

CHAPTER 121

MINERALS ACT

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SCHEDULE

CHAPTER 121

An Act to regulate the right to search for, mine and work ^(21 of 1953)
minerals, and for other purposes relating thereto. ^{L.N.}
73 of 1963.

1ST JULY, 1954.

PART I.—GENERAL

1. This Act may be cited as the Minerals Act. Short title.
2. In this Act, unless the context otherwise requires— Interpreta-
tion.
 - “alluvial” means and includes all forms of mineral deposits other than carbonaceous which do not fall within the definition of lodes, and for the purposes of this Act beach sands containing workable deposits of ilmenite or other minerals shall be regarded as alluvial deposits;
 - “court” means any duly constituted court other than a District Tribunal;
 - “Inspector of Mines” means any officer appointed by the Public Service Commission to be the Inspector of Mines or any officer appointed by the Public Service Commission to perform any act or duty or to exercise any power or authority which by this Act may be done by or is imposed upon or may be exercised by the Inspector of Mines;
 - “holder” of a prospecting right or exclusive prospecting licence or mining right means the person to whom such right or licence was granted in the first instance, and in the case of an exclusive prospecting licence or right or mining right includes a person in whom such licence or a part of the rights thereunder has become vested by transfer, assignment or otherwise;
 - “lessee” of a mining lease includes all persons having any right or interest in or under a mining lease, whether by transfer, assignment or otherwise;
 - “lode” means and includes all true fissure veins, contact veins segregated veins, bedded veins, metalliferous bankets, stockworks, such irregular deposits as conform generically to the above classification, and beds of any mineral such as beds of iron-stone;

"mine" and "mining" mean any operations for winning or obtaining minerals;

"minerals" do not include mineral oils but include--

- (a) metalliferous ores and other substances in their natural state which are obtainable only by mining or in the course of prospecting operations;
- (b) metalliferous ores and other substances in their natural state mined or obtained in the course of prospecting operations;
- (c) the valuable parts of such ores or other substances when unmanufactured; and
- (d) the product of treating or dressing such ores or other substances for marketing or export;

but save in section 3 and for the purposes of sections 77 and 80 and any rules made under this Act relating to safety in mines shall not include clay, laterite, limestone, sand (other than sand containing workable deposits of ilmenite or other minerals), sandstone or such other common mineral substances as the Minister may, by notice in the Gazette, declare not to be minerals for the purpose of this Act;

"Mines Department" means a department, bearing that or any other name, which may at any time after the commencement of this Act be created for the purpose of the administration of this Act, or to which the administration of this Act may be assigned;

"opencast" means any uncovered excavation which has been made from surface for the purpose of winning minerals;

"owner" in relation to land includes a lessee, and in relation to land or other property of a Gambian community, means the District Authority, provided that when any payment shall be required to be made under this Act to such owner the Minister may direct either that the payment be made to the District Authority to be disposed of by them in accordance with local law or custom, or that the payment shall be made into some fund specified by the Minister to be utilised for the benefit of the native community;

"passageway" means any highway, road, street, footpath, right

of way, easement or installation of any railway, tramway, wireline, conveyor belt, cable way, chute, pipe, sewer, drain, tunnel, shaft, fluming or watercourse;

precious minerals " means and includes—

- (i) precious stones, namely, amber, amethyst, beryl, cat's eye, chrysolite, diamond, emerald, garnet, opal, ruby, sapphire, turquoise, and all other substances of a similar nature to any of them; and
- (ii) precious metals, namely, gold, silver, platinum, iridium, osmium, palladium, ruthenium, rhodium, or ores containing any of these metals, provided that argentiferous lead ores containing not more than four ounces of silver per ton shall be excluded from the scope of this definition;

"prospect" and "prospecting" mean to search for minerals, and include such working as is reasonably necessary to enable the prospector to test the mineral bearing qualities of the land;

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

"tributer" means a person who directly or indirectly is permitted to win minerals receiving in return for the minerals so won remuneration paid directly or indirectly by the person who permitted him to win the minerals;

"watercourse" means any channel, whether natural or artificial, which confines or restricts the flow of water.

3. (1) The entire property in and control of all minerals, and mineral oils, in, under or upon any lands in The Gambia, and of all rivers, streams and watercourses throughout The Gambia, is hereby declared to reside in the Crown, save in so far as such control may in any case have been limited by any express grant made by the Crown before the commencement of this Act.

Control of minerals, mineral oils and water declared to reside in the Crown.

(2) Except as in this Act provided no persons shall prospect or mine on any lands in The Gambia, or divert or impound water for the purpose of mining operations:

Prohibition of prospecting or mining without authority.

Provided that this subsection shall not apply, before the expiration of six months after the commencement of this Act, to any person who was prospecting, with the consent of the Minister, before the commencement of this Act, and who is prospecting or mining with the consent of the Minister and in accordance with such conditions as may be imposed by the Minister.

(3) Any person contravening the provisions of the last preceding subsection shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding two hundred pounds or to imprisonment, with or without hard labour, for a period not exceeding twelve months, or to both such fine and imprisonment, and the court before which such person is convicted may order the forfeiture of all minerals obtained by such person or if such minerals cannot be forfeited, of such a sum as the court shall assess as the value of such minerals. Any minerals so forfeited shall be sold or otherwise disposed of as the Minister may direct and the proceeds from the sale of any such mineral shall be paid into general revenue.

Prohibition of underground mining except under licence.

4. Notwithstanding anything in this Act contained no person shall conduct mining operations underground unless he holds a licence from the Inspector of Mines authorising him to do so.

Saving as to the taking of certain minerals by citizens of The Gambia.

5. Nothing in this Act contained shall be deemed to prevent any citizen of The Gambia from taking, subject to such conditions as may be prescribed, iron, salt, soda, potash, sandstone or laterite from lands (other than lands within the area of a mining lease or mining right) from which it has been the custom of the members of the community to which such citizen belongs to take the same.

Act does not apply to mineral oils.

6. Nothing in this Act shall be construed to sanction the prospecting or mining for mineral oils.

Governor-General may close areas to prospecting.

7. The Governor-General may, by order, declare any area to be closed to prospecting for such period as may be specified in such order or without period assigned. Any person other than the holder of an exclusive prospecting licence who shall prospect within an area which is closed to prospecting shall be liable, on summary conviction, to the penalties prescribed in section 3 (3).

8. (1) No prospecting right, exclusive prospecting licence or mining right granted under this Act shall authorise the holder thereof to prospect or mine—

Lands on which prospecting and mining not permitted under a licence or right except when consent obtained.

- (i) (a) within any Government station or on or under any lands used for or appropriated to any public purpose without the consent in writing of the Minister first obtained, and subject to the conditions, if any, prescribed in such written consent;
- (b) on or under land occupied by a town, village, market, historical monument or burial ground, or on or under land habitually used or occupied for sacred or ceremonial purposes, or on or under land within one hundred yards of any Government or public building or works, or any market, historical monument, burial ground or place used or occupied for sacred or ceremonial purposes as aforesaid, or public road without the consent in writing of the Minister first obtained and subject to the conditions, if any, imposed by the Minister;
- (ii) on or under land actually under cultivation without the consent of the occupier of the land;
- (iii) on or under any land within one hundred yards of any building erected thereon without the consent of the occupier of the building:

Provided that, if the Minister shall be satisfied that the consent required under paragraphs (ii) or (iii) is withheld unreasonably, the Minister may authorise the holder of the licence or right to prospect or mine on any such land subject to such conditions as he may prescribe.

(2) Any person prospecting or mining on or under any lands specified in subsection (1) without the requisite consent or authority shall be guilty of an offence and liable on summary conviction to the penalties prescribed in section 3 (3).

PART II.—PROSPECTING

9. Prospecting shall be lawful under a prospecting right or an exclusive prospecting licence:

When prospecting lawful.

Provided, however, that the Governor-General may, by order, prohibit prospecting for any specified mineral, and in such

case a prospecting right or exclusive prospecting licence shall not authorise the holder thereof to prospect for such mineral unless otherwise expressly provided in the right or licence.

Applications
for prospect-
ing rights.

10. Every application for a prospecting right shall be in the prescribed form.

As to the
grant and
duration of
a prospect-
ing right.

11. (1) Prospecting rights may be issued by the Inspector of Mines subject to the following conditions and to such other conditions as may be prescribed.

