

# COMMONWEALTH OF DOMINICA

## ARRANGEMENT OF SECTIONS

### SECTION

#### PART I

##### PRELIMINARY

1. Short title.
2. Property in and control of minerals.
3. Interpretation.
4. Service of notices, etc.

#### PART II

##### ADMINISTRATION

5. Inspector of Mines and Minerals.
6. Performance of Inspector's functions, etc.
7. Prohibition against disclosure of information.
8. Indemnity.

#### PART III

##### MINERAL RIGHTS

###### *Division I - General*

9. Agreement with respect to the grant of mineral rights.
10. Applications.
11. Power of Minister to obtain information concerning applications, etc.
12. Restriction on persons to whom mineral right may be granted.
13. Form of mineral right.
14. Restriction on exercise of rights by holder of mineral right.

## SECTION

*Division 2 – Reconnaissance Licences*

15. Application for reconnaissance licence.
16. Disposal of application for reconnaissance licence.
17. Restriction on grant of reconnaissance licence.
18. Notice of decision on application for reconnaissance licence.
19. Contents of reconnaissance licence.
20. Term of reconnaissance licence.
21. Miscellaneous provisions concerning reconnaissance licences.
22. Rights of holder of reconnaissance licence.
23. Duties of holder of reconnaissance licence.

*Division 3 – Exclusive Prospecting Licences*

24. Application for exclusive prospecting licence.
25. Disposal of application for exclusive prospecting licence.
26. Restriction on grant of exclusive prospecting licence.
27. Notice of decision on application for exclusive prospecting licence.
28. Contents of exclusive prospecting licence.
29. Programme of prospecting operations.
30. Option.
31. Term of exclusive prospecting licence.
32. Miscellaneous provisions concerning exclusive prospecting licences.
33. Rights of holder of exclusive prospecting licence.
34. Duties of holder of exclusive prospecting licence.
35. Variation, etc., of obligations.

*Division 4 – Mining Licences*

36. Application for mining licence.
37. Disposal of application for mining licence.

## SECTION

38. Restriction on grant of mining licence.
39. Notice of decision on application for mining licence.
40. Contents of mining licence.
41. Term of mining licence.
42. Rights of holder of mining licence.
43. Duties of holder of mining licence.
44. Use of wasteful practices.
45. Cessation, etc., of production from mine.
46. Power of Inspector on cessation, etc.

*Division 5 – Renewal and Amendment of Mineral Rights*

47. Application for renewal of reconnaissance licence.
48. Application for renewal of exclusive prospecting licence.
49. Application for renewal of mining licence.
50. Notice of disposal of application for renewal of mineral right.
51. Licence to have effect pending disposal of application for renewal.
52. Amendment of prospecting or mining programme.

*Division 6 – Surrender, Cancellation and Suspension of Mineral Rights*

53. Surrender.
54. Effect of certificate of surrender.
55. Suspension or cancellation of mineral right.

*Division 7 – Transfers and Registration*

56. Records.
57. Interest in mineral right to be created by instrument in writing.
58. Transfer of mineral right to be approved by Minister.
59. Minister may require information.
60. Evidentiary provision.

## SECTION

61. Inspection of Register.
62. Register may be rectified.
63. Offences in relation to registration.

*Division 8 – Miscellaneous duties with  
respect to submitting reports; etc.*

64. Records and reports.

*Division 9 – Miscellaneous*

65. Application for inclusion of additional minerals in licence.
66. Enlargement of prospecting area or mining area.
67. Recovery of unexpended amounts.
68. Control of company not to be given without consent of Minister.

PART IV

NON-EXCLUSIVE PROSPECTING  
LICENCES AND CLAIMS

69. Restriction on exercise of rights by holder of non-exclusive prospecting licence or claim.
70. Non-exclusive prospecting licence.
71. Rights under non-exclusive prospecting licence.
72. Term and renewal of non-exclusive prospecting licence.
73. Pegging of claim.
74. Restriction on registration of claim.
75. Period of validity and renewal of claim.
76. Rights and duties of holder of claim.
77. Cancellation of claim.

PART V

MINING OF CONSTRUCTION MINERALS

78. Quarry permit.

## SECTION

79. Application, grant and renewal of quarry permit.  
Duration and renewal of quarry permit.
80. Public Quarry.  
Government Quarry.
81. Registered Quarry.
82. Rights, etc., of permit holder in Registered Quarry or  
Public Quarry.
83. Revocation of quarry permit.

## PART VI

## FINANCIAL

84. Royalty on minerals obtained under mining licence, etc.
85. Royalty on minerals obtained under a claim.
86. Prohibition on disposal of minerals.
87. Remission of royalty, etc.
88. Annual charges in respect of mineral rights.
89. Security for compliance.
90. Minister may require information to be furnished.
91. Recovery of royalty, etc.

## PART VII

## PROTECTION OF THE ENVIRONMENT

92. Protection of natural resources to be taken into account.
93. Conditions for the protection of the environment, etc.
94. Rehabilitation of area damaged by prospecting or mining.
95. Direction to comply with conditions of mineral right for  
protection of environment.

## PART VIII

## RESERVED MINERALS

96. Definitions.
97. Possession, etc., of reserved minerals.

## SECTION

- 98. Mineral dealer's licence.
- 99. Offences,

## PART IX

## RESTRICTIONS ON SURFACE RIGHTS

- 100. Definitions.
- 101. Restrictions on exercise of rights in relation to certain land.
- 102. Compensation for disturbance to rights, etc.
- 103. Notice of intention to commence reconnaissance or prospecting operations, etc.

## PART X

## DISPUTES

- 104. Establishment of the Board.
- 105. Constitution and duties of the Board.

## PART XI

## MISCELLANEOUS

- 106. Scientific investigation.
- 107. Powers of Inspector and authorised officers.
- 108. Removal of minerals.
- 109. Permit to export minerals.
- 110. Acquisition of land.
- 111. Production of books, etc.
- 112. Identity, of persons exercising certain rights, to be established.
- 113. Removal of property by holder of mineral right.
- 114. Removal and sale of property.
- 115. Obstruction of holder of mineral right, etc.

## SECTION

- 116. Offence committed by body corporate.
- 117. Miscellaneous offences.

PART XII  
REGULATIONS

- 118. Regulations.

PART XIII

TRANSITIONAL PROVISIONS, SAVINGS AND REPEALS

- 119. Savings.
- 120. Repeals.

## SCHEDULE I.

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**COMMONWEALTH OF DOMINICA**

ACT No. 5 of 1996

I assent



C.A. SORHAINDO  
*President.*

29th March, 1996.

AN ACT TO PROVIDE FOR VESTING IN THE GOVERNMENT OF OWNERSHIP IN MINERALS; FOR CONTROLLING, PROSPECTING, MINING, EXPORTING AND DISPOSAL OF MINERALS; FOR PAYMENT OF ROYALTY FOR MINERALS EXTRACTED; FOR SAFETY MEASURES TO BE TAKEN IN THE INTEREST OF PERSONS EMPLOYED IN PROSPECTING AND MINING OF MINERALS; FOR THE REPEAL OF THE MINING ORDINANCE AND FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

(Gazetted 11th April, 1996.)

BE IT ENACTED by the Parliament of the Commonwealth of Dominica as follows:

PART I  
PRELIMINARY

Short title.

1. This Act may be cited as the –  
MINES AND MINERALS ACT 1996.

Property in and control  
of minerals.

2. (1) Notwithstanding anything in any other Act or any grant of, or title to, land conferring rights to minerals, the entire property in and control of all minerals –

- (a) in any land in the State;
- (b) under the territorial sea in accordance with the maritime legislation in force;
- (c) on or under the sea bed beyond the territorial sea to a point where the sea is 200 metres in depth and beyond to such depths of the superjacent waters as admit of exploration of minerals; or
- (d) in suspension or in solution in any spring, stream, river, lake, lagoon or in the sea,

shall be deemed to be and always to have been vested in Dominica.

(2) Any rights to minerals explicit or implied in any grant of, or title to land made previous to this Act are hereby revoked.

(3) Provided that such rights to minerals shall not be revoked if the holder thereof satisfies the Minister within twelve months from the date of commencement of this Act, that he has or is taking adequate measures to develop such mineral rights.

(4) No grants of the right to prospect or mine shall be valid unless granted in accordance with this Act.

(5) No person shall prospect or mine except in accordance with the rights granted under this Act.

(6) Any person who contravenes subsection (5) commits an offence and is liable on conviction –

- (a) in the case of an individual, to a fine not exceeding ten thousand dollars and imprisonment for one year; or
- (b) in the case of a body corporate, to a fine not exceeding twenty thousand dollars.

3. (1) In this Act, unless the context otherwise requires – Interpretation.

“authorised officer” means a person designated under section 6(2);

“body corporate” means a company or a corporation;

“claim” means a claim registered under Part IV;

“claim area” means an area of land subject to a claim;

“company” means a corporate body incorporated under the Companies Ordinance; Cap. 318.

“conditions” includes terms, limitations and stipulations;

“conserve” means, in relation to natural resources, to improve, protect and use natural resources in accordance with principles that will ensure the highest sustainable benefit in terms of economic, social, cultural and aesthetic values;

“construction minerals” means stones, gravel, sand or clay used for constructing buildings, roads, dams, concrete structures, and similar works, the making of blocks, bricks and tiles, but does not include materials mined for the production of cement, nor ornamental stone such as marble, coloured granites and the like;

“drilling” means the perforation of the earth’s surface otherwise than by pitting, trenching or sinking a shaft, whether the hole is vertical, inclined or horizontal, and includes all operations for preventing the collapse of the sides of the hole or for preventing the hole from becoming filled with extraneous matter (including water);

“exclusive prospecting licence” means a licence granted under section 25;

“holder” means –

- (a) in relation to a mineral right, the person whose name is for the time being recorded pursuant to section 56 or 58 as being the holder of the mineral right; or
- (b) in relation to a claim, the person whose name is for the time being registered pursuant to section 74;

“in default” means in breach of any provision of this Act or of any condition of a non-exclusive prospecting licence or a claim;

“industrial minerals” means basalt, clay, dolomite, granite, gypsum, laterite, limestone, marble, sand, sandstone or salt, used for agricultural, building, road making or industrial purposes in Dominica, and includes such other minerals as may be prescribed;

“Inspector” means the Inspector of Mines and Minerals appointed pursuant to section 5;

“land” includes land beneath water;

“mine”, when used as a noun, means any place, excavation or working in or on which any operation connected with mining is carried on, together with all buildings, premises, erections and appliances belonging or appertaining thereto, above or below the ground, for the purpose of winning, treating or preparing minerals, obtaining or extracting any mineral or metal by any mode or method or for the purpose of dressing mineral ores;

“mine” when used as a verb, means to win minerals and includes any operations directly or indirectly necessary for or incidental to mining operations;

“mineral” means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth, formed by, or subject to a geological process, but does not include –

- (a) water, not being water taken from a borehole, well, excavation or natural saltpan for the extraction therefrom of a substance in solution therein and of commercial value;

(b) soil, not being taken from the earth for the extraction therefrom of a substance of commercial value contained therein or for the manufacture therefrom of a product of commercial value; or

(c) petroleum;

“mineral right” means a reconnaissance licence, an exclusive prospecting licence or a mining licence;

“mining area” means an area in respect of which a mining licence has been granted;

“mining licence” means a licence granted under section 37;

“mining operation” means operations carried out in the course of mining;

“Minister” means the Minister for the time being responsible for Mining and Natural Resources;

“monument” means any structure or building erected by man or any natural feature transformed or worked by man, or the remains or any part thereof, whether upon land or in any river, stream or water-course or under the territorial waters of the country, that has been in existence for one hundred years or more;

“non-exclusive prospecting licence” means a licence issued under section 70;

“occupier”, in relation to land means the holder of a lease, or location ticket or permit to occupy;

“owner”, in relation to land includes a lessee;

“prospect” means intentionally to search for minerals and includes the determination of their extent and economic value;

“prospepecting area” means the area of land subject to an exclusive prospecting licence;

“prospepecting operations” means operations carried out in the course of prospepecting;

Ch. 53:01.

“public land” has the meaning assigned to it in the State Lands Act;

“quarry” means any place (not being a mine) where quarry material or quarry mineral has been removed or is being removed, whether by excavation or otherwise to supply material for construction, commercial, industrial or manufacturing purposes;

“quarry material” means rock, stone, sand (including sea sand, marl, gravel, clay, fill and limestone) where such material does not contain any minerals in economically workable quantities;

“quarry mineral” means gypsum and any other substance that the Minister, by Notice published in the *Gazette*, declare to be a quarry mineral;

“radioactive mineral” means a mineral which contains by weight at least one-twentieth of one per centum (0.05 per centum) of uranium or thorium or any combination thereof, and includes –

- (a) monozite sand and other ore containing thorium; and
- (b) carnotite, pitchblend and other ore containing uranium;

“reconnaissance area” means an area of land subject to a reconnaissance licence;

“reconnaissance licence” means a licence granted under section 16;

“reconnaissance operations” means the search for minerals by geophysical surveys, geochemical surveys and photo-geological surveys or other remote sensing techniques and surface geology in connection therewith;

“Register” means the Register referred to in section 56 and elsewhere in this Act;

“reserved minerals” means all minerals obtainable from identified resources which can be extracted economically with available technology;

“surface rights” include the right of the owner or lawful occupier over the crops, trees, grass, other bushes or plants and structures of any kind whatever standing on the land but does not include the right to dig the land for any mineral (excluding water);

“salt” means –

- (a) sodium chloride or sodium carbonate, occurring naturally whether individually or as a mixture;
- (b) any naturally occurring salt or mixture of salts, soluble in water which may be prescribed;

“working for profit” means producing a mineral for use or sale.

(2) In this Act a reference to minerals in any land includes a reference to minerals on or under the land.

(3) In this Act –

- (a) a reference to the conditions of a mineral right is a reference to the conditions on which the mineral right is granted, as from time to time varied; and
- (b) a reference to the conditions of claim is a reference to the conditions on which the claim is, for the time being, registered.

(4) In this Act a reference to a programme of reconnaissance operations, prospecting operations, or mining operations, in relation to the holder of a mineral right, is a reference to operations of that kind which the holder is, from time to time, required to carry on.

