

COMMONWEALTH OF DOMINICA

ACT No. 17 OF 2005

I assentN.J.O. Liverpool
*President*23rd January, 2006**AN ACT TO AMEND THE MINES AND MINERALS ACT
1996 TO REMOVE THE RESTRICTION ON A
NATIONAL OF A MEMBER STATE FROM
BEING GRANTED A MINERAL RIGHT OR A
NON-EXCLUSIVE PROSPECTING LICENCE.**(Gazetted 2nd February, 2006)BE IT ENACTED by the Parliament of the Commonwealth of
Dominica as follows:

1. This Act may be cited as the

**MINES AND MINERALS
(AMENDMENT) ACT 2005.**

Short title.

Interpretation.

2. In this Act the Mines and Minerals Act 1996 is referred to as “the Act”.

Amendment of
Section 3 of the Act.

3. Section 3 of the Act is amended by inserting in the appropriate alphabetical order the following definitions:

“Member State” has the same meaning assigned to it in the Revised Treaty of Chaguaramas establishing the Caribbean Community (CARICOM) including the CARICOM Single Market and Economy signed at Nassau, The Bahamas, on 5th July, 2001;”;

“national” means a person who –

- (a) is a citizen of a Member State;
- (b) has a connection with a Member State of a kind which entitles him to be regarded as belonging to or, if it be so expressed, as being a native or resident of such Member State for the purposes of the laws thereof relating to immigration; or
- (c) is a company or legal entity constituted in a Member State in accordance with the laws thereof and which that Member State regards as belonging to it, provided that such company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by a person mentioned in paragraph (a) or (b);

For the purposes of this definition a company or legal entity is -

- (i) substantially owned if more than fifty percent of the equity interest of the company is beneficially owned by nationals mentioned in paragraph (a) or (b);

(ii) effectively controlled if the nationals mentioned in paragraph (a) or (b) have the power to name a majority of its directors or otherwise legally to direct its actions;”.

4. Section 12 of the Act is amended –

Amendment of
Section 12 of the Act.

- (a) in paragraph (a) by inserting after the word “Dominica” the words “or national of a Member State”;
- (b) in paragraphs (b) and (c) by inserting after the word “Dominica” the words “or is a company that is a national of a Member State”.

5. Section 70 of the Act is amended –

Amendment of
Section 70 of the Act.

- (a) in subsection (2) –
- (i) paragraph (a), by inserting after the word “Dominica” the words “or a national of a Member State”;
- (ii) by substituting for paragraph (b) the following -
- “(b) shall not be issued to a company unless it is a company in which more than fifty per cent of the share capital is beneficially owned by citizens of Dominica or nationals of a Member State or by a corporation which, in the opinion of the Minister, has been established for a public purpose or partly by such citizens or nationals of a Member State and partly by such a corporation;”;
- (iii) paragraph (c), by inserting after the word “Dominica” the words “or is a corporation that is a national of a Member State; or”;

(iv) by inserting after paragraph (c) a new paragraph as follows -

“(d) shall not be issued to a company unless it is a company that is a national of a Member State.”;

(b) in subsection (5) (a), by inserting after the words “citizen of Dominica” the words “or a national of a Member State”.

Passed in the House of Assembly this 20th day of December, 2005.

ALEX F. PHILLIP (MRS.)
Clerk of the House of Assembly

DOMINICA

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