

**THE MINERALS REGULATION COMMISSION
BILL, 2024**

MEMORANDUM

The objects of this Bill are to—

- (a) regulate and monitor the development and management of mineral resources in the Republic;
- (b) establish the Minerals Regulation Commission and provide for its functions;
- (c) establish the Mining Appeals Tribunal;
- (d) repeal and replace the Mines and Minerals Development Act, 2015; and
- (e) provide for matters connected with, or incidental to, the foregoing.

M. D. KABESHA,
Attorney-General

**THE MINERALS REGULATION COMMISSION
BILL, 2024**

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY PROVISIONS

Section

1. Short title and commencement
2. Interpretation
3. Minerals to vest in President
4. Principles

PART II

THE MINERALS REGULATION COMMISSION

5. Establishment of Minerals Regulation Commission
6. Functions of Commission
7. Board of Commission
8. Functions of Board
9. Director-General, Secretary and other staff

PART III

EXPLORATION, MINING, PROCESSING AND TRADING

10. Prohibition of exploration, mining, mineral processing or gold panning without licence or environmental impact assessment
11. Types of mining and non-mining rights
12. Disqualification from holding mining right and non-mining right
13. Priority of applications for mining or non-mining rights
14. Mining right for area subject to other rights
15. Acquisition of mining rights and investment by Government
16. Survey of land
17. Application for exploration licence
18. Validity of exploration licence
19. Disqualification for issue of exploration licence

20. Closure of area to priority licensing
21. Licencing of mining activities
22. Application for mining licence
23. Validity of mining licence
24. Deferment of commencement of mining
25. Suspension of production or closure of mine by Commission
26. Application for mineral processing licence
27. Validity of mineral processing licence
28. Amendment of mining licence or mineral processing licence
29. Suspension or restriction of production by holder of mining or mineral processing licence
30. Application for gold panning certificate
31. Prohibition of trading in minerals without permit
32. Application for mineral trading permit
33. Prohibition of import or export of mineral, etc without permit
34. Application for importation and exportation of minerals
35. Mineral analysis

PART IV

MINING RIGHTS AND SURFACE RIGHTS

36. Restriction of rights of entry by a holder of licence or permit
37. Exercise of rights under licence or permit
38. Right to use and access water or graze stock
39. Acquisition of use of land by a holder of mining right
40. Alternative dispute resolution
41. Compensation for disturbance of rights, etc
42. Rights to building materials

PART V

REGULATORY PROVISIONS

43. Disposal of conflict minerals
44. Insurance and indemnities
45. Restriction on mining rights and mineral processing licence
46. Amendment of program of exploration or mining operation
47. Transfer of mining or mineral processing licence
48. Transfer of control of company
49. Alteration of exploration or mining area

50. Merger or co-ordination of mining operation
51. Abandonment of land subject to mining or mineral processing licence
52. Surrender of mining right or mineral processing licence
53. Renewal of mining or non-mining right
54. Suspension or revocation of mining rights or non-mining right
55. Surrender of records on termination of mining or non-mining right
56. Management of assets on suspension, abandonment or revocation of mining or non-mining right
57. Compliance order
58. Annual area charges
59. Production of information

PART VI

SAFETY, HEALTH AND ENVIRONMENTAL PROTECTION

60. Consideration of environment and human health when granting mining rights or issuing mineral processing licence
61. Conditions for protection of environment and human health
62. Clearing away of mining or mineral plant
63. Sale of mining or mineral processing plant
64. Wasteful mining practices
65. Notification of accidents and dangerous occurrences
66. Liability and redress
67. Environmental Protection Fund

PART VII

MINERAL ROYALTIES AND CHARGES

68. Collection and assessment of mineral royalty
69. Royalties on production of minerals
70. Due date for mineral royalty
71. Mineral royalty returns
72. Provisional assessment of mineral royalty
73. Remission of mineral royalty
74. Deferment of mineral royalty
75. Prohibition of disposal of minerals

PART VIII
INSPECTORATE

- 76. Inspectors
- 77. Powers of inspectors
- 78. Seizure of property

PART IX
MINING APPEALS TRIBUNAL

- 79. Establishment of Tribunal and jurisdiction
- 80. Members of Tribunal
- 81. Tenure of office of members of Tribunal
- 82. Funding and allowances of members of Tribunal
- 83. Registrar of Tribunal and other staff
- 84. Exercise of powers of Tribunal ad procedure
- 85. Appeals to Tribunal
- 86. Notice of appeal
- 87. Hearing before Tribunal

PART X
GENERAL PROVISIONS

- 88. Restriction on number of mining rights
- 89. Offences by body corporate or unincorporated body
- 90. Disclosure of information
- 91. Register
- 92. Civil damages
- 93. General penalty
- 94. Summary imposition of penalties
- 95. Additional powers of court
- 96. Guidelines
- 97. Regulations
- 98. Repeal of Act No. 11 of 2015 and savings and transitional provisions

SCHEDULE

A BILL

ENTITLED

An Act to regulate and monitor the development and management of mineral resources in the Republic, establish the Minerals Regulation Commission and provide for its functions, establish the Mining Appeals Tribunal, repeal and replace the Mines and Minerals Development Act, 2015 and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Minerals Regulation Commission Act, 2024 and shall come into operation on the date appointed by the Minister, by statutory instrument.

Short title and commencement

2. In this Act, unless the context otherwise requires—

Interpretation

“access agreement” means an agreement entered into between the holder of a mining right and an owner or occupier of land over which the mining right subsists, for the conduct of exploration, mining or other activities authorised by the mining right to be carried on the land;

“appropriate authority” in relation to any matter, means the Minister responsible for that matter or such public officer as the Minister may authorise to give the requisite consent in that behalf;

	“artisanal mining” means an artisan’s mining operation undertaken by a citizen pursuant to a mining licence granted under Part III;	
Act No. 3 of 2012	“associate” has the meaning assigned to the word in the Anti-Corruption Act, 2012;	5
	“base metal” means iron, copper, nickel, aluminum, lead, zinc, tin, magnesium, cobalt, manganese, lithium, titanium, scandium, vanadium, molybdenum, chromium, tungsten, tantalum, bismuth, cadmium, zirconium, antimony, beryllium, germanium and rare earth elements, or a non-precious metal that is common or chemically active, or both common and chemically active;	10
Act No. 14 of 2015	“bird sanctuary” has the meaning assigned to the words in the Zambia Wildlife Act, 2015;	
	“Board” means the Board of the Minerals Regulation Commission constituted under section 7;	15
	“cadastre unit” means a quadrilateral formed by the intersection of meridians and parallels and with a distance equal to six sexagesimal seconds, and that covers an average planimetric surface of three point three four zero zero hectares;	20
	“certificate of abandonment” means the certificate issued under section 51;	
Act No. 9 of 2006	“citizen-empowered company” has the meaning assigned to the words in the Citizens Economic Empowerment Act, 2006;	25
Act No. 9 of 2006	“citizen-influenced company” has the meaning assigned to the words in the Citizens Economic Empowerment Act, 2006;	
Act No. 9 of 2006	“citizen owned company” has the meaning assigned to the words in the Citizens Economic Empowerment Act, 2006;	30
	“Commission” means the Minerals Regulation Commission established under section 5;	
Cap. 321	“Commissioner-General” means the Commissioner-General appointed under the Zambia Revenue Authority Act;	35

	“Community Partnership Park” has the meaning assigned to the words in the Zambia Wildlife Act, 2015;	Act No. 14 of 2015
	“company” has the meaning assigned to the word in the Companies Act, 2017;	Act No. 10 of 2017
5	“conflict mineral” means a mineral which is mined from an area of armed conflict;	
	“co-operative” means a co-operative society established under the Co-operative Societies Act, 1998;	Act No. 20 of 1998
	“day” means a calendar day;	
10	“decision letter” means a letter issued by the Zambia Environmental Management Agency in accordance with the Environmental Management Act, 2011, stating that a proposed project is-	Act No. 12 of 2011
	(a) not likely to cause adverse effects on the environment;	
15	or	
	(b) likely to cause adverse effects on the environment and an authorisation, a licence, permit or permission should not be issued to the applicant;	
	“Director-General” means the person appointed as Director-General of the Commission under section 9;	
20	“Emoluments Commission” means the Emoluments Commission established in the Constitution;	Cap. 1
	“energy mineral” means a naturally occurring substance in the earth’s crust used as a source of energy, and includes coal, uranium and any other mineral used to generate energy, but does not include petroleum;	
25		
	“environmental impact assessment” has the meaning assigned to the words in the Environmental Management Act, 2011;	Act No. 12 of 2011
	“exploration” means the search for a mineral by any means and the carrying out of works and removal of samples as may be necessary to test the mineral bearing qualities of any land, define the extent of the land and determine the economic value of a mineral deposit;	
30		
	“exploration area” means the land covered by an exploration licence;	
35		

Act No. 14 of
2015

“exploration licence” means the licence issued under section 17;

“*force majeure*” means an event which is beyond the reasonable control of a holder and which makes the exploration or mining operations under the licence 5 impossible due to a—

(a) natural disaster;

(b) state of war; and

(c) public emergency;

“Game Management Area” has the meaning assigned to the 10 words in the Zambia Wildlife Act, 2015;

“gemstone” includes amethyst, sugilite, aquamarine, beryl, corundum, diamond, emerald, garnet, ruby, sapphire, topaz, tourmaline and any other non-metallic mineral substance used in the manufacture of jewelry; 15

“gold panning” means the process of liberating gold from a placer deposit by gentle agitation and gravity in a pan through a water course or body;

“gold panning certificate” means the certificate issued under section 30; 20

“holder” means the person in whose name a mining right or non-mining right is registered under this Act;

“industrial minerals” includes a rock or mineral other than gemstones, base metals, energy minerals or precious metals used in their natural state or after physical or chemical 25 transformation, including barites, dolomite, feldspar, fluorspar, graphite, gypsum, ironstone when used as a fluxing agent, kyanite, limestone, phyllite, magnesite, mica, nitrate, phosphate, pyrophyllite, salt, sand, clay, talc, laterite, gravel, potash, potassium minerals, granite, marble, clay, silica, 30 diatomite, kaolin, bentonite or quartz;

“large-scale exploration” means exploration over an area covering a minimum of three hundred and one cadastre units and not exceeding fifty-nine thousand eight hundred and eighty cadastre units; 35

- “large-scale mining” means mining over an area of a minimum of one hundred and twenty-one cadastre units and not exceeding seven thousand four hundred and eighty-five cadastre units;
- 5 “legally disqualified” means the absence of legal capacity as provided in section 4 of the Mental Health Act, 2019; Act No. 6 of 2019
- “mine” means any place, pit, shaft, drive, level or other opening or excavation, and any drift, gutter, lead, vein, lode, reef, saltpan or working, in or on or by means of
10 which any operation connected with mining is carried on, together with all the works, machinery, plant, buildings, premises, erections and appliances, whether above or below the ground, that are used in connection with the operation or for the extraction, treatment or preparation
15 of any mineral or for the purpose of dressing mineral ores;
- “mineral” means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth or under water, formed by or subjected to a geological process, or any substance occurring in tailing dams, slag
20 dumps, waste rock dumps, residue waste rock dumps, residue stockpiles or residue deposit, but excludes —
- (a) water, other than water taken from the land or any water body for the extraction of any mineral from that water; and
- 25 (b) petroleum;
- “mineral export permit” means the permit issued under section 34;
- “mineral import permit” means the permit issued under section 34;
- 30 “mineral processing” means the practice of beneficiating or liberating valuable minerals from their ores which may combine a number of unit operations such as crushing, grinding, sizing, screening, classification, washing, froth floatation, gravity concentration, electrostatic separation,
35 magnetic separation, leaching, smelting, refining, calcining and gasification or any other processes incidental thereto;
- “mineral processing licence” means the licence issued under section 26;

- “mineral processing operation” means an operation carried out under a mineral processing licence;
- “mineral product” means any mineral substance, in any form, extracted for commercial purposes pursuant to a mining right, or any product obtained from the mineral substance 5 by way of mineral processing;
- “mineral royalty” means a payment received as consideration for the extraction of minerals;
- “mineral trading permit” means the permit issued under section 32; 10
- “mining” means the extraction of material, whether solid, liquid or gaseous, from land or from beneath the surface of the earth in order to win minerals, or any operations directly or indirectly necessary or incidental to the extraction of the material; 15
- “mining area” means an area of land subject to a licence under this Act;
- “mining licence” means the licence issued under section 22;
- “mining operations” means an operation carried out under a mining right, excluding an operation carried out under an exploration licence or a mineral processing licence; 20
- “mining plant” means any building, plant, machinery, equipment, tools or other property used for mining, whether or not affixed to land, excluding any timber or other material used or applied in the construction or support of any shaft, drive, 25 gallery, terrace, race, dam or other work;
- “mining right” means a right granted under Part III;
- “non-mining right” means a right granted under section 11(2);
- “open cast mining operations” means any working or excavation open to the surface beneath the original surface 30 of the ground for the purpose of mining, but excludes prospecting pits;
- “ore” means a natural aggregate of one or more minerals which may be mined and sold at a profit or from which some parts may be profitably extracted; 35

- “precious metal” means gold, platinum, palladium, indium, osmium, rhodium, iridium, ruthenium, selenium and silver, or any other relatively scarce and highly corrosion resistant metal of high economic value;
- 5 “radioactive mineral” means a mineral which contains by weight at least one twentieth of one percent of uranium or thorium or any combination thereof, including—
- (a) monazite, sand and other ores containing thorium; and
- 10 (b) carnotite, pitchblende and other ores containing uranium;
- “relative” has the meaning assigned to the word in the Anti-Corruption Act, 2012; Act No. 12 of 2012
- 15 “regional certificate” means a forgery resistant document with a format that identifies a shipment of specified minerals as having complied with the requirements of a regional mineral tracking and certification scheme;
- “register” means a register established and maintained in accordance with section 91;
- 20 “registered office” means an office of a holder for the purpose of delivery of correspondence, service of notices or documents and for the storage of records as provided under this Act;
- 25 “Registrar” means a person appointed as Registrar under section 83;
- “Secretary” means the person appointed Secretary to the Commission under section 9;
- 30 “small-scale exploration” means exploration over an area covering a minimum of three cadastre units and not exceeding three hundred cadastre units;
- “small-scale mining” means mining over an area covering a minimum of three cadastre units and not exceeding one hundred and twenty cadastre units;
- 35 “State institution” has the meaning assigned to the words in the Constitution; Cap. 1

“Tribunal” means the Mining Appeals Tribunal established under section 79;

“underground mining operations” means any working beneath the surface of the ground which is accessed by means of a ramp, an adit, a raise, shaft or winze, but does not include an open pit mine or a quarry; and

“Zambia Environmental Management Agency” means the Zambia Environmental Management Agency Act No. 12 of 2011 established under the Environmental Management Act, 2011. 10

(2) A reference in this Act to land subject to a mining right or mineral processing licence means a reference to an area of land in respect of which a mining right or mineral processing licence has been granted and subsists.