(2) A prospecting right shall not be granted—

- (a) to any person who is unable to prove to the satisfaction of the Inspector of Mines that he is able to read and understand this Act to such an extent as to enable him to obtain a reasonable degree of guidance from it;
- (b) to any person who is under twenty-one years of age;
- (c) except with the consent of the Minister to any person who or whose present employer has been convicted of an offence under this Act or who or whose present employer has previously held any right, licence or lease granted under this Act which has been forfeited by reason of a breach of the terms or conditions of the same:

Provided that if such consent has once been given after such conviction or forfeiture, and no subsequent conviction or forfeiture has ensued, it shall not be necessary in respect of any subsequent application:

- (d) to any person who is unable to prove to the reasonable satisfaction of the Inspector of Mines that he possesses sufficient money or credit to enable him to pay any expenses which might be incurred by prospecting to the satisfaction of the Inspector of Mines and any compensation which may be payable by him in the exercise of the rights conferred by a prospecting right;
- (e) to any person as agent or employee of more than one person;
- (f) to any person who to the reasonable satisfaction of the Inspector of Mines is not a fit and proper person to be granted a prospecting right:

Provided that there shall be no other limit to the number of prospecting rights that any one person may hold at one time:

Provided further that for the purposes of this paragraph a partnership shall be regarded as one person.

(3) Any person aggrieved by the refusal of the Inspector of Mines to grant him a prospecting right may appeal to the Minister whose decision thereon shall be final.

(4) A prospecting right granted to a person in the employ of another person and paid for by the employer shall, on request being made by the employer, be granted subject to the condition that the right shall forthwith expire on the holder leaving the service of such employer. Such condition shall be endorsed on the prospecting right, and in every such case the employer and holder of the right shall be jointly and severally liable for the payment of any moneys which the holder of the prospecting right may be required to make under this Act.

(5) Subject to the provisions of the last preceding subsection a prospecting right shall remain in force for one year from the date thereof.

(6) A prospecting right shall not be transferable.

(7) A prospecting right may be restricted to specified administrative districts or to specified minerals.

(8) A prospecting right shall be produced whenever demanded by the owner or occupier of any land on which the holder thereof is prospecting.

12. (1) The holder of a prospecting right may—

- (a) enter upon and prospect on any land, excepting land within an area closed to prospecting or land the subject of an exclusive prospecting licence or of a mining right or mining lease;
- (b) whilst engaged in *bona fide* prospecting, construct his camp on any unoccupied land and take timber (other than trees in a forest park or protected trees), and water from any lake, river, stream or watercourse, for domestic purposes or for the purposes of prospecting;

Rights under
a prospect-
ing right.

of the land in respect of which the licence is required, and shall, if required by the Minister or by the rules, furnish a financial guarantee for such sum as the Minister may direct or as may be prescribed.

(3) The Minister may grant or withhold the grant of an exclusive prospecting licence as he may think proper.

(4) If application is received for the same area or for overlapping areas from two or more persons and there should arise any doubts as to which of them has priority for his claim, the decision of the Minister thereon shall be final, unless the Minister shall direct that their claims shall be referred to arbitration:

Provided that where an application has been made for an area, no application by another person covering the whole or part of such area shall be considered as being in dispute with the first application unless lodged with the Inspector of Mines within a period of twenty-four hours of the receipt by such officer of the first application.

(5) An exclusive prospecting licence shall not be granted in respect of any area exceeding eight square miles or of an area less than one square mile, if a full square mile is available.

(6) An exclusive prospecting licence shall be granted for a specified mineral only:

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

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

(8) An exclusive prospecting licence shall be granted for one year from the date thereof, subject to renewal, at the discretion of the Minister, for further terms of one year each up to a maximum of three years in the case of an alluvial working, and of six years in the case of a lode working:

Provided that the Minister may, on such terms as he may think proper, grant a renewal of such licence in respect of an alluvial

- (c) make excavations, sink shafts or wells, drive adits or levels or dig trenches:

Provided as follows —

- (a) a prospector shall not divert water from any river, stream or watercourse without the consent of the Inspector of Mines or of the Commissioner;
- (b) a prospector shall not prospect in a forest park except he has first given notice to the Forestry Adviser and complies with the conditions imposed by the Forestry Adviser for the protection of forest produce;
- (c) a prospector intending to prospect on any land shall, when practicable, give notice of his intention to the owner or occupier of such land before commencing prospecting operations thereon. If any owner or occupier or the Inspector of Mines shall request the prospector to give security for the payment of any compensation for disturbance or damage the Inspector of Mines shall require the prospector to give security by the deposit of such sum of money as he may deem fit, and if required by the owner or occupier the prospector shall desist from prospecting on the land until such security has been given.

(2) Any prospector failing to give any notice required under the last preceding subsection or failing to comply with the conditions imposed by the Forestry Adviser, or prospecting without having given security when required by the owner or occupier of the land to desist from the prospecting, shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty pounds.

As to the
grant of an
exclusive
prospecting
licence.

13. (1) The Minister may grant an exclusive prospecting licence to any person who has by himself or by a person in his employ prospected the area over which the licence is applied for:

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

(2) Application for an exclusive prospecting licence shall be in the prescribed form, and the applicant shall satisfy the Minister that he has sufficient capital to ensure the proper prospecting of the area in respect of which the application is made and the payment of any compensation which may be payable to the owners and occupiers

working for a fourth year if it be shown to his satisfaction that prospecting operations have been stopped or seriously hindered by special circumstances beyond the control of the licensee:

Provided further that in the case of a lode working the Minister may, on any renewal of such licence, direct that such renewal shall be allowed in respect of a specified portion only of the area of the licence.

Notice to be given to owners or occupiers of land.

14. (1) Whenever application is made for an exclusive prospecting licence notice of such application shall, if practicable, be given in the prescribed manner to the owners or occupiers of the land in respect of which such licence is applied for, before the licence is granted.

Who may require that security be given.

(2) If any owner or occupier of the land or the Inspector of Mines shall request that the applicant shall give security for the payment of any compensation which may be payable to such owner or occupier by the licensee for disturbance or damage, the Minister shall require the applicant to give security by depositing with the Inspector of Mines such sum of money as the Minister may think proper.

Rights under an exclusive prospecting licence.

15. The holder of an exclusive prospecting licence shall have the sole right of prospecting upon the lands within the area of his prospecting licence and subject to the conditions thereof, and for such purpose may-

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

16. The holder of an exclusive prospecting licence shall not transfer his licence or any portion of the rights granted thereunder without the consent of the Minister signified by endorsement on the instrument of assignment.

Transfer of rights under licence.

The transferee of a licence shall be liable for all rents and obligations which may have accrued at the time of transfer.

17. (1) Minerals raised or obtained in the course of prospecting under a prospecting right or an exclusive prospecting licence shall not be removed from the land or disposed of by the holder of the right or licence or by any other person except with the consent of the Inspector of Mines. Any person contravening the provisions of this subsection shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding two hundred pounds or to imprisonment, with or without hard labour, for a period not exceeding twelve months.

Minerals raised by the holder of a prospecting right or of an exclusive prospecting licence not to be removed except with the consent of the Inspector of Mines.

(2) The Inspector of Mines may authorise the removal of minerals from the land from which they have been obtained to any place approved by him for safe custody, subject to such conditions, if any, as he may impose.

(3) If the holder of a prospecting right or an exclusive prospecting licence should desire to retain or dispose of any Minerals raised or obtained in the course of prospecting, he shall make application to the Inspector of Mines in the prescribed manner, and if the said Inspector is satisfied that the prospector has been conducting such work only as is reasonably necessary to enable him to test the mineral bearing qualities of the land, he may authorise the applicant to retain and dispose of the minerals in respect of which application is made on payment of the prescribed royalties.

Conditions on which minerals raised may be retained.

18. The holder of an exclusive prospecting licence shall continuously and adequately carry on *bona fide* prospecting operations on the lands included in the area in respect of which his licence has been granted during the continuance of the licence and to the satisfaction of the Inspector of Mines:

The holder of an exclusive licence to prospect continuously and adequately.

Provided that the Minister may, on the application of the holder and for good cause shown, by writing under his hand suspend the obligation imposed by this section in respect of any licence for such

time as to the Minister may seem proper, and may in the same manner direct that any such period of time shall not be reckoned in the currency of the licence, if during such period no work is done by the holder on the lands included in the area covered by the licence.

Records of
prospecting
operations.

19. The holder of an exclusive prospecting licence shall keep full and accurate records of his prospecting operations.

Payment of
compensa-
tion by
holders of
prospecting
rights and
licences for
disturbance
of surface
rights, etc.

20. (1) The holder of a prospecting right or of an exclusive prospecting licence shall, on demand being made by the owner or occupier of any land, make to him such payments as shall be a fair and reasonable compensation for any disturbance of the rights of such owner or occupier, and for any damage done to the surface of the land upon or under which prospecting operations are or have been carried on, and shall, on demand being made by the owner of any crops, trees, buildings or works damaged by the holder of the right or licence or by any agent or servant of such holder, pay compensation for such damage.