4. (1) A document or notice required or permitted to be served on, or given to, a person under or for the purposes of this Act, may be served or given –

- (a) in the case of an individual (other than the Minister or the Inspector) by serving it personally upon the individual or by sending it by post to him at his usual or last known place of abode or business or at the address kept pursuant to section 64;

Service of notices, etc.

(b) in the case of the Minister or the Inspector, in the manner prescribed;

(c) in the case of a body corporate –

- (i) by leaving it at the registered or principal office of the body corporate with an employee of the body corporate;
- (ii) by sending it by post to the body corporate at the registered or principal office of the body corporate; or
- (iii) by delivering it to some individual in the employment or acting on behalf of the body corporate, or who agrees to accept service of or to receive the notice or any document.

(2) For the purpose of subsection (1)(c), the principal office of a body corporate incorporated outside Dominica is its principal office within Dominica or the address kept pursuant to section 64.

(3) Where a person has more than one place of abode or business a document or notice may be served on or given to, the person under this section at any of those places.

(4) Where a document or notice is sent by post pursuant to this section, service or notice is deemed to have been effected or given under this section, unless the contrary is proved, at the time at which the document or notice would be delivered in the ordinary course of post.

## PART II

### ADMINISTRATION

Inspector of Mines and Minerals.

5. The Minister may designate a technically qualified person to be the Inspector of Mines and Minerals for the administration of this Act.

Performance of Inspector's functions, etc.

6. (1) Anything required or permitted by or under this Act to be done by the Inspector may be done by any person who is authorised, either specially or generally, in that behalf in writing by

the Inspector and for the purposes of this Act that officer shall be deemed to be the Inspector.

(2) The Inspector may designate any technically qualified public officer to be an authorised officer for the purposes of this Act or any provision of this Act.

7. (1) Subject to subsection (2), no information furnished, or information in a report submitted, pursuant to section 64 by the holder of a mineral right, shall, for as long as the mineral right has effect, be disclosed, except with the consent of the holder of the mineral right.

Prohibition against disclosure of information.

(2) Nothing in subsection (1) shall be construed to prevent the disclosure of information where the disclosure is made –

- (a) for or in connection with the administration of this Act;
- (b) for the purpose of any legal proceedings;
- (c) for the purpose of any investigation or inquiry conducted under this Act;
- (d) to any consultant to the Government, or to any public officer, who is approved by the Inspector as a proper person to receive the information.

(3) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of two thousand dollars and to imprisonment for one year.

8. A person shall not incur any liability in respect of the exercise or performance, or purported exercise or performance, by him in good faith, of any function under and for the purposes of this Act.

Indemnity.

### PART III MINERAL RIGHTS

#### *Division 1 – General*

9. The Minister may, on behalf of the Government, enter into an agreement with any person with respect to all or any of the following matters:

Agreement with respect to the grant of mineral rights.

- (a) the grant to that person, or to any person (including any body corporate to be formed) identified in the agreement, of a mineral right on the conditions (if any) specified in the agreement;
- (b) conditions or the conditions to be included in the mineral right as granted or renewed; or
- (c) any matter incidental to or connected with the foregoing.

## Applications.

**10. (1) An application under this Part –**

- (a) shall be made to the Minister, or, if so prescribed, to the Inspector;
- (b) shall be in or to the effect of a form approved by the Minister;
- (c) shall be accompanied by the prescribed fee; and
- (d) may be withdrawn by the applicant giving to the Minister or, in the case of an application made to the Inspector, to the Inspector a notice of withdrawal.

(2) Any application under this Part required to be made to the Minister shall be made to him through the Inspector.

(3) The Minister shall, by notice served on an applicant for the grant or renewal of a mineral right, or for the enlargement of a prospecting area or a mining area under section 66, direct the applicant to publish details of his application for mineral rights in at least three issues of a newspaper circulating in Dominica at intervals of not less than one week between such issues and in at least three issues of the *Gazette*.

Power of Minister to obtain information concerning applications, etc.

**11. (1) The Minister may, by notice served on an applicant for the grant of a mineral right, require the applicant to furnish him, within such reasonable time as is specified in the notice –**

- (a) with such further information relevant to the application as may be described in the notice; and
- (b) if the applicant or any of the applicants, is a body corporate, with such information as may be specified in the notice to enable the Minister to ascertain to what extent the controlling power in the direction of the affairs of the body corporate is vested in that body corporate incorporated outside Dominica or an individual or individuals resident outside Dominica.

(2) To enable him to dispose of an application for the grant of a mineral right, the Minister –

- (a) may cause such investigations, negotiations or consultations to be carried on as he considers necessary; and
- (b) may, by notice served on the applicant for the grant of the mineral right, require the applicant to furnish him, within such reasonable time as is specified in the notice, with such proposals, by way of alteration to or in addition to any proposals in the application, as the Minister specifies in the notice.

**12. No mineral right –**

- (a) shall be granted to an individual unless he is a citizen of Dominica;
- (b) being a reconnaissance licence or an exclusive prospecting licence, shall be granted to a body corporate, unless the body corporate is a company or corporation incorporated in Dominica; or
- (c) being a mining licence, shall be granted to a body corporate unless the body corporate is a company or corporation incorporated in Dominica.

Restriction on persons to whom mineral right may be granted.

**13. A mineral right shall be granted in such form as the Minister may prescribe by Regulations under this Act.**

Form of mineral right.

Restriction on exercise of rights by holder of mineral right.

14. Where the doing of any act is regulated or prohibited by a written law (other than this Act) nothing in this Act shall be construed as authorising the holder of a mineral right to do the said act –

- (a) otherwise than in accordance with the written law; and
- (b) without first obtaining the licence, permit, authority, or other instrument (if any), required under the written law for the doing of the act.

*Division 2 – Reconnaissance Licences*

Application for reconnaissance licence.

15. An application for the grant of a reconnaissance licence –

- (a) shall give in respect of the person or, if there is more than one person, of each person making the application –
  - (i) in the case of an individual, his full name and nationality; or
  - (ii) in the case of a body corporate, its name and place of incorporation, the names and nationality of the directors or equivalent officers and, if the body corporate has a share capital, the name of any person who is the beneficial owner of more than five per centum of the issued share capital;
- (b) shall be accompanied by a plan of the area over which the licence is sought, drawn in such manner and with such particulars as the Minister may require;
- (c) shall identify the minerals in respect of which the licence is sought;
- (d) shall be accompanied by a statement giving particulars of the financial and technical resources available to the applicant for the licence;
- (e) shall give or be accompanied by a statement giving particulars of the programme of reconnaissance operations proposed to be carried out in the area of land

over which the licence is sought, an estimate of the cost of carrying out the programme and of the period required for completion of the programme and an estimate of any significant effect which the carrying out of the programme would likely have on the environment or on any monument or relic in the area over which the licence is sought; and

- (f) may set out any other matter which the applicant wishes the Minister to consider.

16. (1) Subject to this Act, on application duly made, the Minister may grant on such conditions as he may determine, or refuse to grant, a reconnaissance licence over any area of land.

Disposal of application for reconnaissance licence.

(2) The total area of land over which a reconnaissance licence is granted to any person shall not exceed 50 square kilometres and shall be of such shape and orientation that so far as possible, it shall be rectangular with the width not being less than one-quarter of the length.

(3) Notwithstanding subsection (2) the Minister may authorise the shape to be other than rectangular when satisfied that local circumstances make this desirable, and may authorise the use of a permanent natural boundary instead of a straight line, provided the boundary is clearly discernible on the ground, such as the centre line of a river, stream, road or track.

17. (1) No reconnaissance licence shall be granted over an area of land in, or which constitutes –

Restriction on grant of reconnaissance licence.

- (a) a prospecting area if a person, other than the person to whom the reconnaissance licence is to be granted, is the holder of an exclusive prospecting licence over the area in respect of a mineral to which the reconnaissance licence would relate;
- (b) a mining area; or
- (c) a claim area.

(2) Where an area of land is subject to a reconnaissance licence which, pursuant to section 19(4), gives to the holder of the licence an exclusive right to carry on reconnaissance operations in that area, no other reconnaissance licence shall be granted over land in, or which constitutes, that area in respect of any mineral to which that exclusive right relates.

(3) Where it is necessary to fly over any land for the purpose of the exercise of any right under section 22, nothing in this section may be construed to prevent any such flight from being undertaken.

Notice of decision on application for reconnaissance licence.

**18.** (1) The Minister shall give notice to an applicant for the grant of a reconnaissance licence of his decision on the application and, if he is prepared to grant the licence, he shall give in the notice details of the proposed licence.

(2) If an applicant, within sixty days after he is given notice pursuant to subsection (1) that the Minister is prepared to grant a reconnaissance licence, fails to give notice to the Minister of his willingness to accept the proposed licence, his application shall lapse.

Contents of reconnaissance licence.

**19.** (1) A reconnaissance licence shall –

- (a) state the date of the grant of the licence and the period for which it is granted;
- (b) include a description and a plan of the area of land over which it is granted;
- (c) state the conditions on which it is granted; and
- (d) identify any mineral to which the licence relates.

(2) Subject to any relevant agreement of a kind referred to in section 9, there may be included in, or in a statement appended to, a reconnaissance licence either or both of the following conditions:

- (a) a condition that in, or in relation to, the reconnaissance area, the holder of the licence shall during a specified period, carry out the programme of re-

reconnaissance operations and expend the amounts specified in the licence; or

- (b) a condition requiring the holder of the licence, in respect of any period and in the manner specified, to submit to the Minister acceptable proposals for the carrying out of a programme of reconnaissance operations and the expenditure of amounts in, or in relation to, the reconnaissance area during that period.

(3) Where the Minister is satisfied that an initial period is required to make the necessary preparations to carry on reconnaissance operations, he may specify in a reconnaissance licence a period (not exceeding three months) as the preparation period.

(4) A reconnaissance licence shall, in respect of any mineral to which the licence relates, confer on the holder of the licence the exclusive right to carry on reconnaissance operations in the reconnaissance area.

20. (1) The term of a reconnaissance licence is the period for which the licence is granted, not exceeding twelve months, stated in the licence and any preparation period specified in the licence pursuant to section 19(3).

Term of reconnaissance licence.

(2) The term of a reconnaissance licence commences on and includes the date on which the licence is granted.

21. (1) Where the holder of a reconnaissance licence applies for the grant of an exclusive prospecting licence over an area of land in the reconnaissance area and the application has not been finally dealt with before the date on which the reconnaissance licence would, but for this subsection cease to have effect, the reconnaissance licence continues to have effect over the area of land until –

Miscellaneous provisions concerning reconnaissance licences.

- (a) notice is given to the applicant pursuant to this Act of the refusal to grant the exclusive prospecting licence; or

(b) as the case may be, the date of the grant of the exclusive prospecting licence, as stated in the exclusive prospecting licence.

(2) Where an exclusive prospecting licence is granted to the holder of a reconnaissance licence, the land subject to that exclusive prospecting licence ceases to be subject to that reconnaissance licence, but no other reconnaissance licence is affected by the grant of that exclusive prospecting licence.

(3) Where an area of land becomes a mining area, it ceases to be subject to any reconnaissance licence to which it was subject immediately before becoming a mining area.

(4) Subsection (1) shall not have effect –

(a) to prevent the cancellation under this Act of a reconnaissance licence; or

(b) if an application for the grant of an exclusive prospecting licence is withdrawn.

Rights of holder of reconnaissance licence.

22. (1) Subject to this Act and the conditions of the licence, a reconnaissance licence, while it has effect, confers on the holder of the licence the right to carry on reconnaissance operations in or over the reconnaissance area, and for the purpose of the exercise of that right, the holder may, subject to this Act and the conditions of the licence, either himself, or through employees or agents, enter the reconnaissance area, and erect camps and temporary buildings, or erect installations in any waters forming part of the reconnaissance area.

(2) The holder of a reconnaissance licence shall not engage in drilling, excavation or other subsurface techniques, except where and to the extent he is authorised by his licence to use any of those techniques.

Duties of holder of reconnaissance licence.

23. (1) The holder of a reconnaissance licence shall –

(a) subject to subsection (2), carry on reconnaissance operations in accordance with his programme of reconnaissance operations;

- (b) subject to subsection (2) expend in, or in relation to, the reconnaissance area an amount not less than the amount required by the licence or otherwise to be so expended; and
- (c) carry on reconnaissance operations in accordance with the requirements of this Act.

(2) The Minister may, on an application made to him by the holder of a reconnaissance licence, limit, reduce, vary or suspend any obligation arising pursuant to subsection (1)(a) or (b) either conditionally or unconditionally.

### *Division 3 – Exclusive Prospecting Licences*

**24.** An application for the grant of an exclusive prospecting licence –

Application for  
exclusive prospecting  
licence.

- (a) shall give information of the kind referred to in section 15(a), and shall give or be accompanied by a statement giving particulars of the kind referred to in section 15(d);
- (b) shall identify the minerals in respect of which the licence is sought;
- (c) shall be accompanied by a plan of the kind referred to in section 15(b);
- (d) shall state the period for which the licence is sought;
- (e) shall give or be accompanied by a statement giving particulars of the programme of prospecting operations proposed to be carried out in the area of land over which the licence is sought and an estimate of the cost of carrying out the programme, and an estimate of any significant effect which the carrying out of the programme would likely have on the environment and on any monument or relic in the area over which the licence is sought;
- (f) shall give or be accompanied by a statement giving particulars of the applicant's proposals with respect to the employment and training of citizens of Dominica;

- (g) shall be accompanied by a statement giving particulars of expected infrastructure requirements; and
- (h) may set out any other matter which the applicant wishes the Minister to consider.

Disposal of application for exclusive prospecting licence.

**25.** (1) Subject to this Act and to any relevant agreement of a kind referred to in section 9, on application duly made, the Minister may grant on such conditions as he may determine, or refuse to grant, an exclusive prospecting licence over any area of land.

(2) The total area of land over which an exclusive prospecting licence is granted to any person shall not exceed 25 square kilometres and shall be of such shape and orientation that so far as possible, it shall be rectangular with the width not being less than one-quarter of the length.

(3) Notwithstanding subsection (2) the Minister may authorise the shape to be other than rectangular when satisfied that local circumstances make this desirable, and may authorise the use of a permanent natural boundary instead of a straight line, provided the boundary is clearly discernible on the ground, such as the centre line of a river, stream, road or track.

Restriction on grant of exclusive prospecting licence.