Minerals to
vest in
President

3. (1) All rights of ownership in, exploration, mining, processing and disposing of, minerals wheresoever located in the Republic vest in the President on behalf of the Republic. 15

(2) This section has effect despite any right, title or interest which a person may possess in or over the soil in, on or under which minerals are found. 20

Principles

4. The following principles shall apply to the mining and development of minerals:

(a) mineral resources are a non-renewable resource and shall be conserved, developed and used prudently, taking into account the needs of the present and future generations; 25

(b) mineral resources shall be explored and developed in a manner that promotes and contributes to socio-economic development and in accordance with international agreements to which the Republic is a party;

(c) the exploitation of minerals shall ensure safety, health and environmental protection; 30

(d) wasteful mining practices shall be avoided so as to promote sustainable development and prevent adverse environmental effects;

(e) citizens shall have equitable access to mineral resources and benefit from mineral resources development; and 35

(f) development of local communities in areas surrounding the mining area based on prioritisation of community needs, health and safety.

PART II

ESTABLISHMENT OF MINERALS REGULATION COMMISSION

5 **5.** (1) There is established the Minerals Regulation Commission which is a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power subject to the provisions of this Act, to do acts and things that a body corporate may, by law, do or perform.

The
Minerals
Regulation
Commission

(2) The Schedule applies to the Commission.

10 **6.** The functions of the Commission are to—

(a) ensure compliance with this Act and Regulations or Rules made in accordance with this Act;

(b) grant, suspend and revoke mining and non-mining rights;

(c) regulate and monitor the mining industry and mining operations in the Republic;

15 (d) ensure orderly exploration and exploitation of mineral resources in the Republic and the optimal utilisation of mineral resources at all mining operations in accordance with the mining policies and strategy;

(e) regulate and monitor mineral marketing;

20 (f) provide laboratory services for mineral analysis and valuation;

(g) in collaboration with other relevant authorities, carry out inspections or investigations on safety, health and environmental issues related to exploration, mining and mineral processing operations or activities;

25 (h) ensure compliance with other relevant laws and regulations related to licensing, exploration, mining and mineral processing operations or activities;

(i) in consultation with the Zambia Environmental Management Agency, monitor and audit environment management and environmental budget and expenditure for progressive rehabilitation and mine closure;

30 (j) prevent illegal mining, minerals smuggling and tax evasion in collaboration with other Government authorities;

35 (k) advise the Government on all matters relating to the management and development of mineral resources;

Functions of
Commission

- (l) promote and conduct research in the development and management of mineral resources in the Republic; and
 - (m) monitor the trading in, and export of, minerals.
- Board of Commission
7. (1) There is constituted the Board of the Commission which shall be the governing body of the Commission responsible for the implementation of this Act. 5
- (2) The Board shall consist of the following part-time members appointed by the Minister:
- (a) the Chairperson;
 - (b) a representative from the Ministries responsible for— 10

 - (i) mines;
 - (ii) lands;
 - (iii) environment; and
 - (iv) finance;
 - (c) a representative of the Attorney-General; and 15
 - (d) three representatives from the organisations or institutions dealing with matters relating to this Act.
- (3) The Chairperson shall be of proven integrity and possess the requisite knowledge and experience in matters relevant to the functions of the Commission. 20
- (4) The members shall elect the Vice-Chairperson from among themselves.
- (5) A person shall not be appointed as a member of the Commission if that person—
- (a) is an undischarged bankrupt; 25
 - (b) is legally disqualified from performing the functions of a member; or
 - (c) has been convicted of an offence under a written law and sentenced to imprisonment for a term exceeding six months without an option of a fine. 30
- (6) The Schedule applies to the Board.
- Functions of Board
8. (1) Subject to this Act, the Board shall perform the functions of the Commission and provide strategic policy direction to the Commission.

- (2) Despite subsection (1), the functions of the Board are to—
- (a) promote effective corporate governance of the Commission;
 - (b) formulate the policies and strategies of the Commission;
 - (c) approve documents of a policy nature of the Commission;
 - 5 and
 - (d) approve the annual budget estimates and financial statements of the Commission.

9. (1) The Board shall appoint a Director-General who shall be—

Director-General, Secretary and other staff

- 10 (a) the chief executive officer of the Commission; and
- (b) responsible for the day-to-day administration of the Commission.

(2) The Director-General shall be an *ex-officio* member of the Board.

15 (3) The Board shall appoint a Secretary and other staff for the Commission as it considers necessary for the performance of the functions of the Commission.

(4) The Secretary shall perform corporate secretarial duties for the Board and other functions as the Board may determine under the direction of the Director-General.

20 (5) The Board shall determine the terms and conditions of service, other than emoluments, of the Director-General, Secretary and other staff of the Commission.

(6) The Emoluments Commission shall, on the recommendation of the Board, determine the emoluments of the Director-General, 25 Secretary and other staff of the Commission.

(7) The Board may, subject to conditions imposed and guidelines issued by the Board, delegate any of the Board's functions to the Director-General.

PART III

30

EXPLORATION, MINING, PROCESSING AND TRADING

10. (1) A person shall not explore for minerals or carry on mining operations, mineral processing operations or gold panning, except under the authority of a mining right, mineral processing licence or gold panning certificate granted under this Act.

35

Prohibition of exploration, mining, mineral processing or gold panning without licence or environmental impact assessment

Act No. 12 of 2011 (2) A person shall not undertake exploration, mining or mineral processing activities without obtaining the prior approval of the environmental impact assessment relating to the exploration, mining or mineral processing operations from the Zambia Environmental Management Agency in accordance with the Environmental Management Act, 2011. 5

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable, on conviction—

(a) in the case of an individual, a partnership or co-operative, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both; or 10

(b) in the case of a body corporate, to a fine of five million penalty units.

Types of mining and non-mining rights 11. (1) The following mining rights may be issued under this Act: 15

(a) an exploration licence; and

(b) a mining licence.

(2) The following non-mining rights may be issued under this Act: 20

(a) a mineral processing licence;

(b) a gold panning certificate;

(c) a mineral trading permit;

(d) a mineral import permit; and

(e) a mineral export permit. 25

(3) A mining right over an area exceeding six point six eight hectares up to a maximum of one thousand hectares shall be issued to a—

(a) citizen-influenced company;

(b) citizen-empowered company; and 30

(c) citizen-owned company.

(4) A mining right over an area exceeding six point six eight hectares shall only be issued to a company.

12. (1) A mining right or non-mining right shall not be granted to any person except in accordance with the provisions of this Act.

Disqualification from holding mining right and non-mining right

(2) A mining right or non-mining right shall not be granted to
5 or held by a company which—

(a) is in liquidation, other than liquidation which forms part of a scheme for the reconstruction of the company or for its amalgamation with another company;

(b) is not incorporated under the Companies Act, 2017;

Act No. 11 of 2017

10 (c) has not established a registered office in the Republic;

(d) does not possess a valid tax clearance certificate issued by the Commissioner-General; or

(e) has among its directors or shareholders holding more than
15 ten percent of the issued equity of the company, a person who —

(i) is or becomes an undischarged bankrupt under any written law, or enters into an agreement or composition with creditors, or takes advantage of a legal process for the relief of bankrupt or insolvent debtors; or
20

(ii) has been convicted of an offence involving fraud or dishonesty under this Act or any other written law and sentenced to imprisonment without an option of a fine within five years of making an application.
25

(3) A mining right or non-mining right shall not be granted to, or held by, an individual who —

(a) is under the age of eighteen years;

(b) is or becomes an undischarged bankrupt;

30 (c) does not possess a valid tax clearance certificate issued by the Commissioner-General; or

(d) has been convicted of an offence involving fraud or dishonesty under this Act or any other written law and sentenced to imprisonment without an option of a fine within five years of making an application.
35

(4) A document or transaction purporting to grant a mining right or a non-mining right to a person who is disqualified to hold the right under this Act is void.

Priority of applications for mining or non-mining rights

13. (1) Subject to this Act, where more than one person applies for a mining or non-mining right over the same area of land, the Commission shall consider applications of the mining and non-mining rights in the order in which the applications were received. 5

(2) The Commission may not, on prescribed conditions, consider applications for a mining or non-mining right over the same area of land in the order specified under subsection (1). 10

Mining right for area subject to other rights

14. (1) An applicant for a mining right over an area subject to another mining right shall apply for consent from the holder of the mining right.

(2) A holder of a mining right over an area in respect of which an application is made under subsection (1) may, within a period of ninety days, give prescribed consent, if the— 15

(a) minerals or metals applied for are different from those indicated on the holder's licence;

(b) geographical position of the minerals or metals applied for is different from the holder's resource indicated in the approved programme of operations; and 20

(c) geographical location of the application for the mining right does not compromise the integrity of the exploration or mining programme of the holder of the existing mining right. 25

(3) An applicant who has not been given consent by the holder of a mining right may, within fourteen days of the refusal, appeal to the Commission.

(4) The Commission shall hear and determine an appeal under subsection (3) within thirty days of receipt of the appeal. 30

Acquisition of mining rights and investment by Government

15. (1) Despite the other provisions of this Act, the Minister responsible for finance may, in consultation with the Minister, prior to the granting of an exploration licence under this Act acquire an interest over the proposed exploration area as prescribed.

(2) Where minerals are discovered in an area where an exploration licence is granted under subsection (1), the Minister responsible for finance shall, on the granting of a mining licence maintain the interest acquired under subsection (1), as prescribed. 35

(3) Subject to the other provisions of this Act, the Minister responsible for finance may, in consultation with the Minister, acquire mining rights for investment by Government over identified areas.

(4) The identified areas referred to in subsection (3) shall be reserved for investment by Government and shall not be subject to an application for the acquisition of a mining right by any person.

(5) Mining rights acquired in accordance with subsection (3) shall be granted to a Government investment company in accordance with this Act or any other relevant written law.

10 **16.** (1) An applicant for a mining right shall submit to the Commission, at the time of application, the proposed positions of all beacons defining the location and extent of the land under application.

Survey of
land

(2) A holder of a mining right or mineral processing licence shall, within one hundred and eighty days of the grant of the licence, survey and demarcate the area covered by the licence in the prescribed manner and register a pegging certificate with the Commission.

(3) A person who contravenes subsection (2) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

17. (1) A person who intends to carry out exploration activities shall apply to the Commission for an exploration licence in the prescribed manner and form on payment of a prescribed fee.

Application
for
exploration
licence

(2) The area of land over which an application for an exploration licence is made shall be represented by complete and contiguous cadastre units as follows:

30 (a) for small-scale exploration, a minimum of three cadastre units and not exceeding three hundred cadastre units; and

(b) for large-scale exploration, a minimum of three hundred and one cadastre units and not exceeding fifty-nine thousand eight hundred and eighty cadastre units.

35 (3) An applicant for an exploration licence shall, submit to the Commission a proposed exploration work programme.

- (4) The Commission shall, in considering an application made under subsection (1), take the following into account:
- (a) that the applicant has the financial resources and technical ability to conduct the proposed exploration optimally in accordance with the exploration work programme; 5
 - (b) that the estimated expenditure is compatible with the proposed exploration work programme, area size and duration of the exploration work programme;
 - (c) if the land is within a National Park, Community Partnership Park, Game Management Area, bird or wildlife 10 sanctuary, National Forest, Local Forest, botanical reserve, private forest or is land to which section 36(1) applies, the applicant has obtained the necessary written consent of the appropriate authority;
 - (d) that the proposed programme of exploration operations is 15 adequate and makes proper provision for environmental protection;
 - (e) that the proposed exploration area is not the same as, and does not overlap in any manner with, an existing mining right or mineral processing licence area; and 20
 - (f) if the applicant is a holder, the applicant has not contravened any condition of the licence or permit.