(2) If the holder of a prospecting right or exclusive prospecting licence fails to pay compensation when demanded under subsection (1), or if an owner or occupier is dissatisfied with the compensation offered, the owner or occupier, as the case may be, may apply to the Commissioner, who shall as soon as conveniently may be assess and determine the amount of the compensation payable at the date of such determination, and shall notify the parties of the sum awarded.

If either of the parties is dissatisfied with the award of such officer, such party may, within fourteen days of such notification, appeal to the Minister, whose decision thereon shall be final, unless he shall direct that the matter be determined by arbitration.

(3) The sum awarded by the Commissioner, or when there has been an appeal, by the Minister or arbitrators, shall be paid by the holder of the prospecting right or exclusive prospecting licence to the Commissioner, for transmission to the persons entitled thereto, within fourteen days of the date on which the amount of the award is notified to the holder of the right or licence.

(4) If the sum awarded is not paid within the time specified in subsection (3), such sum may be paid out of any money deposited by

the holder of the right or licence under section 12 or section 14, or if no money or insufficient money has been deposited, may be sued for by the persons entitled thereto.

The Minister may suspend the prospecting right or exclusive prospecting licence of the person in default until the amount awarded has been paid, and until the holder of the right or licence has deposited with the Accountant-General or the Commissioner such further sum as security for any future payments as the Minister may demand, and if such payment and deposit is not made within such time as the Minister may consider reasonable, the Minister may revoke the prospecting right or exclusive prospecting licence of the person in default.

21. In the case of any breach by the holder of a prospecting right or the employer of a holder of a prospecting right or the holder of an exclusive prospecting licence, or by any attorney, agent or employee of such holder of any of the provisions of this Act, or of any rule made thereunder, it shall be lawful for the Minister to call upon the holder or employer or the holder of the right or holder of the licence, as the case may be, to show cause within a time specified by the Minister why his right or licence should not be revoked, and should he fail to comply with such order within the time specified, or should the cause shown not be adequate in the opinion of the Minister, the Minister may summarily revoke the said right or licence and thereupon all privileges and rights conferred thereby, or enjoyed thereunder shall as from the date of such revocation cease:

Revocation
of prospect-
ing rights
and licences.

Provided always that the fact of such revocation shall not in any way affect the liability of such holder, employer, attorney, agent or employee, in respect of the breach of any provision of this Act or of any rule made thereunder committed by him before such revocation.

22. Notwithstanding anything in this Act or any rules made thereunder to the contrary the Minister may, in special circumstances, grant an exclusive prospecting licence for a period exceeding one year, and over an area exceeding eight square miles, upon such special terms and conditions whether in accordance with the provisions of this Act and any rules made thereunder or not, as he may think proper.

Power to
grant special
exclusive
prospect-
ing
licences.

PART III. MINING

Mining
when lawful.

23. Mining shall be lawful under a mining right or mining lease.

Pending the grant of the mining lease or mining right, the Minister may grant permission to the applicant to mine on the area applied for on such conditions and subject to such restrictions as the Minister may think fit. Such permission may at any time be withdrawn by the Minister.

As to the
grant of a
mining right.

24. (1) A mining right may be granted by the Minister on behalf of the Crown to the holder of a prospecting right or to the holder of an exclusive prospecting licence, provided that in the latter case the mining right applied for lies wholly within the boundaries of that licence.

(2) The provisions of section 13 (2) and (4) and of section 14 shall apply, *mutatis mutandis*, to an application for and grant of a mining right.

(3) Mining rights may be granted in respect of such areas as may be prescribed, and the Minister may grant or withhold a mining right at his discretion.

(4) A mining right shall remain in force for one year from the date thereof, but may be renewed by the Minister for further terms of one year.

Rights
conferred
by mining
right.

25. (1) A mining right shall confer upon the holder thereof the right to enter upon the lands in respect of which the mining right is granted, and the exclusive right to mine thereon the minerals specified in the right and to take and dispose of any such minerals obtained, subject to the payment of the prescribed royalties; and, for and in connection with his mining operations, the holder may exercise all or any of the rights conferred by section 35 (1) on a mining lessee.

(2) The holder of a mining right shall pay rent (hereinafter called surface rent) at such rate per annum as shall be determined by the Minister for all land included in the area of the mining right.

(3) The provisions of subsections (3), (4), (5) and (6) of section 35 shall apply, *mutatis mutandis*, to a mining right.

26. (1) The holder of a mining right shall continuously and adequately carry on mining operations on the lands the subject of the mining right to the satisfaction of the Inspector of Mines, and shall furnish such reports and returns and shall keep such books as may be prescribed:

Obligation
of holder
of mining
right.

Provided that the Minister may, on the application of the holder and for good cause shown, suspend the obligation imposed by this subsection as regards the mining operations to be conducted for such time and subject to such conditions as the Minister may think fit.

(2) The holder of a mining right if not personally resident on or near the land the subject of his right and in charge of the mining operations being conducted on such land shall at all times have a responsible agent in charge of such operations and shall forthwith notify the Inspector of Mines of every appointment of an agent and of any change in such appointment.

27. The provisions of sections 16, 21, 36, 37, 38, 39 and 40 shall apply, *mutatis mutandis*, to a mining right.

Application
of sections
16, 21, 36,
37, 38, 39
and 40 to
mining right

28. Whenever the Minister shall be satisfied, on the report of the Inspector of Mines, that the mineral bearing qualities of the land or of any portion of the land included within the area of a mining right are such as to justify the holder of the right being called upon to take a mining lease or leases in respect of all or any part of such land, he may by notice served on the holder of the mining right revoke the mining right in respect of the whole area or any specified part of the mining right as from a date not being earlier than one month after the date of such notice.

When
holder of a
mining right
may be
required to
apply for
mining lease

On such revocation the holder of the right shall have a preferential claim to a mining lease or mining leases on the area of the revoked mining right, provided that application for such lease or leases is made within two months of such revocation:

Provided that the holder of the right revoked under this section shall have a preferential claim to a mining right in respect of any portion of the area of the revoked right for which no application is made for a mining lease within twelve months from the revocation of the right.

The grant
of a mining
lease.

29. (1) The Minister may on behalf of the Crown grant a mining lease to the holder of a prospecting right or of an exclusive prospecting licence who has by himself or his agent carried on *bona fide* prospecting operations on the area applied for, provided that in the latter case the mining lease applied for shall lie wholly within the boundaries of that licence, or to the holder of a mining right in respect of any portion of the area of his right, or, subject to the provisions of section 28, to any person in respect of any lands included in the area of a mining right which has been revoked under that section.

(2) The holder of an exclusive prospecting licence or of a mining right who shall have fulfilled all the conditions attached thereto shall be entitled, subject to the provisions of this Act, to the grant of a mining lease for any mineral for which he was authorised to prospect or mine, in respect of any portion of the area included in the licence or right:

Provided that the Minister may, for any reason he may think proper, exclude from the operation of the lease any portion of the area for which the lease is applied for.

(3) Application for a mining lease shall be made in such form as may be prescribed.

(4) The Minister may on behalf of the Crown offer and grant in such manner as he may think fit mining leases in respect of—

- (a) any mineral in respect of which a notice prohibiting prospecting has been issued under the proviso to section 9;
- (b) any area, not included in the area of an exclusive prospecting licence then in force, in which minerals in apparently payable quantities have been discovered or are known to exist, if no application for a mining lease in respect of such area has been made by a person to whom the lease could be granted under subsection (1) or subsection (2);
- (c) any area in respect of which an application for a mining lease has been made, if the application has been refused or has been withdrawn; or
- (d) any area in respect of which a mining lease has been granted, if such lease has been forfeited or surrendered or has expired.

(5) If application is received for the same area or for overlapping areas from two or more persons and there should arise any doubt as to which of them has priority for his claim, the decision of the Minister thereon shall be final unless the Minister shall direct that their claim shall be referred to arbitration:

Provided that when an application has been made in respect of an area no application by another person covering the whole or part of such area shall be considered as being in dispute with the first application unless lodged with the Inspector of Mines within a period of twenty-four hours of the receipt by such officer of the first application.

30. The Minister may require an applicant for a mining lease to show to his satisfaction that he possesses or commands sufficient working capital to ensure the proper development and working of mining operations on the area applied for, and may require any reports on the matter made by prospectors or engineers to be submitted for his information.

Applicant must show sufficient capital.

In the event of the applicant failing to satisfy the Minister as aforesaid, the Minister may refuse the application, but the applicant may make a new application at any time.

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

Duration of lease.

(2) If at the expiration of the term originally granted the lessee shall be carrying on work in a normal and business-like manner, and the lease shall not at that time be liable to be forfeited under any of the provisions of this Act, and the lessee shall have given to the Inspector of Mines six months' notice in that behalf, then the lessee shall be entitled on payment of the prescribed fee to obtain a renewal of the lease for such further term not exceeding twenty-five years as the Minister may approve upon the conditions which are then generally applicable to new mining leases, but without the right to a further renewal of the lease.

