



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**MINES AND MINERALS (AMENDMENT)
ACT, No. 66 OF 2009**

[Certified on 17th November, 2009]

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*Mines and Minerals (Amendment)
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L. D.—O. 8/2007.

AN ACT TO AMEND THE MINES AND MINERALS
ACT, NO. 33 OF 1992

BE it enacted by the Parliament of the Democratic Socialist
Republic of Sri Lanka as follows:—

1. This Act may be cited as the Mines and Minerals (Amendment) Act, No. 66 of 2009. Short title.
2. Section 4 of the Mines and Minerals Act, No. 33 of 1992 (hereinafter referred to as the “principal enactment”) is hereby amended as follows:— Amendment to section 4 of Act, No. 33 of 1992.
 - (1) in subsection (1) of that section by the substitution for the words “following five members” of the words “following seven members”; and
 - (2) by the repeal of paragraph (a) of subsection (1) and the substitution therefor of the following paragraph:—
 - “(a) (i) the Secretary to the Ministry of the Minister in charge of the subject of industries or his representative;
 - (ii) the Secretary to the Ministry of the Minister in charge of the subject of environment or his representative;
 - (iii) three members who appear to the Minister to have demonstrated practical experience and possess knowledge in the fields of Geology, Mining, Business Management, Finance and Law.”.

Amendment
of section 5
of the
principal
enactment.

3. Section 5 of the principal enactment is hereby amended in subsection (2) by the substitution for the words “Board shall be three” of the words “Board shall be five”.

Amendment
of section 6
of the
principal
enactment.

4. Section 6 of the principal enactment is hereby amended as follows:—

- (1) by the repeal of subsection (1) of that section and the substitution therefor of the following subsection:—

“(1) The Minister shall appoint in consultation with the Board, a person having at least twelve years of demonstrated professional and applied experience as a geologist or a mining engineer with a postgraduate degree or Charter as the Director General of the Geological Survey and Mines Bureau.”;

- (2) in subsection (2) of that section by the substitution for all the words from “the Director of Geological Survey and Mines” to the words “principal technical officer” of the words “The Director-General of the Geological Survey and Mines (hereinafter referred to as the “Director-General”) shall be the Chief Executive Officer and principal technical officer,”; and

- (3) in subsection (3) of that section by the substitution for the words “a period of six years” of the words “a period of three years”.

Amendment
of section 8
of the
principal
enactment.

5. Sections 8 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefor of the following subsection:—

“(1) The Board may delegate to the Chairman, the Director General or an employee of the Bureau or to any other person who is an employee of the public sector, by name or by office, any or all of the powers, duties or

functions, conferred or, imposed on, or assigned to, the Bureau by this Act, other than the power conferred by this subsection.”.

6. Section 12 of the principal enactment is hereby amended as follows:—

Amendment of section 12 of the principal enactment.

- (1) in paragraph (d) of that section by the substitution for the words “minerals and the processing, trading in” of the words “minerals and the processing, transport, storing, trading in”;
- (2) by the repeal of paragraph (e) of that section and the substitution therefor of the following new paragraphs:—
 - “(e) to advise the Minister on measures to be adopted for the promotion, extraction, value addition through development of mineral based products and export of such mineral based products on a commercial basis;
 - (f) to disseminate in appropriate media, information and data acquired during the exercise of functions under the Act, in particular, under paragraphs (a), (b) and (c) of this section; and
 - (g) to undertake projects in regard to engineering geology and provide advice and remedial measures caused in respect of geological hazards and disasters.”.

7. Section 13 of the principal enactment is hereby amended in subsection (2) of that section as follows:—

Amendment of section 13 of the principal enactment.

- (1) by the repeal of paragraph (d) of that section and the substitution therefor of the following paragraph:—
 - “(d) to issue licences for—
 - (i) explorations consequent to the receipt of an application or by the advertising and calling for Expressions of Interest:

- (ii) mining;
 - (iii) transport;
 - (iv) trade-in;
 - (v) storing; and
 - (vi) export of minerals”;
- (2) in paragraph (h) of that subsection, by the substitution for the words “the Bureau” of the words “the Bureau; and”;
- (3) by the insertion immediately after paragraph (h) of the following new paragraph:—
- “(i) to serve as a member of any Technical Evaluation Committee of any Ministry, department or statutory organization as the case may be, wherein any project proposal relating to geology or minerals is being evaluated.”.

