

# **Mining Act [Cap 146]**

## **LAWS OF FIJI**

Ed. 1978]

### **CHAPTER 146**

#### **MINING**

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### **CHAPTER 146**

#### **MINING**

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### **AN ACT TO REPEAL THE MINING ORDINANCE AND TO MAKE BETTER PROVISIONS RELATING TO PROSPECTING FOR AND MINING PRECIOUS METALS AND OTHER MINERALS**

[16th December, 1966]

#### **PART I-GENERAL**

##### *Short title*

1. This Act may be cited as the Mining Act.

##### *Interpretation*

2. In this Act, unless the context otherwise requires -

"agent" means a person appointed, in writing, to act on behalf of the holder of any mining tenement or having the care or direction of any mi tenement or part thereof;

"alienated land" means land which is the subject of a Crown grant or native grant or certificate of title or any land the subject of a registered lease;

"alluvial" means all mineral deposits which result from the disintegration of older deposits, whose constituents have been brought to their present position by physical agencies;

"authorised officer" means any person authorised, in writing, by Director to perform any of the duties or exercise any of the powers conferred or imposed by the provisions of this Act;

"Board" means the Mining Appeals Board as constituted under the provisions of section 10;

"certified copy" means a copy certified as true by any magistrate, commissioner for oaths, barrister and solicitor, justice of the peace, police officer or any officer appointed under the provisions of this Act;

"Crown land" has the same meaning as in the Crown Lands Act;

*(Cap. 132.)*

"dealing" means any transaction of whatsoever nature by which an interest in a mining tenement is affected and includes any option when exercised;

"Director" means the Director of Mines appointed under the provisions of this Act;

"Government" means the Government of Fiji and for the purposes of avoiding doubt, the Minister by notice, may include or exclude any person from this definition;

"holder" means, in the case of a prospector's right, the person to whom such right was granted and, in the case of a mining tenement, includes a person in whom such mining tenement or part of the rights thereunder has become lawfully vested by transfer, assignment, transmission or otherwise;

"improved land" means the site or curtilage of any building or any garden, lawn, yard, nursery for trees, orchard, plantation, cultivated field (not being pasture land), sports ground, recreation ground, rifle range, reservoir, natural or artificial storage or accumulation of water, or any spring, dam, bore, artesian well, cemetery, burial place or place of worship, or any land on which a railway, tramway, roadway, aerodrome, bridge or culvert is constructed, or any land used for stacking or storing or depositing material or mining requisites;

"improvements" means any house, store, stable, hut or other building or any fence, well, dam, tank, reservoir, trough, pump or other apparatus for raising water or any garden, plantation, cultivation, drain, road, railway, tramway, aerodrome, bridge or culvert;

"inspector" means an inspector of mines appointed under the provisions of this Act and includes any person authorised in writing by the Director to carry out the duties of such inspector;

"land" includes water and land covered by water;

"livestock" means any cattle, horses, donkeys, sheep, goats, pigs and all other domestic animals and their young;

"machinery" means all mechanical appliances of whatsoever kind, except motor vehicles, used for any mining purpose;

"mine" means any place, excavation or working wherein or whereby an operation for or in connection with any mining purpose is or shall be carried on;

"minerals" includes the following minerals:

(a) "precious metals" which shall include gold, silver, platinum, palladium, iridium, osmium, or ores containing them, and all other substances of a similar nature;

(b) "precious stones" which shall include amber, amethyst, beryl, cat's-eye, chrysolite, diamond, emerald, garnet, opal, ruby, sapphire, turquoise, and all other stones of a similar nature;

(c) "earthy minerals" which shall include asbestos, ball-clay, barytes, bauxite, bentonite, china-clay, fuller's earth, graphite, gypsum, marble, mica, nitrates, phosphates, pipeclay, potash, salt, slate, soda, sulphur, talc and all other substances of a similar nature;

(d) "radioactive minerals" which shall include minerals either raw or treated (including residues and tailings) which contain by weight at least 0.05 per cent of uranium or thorium or any combination thereof, including but not limited to:

(i) monazite sand and other ores containing thorium; and

(ii) carnotite, pitch blende and other ores containing uranium;

(e) "coal" which shall include coal in all its varieties and all other substances of a similar nature;

(f) "metalliferous minerals" which shall include aluminium, antimony, arsenic, bismuth, cadmium, chromium, cobalt, copper, iron, lead, manganese, mercury, molybdenum, nickel, tin, tungsten, vanadium, zinc, and all ores containing them, and all other minerals and mineral substances of whatsoever description but excluding only the minerals and mineral substances included in paragraphs (a), (b), (c), (d) and (e),

but shall not include clay, gravel, sand, stone or other common mineral substances, and for the purpose of avoiding doubt the Minister may from time to time by notice in the Gazette declare any mineral substance to be included in or excluded from this definition;

"mining tenement" means any lease, licence, right, permit, title, easement or privilege, other than a prospector's right, relating to prospecting and mining, lawfully granted or acquired under the provisions of this Act or any former Mining Ordinance, and includes the specific parcel of land the subject of such lease, licence, right, permit, title, easement or privilege;

"native land" means land which is neither Crown land, nor the subject of a Crown or native grant;

"occupier" means the person in actual occupation of any land, or, if there is no person in actual occupation, the person entitled to possession thereof;

"owner" means the registered proprietor of land and includes a lessee; in relation to native land it means the Native Land Trust Board acting on behalf of the registered native owners, and in relation to Crown land it means the Director of Lands;

"passageway" means and highway, road, street, footpath, railway, tramway, wireline, cableway, chute, pipe, sewer, drain, tunnel, shaft or race and includes any right-of-way or easement;

"prescribed" means prescribed by or under the provisions of this Act, or, where the context specifies or implies, by any lease, licence, right or permit granted under the provisions of this Act;

"prospect" means to search for minerals and includes such working as may be prescribed to enable the prospector to test and assess the mineral bearing qualities of any land;

"race" means any artificial channel or ditch or flume or pipe for the conveyance of water or water and refuse;

"Regulations" means the Regulations and forms for the time being in force under the provisions of this Act;

"rent" unless otherwise specified means sub-surface rent;

"shaft" means any vertical or inclined tunnel other than a stope which is or might be used for winding, travelling, draining, or ventilation purposes in connexion with prospecting or mining operations;

"tailings" means all gravel, sand, slime or other substance which is the residue of bona fide mining operations;

"to mine" means to disturb, remove, cart, carry, wash, sift, smelt, refine, crush or otherwise deal with any rock or earth by any mode or method whatsoever for the purpose of obtaining any mineral therefrom;

"unimproved land" means any land other than improved land.

#### *Reservation to the Crown of minerals*

**3.**-(1) All minerals of every description, including crude oil as defined in the Petroleum (Exploration and Exploitation) Act, in or under all lands of whatsoever ownership or tenure and in whosoever possession or enjoyment they may be, are, and shall be deemed always to have been, the property of the Crown and shall be deemed not to have been parted with under any alienation, dedication, lease, licence or permit of such lands save in so far as such rights may in any case have been limited by any express grant made before the commencement of this Act.

*(Cap. 148)*

(2) Subject to the provisions of Part III, the Crown, either alone or in conjunction with any other person, shall have full liberty at all times to search, dig for and carry away all such minerals of every description and for that purpose to enter upon all lands throughout Fiji.

(3) The rights conferred upon the Crown under the provisions of subsection (2) may only be exercised by the Director, an inspector or any authorised officer.

*Power to prohibit prospecting for specified minerals and to grant exclusive rights*

**4.** The Minister may by order prohibit or restrict prospecting for any specified mineral throughout the whole or any specified part of Fiji, and, by the same or by a subsequent order, grant the exclusive right to prospect for any mineral so specified to such person as may be named in the order and the provisions of this Act relating to prospector's rights shall apply to an exclusive right to prospect granted under the provisions of this section.