**26.** (1) No exclusive prospecting licence shall be granted over an area of land in, or which constitutes –

- (a) a mining area; or
- (b) a claim area.

(2) Where an area of land is subject to an exclusive prospecting licence, no other exclusive prospecting licence shall be granted over land in, or which constitutes, that area in respect of any mineral to which the subsisting exclusive prospecting licence relates.

(3) Where an area of land is subject to a reconnaissance licence which gives, pursuant to section 19(4), to the holder of the licence an exclusive right to carry on reconnaissance operations in respect of the land, an exclusive prospecting licence shall not be granted in respect of any mineral to which that exclusive right

relates, over land in, or which constitutes, that area, to a person other than the holder of the reconnaissance licence.

(4) No exclusive prospecting licence shall be granted to an applicant unless the –

- (a) applicant has adequate financial resources, technical competence and experience to carry on effective prospecting operations;
- (b) programme of proposed prospecting operations is adequate;
- (c) applicant's proposals for the employment and training of citizens of Dominica are adequate; and
- (d) applicant has paid the fees and complied with all other conditions for the grant of a licence.

27. The provisions of section 18 shall apply in relation to an application for the grant of an exclusive prospecting licence as they apply in relation to an application for the grant of a reconnaissance licence.

Notice of decision on application for exclusive prospecting licence.

28. (1) An exclusive prospecting licence shall –

- (a) state the date of the grant of the licence and the period for which it is granted;
- (b) identify the mineral in respect of which it is granted;
- (c) include a description and a plan of the area of land over which it is granted; and
- (d) state the conditions on which it is granted.

Contents of exclusive prospecting licence.

(2) Where the Minister is satisfied that an initial period is required to make the necessary preparation to carry on prospecting operations he may, in an exclusive prospecting licence, specify a period (not exceeding three months) as the preparation period.

(3) There shall be appended to an exclusive prospecting licence a programme for the employment and training of citizens of Dominica.

Programme of prospecting operations.

**29.** (1) In addition to conditions included in an exclusive prospecting licence under section 28(1), or on any extension of the licence under section 48 –

- (a) the licence is subject to the condition that not later than one month before the anniversary in any year of the grant of the licence, the holder of the licence shall submit to the Minister in detail an adequate programme with respect to work and expenditure to be carried out or made in the year of the licence immediately following; and
- (b) the programme so submitted is deemed to constitute a requirement of the licence with respect to prospecting operations and expenditure.

(2) The requirement in subsection (1)(a) that the programme submitted shall be adequate is deemed to have been met where the programme submitted satisfies the requirements (if any) with respect to work and expenditure contained in a relevant agreement of a kind referred to in section 9.

Option.

**30.** There may be included in an exclusive prospecting licence a provision with respect to the exercise, by Government or a person identified in the licence, of an option to acquire on stipulated terms, or on terms to be agreed, an interest in any mining venture which may be carried on in relation to land in, or which constitutes, the prospecting area.

Term of exclusive prospecting licence.

**31.** (1) The term of an exclusive prospecting licence shall be the period for which the licence is granted, not exceeding three years as may be stated in the licence, and any preparation period specified in the licence pursuant to section 28(2).

(2) The term of an exclusive licence commences on and includes the date of the grant of the licence as stated in the licence.

Miscellaneous provisions concerning exclusive prospecting licences.

**32.** (1) Subject to this section, where the holder of an exclusive prospecting licence applies for the grant of a mining licence over any area of land in, or which constitutes, the prospecting area, and

the application has not been finally dealt with before the date on which the exclusive prospecting licence would, but for this subsection, cease to have effect, the exclusive prospecting licence continues to have effect over that area of land until –

- (a) notice is given to the applicant pursuant to this Act of the refusal to grant the mining licence; or
- (b) the date of the grant of the mining licence, as stated in the mining licence.

(2) Where a mining licence is granted over any area of land wholly or partly in one, or more than one, prospecting area –

- (a) the exclusive prospecting licence held by the person to whom the mining licence is granted ceases to have effect in the mining area; and
- (b) the exclusive prospecting licence held by any other person –
  - (i) ceases to have effect if the prospecting area covered by the licence is within, or is constituted by the same area of land as, the mining area; or
  - (ii) as the case may be, continues to have effect only in relation to land outside the mining area.

(3) Subsection (1) shall not have effect –

- (a) to prevent the cancellation under this Act of an exclusive prospecting licence; or
- (b) if an application for the grant of a mining licence is withdrawn.

(4) An exclusive prospecting licence may continue to have effect pursuant to this section notwithstanding that the prospecting area has ceased to be in the shape or ceased to have dimensions prescribed in respect of prospecting areas or, as the case may be, ceased to be approved in respect of that area.

**33.** Subject to this Act and the conditions of the licence, an exclusive prospecting licence, while it has effect, confers on the holder of the licence the exclusive right to carry on prospecting

Rights of holder of  
exclusive prospecting  
licence.

operations in the prospecting area for the mineral to which the licence relates, and for the purpose of the exercise of that right the holder may, subject to this Act and the conditions of the licence either himself, or through his employees or agents, enter the prospecting area and erect camps and temporary buildings or erect installations in any waters forming part of the prospecting area.

Duties of holder of exclusive prospecting licence.

**34.** The holder of an exclusive prospecting licence shall –

- (a) commence prospecting operations within three months of the date of the grant of the licence, as stated in the licence;
- (b) subject to sections 35 and 52, carry on prospecting operations in accordance with his programme of prospecting operations;
- (c) give to the Minister notice of the discovery of –
  - (i) any mineral of possible commercial value to which his licence relates; and
  - (ii) any mineral deposit of possible commercial value within thirty days of the discovery;
- (d) subject to section 35, expend in, or in relation to, the prospecting area an amount not less than the amount required by the licence or otherwise to be so expended;
- (e) subject to section 35, employ and train citizens of Dominica in accordance with the proposals in that connection, particulars of which have been given in or appended to the licence; and
- (f) carry on prospecting operations in accordance with the requirements of this Act.

Variation, etc., of obligations.

**35.** (1) The Minister may, on application made to him by the holder of an exclusive prospecting licence, limit, reduce, vary or suspend any obligation arising pursuant to section 34(b), (d) or (e) either conditionally or unconditionally.

(2) Before limiting, reducing, varying or suspending any obligation under section 34(b), (d) or (e), the Minister shall obtain the prior approval of Cabinet.

(3) To enable him to dispose of an application under subsection (1) the Minister may, by notice served on the applicant, require the applicant to furnish him, within the time specified in the notice, with information relevant to the application as described in the notice.

*Division 4 – Mining Licences*

**36.** (1) An application for the grant of a mining licence may be made by the holder of an exclusive prospecting licence or by a person who is not such a holder. Application for mining licence.

(2) Where an application for the grant of a mining licence is made by the holder of an exclusive prospecting licence, the application shall be made –

- (a) only in respect of land subject to the exclusive prospecting licence;
- (b) only if the holder has given notice to the Minister of the discovery in commercial quantities of any mineral to which his licence relates; and
- (c) not later than two months, or such further periods as the Minister may allow, after that notice was given to the Minister.

(3) An application for the grant of a mining licence –

- (a) shall give information of the kind referred to in section 15(a);
- (b) shall identify the minerals which it is proposed to mine;
- (c) shall state the number of the exclusive prospecting licence (if any) held by the applicant and shall give details of any exclusive prospecting licence held

by the applicant, or by any person controlling, controlled by or under joint or common control with, the applicant, during the preceding four years;

- (d) shall be accompanied by a plan of the area over which the licence is sought, drawn in the manner as the Minister may require and showing –
  - (i) the name of each owner or lawful occupier of a holding in, or partly in, that area and in the case of more than one such holding, the boundaries within that area of each holding; and
  - (ii) such other particulars as the Minister may require;
- (e) shall state the period for which the licence is sought;
- (f) shall give or be accompanied by a statement giving details of the mineral deposits in the area of land over which the licence is sought, including details of all known minerals proved, estimated or inferred, ore reserves and mining conditions;
- (g) shall be accompanied by a technical report on mining and treatment possibilities and the intention of the applicant in relation thereto;
- (h) shall give or be accompanied by a statement giving particulars of the programme of proposed mining operations, including a statement of –
  - (i) the estimated date by which the applicant intends to work for profit;
  - (ii) the estimated capacity of production and scale of operations;
  - (iii) the estimated overall recovery of ore and mineral products;
  - (iv) the nature of the products;

- (v) proposals for the prevention of pollution, the treatment of wastes, the safeguarding of natural resources, the progressive reclamation and rehabilitation of land disturbed by mining and for the minimisation of the effects of mining on surface water and ground water and on adjoining or neighbouring lands;
- (vi) the residual effects on the environment of the mining operations and proposals for their minimisation;
- (vii) any particular risks (whether to health or otherwise) involved in mining the mineral, and proposals for their control or elimination; and
- (viii) any significant effect which the carrying out of the programme is likely to have on the environment and on any monument or relic in the area over which the licence is sought and proposals for eliminating or controlling that effect;
  - (i) shall give or be accompanied by a statement giving a detailed forecast of capital investment, operating costs and revenues and the anticipated type and source of financing;
  - (j) shall be accompanied by a report on the goods and services required for the mining operation which can be obtained within Dominica and the applicant's proposals with respect to the procurement of those goods and services;
  - (k) shall give or be accompanied by a statement giving particulars of the applicant's proposals with respect to the employment and training of citizens of Dominica;
  - (l) shall be accompanied by a statement giving particulars of expected infrastructure requirements; and

(m) may set out any other matter which the applicant wishes the Minister to consider.

(4) Where an application for the grant of a mining licence is made by a person who is not the holder of an exclusive prospecting licence the application shall in addition to the matter referred to in subsection (3), give or be accompanied by a statement giving particulars of the financial and technical resources available to the applicant for the licence.

Disposal of application  
for mining licence.

37. (1) Subject to this section, section 38 and to any relevant agreement of a kind referred to in section 9, on application duly made by the holder of an exclusive prospecting licence the Minister may grant, on such conditions as he may determine, the mining licence applied for.

(2) The area of land over which a mining licence is granted shall not exceed 10 square kilometres, provided that the applicant for such a licence shall be entitled to delineate and hold more than one mining licence for the area which is the subject of the exclusive prospecting licence.

(3) Subject to this section and section 38, on application duly made by a person who is not the holder of an exclusive prospecting licence, the Minister may grant, on such conditions as he may determine, or refuse to grant the mining licence applied for.

(4) To enable him to dispose of an application for the grant of a mining licence, the Minister may, by notice given to the applicant, require the applicant, at his own expense, to commission an independent study by consultants acceptable to the Minister for the purpose of –

- (a) assessing the feasibility of the programme of mining operations proposed in the application; or
- (b) assessing or making recommendations about such other matters arising out of, or connected with, the application, as the Minister may specify in the notice.

38. (1) A mining licence shall not be granted over an area of land in, or which constitutes –

Restriction on grant of mining licence.

- (a) a mining area; or
- (b) a claim area.

(2) Where an area of land in respect of which a reconnaissance licence has been granted, which gives to the holder of the licence an exclusive right to carry on reconnaissance operations in that area in respect of any mineral, a mining licence shall not be granted over land in, or which constitutes, the reconnaissance area, in respect of any such mineral to any person other than the holder of the reconnaissance licence.

(3) No mining licence over land in, or which constitutes, a prospecting area shall be granted to a person who is not the holder of a prospecting licence over that land.

(4) Subject to any relevant agreement of a kind referred to in section 9, no mining licence shall be granted to an applicant unless –

- (a) the programme of proposed mining operations –
  - (i) takes proper account of environmental and safety factors; and
  - (ii) will ensure the most efficient and beneficial use of the mineral resources concerned;
- (b) the area of land over which the licence is sought is not in excess of the area reasonably required to carry out that programme;
- (c) the applicant has adequate financial resources, technical competence and experience to carry on effective mining operations;
- (d) the applicant's proposals for the employment and training of citizens of Dominica are adequate;
- (e) the applicant's proposals with respect to the procurement of goods and services obtainable within Dominica are satisfactory;

- (f) any relevant option given pursuant to section 30 has been exercised and given effect to or satisfactory arrangements have been made for that purpose; and
- (g) the applicant has paid the prescribed fees and complies with all other conditions for grant of a licence.

(5) Where an application for the grant of a mining licence is duly made by the holder of an exclusive prospecting licence, the Minister shall not refuse an application for the grant of a mining licence on a ground other than the ground referred to in subsection (3) unless he has –

- (a) given notice to the applicant of his intention to refuse to grant the licence on that ground (giving particulars); and
- (b) specified in the notice a date before which the applicant may make appropriate proposals to remove the ground for refusal or, as the case may be, remedy the default, or make representation in relation thereto, and the applicant has not done so, before that date.

Notice of decision on application for mining licence.

**39.** The provisions of section 18 apply in relation to an application for the grant of a mining licence as they apply in relation to an application for the grant of a reconnaissance licence.

Contents of mining licence.

**40.** (1) A mining licence shall –

- (a) state the date of the grant of the licence and the period for which it is granted;
- (b) identify the mineral in respect of which it is granted.

(2) There shall be appended to a mining licence particulars of a holder's proposals for the employment and training of citizens of Dominica and those particulars shall form part of the licence.

(3) Subject to any relevant agreement of a kind referred to in section 9, there may be included in, or in a statement appended to, a mining licence either or both of the following conditions, namely:

- (a) a condition that in, or in relation to, the mining area, the holder of the licence shall during a specified period, carry out the programme of mining operations and expend the amounts specified in the licence; or
- (b) a condition requiring the holder of the licence, in respect of any period and in the manner specified, to submit to the Minister acceptable proposals for the carrying out of a programme of mining operations and the expenditure of amounts in, or in relation to, the mining area during that period.

(4) There may be included in a mining licence conditions with respect to the processing, disposal or sale of the minerals to be mined.

41. (1) A mining licence may be for a period not exceeding twenty years or the estimated life of the ore body which it is proposed to be mined, whichever is earlier as may be stated in the licence.

Term of mining licence.

(2) The term of a mining licence commences on and includes the date of the grant of the licence.

42. (1) A mining licence, while it has effect, confers on the holder of the licence the exclusive right to carry on prospecting and mining operations in the mining area and for the purpose of the exercise of that right the holder may, subject to this Act and the conditions of the licence –

Rights of holder of mining licence.