Validity of
exploration
licence

18. (1) Subject to the other provisions of this Act, an exploration licence shall be valid for a period of four years and may be renewed for a further and final period of three years. 25

(2) Despite subsection (1), an exploration licence for small-scale exploration is not renewable.

(3) A holder of a large-scale exploration licence shall relinquish fifty percent of the exploration area at renewal.

Disqualification
for issue of
exploration
licence

19. (1) The Commission shall not issue an exploration licence 30 to an applicant if—

- (a) the applicant is disqualified from holding an exploration licence;
- (b) the applicant is a holder of another mining right and is in breach of any condition of that mining right under this 35 Act;

- (c) the area of land for which the applicant has made the application, or a part of it, is subject to another mining right and the holder of that mining right has not given consent;
- 5 (d) the area of land for which the application is made covers or includes an area of land for which an application has been earlier made by another person; or
- (e) the application is for an exploration licence in respect of an area—
- 10 (i) that the applicant relinquished; or
- (ii) over which the applicant previously held an exploration licence for seven years.

(2) An applicant is not eligible to apply for an exploration licence in respect of an area over which the applicant previously held an exploration licence for seven years until after a period of one year from the date of the expiry of the previous exploration licence.

20 **20.** (1) Subject to subsection (2), the Commission may, in consultation with the Minister, by notice, close an area to priority licensing in respect of all minerals or the minerals specified in the notice.

Closure of area to priority licensing

(2) The Commission shall not close an area under subsection (1) that is already subject to a mining right or mineral processing licence.

25 (3) The Commission shall record an area closed to priority licensing in an appropriate register.

(4) An area closed to priority licensing under subsection (1) shall be subject to bidding in accordance with Act No. 8 of 2020 the Public Procurement Act, 2020.

30 (5) The notice referred to under subsection (1) shall be published in the Government *Gazette*.

35 **21.** (1) A person who intends to carry on any artisanal mining, small-scale mining or large-scale mining shall apply to the Commission for a mining licence in the prescribed manner and form on payment of a prescribed fee.

Licensing of mining activities

(2) Artisanal mining shall only be undertaken by a citizen or a co-operative wholly composed of citizens.

(3) Small-scale mining shall only be undertaken by a citizen-owned, citizen-influenced or citizen-empowered company.

(4) An applicant for artisanal mining or small-scale mining shall not be granted a mining licence for radioactive minerals.

(5) Despite the generality of subsection (2), a company or 5 foreign national who, with written consent of the holder of an artisanal mining right, intends to work in partnership or any form of agreement with a holder of an artisanal mining right, shall obtain prior written approval of the Commission.

Application
for mining
licence

22. (1) A holder of an exploration licence may, within six months 10 before the expiry of the exploration licence, apply to the Commission for a mining licence in the prescribed manner and form on payment of a prescribed fee.

(2) An application for a mining licence shall not be made for an area in excess of the area of mineralisation and additional areas 15 reasonably required for development of infrastructure relating to the mining licence.

(3) Subject to section 12, the Commission shall issue an applicant with a mining licence where—

(a) the proposed mining area has sufficient deposits or 20 resources of minerals to justify the commercial exploitation;

(b) the area of land over which the licence is sought is not in excess of the proposed mining operations;

(c) the proposed programme of mining operations is approved 25 by the Zambia Environmental Management Agency;

(d) the applicant is required to obtain consent of the holder of the exploration licence, proof of that consent is submitted to the Commission;

(e) the standards of good mining practice and the applicant's 30 proposed programme for development, mining operations comply with each other;

(f) in respect of large-scale mining—

(i) the applicant has the financial resources and technical competence and the applicant's 35 financing plan is compatible with the programme of mining operations;

- (ii) the applicant undertakes to employ and train citizens and promote local content;
- (iii) the applicant's feasibility study report is bankable; and
- 5 (iv) the applicant has sufficient capital investment forecast; and
- (g) the applicant is not in breach of any condition of the exploration licence or any provision of this Act.
- 10 (4) The Commission shall, within forty-five days of receipt of an application under subsection (1), grant or reject the application.
- (5) The Commission shall, where the applicant meets the requirements under this Act, issue an applicant with a mining licence in the prescribed manner and form.
- (6) The Commission shall, where the Commission rejects an 15 application under subsection (3), inform the applicant of the decision, in writing, and give reasons for the decision.
- (7) A mining licence issued to the applicant shall contain the prescribed terms and conditions.
- 20 **23.** A mining licence issued to an applicant under section 21 shall be valid for—
 - (a) three years, for artisanal mining;
 - (b) ten years, for small-scale mining; and
 - (c) twenty-five years, for large-scale mining.
- 25 **24.** (1) The holder of a mining licence may apply to the Commission for authorisation to defer the commencement of mining in the prescribed manner and form on payment of a prescribed fee.
 - 30 (2) The Commission may, within thirty days of receipt of an application under subsection (1), approve the application where the—
 - (a) applicant has identified a mineral deposit within the exploration area which is potentially of commercial significance;
 - 35 (b) mineral deposit cannot be developed immediately due to adverse economic conditions or technological constraints, which are temporary in nature; and
 - (c) applicant meets any conditions that the Commission may determine.

Validity of mining licence

Deferment of commencement of mining

(3) The authorisation to defer the commencement of mining granted to an applicant shall be—

- (a) one year, for artisanal mining;
- (b) three years, for small-scale mining; and
- (c) five years, for large-scale mining.

5

(4) Where the Commission, based on the findings of independent studies, determines that commercial mineral development of an area subject to an authorisation granted under this section is possible during the period of the authorisation, the Commission may, by notice to the holder of the mining licence, 10 require the holder to commence mining operations, within ninety days of the notice.

Suspension
of
production
or closure of
mine by
Commission

25. (1) Subject to the other provisions of this Act, the Commission may direct a holder of a mining right or mineral processing licence to suspend production or close the mine or a 15 section of the mine where—

- (a) the holder contravenes a prescribed term and condition of the mining right or mineral processing licence;
- (b) the holder is working in an unsafe environment;
- (c) the environment has been or is likely to be polluted as a 20 result of mining operations;
- (d) the holder is unable to carry on mining or mineral processing operation due to *force majeure*; or
- (e) the holder has a labour dispute that disrupts the mining or mineral processing operations. 25

(2) The Commission shall, before issuing the directive referred to under subsection (1), give the holder of the mining right or mineral processing licence a period that the Commission may determine, within which the holder shall take remedial measures.

(3) The Commission shall, where the holder of a mining right 30 or mineral processing licence fails to take remedial measures within the period specified under subsection (2), suspend production or close the mine, or a section of the mine, for a period of time that the Commission may determine.

(4) The Commission shall, before suspending production or closing a mine under subsection (3), give written notice to the holder of the mining right or mineral processing licence of the Commission's intention to suspend production or close the mine,
5 and shall—

- (a) give reasons for the intended suspension or closure; and
- (b) require the holder to show cause, within a period of not more than sixty days, why production or the mine should not be suspended or closed.

10 (5) Despite subsection (4), a holder of a mining right or mineral processing licence may—

- (a) enter onto the mining area and take all measures on or under the surface for the purpose of the mining operations;
- 15 (b) erect the necessary equipment, plant and buildings for the purpose of mining, transporting, dressing or treating the mineral recovered in the course of mining operations;
- (c) dispose of any recovered mineral product, and in the case of recovered gemstones, as the Minister may, by
20 statutory instrument prescribe;
- (d) explore for any mineral within the mining area; and
- (e) stack or dump any mineral or waste products within the licensed area.

25 **26.** (1) A person who intends to carry out mineral processing shall apply to the Commission for a mineral processing licence in the prescribed manner and form on payment of a prescribed fee. Application for mineral processing licence

(2) The Commission shall, within forty-five days of receipt of an application under subsection (1), issue the applicant with a mineral processing licence in the prescribed manner and form
30 where the—

- (a) applicant shows proof of financial resources and technical competence, and the financing plan is compatible with the programme of mineral processing operations;
- 35 (b) applicant has title to the land over which the application is made or written consent from the surface right holder or mining right holder;

- (c) proposed programme of mineral processing operations is adequate and makes proper provision for environmental protection; and
- (d) applicant has not contravened any provision of this Act or any other written law. 5
- (3) The Commission shall reject an application for a mineral processing licence where the applicant —
- (a) does not meet the requirements under subsection (2);
- (b) is disqualified from holding a mining right or non-mining right under section 12; or 10
- (c) is a holder of another mineral processing licence and is in breach of a condition of that licence or any provision under this Act.
- (4) The Commission shall, where an application is rejected under subsection (3), inform the applicant within seven days of the rejection, in writing, stating the reasons for the rejection. 15
- (5) A holder of a mineral processing licence shall—
- (a) commence mineral processing operations if the holder of the mineral processing licence submits to the Commission a decision letter in respect of the environmental project brief or environmental impact assessment approved by the Zambia Environmental Management Agency; 20
- (b) carry on the mineral processing operations in accordance with the approved programme of mineral processing operations; and 25
- (c) submit reports to the Commission on —
- (i) sources of ore, concentrates, tailings, slimes or any other mineral substances fed to the plant;
- (ii) quantities and grade of feed to the plant; 30
- (iii) compliance with safety and environmental standards;
- (iv) labour and production returns; and
- (v) any other records, reports and other information as the Commission, may require concerning the operations of the mineral processing operations. 35

(6) The mineral processing licence issued to the applicant shall, in addition to the conditions specified under subsection (5), contain the prescribed terms and conditions.

27. Subject to the other provisions of this Act, a mineral processing licence is valid for a period of twenty-five years and may be renewed in the prescribed manner and form.

Validity of mineral processing licence

28. (1) A holder of a mining licence or mineral processing licence shall, where the holder in the course of exercising a right under this Act discovers a mineral not included in the mining licence or mineral processing licence, notify the Commission within thirty days of the discovery, in a prescribed manner and form.

Amendment of mining licence or mineral processing licence

(2) A holder of a mining licence or mineral processing licence who discovers a mineral not included in that mining licence or mineral processing licence, may apply to the Commission to amend a mining licence or mineral processing licence to include the discovered mineral in a prescribed manner and form on payment of a prescribed fee.

29. (1) Subject to the other provisions of this Act, a holder of a mining licence or mineral processing licence who intends to suspend or restrict the production of mining or mineral processing shall inform the Commission in writing.

Suspension or restriction of production by holder of mining or mineral processing licence

(2) A holder of a mining licence or mineral processing licence may suspend or restrict the production of mining or mineral processing where—

(a) the holder intends to carry out maintenance, installation or de-commissioning of equipment;

(b) the working environment is unsafe;

(c) the environment has been polluted as a result of mining operations;

(d) the holder is unable to carry on mining or mineral processing operations due to *force majeure*; or

(e) the holder has a labour dispute that disrupts the mining or mineral processing operations.

(3) A holder of a mining licence or mineral processing licence who suspends or restricts production shall give notice and reasons for the suspension or restriction to the Commission within —

(a) twenty-four hours of the suspension;

(b) ninety days before the suspension, where the holder, without abandoning the mining licence or mineral processing licence for reasons other than those specified in subsection (1), proposes to suspend production; and

(c) thirty days before the restriction, where the holder proposes 5 to restrict production.

(4) The Commission shall, where the Commission receives notice under subsection (1) or becomes aware of the suspension or restriction of the production of a mine—

(a) cause the matter to be investigated; 10

(b) approve the suspension or restriction of production on terms and conditions that the Commission may determine; or

(c) direct the holder of the mining licence or mineral processing licence to resume full production within a period as the 15 Commission may specify.

Application
for gold
panning
certificate

30. (1) A citizen or a co-operative consisting only of citizens may apply to the Commission for a gold panning certificate in the prescribed manner and form on payment of a prescribed fee.

(2) The Commission shall, where the application under 20 subsection (1) does not meet the requirements of this Act, reject the application and inform the applicant within seven days of the rejection, in writing, stating the reasons for the rejection.

(3) The Commission shall, within thirty days of receipt of an application under subsection (1), and where the application meets 25 the requirements under this Act, grant the applicant a gold panning certificate in the prescribed manner and form.

(4) A gold panning certificate confers on the holder exclusive rights to pan for gold and shall be issued only over areas specified by geographical coordinates. 30

(5) The Commission shall not issue a gold panning certificate in an area where there is a subsisting mining right or mineral processing licence.