Insertion of the new section 20A of the principal enactment.

8. The following new section is hereby inserted immediately after section 20, of the principal enactment and shall have effect as section 20A of that enactment:—

“Exemption of the Bureau from payment of taxes, duties &c.,

20A. The Minister shall, with the concurrence of the Minister in charge of subject of Finance exempt the Bureau from the payment of any duty, levy and any tax on the profits and income of the Bureau to such extent as is permitted in terms of the Inland Revenue Act, No. 10 of 2006 or in terms of any other written law for the time being in force governing the imposition of any such duty, levy or tax as the case may be.”.

9. Section 27 of the principal enactment is hereby amended by the substitution for the words “and the State Gem Corporation Act, No. 13 of 1971 apply.”, of the words “and the State Gem Corporation Act, No. 13 of 1971 apply:

Amendment of section 27 of the principal enactment.

Provided however, for the purposes of paragraph (b) of section 12 of this Act, the Bureau shall receive data and reports of all surveys and investigations pertaining to the search of hydrocarbons and gems carried out within the territory of Sri Lanka.”.

10. Section 28 of the principal enactment is hereby amended as follows:—

Amendment of section 28 of the principal enactment.

- (1) in subsection (1) of that section by the substitution for the words “No person shall explore for, mine, transport, process, trade in” of the words “No person shall explore for, mine, transport, process, store, trade in”;
- (2) in subsection (3) of that section by the substitution for the words “may transfer” of the words “shall transfer”; and
- (3) in subsection (4) of that section by the substitution for the words “on or from such land”, of the words “on or from such land, if such mineral is used for the construction of a building for the personal use of such owner, occupant or holder.”.

11. Section 29 of the principal enactment is hereby amended as follows:—

Amendment of section 29 of the principal enactment.

- (1) by the substitution for the words “No licence to explore for, mine, transport, process, trade in” of the words “No licence to explore for, mine, transport, process, store, trade in”; and

- (2) by the addition immediately after sub-paragraph (iv) of paragraph (a) of the following new sub-paragraph:—

“(v) is a member of the Parliament or a member of a Provincial Council or a member of a local authority.”.

Amendment of
 section 30 of
 the principal
 enactment.

12. Section 30 of the principal enactment is hereby amended as follows:—

- (1) by the repeal of paragraph (a) of that section;
- (2) in paragraph (c) of that section by the substitution for the words “distance of a lake, stream or a tank” of the words “distance of a lake, river, stream or a tank”;
- (3) by the repeal of paragraph (h) of that section and the substitution therefor of the following new paragraphs:—

“(h) any land falling within the coastal zone within the meaning of the Coast Conservation Act, No. 57 of 1981, without the approval of the Minister and the Minister in charge of the subject of Coast Conservation;

(i) any land falling within any special area declared under section 3 of the Mahaweli Authority of Sri Lanka Act, No. 23 of 1979, without the approval of the Minister in charge of the subject of Mahaweli Development;

(j) any land falling within any reserved forest or village forest declared or constituted under the Forest Ordinance, (Chapter 451) without the approval of the Minister in charge of the subject of forests;

- (k) any land falling within an Urban Development Area declared under section 3 of the Urban Development Authority Law, No. 41 of 1978, without the approval of the Minister in charge of the subject of Urban Development;
- (l) any land falling within a national reserve or sanctuary declared under section 2 of the Fauna and Flora Protection Ordinance, (Chapter 469) without the approval of the Minister in charge of the subject of Wild Life Conservation.”.

13. Section 31 of the principal enactment is hereby amended as follows:—

Amendment of
section 31 of the
principal
enactment.

- (1) in paragraph (a) of that section by the substitution for the words “(Chapter 188); and” of the words “(Chapter 188);”;
- (2) in paragraph (b) of that section by the substitution for the words “the said Ordinance.” of the words “the said Ordinance;”; and
- (3) by the addition at the end of that section of the following paragraphs:—
 - “(c) any land situated within a Botanic Gardens within the meaning of the Botanic Gardens Ordinance (Chapter 446) or any area declared under subsection (2) of section 2 of that Ordinance;
 - (d) any National Heritage Wilderness Area declared under the National Heritage Wilderness Areas Act, No. 3 of 1988; and
 - (e) any burial ground or cemetery within the meaning of the Cemeteries and Burial Grounds Ordinance (Chapter 231).”.

