and it contains provisions on control of minerals, authority required for prospecting or mining; mineral rights and exclusivity, restriction on grant of mineral rights, mineral rights transferable, transfer fee, development agreement, validity of development agreement, joint and several obligations, applications for mineral rights by tender, exclusive areas for primary licences, specified gemstone and offences relating to unauthorized trading of minerals.

Part III deals with administration matters such as appointment of Commissioner for Minerals, performance and delegation of functions of the Commissioner, appointment of Zonal Mines Officer, geological survey, mapping and prospecting, conduct of Mining

Advisory Board and Technical Committee of the Board. There also provisions on the prohibition against the disclosure of information and indemnity of persons who administer the proposed law.

Part IV which is sub-directed in five divisions, namely Division A, Division B, Division C, Division D and Division E, deals with matters on mineral rights. Division A addresses prospecting licence and retention licence; whereby provision on application for prospecting licence, prospecting by tender, minimum expenditure, condition for grant of prospecting licence, grant, renewal and relinquishment of prospecting licence; notification of grant, contents of prospecting licence and obligations of holder of prospecting licence can be found. Division B is on Special Mining Licence and Mining Licence. Under this Division, provisions on applicants, effects of application on prospecting licence, application of special mining licence, grant of special mining licence, duration of special mining licence, contents of special mining licence, renewal of special mining licence, rights of holder of special mining licence, obligation of holder of special mining licence, amendments of special mining licence, application of mining licence, grant of mining licence, rights of holder of mining licence, obligation of holder of mining licence and renewal of mining licence are contained.

Division C relates to primary mining licences and it contains provisions on application for primary mining licence, grant of primary licence, renewal of primary mining licence, allocation of primary mining licence to mine exclusive primary area and conversion of primary mining licence to mining licences. Division D is on processing, smelting and refining licences and provision of mineral right holder to set aside minerals for processing, smelting or refining; application and grant of licence for processing, smelting or refining minerals are therein. Last in the roll is Division E which contains supplementary provisions affecting mineral rights. There provisions providing for surrender of land subject to mineral rights,

suspension and cancellation of mineral rights, abandonment of land subject to mineral rights, appeals, penalty and failure to pay royalty, extension of mineral rights during application, enlargement of mineral rights, holder of certain mineral right suspending mining operations, minimum area for mineral rights, allocation of mining licence by tender and termination of mining licence where production is insufficient.

Part V deals with licences for dealing in mineral or minerals. Under this Part, provisions on application for dealer licence, grant of dealer licence, duration and renewal of dealer licence, rights of holder of dealer licence, holder to keep records and accounts, minimum turnover requirements, termination of dealer licence for default, application for broker licence; grant of broker licence, duration and renewal of broker licence, rights of holder of broker licence, holder of broker licence to keep records and accounts; termination of broker licence for default and prohibition against dealing in certain minerals are embodied.

Part VI deals with royalties, fees and other charges. Provisions which are contained under this Part are on royalties, payment *in lieu* of royalties, provisional assessment of royalties, sorting fees, prohibition on disposal of minerals, charges in respect of mineral rights and licences and prohibition against dealing in certain minerals.

Part VII deals with restrictions, reports and the rights of entry. This Part has provisions on security of gold and gemstones mining operations, restriction of rights of entry of holder of mineral rights, rights under a mineral right to be exercised reasonably, compensation, relocation and resettlements, removal of minerals, wasteful practices, reports, records and information, and authorised officer's power of entry.

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Part VIII deals with disputes whereby provision on Commissioner to decide disputes, enforcement of Commissioner's orders, appeal to High Court and Rules are contained.

Part IX deals with general provision on registration of mineral rights and it contains provision on registers of mineral rights and evidentiary provisions.

Part X deal with general provisions whereby provision on radioactive minerals, registration with stock exchange, transfer of control over company, insurance and indemnities, power to make regulation, obstruction of holder of mineral rights, miscellaneous offences and offence committed by body corporate are contained.

Part XI is on repeal and savings. It is proposed to repeal the Mining Act, Cap. 123 and make savings on various matters made, issued or directed under the provisions of the law which would be repealed.

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### **MADHUMUNI NA SABABU**

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Muswada huu unapendekeza kufutwa kwa Sheria ya Madini ya mwaka 1998 na kutungwa kwa Sheria mpya ya madini ya mwaka 2010 itakayofafanua masharti ya utafutaji, uchimbaji, uchenjuaji, biashara ya madini, utoaji wa leseni za madini, ulipaji wa mrahaba na ada mbalimbali na mambo mengine yanayohusu sekta ya madini.

Muswada unakusudiwa kukabiliana na changamoto mbalimbali zilizojitokeza katika utekelezaji wa Sheria ya Madini ya mwaka 1998.

Changamoto hizo zinajumuisha fungamanisho la sekta ya madini na sekta nyingine za uchumi, mchango wa sekta ya madini katika pato la taifa na uwezo wa Serikali katika kusimamia Sekta ya madini.