- (a) use employees and agents to work on his behalf;
- (b) take all reasonable measures in that area, including the use of necessary equipment and the erection of necessary installations, plant and buildings

for mining, and transporting, dressing, treating, smelting or refining any mineral discovered; and

- (c) dispose of any mineral product recovered, and stack or dump any mineral or waste products in a manner approved by the Minister.

(2) The holder of a mining licence –

- (a) shall not intentionally carry on prospecting or mining operations for a mineral unless it is a mineral to which the licence relates; and
- (b) shall not mine any mineral deposit, particulars of which have not been given pursuant to section 36(3)(f) in his application, or in a statement accompanying his application, for the grant of the licence, without the approval of the Minister given under subsection (3).

(3) Where in the exercise of his rights the holder of a mining licence discovers any mineral deposit particulars of which were not given pursuant to section 36(3)(f) in his application, or in a statement accompanying his application, for the grant of the licence, the holder –

- (a) shall within the period of thirty days after the discovery, give notice and particulars of the mineral deposit and the circumstances in which the discovery was made; and
- (b) may, in the notice, request the Minister to give his approval to the mining of the mineral deposit in accordance with a programme of mining operations stated in the notice.

(4) Subject to subsection (5), on a request made pursuant to subsection (3)(b), the Minister shall –

- (a) if the mineral deposit consists, or consists primarily, of minerals to which the mining licence relates, and the programme of mining operations stated in the notice containing the request is satisfactory, give his approval to the request; or

(b) in any other case, give preferential treatment to the request.

(5) The Minister may, pursuant to subsection (4), by notice served on the holder of the licence, give his approval –

(a) to the request as made; or

(b) to the request as amended with the agreement of that holder, unconditionally or subject to such conditions as are agreed to by the holder.

(6) The instrument in which the Minister gives an approval under subsection (5) is deemed to form part of the mining licence concerned.

(7) Before giving his approval to any request under this section the Minister may, by notice served on the holder of the licence, require the holder to comply with any of the requirements of section 36(3) as if the request were an application for the grant of a mining licence in respect of the minerals to which the request relates.

43. (1) The holder of a mining licence shall –

Duties of holder of  
mining licence.

(a) subject to subsection (2) and section 52, carry on mining and development operations and commence production in accordance with his programme of operations;

(b) subject to subsection (2), employ and train citizens of Dominica in accordance with the proposals in that connection appended to the licence;

(c) subject to subsection (2), expend in, or in relation to, the mining area an amount not less than the amount required by the licence or otherwise to be so expended;

(d) carry on mining operations in accordance with the requirements of this Act;

(e) demarcate, and keep demarcated, in the manner prescribed, the area of land subject to the licence; and

(f) give notice to the Minister when he begins to work for profit.

(2) The Minister may, on application made to him by the holder of a mining licence, limit, reduce, vary or suspend any obligation arising pursuant to subsection (1)(a), (b) or (c) either conditionally or unconditionally.

(3) Before limiting, reducing, varying or suspending any obligation under subsection (1)(a), (b) and (c), the Minister shall obtain the prior approval of Cabinet.

Use of wasteful practices.

**44.** (1) Where the Inspector considers that the holder of a mining licence is using wasteful mining or treatment practices, he may give notice to the holder accordingly (giving in the notice particulars of such practices) and require the holder to show cause within the period that the Inspector specifies in the notice why he should not cease to use those practices.

(2) Where, within the period specified in a notice given to the holder of a mining licence pursuant to subsection (1), the holder fails to satisfy the Inspector that he is not using the wasteful practices specified in the notice or that the practices are not wasteful, or that the use of those practices is justified, the Inspector may give notice to the holder directing him to cease using all of those practices or the practices specified, by a specified date, and the holder shall do so.

Cessation, etc., of production from mine.

**45.** (1) The holder of a mining licence shall give notice to the Inspector –

- (a) twelve months in advance, if he proposes to cease production from a mine in the mining area concerned;
- (b) six months in advance, if he proposes to suspend production from any such mine; or
- (c) three months in advance, if he proposes to curtail production from any such mine; and
- (d) in the notice give the reason for cessation, suspension or curtailment.

(2) Where, for any reason beyond his control, the holder of a mining licence ceases, suspends or curtails production from a mine in the mining area concerned he shall, within fourteen days after the cessation, suspension or curtailment give notice thereof to the Inspector.

46. Where, pursuant to section 45(1) or (2), notice is given to him, or if he otherwise becomes aware, of any cessation, suspension or curtailment of production from a mine, the Inspector shall cause the matter concerned to be investigated and thereafter he shall –

Power of Inspector on cessation, etc.

- (a) give his approval, conditionally or unconditionally, to the cessation, suspension or curtailment by notice to the holder of the mining licence; or
- (b) direct the holder of the mining licence by notice given to the holder to resume full production, or production at such level as is specified in the notice, by such date as is so specified and the holder shall do so.

#### *Division 5 – Renewal and Amendment of Mineral Rights*

47. (1) The holder of a reconnaissance licence may, not later than three months before the expiration of the licence, apply for the renewal of the licence in respect of all or any part of the reconnaissance area.

Application for renewal of reconnaissance licence.

- (2) An application under subsection (1) shall –
- (a) state the period for which renewal of the licence is sought;
  - (b) be accompanied –
    - (i) by a report on reconnaissance operations already carried out; and
    - (ii) by a statement giving particulars of the programme of reconnaissance operations proposed to be carried out in the period of renewal, an estimate of any significant effect which the

carrying out of the programme would be likely to have on the environment and on any monument or relic in the area over which renewal of the licence is sought, and an estimate of the cost of carrying out the programme;

- (c) if the renewal of the licence is sought in respect of part only of the reconnaissance area be accompanied by a plan identifying that part of the reconnaissance area; and
- (d) give particulars of any alteration in the matter shown in the application for the grant of the licence pursuant to section 15(a) and (b).

(3) On application duly made for the renewal of a reconnaissance licence, the Minister –

- (a) may, if he is satisfied that it would be in the public interest to do so, renew the licence, with or without variation of the conditions of the licence, for a period not exceeding twelve months; and
- (b) if not so satisfied, shall refuse to renew the licence.

Application for  
renewal of exclusive  
prospecting licence.

48. (1) The holder of an exclusive prospecting licence may, not later than three months before the expiration of the licence, apply for the renewal of the licence in respect of an area of land –

- (a) of such shape as may be prescribed; and
- (b) which is not greater in extent than half of the prospecting area as at the date of the grant of the licence, unless the Minister otherwise permits.

(2) An application under subsection (1) shall –

- (a) state the period for which renewal of the licence is sought;
- (b) be accompanied –
  - (i) by a report on prospecting operations already carried out and the costs incurred in carrying them out; and

- (ii) by a statement giving particulars of the programme of prospecting operations proposed to be carried out in the period of renewal, an estimate of any significant effect which the carrying out of the programme would be likely to have on the environment and on any monument or relic in the area over which renewal of the licence is sought, and an estimate of the cost of carrying out the programme;
- (c) be accompanied by a plan identifying the area of land in respect of which renewal of the licence is sought; and
- (d) give particulars of any alteration in the matter shown in the application for the grant of the licence pursuant to section 24(a).

(3) Subject to subsections (4) and (5), on application duly made for the renewal of an exclusive prospecting licence, the Minister shall renew the licence for a period not exceeding one year.

(4) The Minister shall refuse to renew an exclusive prospecting licence.—

(a) if—

- (i) the applicant has not paid the prescribed fees and complied with other conditions for grant of the licence;
- (ii) the programme of prospecting operations proposed to be carried out is not satisfactory; or
- (iii) the area of land in respect of which renewal of the licence is sought does not meet the requirements of subsection (1)(a) and (b);

(b) if the Minister has given to the applicant notice of his intention to refuse to renew the licence—

- (i) giving in the notice particulars of the grounds for the intended refusal; and

- (iii) minerals in reasonable quantities do not remain to be produced; or
  - (iv) the programme of mining operations proposed to be carried out is not satisfactory;
  - (b) if the Minister has given to the applicant notice of his intention to refuse to renew the licence –
    - (i) giving in the notice particulars of the ground for the intended refusal; and
    - (ii) stating a date before which the applicant may take appropriate action or make representations in relation to that ground; and
  - (c) if the applicant has not, before the specified date, remedied the default or, in a notice given to the Minister, made appropriate amendments to his application, or made representations which, in the opinion of the Minister, remove the ground for the intended refusal.
- (5) In determining whether or not to vary the conditions of a mining licence on renewal, the Minister shall have regard and give effect to any relevant agreement of a kind referred to in section 9.

Notice of disposal of application for renewal of mineral right.

**50.** (1) The Minister shall give notice to an applicant for the renewal of a reconnaissance licence, an exclusive prospecting licence or a mining licence of his decision on the application and, if he renews the licence, the notice shall –

- (a) state the period of renewal;
- (b) set out any variation in the conditions of the licence; and
- (c) include a plan of the area of land in respect of which the licence is renewed if that area differs from the area of land subject to the licence immediately before the renewal of the licence.

(2) Subject to any relevant agreement of a kind referred to in section 9, there may be included in, or in a statement appended

to, a notice referred to in subsection (1), either or both of the following conditions namely:

- (a) a condition that in, or in relation to, the reconnaissance area, prospecting area or mining area, as the case may be, the holder of the licence concerned shall, during a specified period, carry out the programme of reconnaissance, prospecting or mining operations, as the case may be, specified in the notice; or
- (b) a condition requiring the holder of the licence concerned, in respect of any period and in the manner specified, to submit to the Minister acceptable proposals for the carrying out of a programme of reconnaissance, prospecting or mining operations, as the case may be, and the expenditure of amounts in, or in relation to, the reconnaissance area, the prospecting area or the mining area, as the case may be, during that period.

51. (1) Where an application under this Part for the renewal of a mineral right is not finally dealt with before the date on which the mineral right would, but for this subsection, cease to have effect, the mineral right continues to have effect over the area of land over which renewal of the mineral right is sought until notice is given pursuant to section 50 of the refusal to renew or, as the case may be, of the renewal of the mineral right.

Licence to have effect pending disposal of application for renewal.

(2) The period for which a mineral right is renewed commences on and includes the date on which the mineral right would have ceased to have effect if an application for the renewal of the mineral right had not been made.

(3) Subsection (1) shall not have effect –

- (a) to prevent the cancellation under this Act of a mineral right; or
- (b) if an application for the renewal of a mineral right is withdrawn.

Amendment of  
prospecting or mining  
programme.

52. (1) The holder of an exclusive prospecting licence or a mining licence may amend his programme of prospecting or mining operations and, subject to subsection (2) the amendment has effect when particulars of the amendment are given in a notice served on the Minister.

(2) An amendment which substantially alters a programme of prospecting or mining operations does not have effect unless application has been made pursuant to section 35 or 43(2) to the Minister and the Minister has, under section 35 or 43(2), agreed to the amendment.

*Division 6 – Surrender, Cancellation and Suspension  
of Mineral Rights*

Surrender.

53. (1) The holder of a reconnaissance licence, an exclusive prospecting licence or a mining licence who wishes to surrender whole or part of the land subject to the licence shall apply to the Inspector for a certificate of surrender of the land not less than three months before the date on which he wishes the surrender to have effect.

(2) An application under subsection (1) shall –

- (a) state the date on which the applicant wishes the surrender to have effect;
- (b) if part only of the land subject to the licence is to be surrendered, identify that part by the inclusion of a plan thereof;
- (c) give particulars of reconnaissance, prospecting or mining operations carried on in respect of the land to be surrendered; and
- (d) be supported by such records and reports in relation to those operations as the Inspector may reasonably require.

(3) Subject to subsections (4) and (5), on application duly made under subsection (1) the Inspector shall issue a certificate of surrender, either unconditionally or subject to such conditions as

are specified in the certificate, in respect of the land to which the application relates.

(4) Where an application is made under subsection (1) the Inspector shall consult with the Minister.

(5) The Inspector shall not issue a certificate of surrender –

- (a) to an applicant who has not paid the prescribed fees and complied with other conditions for grant of licence;
- (b) to an applicant who fails to comply with any reasonable requirement of the Inspector for the purposes of subsection (2)(d); or
- (c) if the Inspector is not satisfied that the applicant will leave the land to be surrendered and on which reconnaissance, prospecting or mining operations have been carried on in a condition which is safe and in accordance with good mining practice.

54. (1) Where, pursuant to section 53(3), a certificate of surrender is issued, the Inspector shall –

Effect of certificate of surrender.

- (a) if part only of the land subject to a reconnaissance licence, an exclusive prospecting licence or a mining licence is surrendered, amend the licence accordingly; or
- (b) in any other case, cancel the licence, and in either case the Inspector shall give notice to the applicant of the amendment or, as the case may be the cancellation, and of the issue of the certificate of surrender.

(2) The land in respect of which a certificate of surrender is issued shall be treated as having been surrendered with effect from the date on which notice of the surrender is given pursuant to subsection (1) to the applicant for the certificate.

(3) The surrender of any land does not affect any liability incurred before the date on which the surrender takes effect and any

legal proceedings that might have been commenced or continued in respect of the liability against the applicant may be commenced or continued against that applicant.

Suspension or  
cancellation of mineral  
right.

55. (1) Subject to this section, where the holder of a reconnaissance licence, an exclusive prospecting licence or a mining licence –

- (a) fails to use in good faith the land subject to the licence for the purpose for which the licence was granted;
- (b) uses that land for any purpose other than the purpose for which the licence was granted;
- (c) fails to comply with any requirement of this Act;
- (d) fails to comply with a condition of the licence;
- (e) fails to comply with a direction lawfully given under this Act or with a condition on which any certificate of surrender is issued or on which any exemption or consent is given under this Act;
- (f) fails to comply with the conditions relating to the exercise of his rights under his licence, which are contained in a relevant agreement of a kind referred to in section 9;
- (g) fails to pay any amount payable by him under this Act within one month after the amount becomes due,

the Minister may, on that ground, by notice in writing served on the holder of the licence, suspend or cancel the licence.

(2) The Minister shall not, under subsection (1), suspend or cancel the licence on the ground referred to in that subsection unless he has –

- (a) by notice in writing served on the holder of the licence, given not less than thirty days notice of his intention to suspend or cancel the licence on that ground;

(b) in the notice, specified a date before which the holder of the licence may, in writing, submit any matter which he wishes the Minister to consider; and

(c) he has taken into account any –

(i) action taken by the holder of the licence to remove that ground or to prevent the recurrence of similar grounds; and

(ii) matters submitted to him by the holder of the licence pursuant to paragraph (b).