Renewal.

(3) A mining lease may be surrendered at any time after six months' notice in writing has been given to the Inspector of Mines of the intention to surrender, if the sanction of the Minister be

Surrender of mining lease.

endorsed in writing thereon and on payment of the prescribed fee, but not otherwise:

Provided that such surrender shall not affect any liability incurred by the holder before such surrender shall have taken effect.

No transfer
of lease
without
consent.

32. The holder of a lease shall not transfer or assign his lease or any of the rights conferred thereby without the consent in writing of the Minister signified by endorsement on the instrument of assignment.

Kinds of
mining
leases and
conditions
relating
thereto to
be prescribed
by rules.

33. Mining leases shall be of such kinds and shall be granted subject to such covenants and conditions and in respect of such areas as may be prescribed, or, if not prescribed by the rules, as may be directed by the Minister.

Rights under
a mining
lease.

34. A mining lease shall confer upon the lessee the right to enter upon the lands the subject of the lease, and subject to the rules the exclusive right to mine on such lands, and the right to remove and dispose of the minerals specified in the lease on payment of the prescribed royalties.

Surface
rights of
mining
lessee.

35. (1) In so far as it may be necessary to the lessee or to the applicant for a lease to whom permission to mine has been granted under section 23 for or in connection with his mining operations and subject to the provisions of this Act and to the rules, the lessee or such applicant shall have on the lands included in his mining lease or in the area on which permission to mine has been granted, as the case may be, the following rights—

- (a) to make all necessary excavations;
- (b) to erect, construct and maintain houses and buildings for his use and for the use of his agents and servants;
- (c) to erect, construct, and maintain such engines, machinery, buildings, and workshops and other erections as may be necessary or convenient;
- (d) to stack or dump any of the products of mining;
- (e) to lay water-pipes and to make watercourses and ponds, dams and reservoirs, and to divert any water on or flowing through the land;

(f) to construct and maintain all such tramways, roads, communications, and conveniences as may be necessary.

(2) The lessee shall pay rent (hereinafter called surface rent) at such rate per annum as shall be determined by the Minister for all land occupied or used by him for any of the purposes mentioned in subsection (1), or otherwise for or in connection with his mining operations.

(3) Before granting a mining lease, the Minister shall, if practicable, cause the owner of any land included within such lease to be informed of his intention to grant the lease, and require such owner to state in writing, within such time as the Minister may determine, the rate of the annual surface rent which he desires shall be paid to him by the mining lessee for any land occupied or used by him for or in connection with his mining operations.

If within the time specified the owner of the land shall state the rate of the rent which he desires shall be paid, and the Minister is satisfied that such rent is fair and reasonable, the surface rent payable in respect of the land of such owner shall be at the rate stated by him.

(4) Subject to the provisions of subsection (3) the Minister shall fix the rate of the surface rent payable under this section and shall cause the mining lessee to be notified of the rate so fixed before or as soon as conveniently may be after the granting of the mining lease:

Provided that—

(a) the rate of surface rent, whether fixed by the owner or by the Minister shall be subject to revision by the Minister at intervals of seven years;

(b) in fixing the surface rent payable the Minister shall not take into consideration the damage which may be done to the surface of the land by the mining or other operations of the lessee, for which compensation is payable under section 38 (2).

(5) The surface rent payable under this section by a mining lessee shall be paid without demand half-yearly to the prescribed officer, who shall pay the same to the owner of the land.

(6) If any question shall arise as to the extent of the lands occupied or used by a mining lessee, or as to the date on which he

commenced or ceased to occupy or use any land, or as to the proportion of the surface rents payable to the persons entitled to receive any portion thereof, the decision of the Commissioner shall be final and binding on all persons, subject only to an appeal to the Minister.

All expenses incurred by the Government in surveying, measuring or otherwise ascertaining the extent or value of the land in respect of which surface rent is payable under this section shall be paid by the mining lessee.

(7) The acceptance by or on behalf of the Crown of any surface rent shall not be held to operate as a waiver by the Crown of any forfeiture accruing by reason of the breach of any of the provisions of this Act, of the rules or of any covenant or condition, express or implied in any lease granted under this Act.

Mining under towns and villages, and near public buildings, etc., prohibited except with the consent of the Minister.

36. A mining lease shall not authorise the lessee to occupy or mine on or under land occupied by a town, village, market, historical monument or burial ground, or land habitually used or occupied for sacred or ceremonial purposes, or to occupy or mine on or under any land within one hundred yards of any Government or public building or works, or any town, village, market, historical monument, burial ground or place used or occupied for sacred or ceremonial purposes as aforesaid, or public road without the consent in writing of the Minister first obtained, and subject to the conditions, if any, imposed by the Minister.

Right of mining lessee to cut trees.

37. A mining lessee may, on the lands included within the area of his lease, cut, take and use any tree when necessary in the course of mining operations or when required for mining or domestic purposes, provided that he shall not cut or take any trees in a forest park or any protected tree except with the consent of the Forestry Adviser or before paying the fees and royalties prescribed under the Lands (Provinces) Act, or the Lands (Bathurst and Kombo Saint Mary) Act, as the case may be.

Cap. 103.
Cap. 102.

Compensation for damage to buildings, etc.

38. (1) The mining lessee shall pay compensation to the owner of any building, or of any economic trees or crops removed, destroyed, or damaged within the area of the lease by the lessee, his agents or workmen:

Provided that compensation shall not be payable in respect of any building erected or tree or crop planted on land in respect of which surface rent is paid by the lessee under section 35 after the date on which such rent commenced to be payable.

(2) If by reason of the mining or other operations of the mining lessee the surface of any land is damaged, the mining lessee shall pay compensation for such damage to the owner of such land.

(3) If the person claiming compensation and the lessee are unable to agree as to the amount of compensation to be paid, the matter in dispute shall be determined by arbitration, except when the claimant, being a Gambian, requests the Commissioner to assess and determine the compensation, in which case the decision of such Commissioner shall be final and binding on all parties, subject only to an appeal to the Minister whose decision shall be final, unless he shall direct that the matters in dispute be determined by arbitration.

Notice of such appeal shall be given to the Commissioner within fourteen days of the date on which his decision is notified to the party desiring to appeal.

(4) The compensation awarded by the Commissioner or, in the case of an appeal, by the Minister or arbitrators, shall be paid by the lessee to the Commissioner for transmission to the persons entitled thereto within fourteen days of the date on which the amount of the compensation awarded is notified to the lessee.

39. (1) Whenever, by reason of the grant or existence of a mining lease, the Minister resumes possession of any lands occupied under a Crown lease, or licence, the mining lessee shall pay to the Government the amount of the compensation paid by the Government to the Crown lessee or licensee by reason of the resumption of possession;

Compensation to be paid by mining lessee on resumption of land leased by the Crown

(2) Whenever, after the grant of a mining lease, a Crown lease or licence shall be granted in respect of any land included within the area of the mining lease and not occupied prior to the grant of the mining lease, the Crown lessee or licensee shall not be entitled to compensation under section 38.

Rights in Crown land granted in a mining lease.

Right of
lessee to
remove
fixtures.

40. (1) The lessee of a mining lease who shall have paid all rents, royalties and other payments to be made by him under this Act or under the terms of his lease may, within one month after the expiration or other determination of his lease, remove all or any of the plant, buildings or other property of the lessee.

When
property of
the lessee
becomes
vested in the
Government.

(2) In the case of any lessee who on the expiration or determination of his lease is in default in the payment of any rent, royalties or other payments, and in the case of a lessee who has not removed his property within one month as aforesaid or within such further time (if any) as the Minister may allow, all the plant, buildings and property of the lessee on the land the subject of the mining lease shall become the property of the Government and may be dealt with and disposed of in such manner as the Minister may direct.

Forfeiture
for breach
of rules, etc.

41. If there shall be a breach on the part of the lessee of a mining lease of any condition or provision of this Act or of any rule made thereunder, or of any of the terms, covenants or conditions of his lease, and if the lessee shall not make good such breach within such period, not being less than one month, as the Minister may decide, from the date of receiving notice in writing from the Minister so to do, or if the lessee shall wholly discontinue operations under the mining lease during a continuous period of six months, without the consent in writing of the Minister, then the lease may be determined by the Minister, without prejudice to any claim against the lessee which shall already have accrued. The decision of the Minister determining the lease shall be sufficiently notified to the lessee by its publication in the Gazette:

Provided that the Minister may, in lieu of determining a lease, order the lessee to pay a penal rent of such amount not exceeding three times the amount of the rent payable under the lease, as the Minister may determine, from the date on which the breach commenced until the same is made good. Such penal rent shall be in addition to the rent payable under the lease, and shall be paid monthly without demand and shall be recoverable as rent.