*Director may declare Government protection areas and grant mining tenements thereover*

**5.**-(1) Notwithstanding any provision of this Act, the Director may, by notice in the Gazette, declare any area, not exceeding 250ha in extent in any instance, to be a Government protection area, and may in like manner cancel the declaration of any such Government protection area.

*(Amended by 37 of 1966, s. 106.)*

(2) No person shall prospect or mine in a Government protection area without the consent of the Director:

Provided that this subsection shall not apply to the holder of any mining tenement in respect of any land the subject of such tenement included in any Government protection area.

(3) Subject to the approval of the Minister, the Director may call for tenders for the right to prospect or mine in any such area, and may grant a mining tenement to any person on such terms and conditions, whether in accordance with the provisions of this Act or not, as the Minister may think fit, but, save as varied by any such terms and conditions, the provisions of this Act shall be applicable to any such mining tenement.

### *Disputes*

**6.** At the request in writing of all parties thereto the Director may decide any dispute, other than a dispute which he is expressly empowered to decide under any other provisions of this Act, between persons engaged in prospecting or mining operations either amongst themselves or in relation to themselves and third parties, concerning any rights arising under the provisions of this Act relating to any of the following matters:-

(a) disputed boundaries;

(b) acts, omissions or matters in the course of, connected with, or auxiliary to prospecting or mining operations:

Provided that the Director may, in his discretion, refuse to decide any such dispute.

### *Appointment of officers*

**7.** The Public Service Commission may appoint a Director of Mines and such inspectors of mines and other officers as may be necessary for carrying into effect the provisions of this Act.

### *Powers of inspectors*

**8.**-(1) An inspector may -

(a) arrest without warrant any person whom he may find committing, or whom he reasonably suspects of having committed, any offence against the provisions of this Act. The person arrested shall be taken with as little delay as possible to the nearest police station to be dealt with according to law;

(b) by notice in writing, require any holder of a prospector's right or mining tenement or any person employed by such holder of a mining tenement, to appear before him at any reasonable time and place and give such information regarding operations in or about the area being prospected or mined as such person may possess, who shall be legally bound to comply with such notice and to give such information;

(c) by order in writing direct that prospecting or mining operations shall be suspended in any area, whether the subject of a mining tenement or not, until such arrangements, as are in his opinion necessary to prevent danger to life or property, have been made.

(2) Any person who contravenes or fails to comply with any notice or order made under the provisions of paragraphs (b) or (c) of subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding six months.

### *Right of entry and inspection*

**9.**-(1) In so far as it is necessary for the purpose of his duties under the provisions of this Act, the Director, an inspector or any authorised officer may, at all reasonable times by day or night, but so as not unreasonably to impede or obstruct the work in progress-

(a) enter, inspect and examine any land for the purpose of assessing its mineral potential or any land on which prospecting or mining operations are being conducted or which is the subject of any mining tenement:

Provided that no person shall enter any land within the curtilage of a dwelling-house without first informing the occupier of his intention to do so;

(b) examine and make inquiry respecting the condition and ventilation of any mine and any building connected with prospecting or mining operations and all matters relating to the safety, welfare and health of the persons employed therein;

(c) inspect and examine the state of the external parts of the machinery used upon or in the mine, and the state of all plant, works and passageways;

(d) examine and take extracts from all books, accounts, vouchers and documents relating to prospecting or mining operations or to any minerals obtained by such operations; and

(e) examine and take samples of any material being prospected or mined.

(2) Any officer of the Mineral Resources Division of the Government may exercise all or any of the powers conferred upon the Director by the provisions of paragraph (a) of subsection (1).

### *Constitution and appointment of Mining Appeals Board*

**10.**-(1) There shall be constituted an Appeals Board called the "Mining Appeals Board" which shall consist of a chairman and three other members to be appointed by the Minister. One member shall be a barrister and solicitor. Three members shall form a quorum.

(2) The chairman shall have an original vote and, in the event of equality of votes, shall have a casting vote. In the absence of the chairman from a meeting the members present shall elect one of their number to be chairman.