(3) The Minister shall not, under subsection (1), suspend or cancel a licence on a ground referred to in subsection (1)(g), if, before the date specified in a notice referred to in subsection (2), the holder of the licence pays the amount of money together with an amount of interest (if any) which the Minister considers reasonable in the circumstances of the case.

(4) The Minister may, by notice in writing served on the holder of a reconnaissance licence, an exclusive prospecting licence or a mining licence, cancel the licence –

(a) if the holder (being an individual) is –

(i) adjudged bankrupt; or

(ii) enters into any agreement or scheme of composition with his creditors or takes advantage of any law for the benefit of debtors; or

(b) if, in the case of a holder that is a body corporate, an order is made or a resolution is passed winding up the affairs of that body corporate, unless the winding up is for the purpose of amalgamation or reconstruction and the Minister has been given notice thereof.

(5) Where two or more persons are jointly holders of a reconnaissance licence, an exclusive prospecting licence or a mining licence, the Minister shall not under subsection (4), cancel the licence on the occurrence, in relation to one or some only of such

persons of an event entitling the Minister to so cancel the licence, unless he is satisfied that another person or persons are unwilling, or would be unable to carry out the duties and obligations of the holder of the licence.

(6) On the cancellation of a reconnaissance licence an exclusive prospecting licence or a mining licence, the rights of the holder of the licence thereunder cease, but the cancellation does not affect any liability incurred before the cancellation and any legal proceedings that might have been commenced or continued against the former holder of the licence may be commenced or continued against him.

#### *Division 7—Transfers and Registration*

Records.

**56.** (1) The Inspector shall cause a record to be kept in the Register of every mineral right granted and of any dealings with, or affecting, a mineral right.

(2) When a mineral right is granted, the Inspector shall cause the name of the person to whom the mineral right is granted to be recorded in the Register as the registered holder of the mineral right.

Interest in mineral right to be created by instrument in writing.

**57.** (1) A legal or equitable interest in, or affecting, a mineral right, is not capable of being created, transferred, assigned, effected or dealt with, whether directly or indirectly, except by an instrument in writing.

(2) The creation of a legal or equitable interest in, or affecting, a mineral right does not affect the liability of the registered holder of the mineral right for any breach of the conditions of the mineral right or of any of the provisions of this Act.

Transfer of mineral right to be approved by Minister.

**58.** (1) Unless the Minister approves –

- (a) the transfer of a mineral right; or
- (b) an instrument by which a legal or equitable interest in, or affecting, a mineral right, is created, assigned, effected or dealt with, whether directly

or indirectly, the transfer, or the instrument in so far as it operates as provided in this paragraph, is of no force.

(2) An application for the approval by the Minister under subsection (1) of a transfer or an instrument shall be made to the Inspector in accordance with the Regulations.

(3) Subject to subsections (4) and (5), on application duly made under subsection (2), the Minister may give, or refuse to give, his approval, or may give his approval subject to such conditions as he deems necessary in the circumstances to impose.

(4) The Minister shall not give his approval to the transfer of or to any instrument operating as provided in subsection (1)(b) in relation to, a reconnaissance licence.

(5) The Minister shall give his approval to the transfer of an exclusive prospecting licence or mining licence when the transferee –

(a) is a person controlling, controlled by or under common control with, the transferor; and

(b) is not a person disqualified under any provision of this Act from holding a mineral right.

(6) If the Minister gives his approval to the transfer of a mineral right, the Inspector shall cause the name of the transferee to be recorded in the Register as the registered holder of the mineral right but legal proceedings that might have been commenced or continued against the former registered holder may be commenced or continued against him notwithstanding the transfer.

(7) The reference in subsection (1)(a) to the transfer of a mineral right includes a transfer of a mineral right by operation of law.

59. The Minister may require any person making application under section 58 to the Inspector to furnish to the Inspector any information the Minister may reasonably require to enable the Minister to dispose of the application.

Minister may require information.

Evidentiary provision.

**60.** (1) The Inspector may give a certificate with respect to any matter referred to in subsection (2).

(2) A certificate of the Inspector that –

- (a) a mineral right was granted, transferred, suspended or cancelled on, or with effect from, a date specified in the certificate;
- (b) any land identified in the certificate is, or was on a date specified in the certificate, subject to a mineral right;
- (c) a mineral specified in the certificate is a mineral to which a mineral right relates;
- (d) any condition specified in the certificate is, or was on a date so specified, a condition of a mineral right;
- (e) a certificate of surrender was issued in respect of land identified, on a date specified, in the certificate;
- (f) any condition specified in the certificate is a condition on which a certificate of surrender was issued or on which any consent or approval so specified was given; or
- (g) a person named in the certificate is, or was on a date specified in the certificate, the holder of a mineral right,

shall be received in proceedings before any court or tribunal as evidence of that fact, but without prejudice to the right to adduce evidence in rebuttal.

Inspection of Register.

**61.** (1) A copy of any entry in the Register may be obtained by any person on payment of the prescribed fee.

(2) The Register shall at all reasonable times, be open for inspection by any person on payment of the prescribed fee, and a person may take copies of any licence or entry in the Register on payment of the prescribed fee.

62. Where the Inspector is satisfied that there has been a mistake made in, or that some matter has been incorrectly entered in the Register, he shall rectify the Register by correcting that mistake or incorrect entry.

Register may be rectified.

63. A person who wilfully –

Offences in relation to registration.

- (a) makes, or causes to be made or concurs in making a false entry in the Register; or
- (b) produces or tenders in evidence a document falsely purporting to be a copy of or extract from an entry in the Register or of or from an instrument lodged with the Inspector under this Division,

commits an offence and is liable on conviction to a fine of five thousand dollars and to imprisonment for two years.

*Division 8 – Miscellaneous duties with respect to submitting reports, etc.*

64. (1) Schedule I specifies the information to be furnished, the reports to be submitted and the records to be kept by the holder of a reconnaissance licence, exclusive prospecting licence and mining licence.

Records and reports. Schedule I.

(2) The holder of a mineral right –

- (a) shall establish immediately after the grant of the mineral right, and keep established while the mineral right subsists, an address in Dominica; and
- (b) shall give notice of that address to the Minister, and of any variation of the address from time to time.

*Division 9 – Miscellaneous*

65. (1) This section applies where –

Application for inclusion of additional minerals in licence.

- (a) the holder of an exclusive prospecting licence or mining licence, in the course of searching for or mining the mineral to which his licence relates

finds another mineral (in this section called an "additional mineral"); and

- (b) in the circumstances it would be impracticable or impossible to mine the mineral to which the licence relates without also mining that additional mineral.

(2) Where this section applies, the holder of the exclusive prospecting licence or mining licence concerned may make application to the Minister for the inclusion in the licence of the additional mineral and the Minister, if satisfied that this section applies, shall approve the application.

(3) The Minister is not required to approve an application referred to in subsection (2) if the applicant is unwilling to make such alterations in his programme of prospecting or mining operations as are reasonably necessary to cover the searching for or mining of the additional mineral.

(4) Where the Minister approves an application referred to in subsection (2), he shall do so subject to the condition that the exclusive right to search for or mine the additional mineral shall arise only where that mineral is found together with a mineral to which the licence otherwise relates in such circumstances that it would not be practicable, or possible to mine such last mentioned mineral without also mining the additional mineral.

(5) Notice of the Minister's decision under subsection (2) shall be given to the holder of the exclusive prospecting licence or, as the case may be, mining licence concerned; and in the event that the Minister approves the application, the licence shall, subject to subsection (4) be deemed to relate also to the additional mineral.

(6) In any case where this section would not apply by reason of the requirement of subsection (1) not being met, the Minister may, if he considers that it would be in the interests of the development of the mineral resources of Dominica to do so, approve an application by the holder of an exclusive prospecting licence or a mining licence to include a further mineral in the licence; and in that event the licence shall be deemed to relate also to the further mineral, subject to any conditions imposed on the giving of the approval.

66. (1) The holder of an exclusive prospecting licence or a mining licence may apply to the Minister to have his prospecting area or, as the case may be, mining area, enlarged in the manner specified in the application and the Minister may, subject to subsection (2), approve the application or refuse to do so.

Enlargement of prospecting area or mining area.

(2) The Minister shall not approve an application made under subsection (1) –

- (a) unless he is satisfied that to do so would be in the interest of the development of the mineral resources of Dominica; or
- (b) if, by reason of this Act, the Minister could not then grant to the holder making the application an exclusive prospecting licence or, as the case may be, a mining licence over the area of land by the addition of which the prospecting area or mining area is to be enlarged, or could only do so subject to any condition which could not be satisfied.

(3) The approval of the Minister under subsection (1) may be given unconditionally, or subject to such conditions as the Minister may determine and specify in a notice given pursuant to subsection (4).

(4) Notice of the Minister's decision under subsection (1) shall be given to the holder of the prospecting licence or, as the case may be mining licence concerned, and in the event the Minister approves the application, the prospecting or mining area shall be deemed to have been enlarged accordingly.

(5) To enable him to dispose of an application made under subsection (1), the Minister may by notice served on the applicant, require the applicant to furnish him, within such reasonable times as is specified in the notice, with any information relevant to the application as may be described in the notice.

67. (1) Subject to subsection (3), when the amount expended in, or in relation to, a reconnaissance area, a prospecting area or a mining area is less than the amount required to be so expended by a reconnaissance licence, an exclusive prospecting licence or a

Recovery of unexpended amounts.

mining licence, or otherwise, the amount falling short of the amount required to be expended shall be deemed to be a debt due to the Government and may be recovered in a court of competent jurisdiction.

(2) In proceedings pursuant to subsection (1) a certificate of the Inspector certifying that a specified amount is payable by an identified person shall be received as evidence of that fact, but without prejudice to the right to adduce evidence in rebuttal.

(3) The right to recover an amount pursuant to this section is subject to the provisions of a relevant agreement of a kind referred to in section 9 limiting that right.

Control of company  
not to be given without  
consent of Minister.

**68.** (1) Where a mining licence is granted to a company, the company shall not, after the date of the grant of the licence, without the written consent of the Minister –

(a) register the transfer of any share or shares in the company to any particular person or his nominee;  
or

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

(2) On application made to him for his consent under this section the Minister shall give his consent if he considers that the public interest would not be prejudiced, but otherwise shall refuse to give his consent; and for the purpose of considering any application the Minister may call for and obtain any information he considers necessary.

(3) For the purposes of this section –

(a) a person is deemed to have control of a company –

(i) if the person, or his nominee, holds or the person and his nominee holds a total of twenty per centum or more of the equity shares in the company; or

- (ii) if the person is entitled to appoint, or prevent the appointment of, half, or more than half the number of directors of the company;
- (b) "equity shares", in relation to a company means shares in the company other than preference shares; and
- (c) "preference shares" means shares which carry the right to payment of a dividend of a fixed amount, or not exceeding a fixed amount, in priority to payment of a dividend on another class or other classes of shares, whether with or without other rights.

#### PART IV

#### NON-EXCLUSIVE PROSPECTING LICENCES AND CLAIMS

**69.** Where the doing of any act is regulated or prohibited by any written law (other than this Act), nothing in this Act shall be construed as authorising the holder of a non-exclusive prospecting licence or a claim to do the act –

Restriction on exercise of rights by holder of non-exclusive prospecting licence or claim.

- (a) otherwise than in accordance with the written law; and
- (b) without first obtaining the licence, permit, authority, or other instrument (if any), required under the law for the doing of the act.

**70.** (1) Subject to this section, the Inspector may issue to any person a non-exclusive prospecting licence.

Non-exclusive prospecting licence.

(2) Subject to subsection (5), a non-exclusive prospecting licence –

- (a) shall not be granted to an individual unless he is a citizen of Dominica;
- (b) shall not be issued to a company unless it is a company whose entire share capital is beneficially

owned by citizens of Dominica or by a corporation which, in the opinion of the Minister, has been established for a public purpose, or partly by such citizens and partly by such a corporation; or

(c) shall not be issued to a corporation unless it is a corporation incorporated in Dominica.

(3) A non-exclusive prospecting licence shall not be issued to a person unless the Inspector is satisfied that that person intends, within the limits of his competence and resources, to undertake prospecting operations.

(4) The power to issue a non-exclusive prospecting licence is subject to the Regulations.

(5) Where the Minister is satisfied that it is in the public interest to do so and certifies to the Inspector, the Inspector may issue a non-exclusive prospecting licence –

(a) to an individual who is not a citizen of Dominica but who has been ordinarily resident in Dominica during the period of seven years immediately preceding the date on which his application for grant of a licence is made; or

(b) to a company or corporation other than one of a kind referred to in subsection (2)(b) or (c).

Rights under non-exclusive prospecting licence.

**71. (1)** A non-exclusive prospecting licence may authorise the holder of the licence to prospect anywhere in the State as identified in the licence, for any mineral identified in the licence.

(2) The holder of a non-exclusive prospecting licence may, subject to this Act and the conditions of the prospecting licence, enter on any land in which he is authorised to prospect, and carry on prospecting operations for any mineral to which his licence relates.

(3) The holder of a non-exclusive prospecting licence shall not prospect –

(a) in land in –

- (i) a reconnaissance area for any mineral in respect of which the holder of the reconnaissance licence has been granted exclusive rights pursuant to section 19(4);
  - (ii) a prospecting area for any mineral to which the prospecting licence relates; or
  - (iii) a mining area; and
- (b) in land in a claim area, unless he is the holder of the claim.

(4) Subject to this Act and the conditions of the non-exclusive prospecting licence, for the purpose of the exercise of the right referred to in subsection (2), the holder of a non-exclusive prospecting licence may, in particular, erect camps and temporary buildings, or erect installations in any waters forming part of the land on which he is authorised to prospect.

72. (1) A non-exclusive prospecting licence has effect for the period of twelve months from and including the date of the issue of the licence.

Term and renewal of non-exclusive prospecting licence.

(2) Subject to subsections (3) and (4) and the Regulations, the Inspector on application duly made, may renew a non-exclusive prospecting licence for a period of twelve months from the date on which it would cease to have effect if not renewed.