Power to
grant special
mining
leases.

42. Notwithstanding anything in this Act or any rules made thereunder to the contrary the Minister may, in special circumstances, grant a mining lease upon such special terms and conditions

whether in accordance with the provisions of this Act and any rules made thereunder or not, as he may think proper.

PART IV.—PROVISIONS REGARDING WATER

43. No person shall in the course of mining or prospecting operations or in any works connected therewith pollute or permit to become polluted the water of any river, stream or watercourse. Any person contravening the provisions of this section shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding one hundred pounds, and in the event of the offence being continued after conviction, to a fine not exceeding five pounds for each day during which the offence shall be continued.

Pollution of
water
prohibited.

44. (1) It shall not be lawful for any lessee of a mining lease or the holder of a mining right to make or permit any other person to make, without the permission of the Minister, any such alterations in the water supply of any lands as may prejudicially affect the water supply enjoyed by any other person or lands.

Alterations
in water
supply
prohibited.

(2) Whenever any such alteration shall have been made, the mining lessee or the holder of the right benefited thereby shall, in the absence of proof to the contrary, be presumed to have made it.

(3) Any person contravening the provision of subsection (1) shall be guilty of an offence and liable to the penalties provided in section 43.

45. Any person who offends against any of the provisions of either of the last two preceding sections may by order in writing be required to take such action as may be directed to prevent a continuance or recurrence of the offence and within such time as may be directed in the order. Such order may be made by the Minister or by such officer as may be prescribed.

Action to be
taken to
prevent
continuance
or recurrence
of offence.

Any person who fails to comply with any such order shall be liable, on summary conviction, to a fine not exceeding ten pounds for each day during which such failure shall continue.

Minister
may grant
a licence to
take water
from any
river, etc.,
and across
any lands.

46. (1) If it shall appear necessary for the proper working of the area comprised in any mining lease or mining right the Minister may, on such terms as he may think proper, grant to the lessee or holder of a mining right over the mining area a licence (which shall be known as a water right) to obtain and convey from any river, stream or watercourse outside the mining area such volume of water as may be required for the purpose of mining within the same and for such purpose to occupy such land as may be required for a dam, reservoir or pumping station, and for the conveyance of such water to the mining area by the means of pipes, ducts, flumes, furrows or otherwise:

Provided that—

- (a) no such licence shall be granted until after the expiration of one month from the date of which notice of the application for the licence has been published in the Gazette and posted in a conspicuous place at the office of the Inspector of Mines;
- (b) no such licence shall be granted if it is shown to the satisfaction of the Minister that the exercise thereof will prejudicially affect any existing right in or over the water supply to which it relates, unless the applicant shall pay to the person whose rights will be prejudicially affected such compensation as may be agreed upon between the parties or as may be determined by arbitration;
- (c) the provisions of section 35 (2) (3) (4) (5) and (6) and the provisions of section 38 shall apply, *mutatis mutandis*, to every licence granted under this section.

Provisional
permission to
use water.

(2) Pending the grant of a water right for which application has been made the Minister may grant to the applicant, on such terms as he thinks fit, provisional permission to exercise and enjoy the powers and rights for which such application has been made:

Provided that no such provisional permission shall be granted until after the expiration of one month from the date on which notice of the application has been published and posted as prescribed.

Provisional
water rights.

(3) When a person has made application for a mining lease or mining right in respect of any area and it appears that, in the event of such mining lease or mining right being granted, the grant

of a water right under this section will be necessary for the proper working of the area, the Minister may, on such terms as he thinks fit, grant to the applicant a provisional water right under this section—

Such provisional water right—

- (a) shall not become operative unless and until a mining lease or mining right over the said area shall be granted to the applicant:

Provided that, if the applicant has been granted permission under section 23 to mine on the area prior to the grant of the lease or mining right, the Minister may, subject to such terms as he thinks fit, permit such provisional water right to become operative at any time after the expiration of one month from the date on which notice of the application for it has been published and posted as prescribed; and

- (b) shall become null and void unless such mining lease or mining right be granted to the applicant; and
- (c) shall be subject to the provisos set out in subsection (1), save that the payment of compensation required by proviso (b) shall not be required to be made prior to the granting of the provisional water right; and
- (d) shall become operative and have the same force and effect as a water right granted under subsection (1), upon the applicant paying the compensation set out in proviso (b) to subsection (1) and receiving a grant of a mining lease or mining right over the said area.

47. Every application for a water right shall be in the prescribed form. Applications for water rights.

48. The holder of a water right shall not transfer his right or portion of his rights granted thereunder without the consent of the Minister signified by endorsement on the instrument of assignment. Transfer of water rights.

The transferee of a water right shall be liable for all rents and obligations which may have accrued at the time of transfer.

49. A water right may be surrendered at any time after one month's notice in writing has been given to the Inspector of Mines of the intention to surrender, if the sanction of the Minister be Surrender of water rights.

mining lease, or water right, or covered by the application, if such diversion is made entirely within the area held by or applied for by him and is aligned and maintained to the satisfaction of the Inspector of Mines; and on the conclusion of mining or prospecting operations, or operations under the water right, affecting such public path, it shall, if required by the Inspector of Mines, be remade as and where it was before such interference.

53. (1) If the holder of a licence, or mining lease, or a person having permission under section 23 to mine on an area the subject of an application, is desirous of obtaining a right of passageway over lands outside the area covered by the licence, lease or application, or if the holder of a water right is desirous of obtaining a right of passageway for the purpose of such water right, but is unable to obtain consent to such right, or on such terms as he considers reasonable, from the owner or occupier of the land over which the right is desired, he may apply to a magistrate of the first class for an order granting such right of passageway; and for the purposes of such application the holder of the licence, mining lease or water right, or the person having permission under section 23 to mine, may authorise in writing a land surveyor, together with his servants and workmen, to enter at all reasonable times on any land after giving to the occupier thereof not less than three days' notice of the date upon which such entry is proposed to be made; and any damage done by such surveyor, his servants, or workmen, shall be deemed for the purposes of sections 20 and 38 to be damage done by such holder or person in the course of prospecting or mining operations.

Acquisition
of right of
passageway.

(2) If on any application under subsection (1) of this section the magistrate is satisfied—

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

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

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

(4) A copy of such order shall be forwarded by the Registrar of the Supreme Court to the Inspector of Mines.

Duration of
right of
passageway.

54. Any right of passageway acquired under section 53 shall expire when the licence, mining lease or water right is terminated, or the permission to mine is determined, as the case may be, and thereupon the holder shall comply with the provisions of sections 40 and 81 in so far as they are applicable.

Use of
mining road.

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

Provided that—

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

PART VI.—DREDGING FOR MINERALS

Dredging in
river to be
licensed.

56. It shall not be lawful for any lessee of a mining lease or the holder of a mining right to dredge or permit any other person to dredge any river, stream or watercourse without a licence from the Minister. Any person contravening the provisions of this section shall be guilty of an offence, and shall be liable, on summary conviction, to a fine not exceeding fifty pounds for every day during which the offence continues.

57. Before any such licence to dredge is granted, security shall be given in such terms and to such amount as the Minister may in each particular case direct.

Security to be required.

58. On every licence to dredge, there shall be endorsed such conditions or restrictions as the Minister in his discretion may think fit.

Conditions, etc., on dredging licences.

59. Any person who shall act in contravention of any such conditions or restrictions endorsed on a licence to dredge shall be guilty of an offence, and shall be liable, on summary conviction, to a fine not exceeding one hundred pounds, and the holder of the licence shall be liable for any damage which may have arisen in consequence of such contravention. In this and the following section, non-compliance with any lawful order, direction or notice given by the Inspector of Mines under and by virtue of conditions or restrictions endorsed upon the licence shall be deemed a contravention of such conditions or restrictions.

Penalty for contravention of conditions endorsed on dredging licence.

60. When in any prosecution under this Act it is proved that the conditions or restrictions endorsed on a dredging licence have been contravened, the court may, subject to the approval of the Minister, cancel such licence in addition to imposing any penalty prescribed by this Act.

Cancellation of dredging licence.

PART VII.—SURVEYS

61. Before granting a mining lease or an exclusive prospecting licence, the Minister shall require the area of the land to be included to be surveyed by a Government surveyor, or if no Government surveyor is available then by a surveyor approved by the Minister, and the cost of such survey shall be paid by the person applying for the lease or licence in accordance with the prescribed scale:

Surveyors.

Provided that in the case of an exclusive prospecting licence the area may be exempt from survey on the recommendation of the Inspector of Mines.

Overlapping
areas.