(3) Any person aggrieved by any decision of the Director made under the provisions of this Act, may, within thirty days of the date of the receipt of such decision, or such longer period as the Board may in any case allow, appeal from such decision to the Board. Every such appeal shall be in writing and shall state the grounds thereof.

(4) The Board shall have power to summon and examine witnesses on oath and affirmation and to require the production of all documents relevant to an appeal, but shall not be bound by the rules of evidence in civil or criminal proceedings:

Provided that if any witness objects to answering any question or to producing any document on the ground that it will tend to incriminate him or on any other lawful ground, he shall not

be required to answer such question or to produce such document, nor shall he be liable to any penalties for refusing to do so.

(5) Any person summoned as a witness under the provisions of subsection (4) who fails to attend at the time and place mentioned in the summons, or on adjournment, or without lawful excuse refuses to answer any question put to him or to produce any document which he is required to produce shall be guilty of an offence and shall be liable to a fine not exceeding twenty dollars.

(6) The Board may make rules as to the procedure for appeals under the provisions of this Act.

(7) Any person, including the Director, aggrieved by a decision of the Board, may, within thirty days of the date of the receipt of such decision, or such longer period as the Court may in any case allow, appeal from such decision to the Supreme Court which on the determination of any such appeal may make such order as to it seems just. The decision of the Supreme Court shall be final.

*Lands closed to prospecting, etc.*

**11.**-(1) Save as may be otherwise provided by the provisions of this Act, the following classes of land shall be closed to prospecting or mining or entry upon or occupation under any prospector's right or mining tenement:

(a) any Fijian village;

(b) any land used as a place of burial or set apart for any public purpose;

(c) any land within 30 m of an inhabited house or building, except with the consent in writing of the owner or occupier thereof;

(d) any land under crop and land ploughed or otherwise cultivated and rendered fit for planting and habitually used for the planting of crops, except with the consent in writing of the owner or occupier thereof;

(e) any land within the boundaries of any city or town except with the consent of the owner of surface rights;

(f) any land reserved for the purpose of any railway or public road or within 15 m of any such railway or road, except with the consent of the owner thereof, or, as the case may be, the Permanent Secretary for Works;

(g) any land within 60 m of any spring in use as a source of water supply or any area declared as a catchment area for water supply purposes or any artificial reservoir, water-works or water supply buildings, except with the consent of the Commissioner of Water Supply;

(h) any reserved forest, declared as such under the provisions of the Forest Act, except with the consent of the Conservator of Forests;

(Cap. 150.)

(i) any land which the Minister may, by order, close to prospecting or mining or entry upon or occupation under any prospector's right or mining tenement.

(Amended by Order 7th October, 1970 and 14 of 1975, s. 34.)

(2) Should any question arise as to whether any particular land is close under the provisions of subsection (1), it shall be referred to the Minister whose decision shall be final.

(3) In any area so closed, the Director may, subject to the approval of the Minister, grant a mining tenement to any person on such terms and conditions, including conditions relating to immediate and prospective damage and compensation therefor, whether in accordance with the provisions of this Act or not, as the Minister may think fit, but, save as varied by any such terms and conditions, the provisions of this Act shall be applicable to any such mining tenement.

(4) Where consent is refused under the provisions of paragraphs (c), (d), (e), (f), (g) or (h) of subsection (1), an appeal shall lie to the Board in the same as an appeal lies to the Board from any decision of the Director but the decision of the Board shall be final. If the Board gives consent it may impose such conditions as to prospecting or mining as it thinks fit whether in accordance with the provisions of this Act or not.

*Adjacent land in certain cases to be closed to application*

**12.** At any time after the presentation of an application for a prospecting licence the Director may, by notice in the Gazette, declare that such adjacent land as may be specified in such notice shall be closed to marking out for the purpose of applying for a prospecting licence for such period as he may decide.

*Compliance with Companies Act*

**13.**-(1) No mining tenement shall be granted to any company incorporated outside Fiji unless such company has first complied with the provisions of Part XII of the Companies Act.  
(Cap. 247.)