Katika kukabiliana na changamoto hizo, Serikali iliunda Kamati mbalimbali kutathmini mwenendo wa sekta ya madini. Kamati hizo ni pamoja na: Kamati ya Kuchunguza chanzo cha Migogoro baina ya Kampuni ya AFGEM na Wachimbaji Wadogo wa Mirerani (2002), Kamati ya Kudurusu Sera ya Madini ya mwaka 1997 (2004), Kamati ya Kupitia Mikataba na Mfumo wa Kodi katika Sekta ya Madini (2006), Kamati ya Majadiliano ya Mikataba baina ya Serikali na Kampuni za Madini (2006), na Kamati ya Rais ya Kuishauri Serikali kuhusu Usimamizi wa Sekta ya Madini (2007). Kamati zote zilipendekeza kurekebisha Sera ya Madini ya mwaka 1997 na Sheria ya Madini Namba 5 ya mwaka 1998.

Muswada umezingatia Mapendekezo yote ya Tume zilizotajwa hapo juu, na inakusudiwa kwamba, baada ya Muswada huu kupitishwa na kuwa Sheria Tanzania itafaidika zaidi kutokana na sekta ya madini.

Muswada huu umegawanyika katika Sehemu Kuu Kumi na Moja. Sehemu ya kwanza inahusu masuala ya utangulizi ambayo ni jina la Sheria na siku Sheria itakapoanza kutumika, matumizi na tafsiri ya misamiati mbalimbali yaliyotumika katika Muswada.

Sehemu ya Pili inahusu misingi ya jumla. Katika Sehemu hii, vifungu vinavyohusu uhibitaji wa madini, kibali au ruhusa inayotakiwa kwa ajili ya kutafuta au kuchimba madini, aina ya leseni na masharti ya utoaji leseni, uhamishwaji wa leseni ya madini, ada ya sihia, mkataba wa uchimbaji madini, uhalali wa mkataba wa uchimbaji madini, majukumu ya jumla na ya mmoja mmoja, maombi ya leseni ya madini kwa njia ya zabuni na makosa yanayohusu biashara ya madini isiyoruhusiwa.

Sehemu ya Tatu inahusu masuala ya utawala ambayo vifungu vinavyohusu uteuzi wa Kamishina wa Madini, kazi za kukasimu madaraka ya Kamishina wa madini, uchoraji ramani za kijiolojia, Bodi ya Ushauri ya Madini, Kamati za Bodi, uanzishaji wa Ofisi za Kanda, makatazo kuhusu utoaji taarifa na haki ya ulinzi wa kisheria vinapatikana.

Sehemu ya Nne inahusu leseni za Madini kwa kujumuisha masuala ya uombaji, utoaji na masharti ya leseni. Sehemu hii imegawanyika katika maeneo matano muhimu ambayo ni eneo A, B, C, D na E. kama ifuatavyo:

- (a) eneo A linahusu leseni za utafutaji Madini,
- (b) eneo B linahusu leseni za uchimbaji madini,
- (c) eneo C linahusu leseni za uchimbaji mdogo,
- (d) eneo D linahusu leseni za uchenjuaji na usafishaji wa Madini, na
- (e) eneo E linahusu masharti mengine yanavyohusu leseni za madini.

Kwa ujumla Sehemu hii inahusu utoaji, uombaji na masharti ya leseni.

Sehemu ya Tano inahusu leseni ya biashara ya madini. Sehemu hii, inabainisha vifungu vinavyohusu maombi, masharti na utoaji wa leseni za biashara ya madini.

Sehemu ya Sita ya Muswada inahusu mrabaha, ada na malipo mengineyo pamoja na utaratibu wa ulipaji. Katika Sehemu hii ibara zinazohusu mirabaha, malipo pasipo murahaba; makadirio ya mrabaha na ukatazaji biashara ya baadhi ya Madini zimeainishwa.

Sehemu ya Saba inahusu udhibiti wa maeneo ya uchimbaji, taarifa, uzuiaji na haki ya uingiaji. Katika Sehemu hii ibara zinazohusu masharti ya udhibiti wa maeneo ya uchimbaji dhahabu

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na madini ya vito na haki ya uingiaji kwenye maeneo yenye leseni za Madani yamefafanuliwa.

Sehemu ya Nane inahusu utatuzi wa migogoro ambapo Kamishina wa madini anaruhusiwa kutatua migogoro. Utekelezaji wa maamuzi ya Kamishina, na haki ya rufaa katika Mahakama Kuu na taratibu zake ni mambo yaliyozingatiwa katika sehemu hii.

Sehemu ya Tisa inahusu masuala ya ujumla kuhusu usajili wa leseni za madini ambapo ibara zenye masharti ya leseni na uwasilishaji wa ushahidi kwa Kamishina wa madini.

Sehemu ya Kumi inahusu masuala ya jumla kama vile madini ya mionzi, kujisajili na Soko la hisa, uhamishaji wa umiliki wa Kampuni na mamlaka ya Waziri kutunga Kanuni.

Sehemu ya Kumi na moja inahusu kufutwa kwa Sheria ya madini Namba 5 ya mwaka 1998 na kuhifadhi kwa baadhi ya masharti yaliyotolewa chini ya Sheria inayofutwa.

Dar es Salaam,  
6 Aprili, 2010

WILLIAM M. NGELEJA,  
*Waziri wa Nishati na Madini*