(3) The Inspector shall not renew a non-exclusive prospecting licence unless he is satisfied –

- (a) that the applicant has undertaken, in good faith within the limits of his competence and resources during the period for which he has held the licence, prospecting operations; and
- (b) intends, within those limits to undertake in good faith further prospecting operations.

(4) The Inspector shall not renew a non-exclusive prospecting licence if the applicant has not paid the prescribed fees or failed to comply with the conditions on which the licence was granted.

Pegging of claim.

73. (1) Subject to this Act the holder of a non-exclusive prospecting licence may peg a claim or claims in accordance with the Regulations.

(2) Where the holder of a non-exclusive prospecting licence, pursuant to subsection (1), pegs a claim, he shall, within thirty days of doing so, apply in accordance with the Regulations for registration of the claim.

(3) Subject to this Act, on application duly made for the registration of a claim, the claim shall be registered, either unconditionally or subject to such conditions as may be prescribed.

Restriction on registration of claim.

74. (1) A claim shall not be registered pursuant to section 73 in respect of land in which the person applying for registration of the claim is not entitled to prospect.

(2) The Inspector shall refuse to register a claim if –

(a) he has reasonable grounds to believe that minerals in commercial quantities have not been discovered within the proposed claim area;

(b) he has reasonable grounds to believe that the applicant does not intend to carry on, in good faith, within the limits of his competence and resources, mining operations in the proposed claim area;

(c) he has reasonable grounds to believe that it is in the public interest that a claim should be registered in respect of the proposed claim area; or

(d) the applicant has not paid the prescribed fees or failed to comply with the prescribed conditions and the Inspector for reasons to be recorded in writing, is not prepared to waive the default.

(3) Where the Inspector has refused to register a claim on any of the grounds referred to in subsection (2), the applicant may appeal against the decision to the Minister whose decision shall be final.

(4) The Inspector may refuse to register a claim if the applicant fails, within a reasonable period specified by the Inspec-

tor to furnish the Inspector with satisfactory evidence of the existence of the mineral for which the claim is pegged, within the area of the claim.

**75.** (1) Subject to this Act, a claim registered pursuant to section 73 – Period of validity and renewal of claim.

- (a) is valid from the day when the claim was pegged until the 31st March next following that day; and
- (b) on application made to the Inspector in accordance with the Regulations, may be renewed for further periods of twelve months each, commencing on the 1st April in each year.

(2) A claim shall not be renewed pursuant to subsection (1) –

- (a) unless the Inspector is satisfied that minerals in commercial quantities remain in the claim area;
- (b) unless the Inspector is satisfied that the applicant has carried on, in good faith, within the limits of his competence and resources, mining operations in the claim area and intends to continue doing so; or
- (c) if the applicant has not paid the prescribed fees or fails to comply with the prescribed conditions and the Inspector, for reasons to be recorded in writing, is not prepared to waive the default.

(3) Where the Inspector has refused to renew a claim on any of the grounds referred to in subsection (2), the applicant may appeal against the decision to the Minister whose decision shall be final.

**76.** (1) Subject to this Act and the conditions of the claim, the holder of a claim has the right to enter a claim area and also the exclusive right, while the claim is registered, to prospect and mine therein, and to remove therefrom and dispose of, the minerals in respect of which the claim is registered pursuant to section 73. Rights and duties of holder of claim.

(2) The holder of a claim shall –

- (a) within the limits of his competence and resources carry on, in good faith, in the claim area, mining operations;
- (b) furnish the Inspector with such information relating to his mining or prospecting operations carried on in the claim area as the Inspector may reasonably require or as may be prescribed; and
- (c) carry out promptly any directions relating to his mining or prospecting operations which may be given to him by the Inspector for the purpose of ensuring safety, or good mining practice.

Cancellation of claim.

77. (1) Where the holder of a claim –

- (a) fails to use, in good faith, the land in the claim area for mining operations;
- (b) uses the land in the claim area for any purpose other than mining operations;
- (c) fails to comply with any requirement of this Act (not being exempted from doing so);
- (d) fails to comply with a condition of the claim (not being exempted from doing so);
- (e) fails to comply with a direction lawfully given under this Act or with a condition on which any exemption or consent is given; or
- (f) fails to pay any amount payable under this Act by him within one month after the amount becomes payable,

the Inspector may, on that ground, by notice in writing served on the holder of the claim, cancel the claim.

(2) The Inspector may, by notice in writing served on the holder of a claim, cancel the claim –

- (a) if the holder (being an individual) is –

- (i) adjudged bankrupt; or
  - (ii) enters into an agreement or scheme of composition with his creditors or takes advantage of any law for the benefit of debtors;
- (b) if, in the case of a holder that is a company or a corporation, an order is made or a resolution is passed winding up the affairs of the company or corporation unless the winding up is for the amalgamation or reconstruction and the Inspector has been given notice thereof.

(3) On the cancellation of a claim, the rights of the holder of the claim thereunder cease, but the cancellation does not affect any liability incurred before the cancellation and any legal proceedings that might have been commenced or continued against the former holder of the claim may be commenced or continued against him.

(4) Where the Inspector has cancelled a claim under subsection (1) or (2), the person who was the holder of the claim may appeal against the cancellation to the Minister whose decision shall be final.

## PART V

### MINING OF CONSTRUCTION MINERALS

78. (1) Construction minerals may only be mined under the authority of a quarry permit issued under this Part, or under the authority of a mining licence. Quarry permit.

- (2) Any person may apply for the grant of a quarry permit.
- (3) A permit is not required in the following cases:
  - (a) a citizen of Dominica taking construction minerals in accordance with established local custom for the building of a house and appurtenances thereto for himself and his family;
  - (b) the owner or occupier of private land taking construction minerals from the land for the construc-

tion of buildings, dams, roads and similar works on the land for his own use or that of his employees;

- (c) persons engaged in the construction of public roads or other public works utilising the spoil from necessary excavations or from borrowpits close to such road or works;
- (d) the holder of an exclusive prospecting licence or a mining licence taking construction minerals in accordance with the provisions of sections 35 and 42.

(4) Any dispute as to whether or not a person is entitled to take minerals pursuant to subsection (3)(a) shall be decided by the Minister whose decision shall be final.

Application, grant and renewal of quarry permit.

**79.** (1) Application for the grant of a quarry permit shall be made in the prescribed manner to the Inspector through the Lands and Surveys Division.

(2) The applicant shall show to the satisfaction of the Director of Surveys and Commissioner of Lands that he has sufficient capital and equipment for the scale of the intended operations, that he is competent to keep records of his sales and can submit to the Inspector returns of his transactions as the Inspector may require from time to time.

Duration and renewal of quarry permit.

(3) A quarry permit shall expire annually on the 31st day of December but may be renewed during the month of December if submitted with the prescribed fee to the Inspector.

Public Quarry.

**80.** (1) The Government may from time to time define areas to be termed "Public Quarry". Any person holding a quarry permit may remove construction minerals from any Public Quarry on payment of any fee that may be imposed by the administering authority.

(2) Notice of the establishment of a public quarry with a description of its boundaries shall be published in the *Gazette*, and a copy of the notice with a plan of the area shall be sent to the

Inspector, who shall place the plan on record and allocate an official serial number to the quarry, notifying the administering authority.

(3) The Government may disestablish any quarry at any time, provided at least thirty (30) days notice is given by the publication of a notice in the *Gazette*.

(4) A government department which wishes to establish a quarry site for departmental use shall demarcate with suitable beacons the desired area which may be of any size or shape, and shall send two copies of plans thereof showing the dimensions and location to the Inspector for recording as a Government Quarry. The Inspector shall place one plan on record and notify the department of the serial number of the Government Quarry.

**81.** (1) When a person wishes to mine construction minerals from a site other than a Public Quarry, not being a site provided for in section 78(3)(a) to (d), he shall, when applying for his quarry permit, also apply for the required site to be recorded as a "Registered Quarry", supplying plans for the intended site and any other information as may be prescribed.

(2) Application for a Registered Quarry shall also be made in the prescribed form to the Inspector through the Director of Surveys and Commissioner of lands.

(3) The Inspector may register the site by placing the plan on record and allocating to the site a serial number, which shall be notified to the applicant. The Inspector may refuse any application but shall give his reasons for such refusal.

(4) A Registered Quarry site shall not exceed 300 feet square, and shall be rectangular in shape. Except when materials are to be extracted from cliffs or from the sea shore all four corners of the site shall be marked in the manner prescribed.

(5) A Registered Permanent Quarry site shall not exceed 300 yards square, and shall be rectangular in shape. Except when materials are to be extracted from cliffs or from the sea shore all four corners of the site shall be marked in the manner prescribed.

Rights, etc., of permit holder in Registered Quarry or Public Quarry.

**82.** (1) The holder of a quarry permit shall have the right of access to any Public Quarry and to his registered quarry site, and shall have the right to mine, sell and dispose of construction minerals mined therefrom subject to the payment of any prescribed fees.

(2) The holder of a quarry permit shall have the right to establish within the boundaries of his registered quarry site, machinery for excavating, crushing, sizing and stacking the products of his quarry together with buildings of a temporary nature for use as an office or stores, but not for housing employees other than a watchman.

(3) The permit holder shall conduct his operations in a manner not likely to impede the holders of other quarry permits working in the vicinity, and shall at all times maintain his excavations in a safe condition so as not to cause injury to livestock or persons.

(4) The permit holder shall submit to the Inspector such returns as may be prescribed, and such other information as the Inspector may require concerning his transactions from time to time.

(5) The permit holder may issue written authorisation to another person to mine construction minerals within his Registered Quarry site, and such person shall not require a quarry permit, but the permit holder shall remain responsible for the discharge of every obligation and responsibility imposed by this Act and Regulations made thereunder in respect of such authorised mining.

Revocation of quarry permit.

**83.** (1) A quarry permit may be revoked by the Inspector on the advice of a Director of Surveys and Commissioner of Lands --

- (a) if it appears that the holder has not worked in his Registered Quarry site for a period exceeding one year;
- (b) because of serious accident to livestock or persons;
- (c) on conviction of the holder for any breach of the laws governing the employment of labour.

(2) The recording of a Registered Quarry site may be cancelled by the Inspector at the end of any calendar year if the site or land in its vicinity is required for a public purpose or other development, and further mining would be detrimental to the development of the locality. All mining therein shall thereupon cease.

(3) No compensation shall be payable to the permit holder, nor shall he be called upon to make good the ground within his Registered Quarry site, but he shall have ninety days in which to remove his stocks of mineral, machinery and other structures, after which time anything remaining on the site shall be the property of the Government.

## PART VI FINANCIAL

**84.** (1) The holder of a mining licence shall, in accordance with this Act and his licence, pay, to the Government a royalty in respect of minerals obtained by him in the mining area.

Royalty on minerals  
obtained under mining  
licence, etc.

- (2) Royalty is payable pursuant to subsection (1) –
- (a) at the rate fixed in, or computed in accordance with the provisions of, the mining licence or agreement provided for in section 9;
  - (b) if no rate is so fixed or provision so made in the licence concerned, at such rate not exceeding ten per cent *ad valorem* for all industrial minerals and at such rate not exceeding fifteen per cent *ad valorem* for all other minerals as may be prescribed from time to time.

(3) Provision may be made in the Regulations for the payment of royalty in respect of minerals obtained in a reconnaissance area or a prospecting area.

**85.** (1) The holder of a claim shall, in accordance with this Act, pay royalty to the Government in respect of minerals obtained by him in the claim area.

Royalty on minerals  
obtained under a  
claim.

(2) Royalty is payable pursuant to subsection (1) at the rate prescribed in section 84(2)(b).

Prohibition on disposal of minerals.

**86.** If the holder of a mining licence fails to pay any royalty payable by him on or before the due date or any extension thereof allowed by the Minister, the Minister may, by notice to the holder of the mining licence, prohibit the disposal of any mineral from the mining area concerned, or from any other mining area held by that holder, until all outstanding royalty has been paid or until an arrangement acceptable to the Minister has been made for the payment of the royalty.

Remission of royalty, etc.

**87.** (1) The Minister may remit in whole or in part, any royalty payable on any mineral, or on any mineral obtained from a particular deposit for such period as he may determine, if he considers it expedient in the interests of the production of the mineral to do so.

(2) The Inspector may exempt from liability with respect to royalty, samples of minerals acquired for the purpose of assay, analysis or other examination.

(3) The Minister may, on application made to him by the holder of a mining licence or a claim, defer payment of any royalty due from the holder for such period and subject to such conditions as he may determine.

Annual charges in respect of mineral rights.

**88.** (1) There shall be paid to the Government by the holder of any mineral right an annual charge as may be prescribed.

(2) The annual charge payable pursuant to subsection (1) is payable on the grant of a mineral right and thereafter annually on the anniversary of the grant until the termination of the mineral right.

Security for compliance.

**89.** The Minister may, from time to time, make any arrangement which appears appropriate to him to secure that the holder of a mineral right complies with this Act and in particular may accept guarantees, whether from shareholders or otherwise, in respect of that compliance.

90. (1) Where the Minister has reason to believe that a person is capable of giving information or producing or making available books or documents relating to minerals obtained, or the value of minerals obtained, he may by instrument in writing served on that person, order that person to –

Minister may require information to be furnished.

- (a) furnish to him in writing, within the period and in the manner specified in the instrument, the relevant information;
- (b) attend before him or a person specified in the instrument, at the time and place as is so specified, and produce books or documents in his custody, power or control relating to minerals obtained or the value of minerals obtained.

(2) A person is not excused from furnishing information, answering a question or producing or making available books or documents when required to do so under this section, on the ground that the information so furnished, the answer to the question, or the production or making available of any books or documents, might tend to incriminate him or make him liable to a penalty, but the information so furnished shall not be admissible in evidence against him in any proceedings other than proceedings for an offence under this section.

(3) Where books or documents are made available pursuant to a requirement under subsection (1)(b), the person to whom the books or documents are made available may make copies of, or take extracts from the books or documents.

(4) A person shall not –

- (a) refuse or fail to comply with a requirement under subsection (1) to the extent to which he is capable of complying with it;
- (b) in purported compliance with such a requirement, knowingly furnish information that is false or misleading in a material particular;
- (c) when attending before the Minister or any person in pursuance of such a requirement, knowingly

make a statement or produce a document which is, or produce books which are false or misleading in a material particular; or

- (d) when making available books or documents in pursuance of such a requirement, knowingly make available books which are, or a document which is, false or misleading in a material particular.