(2) Any mining tenement granted to any incorporated company may be cancelled by the Director if such company fails to comply with any of the provisions of the Companies Act which may be applicable to such company.  
(Cap. 247.)

*Power of attorney etc.*

**14.**-(1) On payment of the prescribed fee, the holder of any mining tenement may authorise and appoint by power of attorney any person to act for him or on behalf in respect of any share or interest in such tenement, and a certified copy of such power of attorney shall be filed with the Director.

(2) If the holder of a mining tenement does not reside on his tenement or, in the opinion of the Director, does not reside sufficiently near thereto to give continuous supervision of the prospecting or mining operations being conducted on such tenement he shall, at all times, have so residing a responsible person in charge of such operations and shall forthwith notify the Director of the appointment of every such person and of every change in such appointment.

*Partnership and company to appoint accredited agent*

**15.**-(1) Every partnership or company which applies for a mining tenement shall at the time of such application register at the office of the Director the name of an accredited agent residing in Fiji, and such agent shall, when registered be personally responsible under the provisions of this Act for all matters, acts and omissions in connexion with such tenement in the same manner as if such tenement were granted in his name as his own property.

(2) If at any time any such partnership or company revokes the registration of its accredited agent, it shall register some other person as its accredited agent.

(3) A registered accredited agent may at any time resign his appointment by giving notice in writing to the Director, but such resignation shall not take effect until the expiration of forty-eight hours after the receipt of such notice by the Director.

(4) Within forty-eight hours after receipt of notice from the Director of the fact that its registered accredited agent has resigned, the partnership or company in question shall register some other person as its accredited agent.

(5) Nothing in this section shall be deemed to relieve a company or the members of a partnership of any obligations imposed under the provisions of this Act in regard to any mining tenement held by such company or partnership.

*Deposits*

**16.**-(1) As a guarantee for the due performance of any obligation imposed by the provisions of this Act, the Director may require any person, either on first making application for a mining tenement or at any time during the currency thereof, to deposit with him such sum as he may specify, or such guarantee in a like amount as may be approved by him, and if such person fails to make such deposit within thirty days or such further time as the Director may specify, the application may be refused or the mining tenement suspended or cancelled:

Provided that on the application of the owner or occupier of any land being prospected, the Director may require-

- (a) a deposit or an increased deposit from the holder of a prospector's right; or
- (b) an increased deposit from the holder of a mining tenement.

(2) Where, after due notice, a person has failed to meet any imposed upon him by the provisions of this Act, the Director may take such steps he shall deem practicable to fulfil such obligation and, for such purposes, may expend from any deposit whatsoever made by that person such sum as he shall consider reasonable. Any expense incurred by the Director in so doing shall be a lawful deduction from such deposit.

(3) Where any deposit or portion thereof has been expended in accordance with the provisions

of subsection (2), the Director may by notice in writing require the depositor to deposit, within such time as the Director may specify in such notice, a further sum equal to the amount so expended. Failure to do so within the time so specified shall render any prospector's right or mining tenement held by the depositor liable to suspension or cancellation.

(4) Upon the cancellation of any prospector's right or mining tenement in respect of which any sum has been deposited with the Director, the person by whom such sum was deposited or in whom the right of refund has been vested transfer, may make application in writing to the Director for the refund of such deposit or balance thereof and the Director may authorise such refund to be made:

Provided that -

(a) the Director shall withhold such refund for such time as he may so that he may make any investigations he considers desirable into the obligations of the person entitled to such refund; and

(b) such refund shall be without prejudice to any claim or proceedings existing or which may arise through the breach by the holder or by his servants or agents of any of the provisions of this Act.

(5) Upon the transfer of any mining tenement the right to a refund of any sum deposited under the provisions of this section shall be vested in the transferee.

## **PART II-PROSPECTING AND MINING**

*Applicant or transferee to prove to Director that he has necessary means to prospect or mine*

**17.** The Director may call upon any applicant for a mining tenement, or any proposed transferee thereof, to prove in such manner as he may direct and to his satisfaction, that the applicant or proposed transferee has the working capital necessary to prospect or mine the area in question and for the payment of compensation which may be payable to the owners or occupiers of the land in respect of which the tenement is required, and is in a position to carry on bona fide and efficient prospecting or mining.