Amendment of
section 33 of the
principal
enactment.

14. Section 33 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words from “No licence to explore” to the words “Beryllium, lithium coral” of the words “No licence to explore for or mine, transport, process, store, trade in or export minerals containing radioactive elements and coral”.

Amendment of
section 35 of the
principal
enactment.

15. Section 35 of the principal enactment is hereby amended as follows:—

(1) in subsection (2) of that section—

- (a) in paragraph (b) thereof, by the substitution for the words “explore for or mine, transport, process, trade in or export minerals” of the words “explore for or mine, transport, process, store, trade in or export minerals”;
- (b) in paragraph (c) thereof, by the substitution for the words “exploration, mining, transportation, processing, trading in or exporting” of the words “exploration, mining, transportation, processing, storing, trading in or exporting is authorized”;
- (c) by the repeal of the proviso to that subsection and the substitution therefor of the following proviso:—

“Provided however that an industrial mining licence or a licence to explore, for minerals may be transferred or given as security subject to such conditions as may be specified in such licence.”;

(2) in subsection (4) of that section—

- (a) in paragraph (a) thereof, by the substitution for the words “that the exploration, mining processing, trading in and” of the words “that the exploration, mining, transport, processing, storing, trading in and”;

- (b) in paragraph (e) thereof, by the substitution for the words “exceeding six months” of the words “exceeding three months”.

16. Section 37 of the principal enactment is hereby amended in paragraph (d) of subsection (1), by the substitution for the words “a period of over six months” of the words “a period of over three months”.

Amendment of section 37 of the principal enactment.

17. Section 42 of the principal enactment is hereby amended by the substitution for the words “for his personal use” of the words “for his personal use, not being a commercial purpose”.

Amendment of section 42 of the principal enactment.

18. Section 44 of the principal enactment is hereby amended by the repeal of paragraph (d) of that section, and the substitution therefor of the following paragraph:—

Amendment of section 44 of the principal enactment.

“(d) to enter into and inspect any land, mine or other premises in respect of which a licence has been issued under this Act and—

- (i) to carry out such investigations or surveys thereon; and
- (ii) to make such inspections and examinations of any plant, equipment, machinery, books of accounts, plans or other documents found thereon,

as may be necessary to ascertain whether the terms and conditions of such licence or any provision of this Act or of any regulation made thereunder, are being complied with.”.

19. Section 46 of the principal enactment is hereby amended as follows:—

Amendment of section 46 of the principal enactment.

- (1) by the repeal of the marginal note to that section and the substitution therefor of the following marginal note:—

“Powers of officers &c to

carry out
geological and
mineral
investigations.”.

Insertion of new
section 46A in
the principal
enactment.

20. The following new section is hereby inserted immediately after section 46 of the principal enactment and shall have effect as section 46A of that enactment:—

“Powers of
authorized
officers to
enter, search
and inspect
&c.

46A. The Bureau may, where it considers it necessary for the purpose of discharging the functions of the Bureau, authorize in writing any officer of the Bureau (hereinafter referred to as the “authorized officer”) to—

- (a) enter, search and inspect any site, premises, or place in which any mining, exploration for, processing, storing, trade in or export of any mineral is being carried on under the authority of a licence issued under this Act for the purpose of ascertaining the compliance of the provisions of this Act;
- (b) enter, search and inspect any site, premises or place where the authroized officer has reason to believe that any mining, exploration for processing, storing, trade in, or export of any mineral is being carried on without the authority of a licence under this Act ;
- (c) stop, enter and inspect any vehicle or vessel in which authorized officer has reason to believe that any minerals are being transported or exported as the case may be, in contravention of the provisions of this Act or regulations made thereunder.”.

21. Section 47 of the principal enactment is hereby repealed.

Replacement of section 47 of the principal enactment.

22. Section 48 of the principal enactment is hereby amended by the addition at the end of that section of the following new subsections :—

Amendment of section 48 of the principal enactment.

“(3) Where the holder of a licence to explore for minerals determines that a mineral may be developed and mined on a commercial basis in the area in respect of which such licence has been issued, he shall have the exclusive right to apply for and obtain an industrial mining licence and artisanal mining licence in respect of such area, if he has complied with the conditions attached to the licence issued to him to explore for minerals and is otherwise not disqualified under any other provision of this Act from obtaining a licence for mining minerals.