(5) Any person who contravenes subsection (4) commits an offence and is liable on conviction to a fine of five thousand dollars and two years imprisonment.

Recovery of royalty,  
etc.

**91.** (1) Royalty payable under section 84 or 85 and any annual charge payable under section 88, are debts due to the Government and may be recovered through a court of competent jurisdiction.

(2) In proceedings pursuant to subsection (1), a certificate of the Inspector certifying that a specified amount of royalty, or an annual charge is payable by an identified person shall be received as evidence of that fact; but without prejudice to the right to adduce evidence in rebuttal.

(3) Where two or more persons constitute the holder of a mining licence or a claim when royalty becomes payable, those persons are jointly and severally liable for the payment of royalty under section 84 or 85, or any annual charge payable under section 88; but without prejudice to any right to contribution existing between them.

## PART VII

### PROTECTION OF THE ENVIRONMENT

Protection of natural  
resources to be taken  
into account.

**92.** (1) In deciding whether or not to grant a mineral right, the Minister shall take into account the need to conserve the natural and cultural resources in or on the land over which the mineral right is sought, or in or on any neighbouring land.

(2) In deciding whether or not to issue a non-exclusive prospecting licence or to register a claim the Inspector shall take into account the need to conserve the natural resources in or on land

to be covered by the licence or over which the claim is to be registered, or in or on neighbouring land.

(3) The Minister may, pursuant to section 37(4) require environmental impact studies to be carried out.

93. (1) There may be included in a licence to mineral right conditions with respect to the –

Conditions for the protection of the environment, etc.

- (a) prevention, limitation or treatment of pollution; and
- (b) minimisation of the effects of mining on adjoining or neighbouring areas and their inhabitants.

(2) On the registration of a claim, any condition of a kind referred to in subsection (1) may be imposed as a condition on which the claim is registered.

94. (1) There may be included in a prospecting or mining licence conditions relating to the –

Rehabilitation of area damaged by prospecting or mining.

- (a) reinstatement, levelling, regrassing, reforesting and contouring of any part of the prospecting or mining area that may have been damaged by prospecting or mining operations; and
- (b) filling in, sealing or fencing off, of excavations, shafts and tunnels, as may be prescribed, or as the Minister may, in any particular case, determine.

(2) There may be included as a condition on which a claim is registered any condition, of a kind referred to in subsection (1), which may be prescribed for the purposes of that subsection.

(3) Where any condition is to be included in a prospecting or mining licence pursuant to subsection (1), the Minister may require the applicant for the licence to lodge with the Inspector, within a specified time, security for the performance of the condition in such amount and form as the Minister deems appropriate.

Direction to comply with conditions of mineral right for protection of environment.

95. (1) Where a mineral right over any land is wholly or partly determined or cancelled, or expires, the Minister may, by notice served on the person who is or was the last holder of the mineral right, direct him to take such steps within such time as may be specified in the notice, to give effect, in relation to the land which is no longer subject to the mineral right, to any conditions included in the mineral right pursuant to section 93 or 94.

(2) Any person to whom a direction is given under subsection (1) who, without reasonable excuse, fails or neglects to comply with the direction commits an offence and is liable on conviction in the case of –

(a) an individual, to a fine of twenty thousand dollars and six years imprisonment; or

(b) a body corporate to a fine of twenty-five thousand dollars.

(3) If a person to whom a direction is given under subsection (1) does not comply with the direction, the Minister may cause to be taken any steps specified in the notice containing the direction.

(4) Costs and expenses incurred pursuant to subsection (3) in taking any steps referred to in that subsection are a debt due to the Government and are recoverable through a court of competent jurisdiction.

(5) In any proceedings instituted for the recovery from a person to whom a direction was given under subsection (1) of a debt due by that person to the Government under subsection (4), a certificate of the Inspector that a specified amount is the amount of the debt due shall be received as evidence of that fact; but without prejudice to the right to adduce evidence in rebuttal.

(6) A debt due by any person to the Government under subsection (4) is recoverable notwithstanding that that person is convicted of an offence under subsection (2).

(7) Where two or more persons are joint holders of a mineral right, those persons are jointly and severally liable for the payment of any costs and expenses which may be recovered under this section from the person who is or was the last holder of the

mineral right; but without prejudice to any right to contribution existing between them.

PART VIII  
RESERVED MINERALS

96. In this Part, unless the context otherwise requires – Definitions.

“precious metals” means gold, silver, platinum and platinoid metals, in an unmanufactured state, and includes all such slimes, concentrates, slags, trailings, residues and amalgams as are valuable for their content of the aforementioned precious metals;

“precious stones” means rough and uncut diamonds, emeralds, rubies and sapphires, not forming part of any tool or instrument or abrasive powder used in an industrial process, and includes any other stones which may be prescribed;

“minerals” means precious metals, precious stones and any other mineral which may be prescribed;

“mineral dealer’s licence” means a licence issued under section 98.

97. (1) Subject to this section no person shall – Possession, etc., of reserved minerals.

- (a) possess any reserved minerals unless –
- (i) they were obtained by him pursuant to the exercise of rights under a mineral right, a non-exclusive prospecting licence, or a claim of which he is the holder; or
  - (ii) he is the holder of a mineral dealers licence authorising him to buy the minerals concerned, or an employee of any such holder duly authorised and acting as such; or
- (b) in Dominica, buy any reserved minerals unless he is the holder of a reserved minerals licence authorising him to buy the minerals.

(2) Nothing in subsection (1) operates to prevent *abona fide* museum, educational or scientific establishment from possessing or purchasing reasonable amounts of reserved minerals for the purpose of display, teaching or scientific study.

(3) This section is subject to such exceptions as may be prescribed by Regulations.

Mineral dealer's  
licence.

**98.** (1) Subject to the Regulations, the Inspector may on the prescribed fee being paid, issue to any person a mineral dealer's licence.

(2) Subject to subsection (3), a mineral dealer's licence authorises the holder to buy such reserved minerals as are identified in the licence.

(3) The holder of a mineral dealer's licence shall not buy any reserved minerals from any person unless that person is entitled, under this Part, to possess those reserved minerals.

(4) The holder of a mineral dealer's licence shall keep records in such form containing such particulars as may be prescribed, provided that the holder of the licence –

- (a) keeps a register showing –
  - (i) all purchases and sales of minerals made;
  - (ii) the nature and weight of the minerals;
  - (iii) the date of each transaction;
  - (iv) the name and address of the vendor and his title to the minerals;
  - (v) the name of the purchaser or consignee to whom the minerals are sold or consigned;
- (b) causes every transaction to be entered in the register within twenty-four hours;
- (c) produces on demand the register to the Inspector or any officer authorised by him for inspection;
- (d) renders to the Inspector such returns as he may require.

(5) The Regulations may provide for the term, renewal and cancellation of reserved minerals licences.

**99.** Any person who contravenes section 97(1) or 98(3) commits an offence and is liable on conviction –

Offences.

- (a) in the case of an individual, to a fine of twenty thousand dollars and to imprisonment for one year; or
- (b) in the case of a body corporate, to a fine of twenty-five thousand dollars.

## PART IX

### RESTRICTIONS ON SURFACE RIGHTS

**100.** In this Part, “authority” means –

Definitions.

- (a) a mineral licence;
- (b) a non-exclusive prospecting licence;
- (c) a claim; or
- (d) a quarry permit.

**101. (1)** The holder of an authority shall not exercise any of his rights under the authority or under this Act –

Restrictions on exercise of rights in relation to certain land.

- (a) except with the written consent of the Minister in respect of –
  - (i) any land set apart for any public purpose (other than mining);
  - (ii) any land dedicated as a place of burial or which is a place of religious significance;
- (b) except with the written consent of the owner or lawful occupier of any land.
- (c) in respect of any land comprising a street, road reserve or aerodrome, except with the written consent of the Minister or other authority having control thereof.

(2) Any consent under subsection (1)(a) or (c) may be given unconditionally or subject to conditions as specified in the instrument of consent.

(3) Notwithstanding subsection 1(b) where the consent of the owner or lawful occupier is withheld the Minister may on an application by the holder of the authority made through the Inspector, and after hearing both the parties, if he is satisfied that the consent is unreasonably withheld, may by order, direct the owner or lawful occupier to allow the holder of the authority to carry on the works on the land on the terms and conditions and for the period of time specified in the order.

Compensation for  
disturbance to rights,  
etc.

**102.** (1) Subject to the provisions of this Act, where, in the course of reconnaissance, prospecting or mining operations, the rights of the owner or lawful occupier of any land are disturbed or damage to any crops, trees, buildings, stock or works thereon is caused –

(a) the holder of the authority, by virtue of which the operations are carried on; or

(b) if the operations are carried on by or on behalf of a person who is not the holder of any authority, every person by or on whose behalf the operations are carried on, is liable to pay the owner or lawful occupier fair and reasonable compensation in respect of the disturbance or damage according to the respective rights or interests of the owner or lawful occupier concerned.

(2) The amount of compensation payable for surface rights shall be –

(a) where the owner or lawful occupier who is also a licence or permit holder, fair and reasonable compensation less half per cent reduced royalty; and

- (b) where the owner or lawful occupier is not a licence or permit holder, fair and reasonable compensation shall be charged in addition to ten per cent of the annual rental acreage.

103. (1) Subject to such exceptions as may be prescribed, the holder of a reconnaissance or an exclusive prospecting licence, before commencing prospecting operations in any private land, shall give to any owner or lawful occupier of the land notice of his intention to commence the operations, in the manner and form as may be prescribed.

Notice of intention to commence reconnaissance or prospecting operations, etc.

(2) The reference in subsection (1) to "prospecting operations" includes a reference to reconnaissance operations, but only to the extent that the reconnaissance operations involve surface or subsurface techniques.

## PART X

### DISPUTES

104. There shall be constituted a Board for the purpose of determining all complaints, claims or disputes arising out of the provisions of this Act.

Establishment of the Board.

105. (1) The Board shall consist of the following five persons:

Constitution and duties of the Board.

- (a) Solicitor General;
- (b) Chief Magistrate;
- (c) one person representing the mining industry;
- (d) two persons approved by the House of Assembly by Resolution,

to be appointed by the Minister.

(2) The Minister shall appoint one of the members to be the Chairman of the Board.

(3) The Inspector shall function as Secretary to the Board.

(4) At any meeting of the Board, three members shall constitute the quorum.

(5) The Chairman shall preside at all meetings of the Board at which he is present, and in his absence the members present and constituting a quorum shall elect one of their members to act as Chairman of the meeting.

(6) The decisions of the Board shall be by a majority of the members present at the meeting and voting.

(7) The practice and procedure of the Board shall, as far as may be, be similar to the practice and procedure of the Magistrate's Court pursuant to the Magistrate's Code of Procedure Act.

Ch. 4:20.

(8) The Board shall as far as practicable complete its investigation of a complaint, claim or dispute under section 104 within thirty days and communicate its decision to the parties and to the Minister and the Minister shall cause it to be published in the *Gazette*.

(9) Any person aggrieved by the decision of the Board may, within twenty-one days of the notification of the Board's decision, appeal to the Court of Appeal.

(10) Any amount ordered by the Board by way of compensation or a fine may be enforced in the same manner as if the amount thereof were a judgment debt.

## PART XI

### MISCELLANEOUS

Scientific investigation.

**106.** (1) The Inspector may, by instrument in writing, consent to the carrying on by any person of reconnaissance or prospecting operations in the course of a scientific investigation with respect to the geology or mineral resources of Dominica.

(2) An instrument of consent under this section is subject to the conditions specified in the instrument.

(3) An instrument of consent under this section authorises the person to whom it is issued to carry on the reconnaissance or prospecting operations specified in the instrument –

(a) in the area; and

(b) subject to the conditions specified in the instrument, in the course of the scientific investigation.

(4) Subject to subsections (5) and (6), any authorised officer, or any person authorised in writing for the purpose of this section by the Inspector for the purpose of collecting information on the geology and mineral resources of Dominica may enter on any land and, for that purpose, carry on any prescribed operations.

(5) An authorised officer or a person authorised shall not pursuant to subsection (4), enter on any land or place referred to in section 101 without obtaining the consent required under that section in relation to the land or place.

(6) Where the doing of any act is regulated or prohibited by a written law (other than this Act) nothing in this section shall be construed as authorising the person specified in the instrument to do the act –

(a) otherwise than in accordance with the written law; and

(b) without first obtaining the licence, permit, authority, or other instrument, if and when required under the written law for the doing of the act.

(7) Notwithstanding any provision of that written law, if the Minister is satisfied that any licence, authority, or other instrument, required in pursuance of subsection (6)(b) is being unreasonably withheld he may, in his absolute discretion, direct the issue thereof.

**107.** (1) For the purposes of this Act the Inspector or an authorised officer, at all reasonable times may –

(a) enter any area, structure, vehicle, vessel, aircraft or building that, in his opinion, has been, is being or is to be used in connection with reconnaissance, prospecting or mining operations;

Powers of Inspector  
and authorised  
officers.

- (b) inspect and test any machinery or equipment that, in his opinion, has been, is being or is to be used in connection with any of the operations referred to in paragraph (a);
- (c) take or remove for the purpose of analysis or testing, or for use in evidence in connection with an offence against this Act samples of minerals or other substances from a mine or any area where any of the operations referred to in paragraph (a) are being carried on;
- (d) inspect, take extracts from, and make copies of, any document relating to any of the operations referred to in paragraph (a);
- (e) with respect to the health and safety of persons employed by a holder of a mineral right or a claim in or in connection with any of the operations referred to in paragraph (a), issue directions to and impose restrictions on the holder or any persons so employed, by instrument in writing;
- (f) order, by instrument in writing the –
  - (i) cessation of operations on or in, and the withdrawal of all persons from, any structure or building that is being used in connection with any of the operations referred to in paragraph (a); or
  - (ii) discontinuance of the use of any machinery or equipment, which he considers unsafe, unless and until any action as is necessary for safety and specified in the instrument is taken and completed; or
- (g) may make any examination and inquiries as are necessary to ensure that the provisions of this Act and any directions issued, conditions imposed or orders made under this Act are being complied with.

(2) Before exercising any of the powers under subsection (1), if there is any person who is or appears to be in charge of the area, structure, vehicle, vessel, aircraft, building, machinery, equipment or matter or thing in respect of which the power is about to be exercised, the Inspector or an authorised officer shall identify himself to that person and to any person to whom he is about to give an order or a direction.