(6) A gold panning certificate shall be valid for a period of two years and is renewable every after two years as prescribed. 35

- 31.** (1) A person, except a holder of mining licence or mineral processing licence, shall not trade in minerals without a mineral trading permit issued under this Act. Prohibition of trading in minerals without permit
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.
- 32.** (1) A person who intends to trade in minerals shall apply to the Commission for a mineral trading permit in the prescribed manner and form on payment of a prescribed fee. Application for mineral trading permit
- (2) The Commission shall, within seven days of receipt of an application under subsection (1), issue a mineral trading permit to the applicant, in the prescribed manner and form.
- (3) A mineral trading permit shall be valid for a period of three years and may be renewed every after three years as prescribed.
- (4) Subsection (1) does not apply to a holder of a mining licence or mineral processing licence.
- 33.** A person shall not import or export a mineral, gemstone, ore or mineral product without a permit issued to that person by the Commission under this Act. Prohibition of import or export of mineral, etc. without permit
- 34.** (1) A person who intends to import or export a mineral, a gemstone, an ore or a mineral product shall apply to the Commission for a mineral import permit or a mineral export permit in the prescribed manner and form on payment of a prescribed fee. Application for importation and exportation of minerals
- (2) The Commission shall issue an applicant with a mineral import permit or mineral export permit, as prescribed, where the applicant—
- (a) in the case of a mineral import permit —
- (i) obtains clearance from a competent authority responsible for mining in the country of origin; or
- (ii) for a conflict mineral, is in possession of a regional certificate as confirmation that the minerals are not from a conflict area;

- (b) in the case of a mineral export permit—
- (i) is in possession of a mineral analysis and valuation certificate issued by the Commission;
 - (ii) is in possession of a mineral royalty clearance certificate issued by the Commissioner-General; 5
 - (iii) obtains security clearance from the Zambia Police Service;
 - (iv) is a holder of a mining licence or mineral processing licence, in possession of the production returns made in respect of the 10 mineral, gemstone, ore or mineral product;
 - (v) is a holder of a trading permit, in possession of trade returns in respect of the mineral, gemstone, ore or mineral product; and
 - (vi) is in possession of the mining right or mineral 15 processing licence which is the source of the mineral, gemstone, ore or mineral product;
- (c) for a mineral export or mineral import permit for radioactive minerals, complies with the requirements of any other written law; and 20
- (d) complies with any other requirements that the Minister, in consultation with the Commission, may prescribe.

(3) A mineral export or mineral import permit issued to an applicant under subsection (2), shall be valid for a prescribed period.

Mineral
analysis

35. (1) The Commission shall analyse a mineral, a gemstone, 25
an ore or a mineral product, and issue a mineral analysis certificate
and valuation certificate in respect of —

- (a) an application for the import or export of a mineral, a gemstone, an ore or a mineral product, or a sample of a mineral, gemstone, an ore or a mineral product; 30
- (b) a mineral, a gemstone, an ore or a mineral product in storage or in transit within the Republic;
- (c) a mineral, a gemstone, an ore or a mineral product which is covered by a mineral trading permit; and
- (d) a mineral, a gemstone, an ore or a mineral product at a 35 mine or a mineral processing plant.

(2) A mineral analysis certificate and valuation certificate issued by the Commission under subsection (1) is admissible as evidence in the assessment of mineral royalty and other payments due to the Republic.

5

PART IV

MINING RIGHTS AND SURFACE RIGHTS

36. (1) A holder of a mining right or mineral processing licence shall not exercise any rights under this Act—

Restriction of rights of entry by holder of licence or permit

10 (a) without the written consent of the appropriate authority, on land—

(i) dedicated as a place of burial, whether in use or not;

15 (ii) containing any ancient monument or national monument as defined in the National Heritage Conservation Commission Act;

Cap. 173

(iii) which is the site of, or within ninety metres of, a building or dam owned by the Republic; or

20 (iv) forming part of a Government aerodrome in accordance with the Civil Aviation Act, 2016;

Act No. 5 of 2016

(b) without the written consent of the owner or legal occupier of the land or the duly authorised agent—

25 (i) on land which is the site of, or which is within one hundred and eighty metres of, an inhabited, occupied or temporarily uninhabited house or building;

(ii) within forty-five metres of land which has been cleared or ploughed or otherwise prepared in good faith for growing of farm crops or on which farm crops are growing;

30 (iii) on land which is the site of, or is within ninety metres of, a cattle dip tank, dam or private water as defined in the Water Resources Management Act, 2011; or

Act No. 21 of 2011

35 (iv) on land forming part of an aerodrome, other than an aerodrome referred to in subsection (1)(a)(iv);

- (c) on land occupied as a village, or other land under customary tenure, without the written consent of the chief and the local authority for the district in which the village is situated;
- (d) without the written consent of the railway administration, 5
on any land reserved for the purpose of any railway track or within one hundred metres of any railway track;
- (e) without the written consent of the appropriate authority or the local authority concerned, on land within sixty metres, of the boundaries of a city, municipality or district 10
for which a council is established under the provisions of the Local Government Act, 2019;
- Act No. 2 of 2019
- (f) without—
- (i) the written consent of the appropriate authority, on land used as a forest nursery or plantation 15
or as a timber depot, sawmill or other installation for working on a forest; and
- (ii) due compliance with the relevant provisions of the Forests Act, 2015, on land declared to be a National Forest, Local Forest, botanical reserve 20
or private forest, as defined in that Act;
- (g) on a street, road or highway, without the written consent of the appropriate authority or the public body which has the control of the street, road or highway;
- (h) on land comprised in a National Park, Community 25
Partnership Park, Game Management Area or bird sanctuary without complying with the Zambia Wildlife Act, 2015; and
- Act No. 14 of 2015
- (i) on land that, under the Urban and Regional Planning Act, 2015, without permission to 30
develop, unless the requisite permission is obtained.
- (2) Any consent given for the purposes of this section by the appropriate authority may be given unconditionally or subject to such conditions as are specified in the terms of the written consent. 35
- (3) The Commission may, where any consent required under this section is unreasonably withheld, refer the matter to arbitration of the matter in accordance with section 40.

37. Subject to the terms of an access agreement, the rights conferred by a mining right or mineral processing licence shall be exercised reasonably and, except to the minimum extent necessary for the reasonable and proper conduct of the operations, shall not be exercised so as to prejudice the interest of an owner or occupier of the land over which those rights extend. Exercise of rights under licence or permit
38. (1) Subject to the terms of an access agreement, the owner or lawful occupier of land within the area of an exploration licence shall retain the right to use and access water and to graze stock on, or to cultivate the surface of, the land to the extent that such use, grazing or cultivation does not interfere with the proper working in the area for exploration or other operations to be conducted under the exploration licence. Right to use and access water or graze stock
- (2) An owner or lawful occupier of land that is subject to an exploration licence shall not erect a building or structure on the land without the consent of the holder of the exploration licence, except that where the consent is unreasonably withheld, the Commission may grant it.
39. (1) Subject to subsection (2), a holder of a mining right who requires the exclusive or other use of the whole or a portion of the exploration or mining area for the purpose of the mining right may, in accordance with the laws relating to the acquisition, acquire a lease of the land or other right to use the land on terms as may be agreed between the holder and the owner or occupier of the land. Acquisition of use of land by holder of mining right
- (2) A holder of a licence shall not purchase or obtain a lease of, or other rights over, land specified in section 36(1)(a) or (c) to (h), except with the consent of the appropriate authorities mentioned in that section.
40. Subject to the terms of an access agreement, a party to a dispute may, by consent of the parties, apply to the Commission to determine the dispute or the Commission may request the parties to settle a dispute by way of an arbitration in accordance with the Arbitration Act, 2000, where there is a dispute relating to — Alternative dispute resolution
- (a) whether or not section 36(1)(b) applies in respect of any land, or the withholding of any consent under that subsection; Act No. 19 of 2000
- (b) the withholding of any consent under section 36(1)(c); or
- (c) any other matter arising under this Part that is prescribed by the Minister by statutory instrument.

Compensation for disturbance of rights, etc.

41. (1) A holder of a mining right or mineral processing licence shall, on demand being made by the—

- (a) owner or lawful occupier of any land subject to the mining right or mineral processing licence, promptly pay the owner or occupier fair and reasonable compensation for any disturbance of the rights of the owner or occupier and for any damage done to the surface of the land by the operations; and
- (b) owner of any crops, trees, buildings or works damaged during the course of the operations, pay compensation for the damage.

(2) In assessing the compensation payable under subsection (1), account shall be taken of any improvement effected by the holder of the mining right or mineral processing licence or by the holder’s predecessor in title, the benefit of which has ensued or shall ensue to the owner or lawful occupier of the land.

(3) The compensation payable for damage to the surface of land shall be the extent to which the market value of the land, for which purpose it shall be deemed saleable, on which the damage has occurred has been reduced by reason of such damage, but without taking into account any enhanced value due to the presence of minerals.

(4) A demand made in accordance with this section shall not entitle the owner or lawful occupier of the land to prevent or hinder the exercise of a right by the holder of a mining right or mineral processing licence pending the determination of compensation to be paid.

(5) Compensation shall not be payable under subsection (1) in respect of any indigenous wood or timber taken—

- (a) on land that is declared a National Forest, Local Forest, botanical reserve or private forest under the provisions of the Forests Act, 2015; or
- (b) on other land that is not alienated by the President in accordance with the Lands Act.

Act No. 4 of 2015

Cap.184

(6) Where a holder of a mining right or mineral processing licence fails to pay the compensation demanded under this section, or where the owner or lawful occupier of any land is dissatisfied with any compensation offered, the dispute may be determined by arbitration in accordance with the Arbitration Act, 2000.

Act No. 19 of 2000

(7) Despite any other written law, a claim for compensation under subsection (1) shall be made within a period of three years from the date when that claim accrued.

5 42. (1) Except as otherwise provided under this Act, nothing in this Act shall prevent the taking by— Rights to building materials

(a) the owner or lawful occupier of any land that is not subject to a mining right, limestone or other materials ordinarily used for building, road-making or agricultural purposes, from the land, where—

10 (i) the materials taken are for use on the land; and
(ii) the owner or lawful occupier is the holder of a permit issued by the Commission authorising such taking;

15 (b) the holder of a mining right in respect of any land, materials from the land for use on the land;

(c) the owner or lawful occupier of any land that is subject to a mining right, materials from the land with the consent of the holder of the mining right and for use on the land, which consent shall not be unreasonably withheld; or

20 (d) the Republic, any local authority, a highway authority or any person duly authorised by any such authority and acting under the Public Roads Act, 2002, materials for public purposes. Act No.12 of 2002

25 (2) This section shall not affect a requirement under this Act or any other written law to obtain any requisite consent, in writing, from an owner or occupier of land or an appropriate authority or other person.

PART V
REGULATORY PROVISIONS

30 43. (1) A holder of a mining or non-mining right in respect of a conflict mineral or a person in possession of a conflict mineral shall obtain a regional certificate from the Commission prior to the disposal of the conflict mineral. Disposal of conflict minerals

35 (2) The Minister may, by statutory instrument, declare a mineral as a conflict mineral and make Regulations to govern the issuance of regional certificates.

(3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million penalty units or to imprisonment for a term not exceeding ten years, or to both.

Insurance
and
indemnities

44. (1) A holder of a mining right or mineral processing licence shall obtain and maintain at all times during the lifetime of the mining right or mineral processing licence and for the prescribed period thereafter, and cause its contractors to obtain and maintain at all times, insurance coverage, within the Republic, in amounts and against risks that may be prescribed. 5 10

(2) A holder of a mining right or mineral processing licence shall furnish to the Commission the certificates that prove that the insurance coverage referred to under subsection (1) is in effect and provide copies of any policies requested.

(3) A statutory instrument made under subsection (1) shall include requirements for the insurance coverage as it is internationally recognised to obtain in the mining industry in accordance with good mining industry practice. 15

(4) A holder of a mining right or mineral processing licence shall, if so directed by the Commission by notice, in writing, obtain and maintain in force in respect of the mining operations carried on by the holder, insurance cover that the Commission may consider reasonably necessary in the public interest. 20

(5) A holder of a mining right or mineral processing licence shall indemnify, defend and hold the Republic harmless against all actions, claims, demands, injury, losses or damages of any nature, including claims for loss or damage to property or injury or death to persons, resulting from any act or omission in the conduct of exploration, mining operations or mineral processing operations by or on behalf of the holder. 25 30

(6) The indemnity referred to in subsection (5) shall not apply to the extent that an action, a claim, demand, loss, damage or an injury resulted from any direction given by, or wrongful act committed on behalf of, the Republic.

(7) A person who contravenes subsection (1) or (4) commits an offence and is liable, on conviction, to a penalty of one million penalty units and to a further penalty of twenty thousand penalty units for each day the contravention continues. 35

45. A mining right or mineral processing licence, and the rights conferred by it, shall be subject to the provisions of this Act, the conditions attached to the mineral right or mineral processing licence at the time it is granted and any subsequent amendments made to
5 the conditions attached to the mining right or mineral processing licence.
46. (1) A holder of a mining right shall, where the holder intends to make an amendment to the programme of exploration or mining operations, apply to the Commission for approval in the prescribed
10 manner and form.
- (2) The Commission may, within thirty days of receipt of an application under subsection (1) —
- (a) approve the proposed amendment with or without any modification and on such terms and conditions as the
15 Commission may determine in accordance with this Act; or
- (b) reject the proposed amendment and give the applicant the reasons for the rejection, in writing.
47. (1) A person shall not transfer, assign, encumber or
20 otherwise deal with a mining right or mineral processing licence, or an interest in a mining right or mineral processing licence, without the approval of the Commission and the production of a tax clearance certificate issued by the Commissioner-General.
- (2) A holder of a mining right or mineral processing licence or
25 a person with an interest in a mining right or mineral processing licence who intends to transfer, assign, encumber or otherwise deal with the mining right or mineral processing licence or any interest therein shall apply to the Commission for approval in the prescribed manner and form on payment of a prescribed fee.
- 30 (3) A holder of a mining right or mineral processing licence or interest in the mining right or mineral processing licence shall, in the application referred to in subsection (2), submit to the Commission details of the transferee as would be required in an application for a mining right or mineral processing licence.
- 35 (4) The Commission shall, within thirty days of receipt of an application under subsection (2), approve the transfer of the mining right or mineral processing licence or interest in the mining right or mineral processing licence, unless the transferee is disqualified from holding a mining right or non-mining right under the provisions of
40 this Act.