62. In the event of any areas, the subject of any leases, rights or licences under this Act being found to overlap, the land in dispute shall be considered to be within the area of the lease, right or licence first granted, and no compensation shall be allowed in respect thereof to the lessee or holder of the right or licence subsequently granted, but a reduction in rent shall thereafter be allowed in proportion to the reduction of the area of such lease, right or licence:

Provided that if any lease, right or licence shall have been granted in ignorance of the prior claims of any other person, or if for any other reason it shall appear to the Minister that the grant of any lease, right or licence was inequitable, having regard to the mining or prospecting operations being conducted by any other person, the Minister may, by notice served on the lessee or the holder of the right or licence determine such lease, right or licence either as to the whole or any portion of the land included therein at any time within three months of the grant of the same:

Provided that if the determined lease, right or licence shall have been granted after survey and the lessee or holder of the lease, right or licence shall have accepted the lease, right or licence in ignorance of the prior claim or the mining or prospecting operations of such other person, he shall be entitled to receive from the Government compensation for any loss or damage suffered. The amount of such compensation, if not agreed upon between the parties, shall be determined by arbitration.

PART VIII.—POSSESSION AND PURCHASE OF MINERALS

Meaning of
"minerals"
for purposes
of sections
64 to 71.

63. For the purposes of the provisions of sections 64 to 71 inclusive, the term "minerals" shall mean any minerals to which the Governor-General may, by order, apply the said sections.

Possession of
minerals.

64. No person shall possess any mineral unless he is the lessee of a mining lease, or the holder of a mining right, exclusive prospecting licence or a prospecting right, or of a licence granted under section 68 or the duly authorised employee of such lessee or holder.

Penalty for
unlawful
possession of
minerals.

65. Any person who, being found in possession of any mineral, does not prove to the satisfaction of the court that he obtained such mineral lawfully shall, independently of any other liability, be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding two hundred pounds or to imprisonment, with or without hard labour, for a period not exceeding twelve months or to both such fine and imprisonment; or
- (b) on conviction before the Supreme Court, to a fine not exceeding six hundred pounds or to imprisonment, with or without hard labour, for a period not exceeding three years, or to both such fine and imprisonment.

66. On the conviction of any person, whether summarily or on information, for an offence against section 65, any mineral in respect of which such offence has been committed shall unless proved by some other person to be the property of that other person be forfeited to Her Majesty and shall be sold or otherwise disposed of as the Minister may by order direct. The proceeds from the sale of any such mineral shall be paid into general revenue.

Forfeiture of minerals on conviction.

67. (1) No person shall purchase any mineral unless he is the holder of a licence granted under the next succeeding section.

Purchase of minerals.

(2) Any person contravening the provisions of this section shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding two hundred pounds or to imprisonment with or without hard labour, for a period not exceeding twelve months, or to both such fine and imprisonment;
- (b) on conviction before the Supreme Court, to a fine not exceeding six hundred pounds or to imprisonment, with or without hard labour, for a period not exceeding three years, or to both such fine and imprisonment.

68. (1) The Minister may issue a licence in the prescribed form and on payment of the prescribed fee authorising the person named therein to purchase minerals.

Licence to purchase minerals.

(2) The Minister may refuse to issue any such licence without assigning any reason for his refusal.

(3) Every such licence shall expire on the 31st December in the year in which the licence is granted.

(4) A licence to purchase minerals shall not be transferred without the consent of the Minister.

Duty of seller of minerals to satisfy himself that purchaser is licensed to buy.

69. (1) No person shall sell any mineral unless he has first satisfied himself that the purchaser is the holder of a licence to purchase that mineral.

(2) Any person contravening the provisions of this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding two hundred pounds or to imprisonment, with or without hard labour, for a period not exceeding twelve months, or to both such fine and imprisonment.

Holder of licence to satisfy himself that the seller is authorised to possess and dispose of the minerals.

70. The holder of a licence to purchase minerals shall not purchase any mineral unless he has first satisfied himself that the seller is authorised to be in possession of such mineral and to dispose of the same.

Duty of licensee.

71. The holder of a licence to purchase minerals shall—

(a) keep books showing—

(i) all purchases made by him and the nature and weight of the minerals purchased;

(ii) the date of each purchase; and

(iii) the name of the vendor and his title or authority to be in possession of the mineral; and

(b) produce such books for the inspection of any Government officer whenever required to do so.

Penalty for contravening sections 70 and 71.

72. The holder of a licence who shall commit any breach of the provisions of either of the two last preceding sections, or of the conditions of his licence, shall be guilty of an offence and liable to the forfeiture of his licence and—

(a) on summary conviction, to a fine not exceeding two hundred pounds or to imprisonment, with or without hard labour, for a period not exceeding twelve months or to both such fine and imprisonment;

(b) on conviction before the Supreme Court, to a fine not

exceeding four hundred pounds or to imprisonment, with or without hard labour, for a period not exceeding two years, or to both such fine and imprisonment.

PART IX.—MISCELLANEOUS PROVISIONS

73. (1) Whenever any land in respect of which a mining lessee is paying surface rent under section 35 is required by the Government for any public purpose, the Minister shall give notice to the mining lessee who shall remove therefrom any buildings, plant or other property of the lessee.

Land
required for
public
purposes.

In any such case the mining lessee shall be entitled to receive from the Government compensation for any interference with ways, works, building and plant belonging to the lessee on such land, but not for interference with his mining rights. The compensation payable to a mining lessee under this section shall, if not agreed between the parties, be determined by arbitration.

(2) Subject to the provisions of the preceding subsection, a lessee of a mining lease, the holder of a prospecting right or of an exclusive prospecting licence, or of a mining right shall not be entitled to any compensation from the Government when prevented from the exercise of any right on the land the subject of a mining lease or prospecting right or licence or mining right, by reason of the land being required for a public purpose.

(3) The grant of any lease, right or licence under this Act shall not prevent the Minister from—

Rights
subsequently
granted.

(a) granting any other lease or licence (not being a mining lease or mining right or exclusive prospecting licence) to any other person in respect of the whole or any portion of the area the subject of a mining lease or right or prospecting licence:

Provided that in the case of lands which are the subject of a mining lease or mining right or of an exclusive prospecting licence, any person to whom any other lease or licence is subsequently granted shall not be entitled to receive any compensation from the Government for any disturbance of any rights under such lease or licence by reason of the exercise by the mining lessee or holder of the mining right or prospecting licence of any right conferred by such lease, right or licence;

Materials
required for
public works.

- (b) taking from the land the subject of the lease, right or licence any materials required for the construction of railways, roads, buildings or other public works;
- (c) using or authorising the use of any road constructed on the area covered by the grant:

Provided that the Minister may, before authorising the use of such road for vehicular traffic by persons other than Government officers or servants, require any person desiring to use the road for such purpose to pay to the person who shall have constructed the same such sum as the Minister may consider to be a fair contribution to the cost of construction.

Penalty
where false
information
is given by
applicants.

74. Any applicant for or holder of a prospecting right, exclusive prospecting licence, mining right, mining lease or water right who wilfully or recklessly gives false information as to any of the matters in respect of which information is or may be required to be given under this Act shall be guilty of an offence, and shall be liable, on summary conviction, to a fine not exceeding one hundred pounds or to imprisonment, with or without hard labour, for a period not exceeding six months, or to both such fine and imprisonment.

Fraudulent
deposit of
metal and
fraudulent
sampling,
etc.

75. Any person who shall place or deposit or be an accessory to the placing or depositing of any metal ore or mineral in any spot or place for the purpose of misleading any person as to the nature, quality or quantity of the mineral naturally occurring at such spot or place, or who shall mingle or cause to be mingled with any sample of metal, mineral or ore, any valuable metal or any substance whatsoever which will increase or decrease the value or in any way change the nature of the said metal, mineral or ore, with intent to defraud any person, shall be guilty of an offence and shall be liable to a fine not exceeding one thousand pounds or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.

Fraud by
applicant for
exclusive
prospecting
licence, or
mining right
or lease.

76. Any person who represents that he has obtained the grant of an exclusive prospecting licence or mining right or mining lease, and thereby induces or attempts to induce any person to invest capital in any company or syndicate connected therewith, before he has obtained the grant of such exclusive prospecting licence,

mining right or lease, shall be liable to forfeit any claim to the grant of such exclusive prospecting licence or mining right or lease, and if he be already the holder of a prospecting right or an exclusive prospecting licence or mining right or lease, shall be liable to have his licence or mining right or lease revoked;

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

77. (1) If an accident shall occur in any mine or in connection with the mining or prospecting operations conducted under a lease, right or licence granted under this Act involving loss of life or serious injury to any person the lessee or holder of the right or licence shall report the same as soon as possible to the Inspector of Mines and to the Commissioner.

Accidents to be reported.

In this subsection the expression "serious injury" means an injury likely to result in the injured person being incapacitated from doing his usual work for at least fourteen days.