(4) The Secretary shall on a request made by the holder of a licence to explore for minerals and with the prior approval of the Minister, enter into an Investment Agreement with such holder. Every such Investment Agreement shall be in such form as shall be prescribed and shall contain such terms and conditions as may be prescribed.”.

23. Section 49 of the principal enactment is hereby amended by the substitution for the words “right to mine for all minerals in the area specified in such licence and to trade in and export such minerals” of the words “right to mine only the minerals specified in such licence and to trade in and export such minerals wherever possible after product development.”.

Amendment of section 49 of the principal enactment.

Amendment of
section 51 of the
principal
enactment.

24. Section 51 of the principal enactment is hereby amended by the substitution for all the words from “provided that” to the words “except with the consent of such owner” of the words “Provided that where the owner or state organization of any such area of land is in possession of such area of land, the holder of the licence shall not exercise the rights conferred on him by this section except with the consent of such owner or state organization”.

Amendment
of the heading
to Part III of
the principal
enactment.

25. The heading to the Part III of the principal enactment is hereby amended by the substitution for the words “health, safety and welfare of workers in mines” of the words “health, safety and welfare of workers mining for minerals”.

Amendment of
section 55 of the
principal
enactment.

26. Section 55 of the principal enactment is hereby amended as follows :—

- (1) by the renumbering of that section as subsection (1) of that section ; and
- (2) by the addition immediately after the renumbered subsection (1) of the following subsection :—

“(2) Nothing in subsection (1) shall apply to—

- (a) any female engaged in a managerial capacity ;
- (b) any female engaged in providing health or welfare services ; or
- (c) any female who, as part of any course of study, is required to be familiar with underground mining activities.”.

27. Section 57 of the principal enactment is hereby amended by the addition immediately after subsection (3) thereof of the following new subsection :—

Amendment of section 57 of the principal enactment.

“(4) The recruitment for such purposes shall be in accordance with the labour laws and regulations for the time being in force.”.

28. Section 58 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution, for the words “shall be ordered or compelled”, of the words “shall, except in the case of an accident, be ordered or compelled.”.

Amendment of section 58 of the principal enactment.

29. Section 61 of the principal enactment is hereby amended in subsection (3) of that section by the substitution for the words “subsection (1)” of the words “subsection (2)”.

Amendment of section 61 of the principal enactment.

30. Section 63 of the principal enactment is hereby amended as follows :—

Amendment of section 63 of the principal enactment.

- (1) in paragraph (a) of subsection (1) of that section by the substitution for the words “or mines, processes, transports, trades in or exports” of the words “or mines, processes, stores, transports, trades in or exports,”;
- (2) in subsection (1) of that section by the substitution for all the words from “before a Magistrate be liable to a fine not exceeding five hundred thousand rupees” to the words “for a term not exceeding one year” of the words “before a Magistrate be liable to a fine not less than fifty thousand rupees and not exceeding five hundred thousand rupees and in the case of a second or subsequent offence, to a fine not less than one hundred and fifty thousand rupees and not exceeding two million rupees or to imprisonment for a term not exceeding two years”;

- (3) by the insertion immediately after subsection (1) of that section of the following new subsections :—

“(1A) Where a Magistrate convicts any person for an offence under this Act for exploring for, or mining, minerals on any land, without a licence in that behalf issued under this Act, he may in addition to any fine or imprisonment, imposed on such person, order such person to restore or rehabilitate such land to the state it was in, prior to the commencement of such exploration or mining operation.

(1B) A Certificate under the hand of the Director-General, to the effect that the land described therein, being a land in respect of which an order has been made under subsection (1A), has been restored to the state it was in prior to the commencement thereon of the exploration or mining operation. Shall be admissible in evidence and shall be *prima facie* evidence of the facts stated therein.”.

- (4) in subsection (2) of that section by the substitution for all the words from “before a Magistrate be liable” to the words “not exceeding six months” of the words “before a Magistrate be liable to a fine not less than five thousand rupees and not exceeding seventy five thousand rupees or to imprisonment for a term not exceeding twelve months”;
- (5) in subsection (3) of that section by the substitution for the words “a fine not exceeding twenty five thousand rupees” of the words “a fine not less than ten thousand rupees and not exceeding fifty thousand rupees.”.