(3) Any person who is aggrieved by a decision, direction or order may prefer an appeal to the –

(a) Inspector where the decision, direction or order is made by an officer authorised by the Inspector; and

(b) Minister where the decision, direction or order is made by the Inspector.

(4) On an appeal under subsection (3), the Inspector or the Minister, as the case may be, may rescind or affirm the decision, direction or order appealed against or may make a new decision, direction or order in substitution therefor.

(5) A decision made pursuant to subsection (4) shall be final.

(6) In exercising his powers under subsection (1), the Inspector or an authorised officer may be accompanied by any person who the Inspector or the authorised officer, as the case may be, believes has special or expert knowledge of any matter being inspected, tested or examined.

(7) A person who is an occupier or the person in charge of any building, structure or place, or the person in charge of any vehicle, vessel, aircraft, machinery or equipment referred to in subsection (1), shall provide the Inspector or an authorised officer all reasonable facilities and assistance (including the provision of necessary means of transport) for the effective exercise of the powers under this section by the Inspector or an authorised person.

(8) Any person who –

- (a) without reasonable excuse, obstructs, molests or hinders the Inspector or an authorised officer in the exercise of his powers under this section; or
- (b) knowingly or recklessly makes a statement or produces a document that is false or misleading in a material particular to the Inspector or an authorised officer engaged in carrying out his duties and functions under this section, commits an offence and is liable on conviction to a fine of five thousand dollars and two years imprisonment.

Removal of minerals.

**108. (1)** Minerals shall not be removed from any land from which they have been obtained, nor disposed of, in any manner, except –

- (a) subject to subsection (2) by the holder of a mineral right, a non-exclusive prospecting licence or a claim for the purpose of sampling or analysis;
- (b) by such a holder in accordance with the terms of the mineral right, non-exclusive prospecting licence or claim concerned; or
- (c) as otherwise permitted by this Act.

(2) The holder of a mineral right, a non-exclusive prospecting licence or a claim shall not, pursuant to subsection (1)(a), take or send out of any land samples of minerals without the written consent of the Inspector.

(3) Any person who contravenes subsection (1) or (2) commits an offence and is liable on conviction –

- (a) in the case of an individual, to a fine of two thousand dollars and two years imprisonment; or
- (b) in the case of a body corporate, to a fine of ten thousand dollars.

Permit to export minerals.

**109. (1)** The Minister may grant to any person a permit to export minerals from Dominica on conditions determined by the Minister

and specified in the permit; but the grant of such a permit does not exempt the person concerned from complying with the requirements of any other law relating to the export of minerals.

(2) Any person who exports any mineral from Dominica otherwise than under and in accordance with a permit granted under subsection (1), commits an offence and is liable on conviction –

(a) in the case of an individual, to a fine of two thousand dollars and one year imprisonment; or

(b) in the case of a body corporate, to a fine of ten thousand dollars.

(3) This section shall not apply with respect to any mineral as may be prescribed by Regulations.

**110.** Where the Minister considers that any land is required to secure the development or utilisation of the mineral resources of Dominica he may direct that the land be compulsorily acquired under the Land Acquisition Act.

Acquisition of land.

Ch. 53:02.

**111.** The Minister may direct the holder of a mineral right or a claim, at a reasonable time and place specified in the direction, to make available to, or to produce for inspection by, the Inspector or an authorised officer, any books, accounts, vouchers, documents or records of any kind, concerning the mineral right or claim, and if the holder fails or neglects to do so, he commits an offence and is liable on conviction to a fine of two thousand dollars.

Production of books, etc.

**112.** A person exercising any right under a reconnaissance licence, a prospecting licence or a non-exclusive prospecting licence on any land shall, if required to do so by any lawful occupier of the land, produce evidence that he is the holder or an agent or employee of the holder, of such licence; and if he fails to do so he may be treated as a trespasser.

Identity, of persons exercising certain rights, to be established.

**113.** (1) Subject to any relevant agreement of a kind referred to in section 9, where a mineral right has been wholly or partly determined or cancelled, or has expired, the Minister may, by notice served on the person who is or was the holder of the mineral

Removal of property by holder of mineral right.

right, direct that person to remove or cause to be removed from the relinquished area concerned, all property brought into that area by any person engaged or concerned in the operations authorised by the mineral right, or to make arrangements that are satisfactory to the Minister with respect to that property.

(2) A person to whom a direction under subsection (1) is given and who refuses or fails to comply with the direction within the period specified in the notice by which the direction was given commits an offence and is liable on conviction to a fine of two thousand dollars.

Removal and sale of property.

**114.** (1) Where a direction under section 113 has not been complied with, the Minister may –

- (a) do or cause to be done all or any of the things required by the direction to be done;
- (b) remove or cause to be removed, in such manner as he thinks fit, all or any of the property from the relinquished area concerned;
- (c) dispose of, in such manner as he thinks fit, all or any of the property referred to in paragraph (b); and
- (d) if he has served a copy of the notice by which the direction was given on a person whom he believed to be an owner of the whole or part of the property, sell or cause to be sold by public auction or otherwise as he thinks fit, all or any of the property referred to in paragraph (b) that belongs, or that he believes to belong, to that person.

(2) The Minister may deduct from the proceeds of sale of property under subsection (1) that belongs or that he believes to belong, to a particular person –

- (a) all or any part of any costs and expenses incurred by him under that subsection in relation to that property;
- (b) all or any part of any costs and expenses incurred by him in relation to the doing of anything required

by a direction under section 113 to be done by the person; and

(c) all or any part of any fees or amounts due and payable under this Act by the person.

(3) The costs and expenses incurred by the Minister under subsection (1) if incurred in relation to —

(a) the removal, disposal or sale of property, are a debt due by the owner of the property to the Government; or

(b) the doing of any thing required by a direction under section 113 to be done by a person who is or was the holder of a mineral right, are a debt due by that person to the Government and to the extent to which they are not recovered under subsection (2), are recoverable in a court of competent jurisdiction, as a debt due to the Government.

(4) Subject to subsection (3), no action lies in respect of the removal, disposal or sale of property under this section.

**115.** Any person who, without reasonable excuse, obstructs, molests, hinders or prevents the holder of a mineral right, a non-exclusive prospecting licence, or a claim, in or from the doing of any act which that holder is authorised to do by this Act, commits an offence and is liable on conviction to a fine of two thousand dollars, and two years imprisonment.

Obstruction of holder of mineral right, etc.

**116.** When an offence which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly.

Offence committed by body corporate.

Miscellaneous  
offences.

**117.** Any person who –

- (a) in, or in connection with, any application under this Act or in response to any invitation or requirement of the Minister or of the Inspector under this Act (otherwise than under section 107), knowingly or recklessly gives information which is false or misleading in a material particular;
- (b) in any report, return or affidavit submitted in pursuance of any provision of this Act knowingly or recklessly includes or permits to be included any information which is false or misleading in a material particular;
- (c) places or deposits, or is accessory to the placing or depositing of, any material or substance in any place with the intention of misleading any other person as to the mineral possibilities of that place;
- (d) mingles or causes to be mingled with any sample of ore any substance which will enhance the value or in any way change the nature of the ore with the intention to cheat, deceive or defraud,

commits an offence and is liable on conviction –

- (i) in the case of any individual, to a fine of ten thousand dollars and four years imprisonment;
- (ii) in the case of a body corporate to a fine of sixty thousand dollars.

PART XII  
REGULATIONS

Regulations.

**118. (1)** The Minister may make Regulations prescribing all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) In particular, but without limiting the generality of subsection (1), the Regulations may include provision for or with respect to –

- (a) reconnaissance operations, prospecting for minerals and the carrying on of related operations, and for those purposes the execution of works, the methods which may or may not be used and the duties of specified persons in relation to reconnaissance or prospecting operations;
- (b) mining for minerals and the carrying on of related operations, and for those purposes the execution of works, the methods which may or may not be used and the duties of specified persons in relation to mining operations;
- (c) the functions of officers acting in the administration of this Act;
- (d) the regulation of matters relating to sanitation and health;
- (e) the reporting of cases of accident or death occurring in the course of reconnaissance, prospecting or mining operations, or in any related operations, and the holding of inquiries into accidents;
- (f) the demarcation of reconnaissance, prospecting or mining areas;
- (g) the determination and amount of royalty payable, and the manner of the payment and collection of royalty;
- (h) the circumstances in which fees or rents may be charged and the amount thereof;
- (i) the making of searches in connection with claims or mineral rights, or interests created therein, the granting of certificates in connection therewith, and the effect of any such certificate;

- (j) the issue and conditions of a non-exclusive prospecting licence and the exercise of rights thereunder;
- (k) the manner of pegging of claims (including the number and class of claims which may be pegged), and the registration of claims;
- (l) the exercise of rights and the duties to be performed (including work obligations);
- (m) the transfer and the creation of shares in a claim, and the respective rights of the transferor and the transferee;
- (n) the amalgamation, surrender or cancellation of claims, whether in respect of the whole or part only of the land in claim areas;
- (o) submission of records and reports as specified in Schedule I by the holders of reconnaissance licence, exclusive prospecting licence and mining licence;

Schedule I.

- (p) amending Schedule I.

Schedule I.

(3) Regulations made pursuant to subsection (2)(g) –

- (a) may prohibit the export of any mineral unless or until royalty payable thereon has been paid or secured;
- (b) may specify the person or persons by whom royalty shall be paid, and may specify whether two or more persons are jointly and severally liable to pay the royalty;
- (c) may provide for the examination of mineral consignments and the issue of export permits in respect thereof; and
- (d) may provide for the performance by persons identified in the Regulations, of the functions with respect to royalty and its collection.

## PART XII

## TRANSITIONAL PROVISIONS, SAVINGS AND REPEALS

**119.** This Act does not affect –

Savings.

- (a) anything duly done or commenced;
- (b) any liability waived;
- (c) any forfeiture, penalty or punishment received in respect of any offence committed under the Mining Ordinance; Cap. 198.
- (d) any inquiry, investigation, legal proceedings or remedy in respect of any such forfeiture, liability, penalty or punishment may be continued, enforced and imposed as if this Act had not been enacted.

**120.** The Mining Ordinance is hereby repealed.

Repeals.  
Cap. 198.

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**SCHEDULE I**

(Section 64).

**RECORDS AND REPORTS**

**1. (1)** Subject to subparagraph (4), the holder of a reconnaissance licence –

Duties of holder of  
reconnaissance  
licence.

- (a) shall furnish such information in connection with the programme of reconnaissance operations as the Minister may, from time to time, require; and
- (b) shall, at half-yearly intervals commencing six months after the grant of the licence, submit to the Minister reports on the progress of the programme of reconnaissance operations.

(2) Where a reconnaissance licence is determined or cancelled or expires, the person who was the holder of the licence immediately before the determination, cancellation or expiration shall, not later than

three months thereafter, submit to the Minister a report setting forth his evaluation of the mineral prospects of the former reconnaissance area.

(3) A report submitted pursuant to subparagraph (2) shall be accompanied by the negatives of all aerial photographs taken in the course of carrying on the programme of reconnaissance operations, together with

- (a) all geological, geochemical and geophysical maps, profiles, tapes, diagrams and charts made;
- (b) copies of all tests and analysis made by or for that holder;
- (c) copies of all reports made by or for that holder, including interpretations concerning the mineral prospects in the reconnaissance area; and
- (d) a statement of the costs incurred by that holder in the performance of the programme of reconnaissance operations.

Duties of holder of  
exclusive prospecting  
licence.

2. (1) Subject to subparagraph (2), the holder of an exclusive prospecting licence shall –

- (a) keep, at the address referred to in section 64(2)(a), full and accurate records of his prospecting operations which shall show –
  - (i) boreholes drilled;
  - (ii) strata penetrated, with detailed logs of the strata;
  - (iii) minerals discovered;
  - (iv) the results of any seismic survey or geochemical or geophysical analysis;
  - (v) the results of any analysis or identification of minerals removed under section 108;
  - (vi) the geological interpretation of the records maintained under subparagraphs (i) to (v) inclusive;
  - (vii) duplicate of all samples;
  - (viii) the number of persons employed;
  - (ix) other work done in connection with the exclusive prospecting licence;

- (x) costs incurred; and
- (xi) such other matters as may be prescribed; and
- (b) submit, at least once in every three months of the term of the licence, copies of those records to the Minister, together with any reports prepared as a result of those records.

(2) The Minister may, on application made to him by the holder of an exclusive prospecting licence, dispense with or modify all or any of the requirements of subparagraph (1).

3. (1) Subject to subparagraph (2), the holder of a mining licence shall –

Duties of holder of mining licence.

- (a) keep, at the address referred to in section 64(2)(a), full and accurate technical records of his mining operations in the mining area, in such form as the Minister may approve;
- (b) keep at that address copies of all maps, geological reports, including interpretations, mineral analyses, aerial photographs, core logs, analyses and tests, and all other data, obtained and compiled by the holder in respect of the mining area;
- (c) keep at that address accurate and systematic financial records of his operations in the mining area and such other books of accounts and financial records as the Minister may require; and if the holder is engaged in any other activity not connected with his mining operations he shall maintain separate books of account in respect of his mining operations;
- (d) submit to the Minister such reports, records and other information as the Minister may, from time to time, require concerning the conduct of operations in the mining area; and
- (e) furnish the Minister with a copy of every annual financial report within three months of the end of each financial year showing the profit or loss for the year and the state of financial affairs of the holder at the end of each financial year.

(2) The Minister may on application made to him by the holder of a mining licence, dispense with or modify all or any of the requirements of subparagraph (1).

Duty on termination of mineral right, etc.

4. Where –

- (a) a mineral right terminates pursuant to section 54(1)(b) or 55; or
- (b) the term of an exclusive prospecting licence or mining licence expires, the person who was the holder of the mineral right immediately before the termination or expiration,

shall deliver to the Minister –

- (i) all records which the former holder maintained pursuant to this Act with respect to the mineral right;
- (ii) all plans or maps of the area of land that was subject to the mineral right and which were prepared by or on the instructions of the former holder;
- (iii) such other documents as the Minister may, by notice given to the former holder, require him to so deliver; and
- (iv) all samples derived from the area.

Passed in the House of Assembly this 15th day of February, 1996.

M. ALBERTHA JNO. BAPTISTE  
*Clerk of the House of Assembly.*

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