GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 102 OF 1998

The Mines and Minerals Act
(Laws, Volume 13, Cap. 213)

The Mines and Minerals (Environmental Protection Fund) Regulations, 1998

IN EXERCISE of the powers contained in section *eighty-two* of the Mines and Minerals Act, the following Regulations are hereby made:

1. These Regulations may be cited as the Mines and Minerals (Environmental Protection Fund) Regulations, 1998. Title

2. In these Regulations unless the context otherwise requires— Interpretation

" Committee " means the Environmental Protection Fund Committee constituted under regulation 3;

" developer " means a person who holds a licence or permit issued under the Act to undertake a new mining related project, or undertakes to repair or extend an existing mine or mining operations;

" Director " means the Director of Mines Safety appointed under section *eighty-three*; and

" Fund " means the Environmental Protection Fund established under section *eighty-two*.

3. (1) The objectives of the Fund shall be to— Objectives and management of Fund

(a) provide assurance to the Director that the developer shall execute the environmental impact statement in accordance with the Mines and Minerals (Environmental) Regulations, 1997; and S.I. No. 29 of 1997

(b) provide protection to the Government against the risk of having the obligation to undertake the rehabilitation of a mining area where the holder of a mining licence fails to do so.

(2) The Fund shall be managed and administered by the Environmental Protection Fund Committee which shall consist of the following persons appointed by the Minister—

(a) the Permanent Secretary in the Ministry responsible for mines and minerals development who shall be the chairperson;

(b) the Director;

(c) a member representing the Environmental Council of Zambia;

(d) a member representing the Ministry responsible for finance and economic development; and

(e) seven other members representing the developers contributing to the Fund who will be appointed in consultation with a body representing the developers contributing to the Fund.

(3) The Vice-Chairperson shall be elected by the members from amongst themselves.

(4) Where any member referred to in paragraph *(b)*, *(c)* and *(d)* is unable to attend any meeting of the Committee, that member may in writing nominate another person to attend in that member's stead and such member shall be deemed to be a member for the purpose of that meeting.

(5) The Committee shall be responsible for—

(a) determining issues on the use of the Fund and making decisions on the investment matters of the Fund;

(b) approving the withdrawals of funds from the Fund; and

(c) the overall good management of the Fund.

Proceedings of Committee

4. (1) Subject to the other provisions of these Regulations the Committee shall regulate its own procedure.

(2) The quorum of the Committee shall be seven.

(3) A decision of the Committee shall be determined by a majority of the members present and voting.

(4) There shall preside at any meeting of the Committee, the Chairperson or in the absence of the Chairperson the Vice-Chairperson or in the absence of both the Chairperson and the Vice-Chairperson such member as the members present may elect for the purpose of that meeting.

(5) The Committee shall cause to be kept minutes of the proceedings of every meeting of the committee.

Appointment of Fund Manager and other staff

5. (1) The Minister shall, on the recommendation of the Committee, appoint a Fund Manager to manage the affairs of the Fund.

(2) The Committee may with the approval of the Minister appoint such other staff as the Committee may consider necessary to assist the Fund Manager.

(3) The Fund Manager appointed under sub-regulation (1) shall be responsible to the Committee but shall report to the Chairman for routine administrative purposes.

(4) The Fund Manager shall be the Secretary to the Committee and shall attend all meetings of the Committee but shall not vote on any matter.

Accounts of Fund

6. (1) The Committee shall keep proper books of account of the Fund and shall before 30th June, in each year cause a balance sheet in respect of the account to be made as at preceding 31st March.

(2) The Fund shall be audited annually by an auditor appointed by the Committee.

(3) The audit report shall be submitted annually by the Committee to the Minister for publication in the *Gazette*.

Disbursement from Fund

7. (1) There shall be paid from the Fund—

(*a*) monies required to carry out the objectives of the Fund as set out in regulation 3; and

(*b*) refunds to holders of licences, on application, when a mine site is closed, less any monies owing in accordance with the Act.

(2) The Fund shall not be used to provide personal loans or for investment in any other way other than that authorised under the Act and these Regulations.

(3) The Director shall use any part of the contribution to the Fund by the holder of a licence to effect any necessary rehabilitation work on the mine site where the holder fails to effect the rehabilitation work required under section *seventy-eight*.

(4) Where the Director uses monies from the Fund pursuant to sub-regulation (3) the Director shall recover the monies from the holder of a licence in accordance with section *seventy-eight*.

(5) The administrative expenses of operating the Fund shall not exceed 1.0 per centum of the total income of the Fund:

Provided that this sub-regulation shall not apply during the commissioning of the office of the Fund Manager.

Fund to be kept in dedicated bank account

8. (1) All monies forming part of the Fund shall, pending the investment or application therefor in accordance with these Regulations, be paid or transferred into a dedicated bank account with a registered bank.

(2) The monies of the Fund shall be held in a hard currency account.

(3) All monies of the Fund be index linked.

(4) The interest and income earned on the cash deposits of the Fund shall, subject to the approval of the Minister responsible for Finance, be tax.free.

Investment of Fund

9. Any monies in the Fund that are not immediately required for the objectives of the Fund may be invested by the Committee in any manner as may be authorised by the Minister.

DR S. K. SYAMUJAYE,
Minister of Mines and Minerals Development

LUSAKA
7th August, 1998
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