Restriction on mining rights and mineral processing licence

Amendment of programme of exploration or mining operation

Transfer of mining or mineral processing licence

(5) The transferee shall, on the transfer of a mining right or mineral processing licence, assume and be responsible for all the rights, liabilities and duties of the transferor under the mining right or mineral processing licence for the unexpired period of the mining right or mineral processing licence. 5

(6) The Commission shall revoke any mining right or mineral processing licence which is transferred, assigned, encumbered or otherwise dealt with contrary to the provisions of this Act.

Transfer of control of company
48. (1) A holder of a mining right or mineral processing licence shall not, without the prior written approval of the Commission— 10

(a) register the transfer of any share or shares in the company to any person or that person's nominee if the effect of doing so would give that person control of the company; or

(b) enter into an agreement with any person, if the effect of doing so would be to give that person control of the company. 15

(2) A holder of a mining right or mineral processing licence shall, for the purposes of subsection (1), apply to the Commissioner for approval in a prescribed manner and form. 20

(3) The Commission may, on receipt of an application under subsection (2), call for and obtain such information as is necessary for purposes of the application, but such approval shall not be unreasonably withheld.

(4) The Commission shall approve or reject an application under this section within forty-five days of receipt of the application. 25

(5) For the purposes of this section, a person is deemed to have control of a company if the person —

(a) or that person's nominee holds, or the person and that person's nominee together hold, a total of fifty percent or more of the equity shares of the company; or 30

(b) is entitled to appoint, or to prevent the appointment of, half or more than half of the number of directors of the company.

Act No. 10 of 2017
 (5) In this section, "equity shares" has the meaning assigned to the words in the Companies Act, 2017. 35

49. (1) A holder of a mining right may, at any time during the period of that right, apply for the alteration of the exploration or mining area.

Alteration of exploration or mining area

(2) An application to alter an exploration or mining area shall be made to the Commission in the prescribed manner and form on payment of a prescribed fee.

(3) An application under this section shall not be approved if the approval would prejudice a neighbouring mining right, mineral processing licence or pending application for a mining right.

(4) An alteration of an exploration or mining area shall be guided by the following principles:

(a) the altered area shall not overlap an area which is covered by another mining right or a pending application;

(b) the altered area shall consist of at least twenty-five percent of the land that was part of the exploration or mining area before the alteration; and

(c) an alteration shall ensure safe and productive exploration or mining operations and not fall below the prescribed minimum standards.

(5) The Commission may approve an application for the alteration of the exploration or mining area in respect of which the application is made on terms and conditions that the Commission may determine.

(6) 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.

50. (1) Where, after an inquiry, the Commission considers that the best interests of the Republic or of the holders of a mining licence for artisanal and small-scale mining operations, covering contiguous or neighboring mining areas, shall be served with regard to the economic exploitation of minerals by the merging or coordination of all or part of the operations of the holders, the Commission may direct the holders to effect such merger or co-ordination within such time and on terms as the Commission shall specify and the holders shall comply with the directions.

Mergers or coordination of mining operation

(2) The Commission shall, before giving any directive under subsection (1), give the holders of the mining licences concerned an opportunity to make representations to the Commission, in writing.

Abandonment
of land
subject to
mining or
mineral
processing
licence

51. (1) A holder of a mining or mineral processing licence who intends to abandon all or any part of the land shall, subject to the mining or mineral processing licence, apply to the Commission for a certificate of abandonment not later than ninety days before the date on which the holder wishes the abandonment to have effect. 5

(2) An application under subsection (1) shall— 10

(a) identify the land to be abandoned and, if the application applies to only a part of the land subject to the mining or mineral processing licence, shall include a map with geographical co-ordinates clearly identifying both the part to be abandoned and the part to be retained; 15

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

(c) include a certificate of closure issued by the Commission;

(d) give particulars of the operations which have been carried on under the mining or non-mining right on the land to be abandoned; and 20

(e) be supported by such records and reports in relation to those operations as the Commission may require.

(3) Subject to this section, the Commission shall issue to the applicant a certificate of abandonment subject to conditions that the Commission may determine. 25

(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 mining or non-mining right, the mining or non-mining right shall be cancelled with effect from the same date; and 30

(b) in any other case, the mining or non-mining right 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 of abandonment may be commenced or continued against that applicant.

52. (1) A holder of mining right or mineral processing licence who decides not to continue with the activity or operations to which the mining right or mineral processing licence relates shall surrender to the Commission, in writing, the mining right or mineral processing licence.

Surrender of mining right or mineral processing licence

(2) Where a mining right or mineral processing licence is surrendered under subsection (1) the—

(a) Commission shall specify the terms and conditions of the surrender of the mining right or mineral processing licence; and

(b) mining right or mineral processing licence shall lapse and be revoked.

53. (1) A holder of a mining or non-mining right may apply for the renewal of the mining or non-mining right in the prescribed manner and form on payment of a prescribed fee.

Renewal of mining or non-mining right

(2) Where the holder of a mining or non-mining right applies for the renewal of the mining or non-mining right under subsection (1), the existing mining or non-mining right shall continue in force until the date of the renewal of the application or until the application is rejected.

54. (1) Subject to the other provisions of this Act, the Commission may suspend or revoke a mining or non-mining right if—

Suspension or revocation of mining or non-mining right

(a) the holder obtained the right by fraud or submission of false information or statements;

(b) the holder contravenes this Act, any other written law relating to the right or any terms and conditions of the right;

(c) the holder fails to carry out mining operations in accordance with the approved plan of mining operations and the gross proceeds of sale of minerals from the mining area in any three successive years is less than half of the deemed turnover applicable to the mining licence in each of those years;

- (d) the holder gives false information on the recovery of ores and mineral products, production costs or sale;
- (e) the holder fails to pay annual area charges;
- (f) the holder fails to pay mineral royalty;
- (g) the holder fails to execute the approved exploration programme, in the case of a holder of an exploration licence; 5
- (h) the holder has ceased to fulfil the eligibility requirements under this Act; or
- (i) the suspension or revocation is in the public interest. 10
- (2) The Commission shall, before suspending or revoking a mining or non-mining right in accordance with subsection (1), give written notice to the holder of the right of the intention to suspend or revoke the mining or non-mining right and shall—
- (a) give the reasons for the intended suspension or revocation; 15
and
- (b) require the holder to show cause, within a period of not more than sixty days, why the right should not be suspended or revoked.
- (3) The Commission shall not suspend or revoke a mining or non-mining right under this section if the holder takes remedial measures to the satisfaction of the Commission within the period referred to in subsection (2). 20
- (4) The Commission shall, in making the final determination on the suspension or revocation of a mining or non-mining right, consider the submissions made by the holder under subsection (2). 25
- (5) The Commission may suspend or revoke a mining or non-mining right if the holder, after being notified under subsection (2), fails to show cause or does not take any remedial measures to the satisfaction of the Commission within the time specified in that subsection. 30
- (6) A holder shall, where the mining or non-mining right is suspended, cease to be entitled to the rights conferred under this Act for the period of the suspension of the mining or non-mining right. 35

(7) Where a mining or non-mining right is revoked, the holder of the mining or non-mining right shall cease to be entitled to the rights conferred under this Act with effect from the date of the revocation and shall return the mining or non-mining right to the
5 Commission.

(8) The Commission shall, where a mining or non-mining right is suspended or revoked under this section, publish the suspension or revocation in a daily newspaper of general circulation in the Republic.

10 (9) The Commission shall, by notice, in writing, to the holder of a mining or non-mining right, revoke the mining right or non-mining right on the occurrence of an event that renders the holder ineligible to hold a mining or non-mining right.

(10) The revocation of a mining or non-mining right under this
15 section does not affect any liability incurred by the holder of the mining or non-mining right before the revocation, and any legal proceedings commenced or continued against the holder before the revocation may be commenced or continued against that holder.

55. Where the holder of a mining or non-mining right terminates
20 the mining right by abandonment, surrender of the mining or non-mining right or other action under this Act, or the term of a mining or non-mining right expires, the holder shall immediately before the termination or expiration of the mining or non-mining right deliver to the Commission —

Surrender of records on termination of mining or non-mining right

25 (a) all records which the holder maintained under this Act with respect to the right;

(b) all plans or maps of the area of land that was subject to the mining or non-mining right and which were prepared by or on the instructions of the holder; and

30 (c) other documents as the Commission may, by notice given to the holder, require the holder to deliver.

56. (1) Where the holder of a mining or non-mining right abandons the land subject to the mining or non-mining right or the mining or non-mining right is revoked, the Commission shall take
35 the necessary measures to ensure that where an activity provided for under the mining or non-mining right can be continued before a new mining or non-mining right holder takes over the activity which is the subject of the mining or non-mining right, the activity under the licence is continued until the new holder is found.

Management of assets on suspension, abandonment or revocation of mining or non-mining right

(2) Where operations under a mining or non-mining right cease under any of the circumstances set out in this Act, the holder shall, not less than three months, or such other period as the Commission may allow, before such cessation or termination, furnish to the Commission— 5

(a) a full register of assets showing those assets which the holder intends to remove and those assets which the holder intends to leave in the area of operation; and

(b) details of any potentially hazardous substances, erections or excavations in the area of operation. 10

(3) The Commission shall, on receipt of the notice referred to in subsection (2)—

(a) certify that specified items of fixed machinery are necessary for the care and maintenance of the mining or non-mining right area and such items and machinery shall not be removed from the area; 15

(b) require that specified buildings and other items of fixed machinery be removed from the area; or

(c) require that potentially hazardous substances, erections and excavations be removed or made safe in a manner that the Commission may direct. 20

(4) Where the removal of assets which the holder has specified that the holder intends to remove is prohibited under subsection (2)(a), the Government shall pay reasonable compensation to the holder for such assets and any person who subsequently acquires the mining or non-mining right shall reimburse the Government the sum equal to the compensation paid by the Government. 25

(5) A mining area shall, on cessation of mining operations by the holder of the mining right or mineral processing licence, revert to the owner of the area, except that if the Commission determines that the area should be retained by the Government, the Government may retain the area subject to payment of fair compensation to the owner of the area. 30

Compliance
order

57. (1) The Commission may, where there are reasonable grounds to believe that any condition of a mining or non-mining right issued under this Act has been breached, serve a compliance order on the holder requiring the holder to remedy the breach within the period stipulated in the order. 35

- (2) A compliance order issued under subsection (1) may —
- (a) suspend operations with immediate effect if the Commission considers that the suspension is necessary to prevent or mitigate an imminent risk to the safety of the mine or persons within the mining operation area, or to prevent adverse effects to the environment or to human health occurring; or
 - (b) require the holder to take specified measures to prevent or abate the risk or adverse effect referred to in paragraph (a).
- (3) A person on whom a compliance order is served shall comply with the requirements of the order by the date specified in the order and if no date is specified, the person shall comply with the order immediately.
- (4) The Commission may, where the holder fails to comply with a compliance order—
- (a) vary the conditions of the mining or non-mining right;
 - (b) revoke the mining or non-mining right; or
 - (c) cause the necessary steps to be taken to execute the compliance order, and the costs thereof and incidental thereto shall be a debt due to the Republic from the person to whom the direction was given and shall be recoverable in any court of competent jurisdiction on behalf of the Republic.
- (5) A certificate signed by the Commission stating that a specified amount is the amount of the debt due shall be admissible as evidence in all courts for the recovery of debts due to the Republic under subsection (4).
- (6) A debt due to the Republic under this section is recoverable whether or not the person by whom it is due is prosecuted or convicted of an offence.
- (7) A person who contravenes subsection (3) commits an offence and is liable, on conviction, to a fine not exceeding three million penalty units or to imprisonment for a term not exceeding four years, or to both.
- 58.** (1) A holder of a mining right or mineral processing licence shall pay to the Republic an annual area charge of such amount as may be prescribed. Annual area charge
- (2) The annual area charge referred to in subsection (1) shall be payable on the grant of the mining right or mineral processing licence, and thereafter annually on the anniversary until the termination of the mining right or mineral processing licence.

Production
of
information

59. (1) The Commission may direct a holder of a mining right, mineral processing licence, gold panning certificate or any permit issued under this Act, at a specified time and place, to make available to, or to produce for inspection by, the Commission any books, accounts, vouchers, documents or records of any kind relating to the mining right, mineral processing licence, gold panning certificate or permit and the holder of the mining right, mineral processing licence, gold panning certificate or permit shall comply with the directive.

(2) Where the Commission 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, the Commission may, by notice, in writing, served on that person, require that person to—

- (a) furnish the information, in writing, within the period and in the manner specified in the notice;
- (b) attend before the Commission at a time and place specified in the notice, and answer questions relating to minerals obtained or the value of the minerals obtained; or
- (c) make available to a person specified in the notice, at a time and place so specified, books or documents in that person's custody or power relating to the minerals obtained or the value of the minerals obtained.

(3) Where books or documents are made available as required under this section, the person to whom the books or documents are made available may make copies of, or take extracts from, the books or documents.

(4) A person who fails to comply with a directive under subsection (1), commits an offence.