31. The following new sections are hereby inserted immediately after section 63 of the principal enactment and shall have effect as sections 63A, 63B, 63C and 63D of that enactment :-

Insertion of new sections 63A, 63B, 63C and 63D of the principal enactment.

“Powers of seizure.

63A. (1) A police officer who has reasonable grounds to believe that an offence has been committed under this Act may, with or without a warrant, seize any mined mineral quantity of mineral which has been mined, or any machinery, equipment or material used in or in connection with, the commission of that offence.

(2) Where any mineral, machinery, equipment or material is seized by a police officer in pursuance of the powers conferred on him by this section, he shall forthwith produce such mineral, machinery, equipment or material before, or make it available for inspection by, a Magistrate, who shall make such order as he thinks fit relating to the detention or custody of such mineral, machinery, equipment or material, pending the conclusion of a prosecution instituted in respect of such mineral, machinery, equipment or material :

Provided however, that where any mineral, machinery, equipment or material so seized is subject to speedy decay, the Magistrate may order that such mineral, machinery, equipment or material be sold and the proceeds of such sale be deposited in Court.

Forfeiture.

63B. (1) Where any person is convicted of an offence under this Act, the Magistrate may make order that any mineral, machinery, equipment or material used in, or in connection

with, the commission of that offence or the proceeds of the sale of any such mineral, or material deposited in court under the proviso to section 63A, be forfeited to the State.

(2) Any mineral, machinery, equipment or material forfeited by an order under subsection (1), shall vest absolutely in the State upon the making of such order.

(3) Such vesting shall take effect—

- (a) if no appeal is preferred after the expiration of the period within which an appeal against the order of forfeiture may be preferred to a High Court established by Article 154p of the Constitution or the Supreme Court ; or
- (b) where an appeal has been preferred against the order of forfeiture, to a High Court established by Article 154p of the Constitution or to the Supreme Court, upon the determination of such appeal, either confirming the order of forfeiture or setting aside the appeal.

(4) The Court shall cause any mineral, machinery, equipment or material which has been vested in the State under subsection (2) to be sold and the proceeds of such sale to be deposited in Court.

Offences to
be
cognizable
offences.

63c. Notwithstanding anything to the contrary in the Code of Criminal Procedure Act, No. 15 of 1979, every offence under this Act shall be deemed to be a cognizable offence within the meaning and for the purposes of that Act.

Officers of
the Bureau
to be peace
officers.

63D. Every officer of the Bureau shall be a peace officer within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979, for the purpose of exercising any of the powers conferred upon peace officers by that Act.”.

32. Section 64 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefore, of the following subsection :—

Amendment of
section 64 of the
principal
enactment.

“(1) The Minister may make regulations in respect of all matters which are required by this Act to be prescribed or in respect of which regulation are authorized to be made to give effect to the principles and provisions of this Act, and in particular in respect of all or any of the following matters :—

- (a) the health and safety of workers in and around mines ;
- (b) sanitary conditions in mines ;
- (c) medical facilities to be provided in mines ;
- (d) the management of waste, refuse and poisonous substances in mines ;
- (e) the appointment of Mine Managers ;
- (f) the appointment Committees to oversee the worker, health and safety of workers in mines ;
- (g) the reporting of accidents and deaths occurring in mines ;
- (h) the maintenance of records and accounts in relation to mining in mines ;

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- (i) the handling and use of explosives in mines ;
- (j) the regulation of the use of plants or machinery in mines ;
- (k) storing of minerals ;
- (l) demand and collection of royalties ;
- (m) the preparation and submission of mine environment and restoration plans and the manner of compliance.”.

Amendment of
section 68 of the
principal
enactment.

33. Section 68 of the principal enactment is hereby amended by the substitution for the words “The Quarries, Mines and Minerals” of the words “Mines, Quarries and Minerals”.

Amendment of
section 70 of the
principal
enactment.

34. Section 70 of the principal enactment is hereby amended by the insertion immediately after the definition of the expression “local authority” of the following definition:—

“ “mine” means an opening upon, or an excavation in, or a working of the ground, for the purpose of exploring or mining for, and processing of, minerals and includes all works, machinery, plant, buildings, and premises below or above ground used in connection with such exploration, mining or processing activities;”.

Sinhala text to
prevail in the
event of any
inconsistency.

35. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

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