(2) In the event of any such accident the Inspector of Mines or, in the absence of the Inspector of Mines, an Administrative Officer or any other officer appointed by the Minister in that behalf shall hold an inquiry into the cause thereof and if the person killed or injured is a tributer—

Holding of inquiry. Power to award compensation.

- (a) if it is shown that the lessee or the holder of the right or licence or any agent of such lessee or holder has been guilty of negligence, or has not taken all reasonable and proper precautions to prevent such accident; or
- (b) if the person killed or injured is an African employed in the mine or in connection with the mining or prospecting operations, and the lessee or holder shall fail to satisfy the officer holding the inquiry that the accident is attributable to the serious and wilful misconduct of such person;

may award such compensation as he may deem to be just to such relatives of the deceased as he may think fit or to the injured person:

Provided that the amount of any compensation awarded under this section shall not exceed that which would have been recoverable under the Workmen's Compensation Act had the person killed or injured been entitled to compensation under that Act.

Cap. 196.

(3) The decision of the officer holding the inquiry shall be sent to the Minister, and a copy thereof shall be sent to the lessee or the holder of the right or licence as the case may be.

(4) If any person to whom the compensation is awarded is unwilling to accept the amount of the compensation awarded in full settlement of all claims which he may have by reason of the accident against the person ordered to pay the same, he may refuse to accept the same and take against such person such proceedings, if any, as may be open to him apart from this Act. If the person who is ordered to pay compensation is dissatisfied with the decision of the officer who has held the inquiry, he may, within fourteen days of the date on which he has notice of the award and is informed that the person to whom compensation has been awarded will accept the same, appeal to the Minister whose decision shall be final:

Provided that the Minister may, if he thinks fit, direct that the matter in dispute shall be determined by arbitration or in the courts.

(5) If there has been no appeal to the Minister within the time specified above, or if there having been an appeal compensation is awarded, the person directed to pay compensation shall pay the amount awarded to the officer who held the inquiry or to his successor in office for transmission to the person or persons entitled thereto, and if the same is not paid within such time as the Minister may think reasonable, the Minister may, after notice to the lessee or holder of the right or licence, revoke his lease, right or licence:

Provided that nothing in this section contained shall relieve any person from the liability to be proceeded against for any offence committed by him.

Power to
summon
witnesses.

(6) The Inspector of Mines, an Administrative Officer or any other officer appointed by the Minister shall, for the purpose of any inquiry under subsection (2), have the powers of the Supreme Court to summon witnesses, to call for the production of books and documents, and examine witnesses and parties concerned on oath.

Schedule.

All summonses may be in the form set out in the schedule hereto, and shall be served by a police officer or by such person as the officer issuing the same may direct.

7) Any person summoned to attend or to produce books or documents as aforesaid, and refusing or neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the officer holding the inquiry, shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty pounds:

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

(8) Witnesses attending at the request of or upon summons by an officer holding such inquiry shall, subject to any order made by such officer, be entitled to the like expenses as if summoned to attend the Supreme Court in a criminal trial, and payment shall be made in such manner as the Minister may direct.

(9) Any interested party may appear at any inquiry either in person or by legal representative and may question the witnesses and call witnesses on his own behalf on all matters relevant to the subject of the inquiry. Any person whom an interested party desires to call as a witness on his own behalf shall be summoned by the officer holding the inquiry to attend the said inquiry and give evidence thereat.

(10) Where after an inquiry has been held under this section any person is aggrieved at the finding thereat (other than in respect of any amount awarded as compensation under subsection (2)) such person may apply to the Supreme Court for the inquiry to be reopened and the Court, if satisfied that there are good and sufficient reasons for doing so, may order that the inquiry shall be reopened before itself or any magistrate, that any additional evidence that is available shall be taken and that the original finding shall then be confirmed or a new finding substituted therefor.

(11) Where the death of any person immediately results from any accident in any mine or in connection with the mining or prospecting operations, the place where the accident occurred shall, after removal of the injured person or the body as the case may be, be left precisely as it was immediately after the accident until the Inspector of Mines or the Commissioner has inspected it:

Provided that work may be resumed at such place with the

prior approval of the Inspector of Mines or if its discontinuance may endanger the lives of other persons or seriously impede the working of the mine.

Government officers prohibited from acquiring rights.

78. No person whether civil or military, while in the service of the Government of The Gambia, shall directly or indirectly acquire or hold any right or interest under any prospecting right, exclusive prospecting or mining right or mining lease, and any licence, right or lease or other document or transaction purporting to confer any such right or interest on any such officer shall be null and void.

Penalty for injuring boundary marks.

79. Any person who without lawful authority shall wilfully break, deface or remove, or in any other way interfere with any boundary mark, beacon, pillar or post erected for any of the purposes of this Act or under any rules made thereunder, or remove or alter any such mark, beacon, pillar or post after it has been delineated on a plan or survey shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Right of entry and inspection.

80. (1) Any Commissioner, Government medical officer or officer of the Mines Department, Survey Department or Labour Department may enter upon any land on which mining or prospecting operations are being conducted, or which is the subject of any lease, right or licence under this Act, and inspect any prospecting or mining operations or any works in connection therewith.

(2) The Inspector of Mines may inspect and take copies of or extracts from any books, papers, plans and documents dealing with the operations of the mining lessee or the holder of any right or licence under this Act and required by this Act to be kept.

(3) The Inspector of Mines may at any time take samples, make surveys and perform any operations that he may deem necessary for the purpose of making a report on any land.

Open shafts, etc., to be fenced.

81. The holder of a prospecting right in respect of any open shaft made by him, and the lessee of a mining lease, and the holder

of a mining right or exclusive prospecting licence and the applicant for a mining lease or a mining right to whom permission to mine has been granted under section 23, on the area of whose lease, right or licence or prospecting licence or right any open shaft or open-cast exists, shall make and maintain sufficient fences or other safeguards for the protection of man and beast, and shall fill in all disused shafts unless otherwise authorised in writing by the Inspector of Mines.

82. (1) The Inspector of Mines may in his discretion by order in writing require the lessee of a mining lease or the holder of any right or licence granted or held under the provisions of this Act or of any other Act relating to prospecting or mining to take such reasonable measures for the prevention or reduction of soil erosion caused by his operations or reasonably to restore any area used for prospecting or mining operations by the replacement of the surface soil, the filling in of worked area, the removal of any tailing or other dumps or heaps caused by such operations and such other methods as may reasonably be required and, upon service of such order, the provisions thereof shall be deemed to be covenants and conditions of the lease, right or licence concerned.

Preservation
and
restoration of
land used for
mining, etc.

(2) An order under this section may be issued either before or after the commencement of the prospecting or mining operations to which the order relates.

(3) The lessee of a mining lease or holder of a licence or right that is the subject of an order made under this section shall have the right of appeal within three months against such order to the Minister who may vary, revoke or confirm the order, the Minister's decision being final.

(4) An order made or decision given under this section may be sent by post to the lessee of the mining lease or the holder of the right or licence concerned, or to the agent of such lessee or holder.

(5) Where compensation is to be paid by the lessee of a mining lease or the holder of a right or licence under the provisions of this Act in respect of damage done to the surface of any land, any restoration effected in accordance with the provisions of this section shall be taken into account in the assessment of such compensation.

Disputes
between
holders of
rights as to
mining or
prospecting
operations.

83. Any mining lessee or holder of a right or licence who considers himself injuriously affected by the mining or prospecting operations of any other person may, having given fourteen days' notice of his intention to the other party, submit the matter through the Inspector of Mines to the Minister for decision. The decision of the Minister shall be final and binding between the parties, unless the Minister shall direct that the matters in dispute shall be decided by arbitration or in the courts.

Arbitrations.
Cap. 5.

84. The Arbitration Act shall apply to every arbitration under this Act, with the following modifications and additions—

- (a) unless the parties shall otherwise agree in writing, the reference shall be to two arbitrators, one to be appointed by each side, and the arbitrators may, if necessary, appoint an umpire;
- (b) when requested by a citizen of The Gambia, being one of the parties to an arbitration, the Minister may appoint an arbitrator on behalf of such citizen and in such case may fix the fee which shall be paid to the arbitrator, or, when the arbitrator is a person in the service of the Government to the Government for the services of the arbitrator.

Penalty for
interfering
with mining,
etc.

84. Any person who—

- (a) interferes with any mining or prospecting operations authorised by or under this Act;
- (b) obstructs any person in the exercise of any right conferred by or under this Act;
- (c) interferes with any machinery, plant, works or property established on, in, under or over any land in exercise of a right conferred by or under this Act;
- (d) commits any breach of any of the provisions of this Act for which breach a penalty is not expressly provided;

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding one hundred pounds or to imprisonment, with or without hard labour, for a period not exceeding six months, or to both such fine and imprisonment.