PART VI

SAFETY, HEALTH AND ENVIRONMENTAL PROTECTION

Consideration
of
environment
and human
health when
granting
mining right
or issuing
mineral
processing
licence

60. (1) The Commission shall, in deciding whether or not to grant a mining right or mineral processing licence, take into account the need to—

- (a) conserve and protect the—
 - (i) air, water, soil, flora, fauna, fish, fisheries and scenic attractions; and
 - (ii) features of cultural, architectural, archaeological, historical or geological interests; and
- (b) ensure that any mining or mineral processing activity prevents any adverse socio-economic impact or harm to human health, in or on the land over which the right or licence is sought.

(2) The Commission and the Zambia Environmental Management Agency may cause environmental impact studies and other studies to be carried out as the Commission considers necessary to enable a decision under subsection (1) to be made.

5 **61.** (1) The conditions subject to which a mining right is granted or renewed shall include conditions that may be prescribed by the Minister, by statutory instrument, or as the Minister may, in a particular case, otherwise determine, in relation to the—

Condition for protection of environment and human health

(a) conservation and protection of the—

10 (i) air, water, soil, flora, fauna, fish, fisheries and scenic attractions; and

(ii) features of cultural, architectural, archaeological, historical or geological interests;

15 (b) prevention of any social-economic impact or harm to human health in or on the land subject to the right or licence;

(c) protection of human health, in consultation with the Minister responsible for health;

20 (d) rehabilitation, levelling, re-grassing, reforestation or contouring of such part of the land over which the right or licence has effect as may have been damaged or adversely affected by exploration operations, mining operations or mineral processing operations; and

25 (e) filling in, sealing or fencing of excavations, shafts and tunnels.

(2) A condition referred to in subsection (1) shall—

30 (a) conform to specifications and practices established by national standards for the management of the environment as it is affected by mining or mineral processing operations; and

35 (b) include requirements for the lodgment, by an applicant for the grant or renewal of a licence or permit, or holder of a licence, of one or more cash deposits or bank guarantee for securing the performance by that applicant or holder of a licence of all or any such conditions.

Clearing
away of
mining or
mineral plant

62. (1) A holder of a mining right or mineral processing licence over land that ceases to be subject to the mining right or mineral processing licence may, within the period specified under subsection (4), cause to be removed from the land, on the surface or underground, any mining or mineral processing plant brought onto, 5 or erected on that land in the course of mining or mineral processing operations carried out under the mining right or mineral processing licence.

(2) Despite subsection (1), a holder of a mining right or mineral processing licence over land that ceases to be subject to the mining 10 right or mineral processing licence shall, if directed to do so by the Commission by notice in writing, within the period specified in the notice, cause to be removed from the land, on the surface or underground, any mining or mineral processing plant brought onto, or erected on that land in the course of mining or mineral processing 15 operations carried out under the mining right or mineral processing licence.

(3) The Commission may give a direction under this section even though the period specified under subsection (4) has not 20 expired.

(4) The period referred to under subsection (1) and (3) shall be six months from the date on which the land ceased to be subject to the right or such longer period that the Commission may allow, in any particular case.

Sale of
mining or
mineral
processing
plant

63. (1) The Commission may, where a mining or mineral 25 processing plant is not removed in accordance with section 62, direct that the mining or mineral processing plant be sold by public auction.

(2) A mining or mineral processing plant remaining unsold after the public auction under subsection (1) is held, may be sold by 30 private treaty.

(3) The following amounts shall be deducted from the proceeds of a sale under subsection (2):

(a) the costs of the sale and of any matter incidental to, or connected with, the sale; 35

(b) the costs of removing from the land a mining or mineral processing plant remaining unsold after the public auction;

- (c) an amount owing in respect of compensation payable under this Part; and
 - (d) any other amount that the Commission certifies to be a deductible amount.
- 5 (4) Any balance remaining from the proceeds of a sale after the deduction of the amounts referred to in subsection (3) shall be paid to the Minister responsible for finance and may, on application, be paid to a person who is lawfully entitled to it.
- 10 (5) Where no person applies to the Minister under subsection (4) within a period of ninety days, the balance shall be paid to the revenues of the Republic.
- (6) Where the proceeds of sale are less than the amounts to be deducted, the—
- 15 (a) shortfall shall be a debt due to the Republic from the person to whom the relevant direction was given and shall be recoverable in a court; and
 - (b) proceeds of sale shall be applied in meeting those amounts in such manner as the Minister may direct.
- 20 (7) A debt due to the Republic under this section is recoverable whether or not the person by whom it is due is prosecuted or convicted of an offence under this Part.
- 64.** (1) The Commission shall, where the Commission considers that a holder of a mining licence is using wasteful mining practices —
- Wasteful mining practices
- 25 (a) give notice to the holder specifying the particulars of the wasteful mining practices;
 - (b) request the holder to cease the wasteful mining practices and remedy any damage caused by the practices;
 - 30 (c) require the holder to reply, in writing, showing cause, within a time specified by the notice, why the holder’s licence should not be revoked; and
 - (d) suspend the mining operations until the holder takes remedial measures.
- 35 (2) The Commission shall cancel the licence if the holder fails to cease using the wasteful mining practices or to remedy any damage caused by the wasteful mining practice within the time specified in the notice.
- 65.** A holder of a mining right or mineral processing licence shall inform the Commission of any accident that occurs at an exploration, mining, gold panning or mineral processing area in the prescribed manner and form.
- Notification of accidents and dangerous occurrences

Liability and
redress

66. (1) A holder shall be strictly liable for any harm or damage caused by mining operations or mineral processing operations and shall compensate any person to whom the harm or damage is caused.

(2) Liability shall attach to the person who directly contributes 5 to the act or omission which results in the harm or damage.

(3) Where there is more than one person responsible for the harm or damage, the liability shall be joint and several.

(4) Where any harm or damage is caused to the environment or biological diversity, compensation shall include the cost of 10 reinstatement, rehabilitation or clean-up measures which are incurred and where applicable, the costs of preventive measures.

(5) Liability shall extend to any—

(a) harm or damage caused directly or indirectly by the mining or mineral processing operations to the economy or 15 social cultural conditions;

(b) negative impact on the livelihood or indigenous knowledge systems or technologies of any community;

(c) disruption or damage to any production or agricultural system; 20

(d) reduction in yields of the local community;

(e) air, water or soil contamination or damage to biological diversity;

(f) damage to the economy of an area or community; or

(g) other consequential disorder. 25

(6) Despite any other written law to the contrary, the right to bring an action in respect of harm caused by a mining or mineral processing operation shall lapse after a reasonable period from the date on which the affected person or the community could reasonably be expected to have learned of the harm or damage, 30 taking due account of the time —

(a) the harm or damage may take to manifest itself; and

(b) that it may take to correlate the harm with the mining or mineral processing operation, having regard to the situation or circumstance of the person or community 35 affected.

(7) A person, group of persons or a private or State institution may bring a claim and seek redress in respect of the breach or threatened breach of any provision relating to damage to the environment, biological diversity, human and animal health or to
5 socio-economic conditions in—

- (a) that person's or group of persons' interest;
- (b) the interest or on behalf of, a person who is, for practical reasons, unable to institute such proceedings;
- 10 (c) the interest of, or on behalf of, a group or class of persons whose interests are affected;
- (d) the public interest; and
- (e) the interest of protecting the environment or biological diversity.

(8) Costs shall not be awarded against any of the persons
15 specified under subsection (7) who fail in any action if the action was instituted reasonably out of concern for the public interest or the interest of protecting human health, biological diversity and in general, the environment.

(9) Where any harm or damage is caused to human and animal
20 health by mining or mineral processing operations, compensation shall include—

- (a) any costs and medical expenses;
- (b) compensation for any disability suffered; and
- (c) compensation for loss of life.

25 **67.** (1) There shall be an Environmental Protection Fund which shall be administered and managed by the Environmental Protection Fund Committee appointed by the Minister.

Environmental
Protection
Fund

(2) The Minister may, by statutory instrument, prescribe for the management and administration of the Fund.

30 (3) There shall be paid into the Fund the amount of any cash deposit referred to in section 61(2)(b).

(4) Monies from the Fund may be applied —

- (a) at the expiry or termination of a licence or permit by way of refund to the holder thereof of the amount of any
35 cash deposits referred to in section 61 that were paid by the holder, to the extent that such monies are not appropriated under paragraph (b); or

(b) to the payment of any debt due under section 57(6) or section 63(6), to the extent that the debt is not paid by or recovered from, the person from whom it is due, and regardless of whether proceedings have been taken against that person for an offence under this Part or for the recovery of the debt. 5

(5) In the case of any particular debtor, the amount of any monies expended under this section for or towards the satisfaction of the person's debts shall not exceed the amount of any cash deposits referred to in section 61(2)(b) that were lodged by that person. 10

Act No. 1 of 2018 (6) Subject to the Public Finance Management Act, 2018, monies standing to the credit of the Fund that are not immediately required for purposes of the Fund may be invested in a manner that the Environmental Protection Fund Committee, may determine. 15

PART VII

COLLECTION AND ASSESSMENT OF MINERAL ROYALTY

Mineral Royalties and Charges 68. (1) The Commissioner-General shall be responsible for the carrying out of the provisions of this Part in relation to mineral royalty. 20

Cap. 323 (2) The Income Tax Act shall apply to the collection, assessment, enforcement of, and right of appeal with respect to, any mineral royalty imposed under this Part.

Royalties on production of minerals 69. (1) A holder of a mining licence shall pay mineral royalty at the rate of— 25

(a) five percent of the norm value of the base metals produced or recoverable under the licence, except when the base metal is copper, cobalt or vanadium;

(b) five percent of the gross value of the energy and industrial minerals produced or recoverable under the licence; 30

(c) six percent of the gross value of the gemstones produced or recoverable under the licence; and

(d) six percent of the norm value of precious metals produced or recoverable under the licence. 35

(2) Where the base metal produced or recoverable under the licence is copper, the mineral royalty payable shall be applied at an incremental value in each price range at the rate of-

5 (a) four percent of the norm value when the norm price of copper is less than four thousand United States dollars per tonne;

(b) six point five percent of the norm value when the norm price of copper is four thousand United States dollars or higher per tonne but less than five thousand United States dollars per tonne;

10 (c) eight point five percent of the norm value when the norm price of copper is five thousand United States dollars or higher per tonne but less than seven thousand United States dollars per tonne; or

15 (d) ten percent of the norm value when the norm price of copper is seven thousand United States dollars or higher per tonne.

(3) Where the base metal produced or recoverable under the licence is cobalt or vanadium, the mineral royalty payable is at the rate of eight percent of the norm value of the cobalt or vanadium produced or recoverable.

(4) A mineral royalty may be paid in advance, as prescribed.

25 (5) A person that is in possession of minerals extracted in the Republic for which mineral royalty has not been paid is liable to pay mineral royalty at the rates set out in subsections (1), (2) and (3).

30 (6) Where the Commissioner-General determines that the realised price does not correspond to the price that would have been paid for the minerals if they had been sold on similar terms in a transaction at arm's length, between a willing seller and a willing buyer, the Commissioner-General shall issue a notice to that effect to the licensee and the amount of the gross value shall be determined in accordance with the Income Tax Act.

Cap. 323

(7) In this section—

35 “gross value” means the realised price for a sale, free on board, at the point of export from the Republic or point of delivery within the Republic;

“norm value” means—

- (a) the monthly average London Metal Exchange cash price per tonne multiplied by the quantity of the metal or recoverable metal sold;
- (b) the monthly average Fastmarkets Metal Bulletin cash price per tonne multiplied by the quantity of metal sold or recoverable metal sold to the extent that the metal price is not quoted on the London Metal Exchange; or
- (c) the monthly average cash price per tonne, at any other exchange market approved by the Commissioner-General, multiplied by the quantity of the metal sold or recoverable metal sold to the extent that the metal price is not quoted on the London Metal Exchange or in the Fastmarkets Metal Bulletin; and

“norm price” means the monthly average—

- (a) London Metal Exchange cash price per tonne of the metal or recoverable metal sold;
- (b) Fastmarkets Metal Bulletin cash price per tonne of metal sold or recoverable metal sold to the extent that the metal price is not quoted on the London Metal Exchange; or
- (c) cash price per tonne, at any other exchange market approved by the Commissioner-General of the metal sold or recoverable metal sold to the extent that the metal price is not quoted on the London Metal Exchange or Fastmarkets Metal Bulletin.

Due date for mineral royalty

70. Subject to section 74, mineral royalty payable under this section is due and payable within fourteen days after the end of the month in which the sale of minerals is done.

Mineral royalty returns

71. A person required to pay mineral royalty under section 69 shall submit monthly mineral royalty returns in the prescribed form containing such particulars as may be required by the Commissioner-General within fourteen days after the end of the month in which the sale of the minerals is done.

72. (1) Where, for any reason, it is impractical to assess the amount of any mineral royalty due, the Commissioner-General may assess, and the person required to pay mineral royalty shall be liable to pay, a provisional mineral royalty.

Provisional
assessment
of mineral
royalty

5 (2) Where a provisional mineral royalty is assessed under this section, and the amount of the mineral royalty is ascertained at the end of any period of adjustment prescribed under this Act, the person required to pay mineral royalty shall be liable for any balance or, as the case may require, shall be refunded any excess sum
10 paid by that person on the provisional assessment.