86. Any officer of the Mines Department, police officer or badge messenger may without warrant arrest any person whom he may find committing, or whom he may reasonably suspect of having committed any offence against this Act:

Power to
arrest
without
warrant.

Provided that the person arrested shall be taken, with as little delay as possible, before a magistrate to be dealt with according to law.

87. Whenever it is proved to the satisfaction of any court having jurisdiction that an offence against this Act has been committed by any miner, workman or other person employed by the holder of a prospecting right, exclusive prospecting licence, or a mining right, or a mining lessee, such holder or lessee shall be held to be liable for such offence and to the penalty provided therefor, unless he shall prove to the satisfaction of such court that the offence was committed without his knowledge or consent, and that he had taken all reasonable means to prevent the commission of the offence:

Liability of
employer for
offences
committed
by his servant.

Provided that nothing in this section contained shall be deemed to exempt such miner, workman or other person from the penalties provided for the offence committed by him.

88. Every mining lease, mining right and exclusive prospecting licence, and every instrument by or under which the rights, or any portion thereof granted by such lease, right or licence shall be transferred, assigned or surrendered, shall be registered both in the office of the Registrar-General and in the office of the Inspector of Mines within six months of the date thereof, or within such further time, if any, as the Registrar-General or the Inspector of Mines, as the case may be, shall allow and if not so registered shall be null and void.

Registratio

89. Where under this Act the Inspector of Mines is required to serve, or in his discretion desires to serve, any notice, demand or other communication, such notice, demand or other communication shall be deemed to have been duly served if sent by registered post to the last address in The Gambia (furnished to the Inspector of Mines) of the person upon whom such notice, demand or other communication is required or desired to be served.

Service of
notices, et

Application
and recovery
of fees, rents
and royalties.

90. (1) All fees, rents and royalties imposed under this Act shall form part of the public revenue:

Cap. 103.

Provided that in the case of such fees, rents and royalties paid in respect of any right, licence or lease exercised on land which is subject to the provisions of the Lands (Provinces) Act the Minister may at the end of every year or such other period as he may from time to time prescribe cause to be remitted to the District Authorities owning a particular piece of land in respect of which such right, licence or lease shall have been granted such proportion of the fees, rents and royalties received therefrom as he shall consider proper.

(2) The fees, rents and royalties payable under this Act or reserved by any lease may be levied or recovered under the authority of and in the name of the Inspector of Mines, in like manner as such fees, rents and royalties are or shall be leviable or recoverable by law in cases where private persons are concerned.

Power of
Minister
to make
rules.

91. The Minister may make rules for all or any of the purposes following—

- (a) the manner in which applications for prospecting rights, exclusive prospecting licences, mining rights and mining leases shall be made, and the forms to be used;
- (b) the information to be supplied by the applicants;
- (c) the fees, rents and payments to be paid for any lease, right or licence granted;
- (d) empowering the Minister to invite persons qualified to apply for exclusive prospecting licences, mining rights or mining leases, as the case may be, or any of such persons as the Minister may select, severally to state what financial consideration of a kind which the Minister shall specify (in addition to all fees, rents, royalties or other payments required by this Act or the rules made thereunder) they are prepared to pay to the Government in consideration of the grant of such a licence, right or lease (according as such invitation shall specify) in respect of any area in any tract of land in which any mineral may have been, or after the commencement of this Act may be, discovered by any person searching for minerals on behalf of the Government, but without imposing any obligation on the Minister to grant

any such licence, right or lease to any person tendering in response to such invitation or to accept the highest tender, and without otherwise fettering the Minister's absolute discretion to grant or to withhold the grant of such a licence, right or lease, as the case may be;

empowering the Minister to revoke-

(i) any exclusive prospecting licence, mining right or mining lease granted in consideration of an offer of the payment of any financial consideration within the meaning of the last preceding paragraph, or any renewal of such exclusive prospecting licence, mining right or mining lease or of a part thereof; or

(ii) any mining right or mining lease lying within the boundaries of such exclusive prospecting licence and subsequently granted to the holder of such exclusive prospecting licence or part thereof (including any renewal) or any renewal of such mining right or mining lease; or

(iii) any mining lease lying within the boundaries of any such mining right as is referred to in sub-paragraphs (i) and (ii) of this paragraph subsequently granted to the holder of such mining right (or renewal thereof), or any renewal of such mining lease;

in the event of such financial consideration not being paid or there being any cessation in the payment thereof;

the shape of the area over which exclusive prospecting licences may be granted, and the areas in respect of which mining rights may be granted;

- (g) the size and shape of the areas over which mining leases may be granted;
- (h) the manner in which areas and boundaries shall be surveyed, marked and beacons and the fees payable in respect of such survey;
- (i) the working conditions to be applied to mining leases;
- (j) the construction and use of passageways.
- (k) the construction and erection of houses, pits, shafts, machinery and other works to be used for mining purposes;

- (l) the fencing off or rendering secure of any of the works constructed, erected or made for prospecting or mining purposes;
- (m) the grazing of cattle or other animals, and the cutting down and use of timber for the purpose of carrying on prospecting and mining operations;
- (n) for securing the safety and welfare of persons employed in mines, and for the carrying on of mining operations in a safe, proper and effectual manner;
- (o) restricting or prohibiting the employment of women and children in mining operations;
- (p) the renewal, transfer, assignment and surrender of rights under licences, rights and mining leases;
- (q) the registration in the office of the Inspector of Mines of mining leases, mining rights and exclusive prospecting licences and instruments under which any right or interest thereunder is transferred or surrendered, and the fees payable on such registration;
- (r) the returns to be rendered and the accounts, books and plans to be kept by mining lessees and the holders of mining rights and of exclusive prospecting licences, and the furnishing by such lessees and holders of any information required by the Inspector of Mines;
- (s) the amount of royalty payable to the Government and the form and manner in which such royalty shall be collected and paid;
- (t) regulating the disposal of sludge and tailings and declaring any waterways to be sludge channels;
- (u) for determining what proportion of any precious mineral per ton an ore may contain without coming under the definition of precious minerals;
- (v) the granting of leases and licences for surface rights and the covenants and conditions thereof;
- (w) prescribing the procedure on an appeal to the Minister;
- (x) prescribing the fees to be paid in respect of any matter or thing done under this Act; and
- (y) generally for the carrying into effect the purposes of this Act.

92. (1) In regard to mining operations for precious minerals the Minister may make rules for the following purposes

Power of Minister to make special rules in regard to mining operations for precious minerals.

- (a) empowering the holder of a mining lease, mining right or exclusive prospecting licence to demarcate by a fence, or by pillars or posts, any one or more portions of the area included in his lease, mining right or exclusive prospecting licence not exceeding in each case one thousand feet square or such lesser size as may be prescribed, but not including any dwelling house or the ground attached thereto without the occupier's consent, and to keep such portion or portions so demarcated while mining operations for precious minerals are actually in progress thereon;
- (b) empowering any holder of a mining lease, mining right or exclusive prospecting licence who has complied with the provisions of any rules made under paragraph (a), to prohibit and prevent any persons, other than those absolutely or conditionally exempted, from entering such demarcated portions as aforesaid;
- (c) prohibiting any persons, other than those absolutely or conditionally exempted, from entering any town, village or camp which is situated within the area of a mining lease, mining right or exclusive prospecting licence and the whole or the greater part of which has been built or set up by the holder of such mining lease, mining right or exclusive prospecting licence or his predecessors in title;
- (d) conferring on such persons as may be specified therein the power of searching persons, buildings and articles within such demarcated portions and such towns, villages and camps as aforesaid.

(2) Rules made under this section may apply to the whole of The Gambia, or to any particular mining lease, mining right or exclusive prospecting licence or to any particular town, village or camp.

93. (1) The Minister may, by notice in the Gazette, declare any mineral to be a restricted mineral.

Restricted minerals.

(2) No person shall prospect for or mine any restricted mineral without a special licence from the Inspector of Mines.

(3) If any restricted mineral is discovered in the course of prospecting or mining, the person prospecting or mining shall immediately notify the Inspector of Mines of such discovery.

(4) No restricted mineral shall be removed from the land on which it is discovered without the consent of the Inspector of Mines.

(5) No person shall export any restricted mineral from The Gambia unless he has obtained a licence from the Minister for such export.

s. 77 (6).

SCHEDULE

SUMMONS TO WITNESS

To *A.B.* (name of person summoned and his calling and residence, if known).

You are hereby summoned to appear before the undersigned atupon the.....day of....., 19..., at.....o'clock and to give evidence at an inquiry being held into an accident at.....on the.....day of....., 19..., and you are required to bring with you (specify the books and documents (if any) which the person summoned is to produce).

GIVEN this.....day of....., 19....

(Signed).....

*Inspector of Mines or
Commissioner*

N.B.—Disobedience to this summons may on summary conviction entail a fine not exceeding fifty pounds.