73. (1) The Minister responsible for finance may, after consultation with the Minister, remit in whole or part any mineral royalty payable on any mineral, or on any mineral obtained from a particular deposit, for such period as the Minister responsible for
15 finance may determine, if the Minister considers it expedient in the interests of the production of the mineral to do so.

Remission of
mineral
royalty

(2) The Minister responsible for finance may exempt from liability to pay mineral royalty any samples of minerals acquired for purposes of assay, analysis or other examination after taking
20 into account—

(a) any mineral analysis certificate issued under this Act;
and

(b) such quantity or value as may be prescribed.

74. (1) The Commissioner-General may, on application by a
25 holder of a mining licence, defer payment of mineral royalty due from the holder if, during any period for which a payment of mineral royalty is due as prescribed under this Act, in this section referred to as “the mineral royalty payment period”, the cash operating margin of the holder in respect of mining operations in the mining
30 area falls below zero, and in any such case, the amount payable on account of mineral royalty in respect of that period shall be reduced to such an extent as is necessary to increase the cash operating margin to zero, and payment of the difference between the mineral royalty due in respect of that period and the reduced
35 amount shall be deferred.

Deferment of
mineral
royalty

(2) Where the payment of any mineral royalty is deferred—

(a) the payment shall be accumulated with any other deferred payment of mineral royalty which is outstanding;

(b) the amount outstanding shall become payable when the mineral royalty is due in respect of the next mineral royalty payment period or periods in which, after the deduction of the mineral royalty then due, the cash operating margin is positive; and 5

(c) the sum payable on any particular occasion under paragraph (b) shall not exceed that which would reduce the cash operating margin for the relevant royalty payment period below zero.

(3) In this section— 10

“cash operating margin” means the amount derived by deducting operating costs from revenue;

“operating costs” means cash expenditures incurred in mining operations after the commencement of production from the mining area, other than— 15

(a) capital expenditure or any expenditure of a capital nature;

(b) provision for depreciation;

(c) financing charges, including interest on loans and fees and related charges in respect thereof; or 20

(d) agency fees or any other fees or charges not directly or necessarily related to the production and disposal of minerals from the mining area; and

“revenue” means the gross value of all sales or other disposal of minerals. 25

Prohibition
of disposal
of minerals

75. (1) Where a holder of a mining licence fails to pay a mineral royalty or provisional mineral royalty payable by the holder of the mining licence on or before the due date or any extension thereof allowed by the Commissioner-General, the Commissioner-General may, by order served on the holder, prohibit the disposal of any mineral from the mining area concerned, or from any other mining area held by that holder, until an arrangement has been made that is acceptable to the Commissioner-General for the payment of the mineral royalties. 30

(2) A holder of a mining licence who contravenes or fails to comply with an order given under subsection (1), and any person who, knowing of such order and contrary thereto, receives any mineral from the area, commits an offence and is liable, on conviction—

(a) in the case of an individual, to a fine not exceeding five hundred thousand penalty units or imprisonment for a term not exceeding five years, or to both; or

(b) in the case of a body corporate, to a fine not exceeding one million penalty units.

PART VIII
INSPECTORATE

76. (1) The Commission shall, appoint suitably qualified persons as inspectors for purposes of ensuring compliance with this Act. Inspectors

(2) The Commission shall issue an inspector with an identification card which shall be *prima facie* evidence of the inspector's appointment as inspector.

(3) An inspector shall, in performing a function under this Act—

(a) be in possession of the identification card referred to under subsection (2); and

(b) show the identification card to any person who requests to see the identification card or is the subject of an investigation under this Act.

77. (1) The Minister may, by statutory instrument, make Regulations providing for the powers of inspectors. Powers of inspectors

(2) Despite subsection (1), an inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time and without notice—

(a) enter and inspect the licensed premises;

(b) search any person on the holder's premises if the inspector has reasonable grounds to believe that the person has possession of an article, document or record that has a bearing on an inspection or investigation, except that a person shall only be searched by a person of the same sex;

- (c) inspect equipment and supplies in or about the holder's premises;
- (d) have access to and inspect, examine and audit documents, books and records, of the holder representing the gross revenue produced by the holder under the licence, permit or certificate; 5
- (e) remove a document, book, record or other document which an inspector believes may afford evidence of an offence under this Act;
- (f) require from a person whose in control of the premises an explanation of any record or entry in the document, book, record or other document; 10
- (g) take extracts from, or make copies of, a document, book, record or other document relating to the licensed activity on any premises that has a bearing on an inspection or investigation; 15
- (h) take samples for mineral analysis to determine the contents of the sample;
- (i) make enquiries that may be necessary to ascertain whether the provisions of this Act or any other law on which an inspection or investigation is based, have been complied with; and 20
- remove from the holder's premises any equipment or product used in contravention of this Act.
- (3) A holder shall afford an inspector access to any record or document for purposes of an inspection and produce to the inspector, a record or document that the inspector may require. 25
- (4) An inspector shall exercise the power under subsection (2)(a) in relation to a private dwelling house or any land or building occupied as a private dwelling, during the day with a warrant. 30
- (5) An inspector who removes an article, document, record, book or any other thing from any premises under subsection (1), shall—
- (a) issue a receipt for the article, document, record, book or any other thing to the owner or person in control of the premises; and 35
- (b) return the article, document, record, book or any other document as soon as practicable after achieving the purpose for which it was removed.

(6) An inspector shall furnish the Commission with a written report and any other information relating to an inspection.

5 **78.** An inspector shall, where there is reason to believe that an offence has been committed, seize a mineral collected or removed contrary to the provisions of this Act and any tools, instruments, plants, machinery, equipment, vehicles and other property suspected of having been used in the commission of the offence or transportation of the mineral until an order of the court is made regarding the disposal. Seizure of property

10 **PART IX**
MINING APPEALS TRIBUNAL

79. (1) There is established the Mines Appeals Tribunal. Establishment of Tribunal and jurisdiction

(2) The Tribunal shall have an official seal which shall be judicially noticed.

15 (3) The Tribunal shall have jurisdiction to hear and determine —
(a) appeals from decisions of the Commission, or a person exercising the functions or powers of the Commission;
(b) proceedings relating to misconduct in the mining industry; and
20 (c) such other matters as may be specified in, or prescribed in terms of this Act or any other written law.

80. (1) The Tribunal shall consist of the following part-time members appointed by the Minister: Members of Tribunal

25 (a) a Chairperson, who shall be a person eligible to be appointed as a Judge of the High Court;
(b) a Vice-Chairperson, who shall be a person eligible to be appointed as a Judge of the High Court; and
(c) three other members with knowledge and experience in matters relevant to this Act.

30 (2) The members referred to in subsection (1)(a) and (b), shall be appointed in consultation with the Judicial Service Commission.

(3) The members of the Tribunal shall be appointed on such terms and conditions as may be specified in their letters of
35 appointment.

- (4) A person shall not be appointed as a member of the Tribunal if the person —
- (a) is an undischarged bankrupt;
 - (b) is legally disqualified; or
 - (c) has been convicted of an offence under any written law 5 and sentenced to imprisonment for a period exceeding six months without the option of a fine.
- (5) The office of a member of the Tribunal shall become vacant—
- (a) on the member's death; 10
 - (b) if a member is absent without reasonable excuse from three consecutive sittings of the Tribunal of which the member had notice;
 - (c) if the member is removed by the Minister on grounds of incompetence or misbehaviour; 15
 - (d) if the member is adjudged bankrupt;
 - (e) if the member is legally disqualified from performing the functions of a member; or
 - (f) if the member is convicted of an offence under any written law and sentenced to imprisonment for a period 20 exceeding six months, without the option of a fine.
- (6) If a vacancy occurs, in accordance with subsection (5), the Minister may appoint a new member in accordance with subsection (1), but the member shall hold office only for the unexpired period of the term. 25
- (7) The validity of any proceedings, act or decision of the Tribunal shall not be affected by any vacancy in the membership of the Tribunal or by any defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceedings. 30

Tenure of office of members of Tribunal

81. A member of the Tribunal shall hold office for a period of four years from the date of appointment and may be re-appointed for a further term of four years.

Funding and allowances of members of Tribunal

82. (1) The expenses and costs of the Tribunal shall be paid out of funds appropriated by Parliament for the performance of 35 the Tribunal's functions under this Act.

(2) The members of the Tribunal shall be paid such allowances as the Emoluments Commission may, on the recommendation of the Minister, determine.

5 **83.** (1) There shall be a Registrar of the Tribunal who shall be appointed by the Minister in consultation with the Judicial Service Commission.

Registrar of
Tribunal and
other staff

(2) The Registrar shall be a person with not less than ten years legal experience.

10 (3) The Registrar of the Tribunal shall be the chief administrative officer of the Tribunal and shall be responsible, under the general supervision of the Chairperson, for the effective and efficient administration of the affairs of the Tribunal, and may discharge such duties as prescribed by the rules of the Tribunal.

15 (4) There shall be such officers and employees of the Tribunal, as may be necessary to carry out the functions of the Tribunal, appointed by the Tribunal.

(5) The Tribunal shall determine the terms and conditions of service, other than emoluments, of the Registrar and other staff.

20 (6) The Emoluments Commission shall, on the recommendation of the Minister, determine the emoluments of the Registrar and other staff of the Tribunal.

84. (1) The Tribunal shall be constituted and exercise the following powers and functions as specified in this section:

Exercise of
powers of
Tribunal and
procedure

25 (a) any matter, by the Chairperson or Vice-Chairperson sitting with at least two other members or by the full membership;

(b) any matter of practice or procedure, by the Chairperson or any member of the Tribunal who is assigned for that purpose by the Chairperson; or

30 (c) any matter of practice or procedure, which is uncontested, by any member of the Tribunal assigned generally or specifically for that purpose by the Chairperson.

(2) There shall preside at the Tribunal hearing—

(a) the Chairperson; and

35 (b) in the absence of Chairperson, the Vice-Chairperson.

(3) The Tribunal shall, when hearing any matter, be duly constituted if it consists of three members which members shall include the Chairperson or the Vice-Chairperson.

(4) The Chief Justice may, by statutory instrument, make Rules relating to the following: 5

- (a) prescribing the forms to be used in proceedings before the Tribunal;
- (b) issuing of notices for the attendance at, and hearings of, the Tribunal, including time periods;
- (c) procedure for the attendance and examination of witnesses, 10 the production and inspection of documents, the enforcement of the Tribunal orders, the entry on and inspection of property and other matters necessary or proper for the due exercise of the Tribunal's mandate;
- (d) written submissions to be filed in addition to, or in the 15 place of, an oral hearing;
- (e) the carrying on of the functions of the Tribunal and the practice and procedure on appeals and disciplinary hearings; and
- (f) warding of costs of proceedings before the Tribunal. 20

(5) A summons for the attendance of a witness or for the production of any book, document, record or other thing shall be signed by the Registrar of the Tribunal and served in the same manner as a subpoena for the attendance of a witness at a civil trial in a Court. 25

(6) The decision of the Tribunal shall be that of the majority of the members considering the matter.

(7) The decision of the Tribunal in any proceedings shall be delivered by the presiding member.

Appeals to
Tribunal

85. A person aggrieved with a decision of the Commission 30 may, within thirty days of the decision of the Commission appeal to the Tribunal.

Notice of
appeal

86. (1) An appeal, to the Tribunal shall be instituted by filing with the Registrar, a notice of appeal, accompanied with the prescribed fee, and by serving a copy of the notice on the 35 Commission, within twenty-eight days of the notification to, or the service on, the respondent, or within such other time as may be required by the Rules prescribed by the Chief Justice.

(2) Despite subsection (1), an appeal may be instituted out of time if the Tribunal is satisfied that there was a reasonable cause for not appealing within the time prescribed and that the appeal was filed thereafter without unreasonable delay.

5 (3) A notice of appeal shall specify the grounds of appeal and be in such form and manner as may be prescribed by Rules issued by the Chief Justice.

(4) If, on the hearing of an appeal, the appellant desires to bring in any ground of appeal, which was not specified in the notice
10 of appeal, and the omission of that ground from the notice was, in the opinion of the Tribunal, not wilful or unreasonable, the Tribunal shall not be precluded from allowing the appellant to bring in that ground or take such ground into consideration.

(5) The Commission shall, within seven days, after receiving
15 a notice of appeal, forward to the Tribunal copies of all documents relevant to the decision appealed from.

87. (1) An appeal shall be heard in public, unless the Tribunal, on the application of the applicant, otherwise directs.

Hearings
before
Tribunal

(2) The Tribunal may dispose of an appeal by—

20 (a) confirming, varying or setting aside an original order, or decision and, where the original order or decision is set aside, by substituting the original order or decision as the Tribunal considers appropriate;

(b) remitting the matter in question to the Commission with
25 such directions as it considers appropriate; or

(c) making any other order which the Tribunal considers appropriate.

(3) Where the Tribunal varies or substitutes any order or decision as provided in paragraph (a) of subsection (2), the order
30 or decision as varied or substituted shall be the decision of the Commission on appeal.

(4) The Tribunal shall deliver a judgment within sixty days of the conclusion of the hearing of a matter and the judgment or decision of the Tribunal shall be reasoned.

35 (5) The standard of proof required to determine any question or issue before the Tribunal shall be the standard of proof applicable to civil proceedings in the Court of law.

(6) A person aggrieved with the decision of the Tribunal may, appeal to the Court of Appeal.

(7) The Registrar shall cause every award, decision or judgement of the Tribunal to be communicated to the parties concerned. 5

(8) The Tribunal shall cause to be kept a record of its proceedings.

PART X

GENERAL PROVISIONS

88. (1) The Commission shall not grant more than five mining rights to a person. 10

Restriction on number of mining rights

(2) Despite subsection (1), the Commission may grant more than five mining rights to a person where that person-

(a) is in compliance with the terms and conditions of the mining right granted under this Act; and 15

(b) has financial resources to finance additional mining rights.

89. Where an offence under this Act is committed by a body corporate or an unincorporate body, with the knowledge, consent or connivance of the director, manager, shareholder or partner of the body corporate or an unincorporate body, that director, manager, shareholder or partner is liable, on conviction, to the penalty specified for the offence under this Act. 20

Offences by body corporate or unincorporate body

90. (1) Subject to subsection (2), information furnished or information in a report submitted to the Commission, under or for the purposes of this Act by a holder of a mining or non-mining right shall not, for so long as the mining or non-mining right has effect over the land to which the information relates, be disclosed, except with the consent of the holder of the mining or non-mining right. 25

Disclosure of information

(2) Nothing in subsection (1) shall prevent the disclosure of information where the disclosure is made— 30

(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; 35

- (d) to any person being a consultant to the Government or public officer who is authorised by the Minister to receive such information; or
- 5 (e) for, or in connection with, the preparation by or on behalf of the Government of statistics in respect of prospecting or mining, except that a disclosure authorised by this paragraph shall be no more specific in detail than is necessary for the purpose of the statistics concerned.
- (3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
- 15 **91.** (1) The Commission shall keep and maintain such number of registers as the Commission may determine which may be accessed by a person on the Commission’s electronic platform. Registers
- (2) The registers referred to under subsection (1) shall contain details that the Commission may determine.
- (3) The registers shall be kept by the Commission, and shall be open for inspection by members of the public during office hours on payment of a fee that the Commission may determine. 20
- (4) The Director-General may, on an application by a person, issue to the person a certified extract from the applicable register or a copy of a licence issued to a holder in accordance with this Act on payment of a fee that the Commission may determine.
- 25 **92.** (1) The Commission may, subject to any other written law, institute an action against any person for damage caused by that person to the environment as a result of mining operations licensed under this Act. Civil damages
- (2) Any damages payable under this section shall be paid to the Republic. 30
- 93.** A person who commits an offence under this Act for which a penalty is not provided is liable, on conviction, to a fine not exceeding one million penalty units or to imprisonment for a term not exceeding ten years, or to both. General penalty
- 35 **94.** (1) The Commission may, where the Commission is satisfied that a person has committed an offence for which the penalty does not exceed two hundred thousand penalty units or where a person has admitted the commission of an offence under this Act for which the penalty does not exceed two hundred thousand penalty units, summarily demand from that person the payment of a fine not exceeding six thousand penalty units in respect of the offence. Summary imposition of penalties
Summary imposition of penalties
Summary imposition of penalties
Summary imposition of penalties
40

(2) The Commission shall, where the Commission demands a payment under subsection (1), inform the person against whom the demand is made of the right to admit or dispute the liability.

(3) A person from whom payment of a fine has been demanded under subsection (1) may elect to admit liability and pay the fine, or 5 dispute liability.

(4) The payment of a fine shall operate as a bar to any further criminal proceedings against the person making the payment in respect of the offence concerned.

(5) The Commission shall, on receipt of a payment of a fine, 10 issue a receipt in a form as may be prescribed.

Additional powers of court

95. (1) The court may, where a person is convicted of an offence under this Act, in addition to any other penalty provided for —

(a) order the cancellation of the licence, permit or certificate 15 held by that person;

(b) order—

(i) the removal or demolition, within a period specified by the court, of any unauthorised buildings, structures, plant, machinery, equipment and other 20 works set up by that person; and

(ii) the restoration, as far as practicable, of all areas and things to their former state; and

Act No. 19 of 2010

(c) subject to the Forfeiture of Proceeds of Crime Act, 2010, order the confiscation or forfeiture of any mineral, 25 gemstone, ore and mineral products in respect of which the offence was committed and of any tools, plant, machinery, equipment, vehicles or other property used in the commission of the offence.

(2) Where the removal, demolition and restoration under 30 subsection 1(b) is not effected within the time fixed by the court, the Commission shall cause it to be done and the cost incurred shall be recovered by the Commission from the convicted person.

(3) The Commission may sell or otherwise dispose of any property confiscated or forfeited under subsection 1(c) by order of 35 the court and any monies received from the sale or dispose of the property shall be paid to the Republic.

96. (1) The Commission may in the exercise of its functions under this Act, issue guidelines as are necessary for the better carrying out of the provisions of this Act. Guidelines

(2) The Commission shall publish the guidelines issued under this Act in a daily newspaper of general circulation in the Republic and in the *Gazette*, and the guidelines shall take effect on the date of publication.

(3) The guidelines issued by the Commission under this Act shall bind the persons regulated under this Act.

10 97. (1) The Minister may, on the recommendation of the Commission, by statutory instrument, make Regulations for the better carrying out of the provisions of this Act. Regulations

(2) Despite subsection (1), Regulations made under that subsection may make provision for the —

15 (a) manner and form for applications and the fees payable;

(b) form of the licence, certificate and permits issued under this Act;

(c) obligations for a holder of a—

(i) mining licence;

20 (ii) mineral processing licence;

(iii) gold panning certificate;

(iv) exploration licence; and

(v) mineral trading permit;

25 (d) safe manufacture, transportation, usage, storage, destruction, exportation and importation of civil explosives;

(e) preservation of the environment in licensed areas;

(f) classification of any mineral as a precious metal;

30 (g) proper and efficient working of exploration areas, mining areas and mines;

(h) avoidance of wasteful mining or metallurgical practices;

(i) de-commissioning and closure of mines;

(j) participation by mining right and mineral processing licence in the development of the local communities;

- (k) inspection of books and documents;
- (l) regulation of work and machinery connected with exploration, mining or mineral processing in so far as safety and the protection of life are concerned;
- (m) disclosure of the sale and purchase agreement on the 5 transfer of mining rights;
- (n) regulation of all matters relating to sanitation and health, including the establishment of cemeteries, in mining and mineral processing areas;
- (o) reporting of cases of accident and death occurring on 10 any exploration, mining, gold panning or mineral processing area;
- (p) demarcation of exploration, mining and gold panning areas;
- (q) circumstances and procedures for referring any matter for determination by an expert for purposes of this Act; 15
- (r) fees to be paid by a holder of a mining or non-mining right;
- (s) fees and annual charges;
- (t) sale, disposal, exportation and importation of minerals, ores or mineral products; 20
- (u) development, use and retention of documents and information in electronic form;
- (v) regulation of the export of gemstones, including the introduction of a sealing mechanism of gemstones and precious metals after valuation by Government officers; 25 and
- (w) regulation on the operation of mineral market centres.

Repeal of Act No. 11 of 2015 and savings and transitional provisions

98. (1) The Mines and Minerals Act, 2015 is repealed.

(2) Despite subsection (1)—

- (a) a licence, permit, certificate or authorisation issued under 30 the repealed Act shall continue to be valid until expiry, revocation or surrender as if the licence, permit, certificate or authorisation was issued under this Act; and
- (b) an application for a licence, permit, certificate or 35 authorisation pending under the repealed Act, shall, on commencement of this Act be issued in accordance with this Act.

SCHEDULE

(Sections 5 and 7)

THE MINERALS REGULATION COMMISSION

PART I

5 ADMINISTRATION OF COMMISSION

1. (1) The seal of the Commission shall be a device that may be determined by the Board and shall be kept by the Secretary.

Seal of
Commission

(2) The affixing of the seal shall be authenticated by the Chairperson or Vice-Chairperson and the Secretary or any other person authorised in that behalf by a resolution of the Board.

(3) A contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Commission by the Director-General or any other person authorised by the Board in that behalf.

(4) A document purporting to be a document under the seal of the Commission or issued on behalf of the Commission shall be received in evidence and shall be deemed to be so executed or issued, without further proof, unless the contrary is proved.

20 2. (1) A member of the Board shall, subject to the other provisions of this Act, hold office for a term of three years and may be re-appointed for a further and final term of three years.

Tenure and
vacancy of
office of
member

(2) A member shall, on the expiration of the term for which the member is appointed, continue to hold office until another member is appointed, but in no case shall the further period exceed four months.

(3) The office of a member becomes vacant if that member—

(a) dies;

(b) is adjudged bankrupt under any written law;

30 (c) is absent, without reasonable excuse, from three consecutive meetings of the Board, of which the member has had notice, without the prior approval of the Commission;

(d) resigns by notice, in writing, to the Minister;

- (e) is legally disqualified from performing the functions of a member;
- (f) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months, without the option of a fine; 5
- (g) ceases to be an employee or a member of the institution that the member is representing; or
- (h) is removed by the Minister.

(4) Where there is a vacancy in the membership of the Board before the expiry of the term of office, the Minister shall appoint 10 another person to replace the member who vacates office but that person shall only hold office for the remainder of the term.

Proceedings
of Board

3. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of business at 15 least once in every three months at such places and times as the Board may determine.

(3) A meeting of the Board may be called by the Chairperson on giving notice of not less than fourteen days, and shall be called by the Chairperson if not less than one-third of the members so 20 request in writing except that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon a shorter notice given by three members of the Board.

(4) Five members of the Board shall constitute a quorum at any meeting of the Board. 25

(5) There shall preside at any meeting of the Board—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson;
or

(c) in the absence of both the Chairperson and the Vice- 30
Chairperson, such other member as the members present may elect for the purpose of that meeting.

(6) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting 35 shall have a casting vote, in addition to that person's deliberative vote.

(7) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Board, but that person shall have no vote.

(8) The validity of any proceedings, acts or decisions of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceedings.

(9) The Board shall cause minutes to be kept of the proceedings of the meetings of the Board and of any committee constituted by the Board.

4. (1) The Board may, for the purpose of performing its functions under this Act, constitute a committee and delegate to the committee the functions of the Board as it considers necessary.

Committees
of Board

(2) The Board may appoint as members of a committee constituted under subparagraph (1), persons who are, or are not, members of the Board, except that at least one member of a committee shall be a member of the Board.

(3) A member of a committee shall hold office for a term as the Board may determine.

(4) Subject to any specific or general direction of the Board, a committee may regulate its own procedure.

5. There shall be paid to a member of the Board or a member of a committee an allowance as the Emoluments Commission may, on the recommendation of the Minister, determine.

Allowances

6. An action or other proceeding shall not lie or be instituted against a member of the Commission, a committee of the Commission or a member of staff of the Commission, for or in respect of any act or thing done or omitted to be done in good faith in the exercise or performance of any of the powers, functions or duties conferred under this Act.

Immunity

7. (1) If a member or person is present at a meeting of the Board or any committee of the Board at which any matter is the subject of consideration, and in which matter that person or person's spouse, relative, friend or associate is directly or indirectly interested in a private capacity, that person shall, as soon as is practicable after the commencement of the meeting, declare such interest and shall not, take part in any consideration or discussion of, or vote on, any question relating to that matter.

Disclosure of
interest

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

PART II
FINANCIAL PROVISIONS

- Funds of Commission 8. (1) The funds of the Commission consists of monies that may— 5
- (a) be appropriated by Parliament;
 - (b) be paid to the Commission by way of grants or donations; or
 - (c) vest in, or accrue to the Commission. 10
- (2) The Commission may—
- (a) accept monies by way of grants or donations from any source within the Republic and subject to the approval of the Minister responsible for finance, from any source outside the Republic; and 15
 - (b) subject to the Public Debt Management Act, 2022, raise by way of loans or otherwise, monies that the Commission may require for the performance of the Commission’s functions.
- (3) There shall be paid from the funds of the Commission— 20
- (a) the salaries, allowances, loans, gratuities and pensions of the staff of the Commission and other payments for the recruitment and retention of staff;
 - (b) reasonable travelling and other allowances for members of the Commission or members of a committee of the Commission when engaged in the business of the Commission at rates that the Emoluments Commission may, on the recommendation of the Commission, determine; and 25
 - (c) any other expenses incurred by the Commission in the performance of the Commission’s functions. 30
- Act No. 1 of 2018 (4) Subject to the Public Finance Management Act, 2018, the Commission may, with the approval of the Minister, invest in a manner that the Commission considers necessary, any of the funds of the Commission that the Commission does not immediately require for the performance of the Commission’s functions. 35

9. The financial year of the Commission shall be a period of twelve months ending on 31st December in each year. Financial year
10. (1) The Commission shall cause to be kept proper books of account and other records relating to its accounts. Accounts
- 5 (2) The accounts of the Commission shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General.
- (3) The Auditor-General's fees shall be paid by the Commission.
- 10 11. (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Commission shall submit to the Minister a report concerning the Commission's activities during the financial year. Annual report
- (2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Commission and there shall be appended to the report—
- (a) an audited statement financial position;
- (b) an audited statement of a comprehensive income and expenditure; and
- 20 (c) such other information as the Minister may require.
- (3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1), lay the report before the National Assembly.
-