*Director may grant prospector's right and mining tenement*

**18.-(1)** Subject to the provisions of this Act and to any general or special directions of the Minister, the Director may grant -

- (a) prospector's rights;
- (b) prospecting licences;
- (c) special prospecting licences;
- (d) permits to mine;
- (e) mining leases;
- (f) special mining leases;
- (g) special site rights;
- (h) road access licences.

(2) The Director shall keep a presentation book in which shall be entered the particulars of every application for a mining tenement which is presented to him with the date and time of presentation.

(3) Every applicant for a mining tenement shall, in the form prescribed, advertise such application in the Gazette and in one newspaper circulating in Fiji. The owner or occupier of any land affected by the application, or any other applicant for a mining tenement in respect of the whole or any part of such land, may, within thirty days of the date of publication of the later of such advertisements, object to the grant of such tenement. Every objection made under the provisions of this subsection shall be made by notice in writing to the Director and the notice shall set out the grounds for such objection. Before granting the tenement the Director shall consider every such objection.

(4) Any sum of money deposited for rent or fees shall be forfeited if an application for a mining tenement is not proceeded with within a period of sixty days from the date on which the approval of the grant is notified by the Director to the applicant, or in the event of an appeal against such approval, within sixty days after the final determination of such appeal, whichever is the later date:

Provided that if the application is withdrawn within the period aforementioned, refund of the said sum shall be made less an amount to cover any costs incurred by the Director in dealing with the application.

*Government officers prohibited from acquiring rights*

**19.** No public officer shall directly or indirectly acquire or hold any right or interest under any prospector's right or mining tenement, and any lease, licence, right, permit or other document or dealing purporting to confer any such right or interest on any such officer shall be null and void:

Provided that, with the permission of the Permanent Secretary responsible for civil service matters, a person temporarily employed by the Government may retain any such right or interest acquired prior to accepting Government employment.

*Implied covenants in all mining tenements*

**20.**-(1) In every mining tenement, unless a contrary intention appears therein, there shall be implied the following covenants against the holder, his executors, administrators, successors or assigns:

(a) that he will pay rent or fees in advance without demand at the time prescribed; and  
(b) that he will use the land continuously and bona fide for the purposes for which the mining tenement was granted and in accordance with the provisions of this Act.

(2) Every mining tenement shall refer to a specific parcel of land which shall be deemed to be bounded by vertical planes from the surface boundary lines drawn downwards to an unlimited

depth from the surface.

(3) The holder of a mining tenement shall not be entitled to take or use any water artificially conserved by the owner or occupier of any land without the consent of such owner or occupier.

(4) On any land the subject of a mining tenement, the holder of such tenement may, for the more convenient occupation and use of such land -

(a) cut take and use without payment therefore any tree not be in tree or a tree of the sandalwood species or Yasidina (*Santalum yasi*) or a tree included in class 1, 2 or 3 in the First Schedule to Regulations; and

(b) remove any undergrowth growing thereon; but

(c) shall not fell any planted tree or the sandalwood species or (*Santalum yasi*) or any tree included in any of the aforesaid without the consent of the owner or occupier of such land:

Provided that in the event of such owner or occupier refusing to consent to the felling of any such tree, the holder of such may make representations to the Director, who shall decide the issue.

*(Section amended by 13 of 1977, s. 11.)*

#### *Surrender of mining tenements*

**21.** Any mining tenement may, upon payment of the prescribed fee the consent of the Director, be surrendered at any time:

Provided that-

(a) at the time of such surrender all terms, covenants and conditions on the part of the holder to be observed or performed have been duly observed and performed;

(b) such surrender shall not affect any liability incurred by the holder before such surrender shall have taken effect; and

(c) no fees or rent shall be refunded.

#### *Surveys*

**22.**-(1) Every mining lease and special mining lease, and every road access licence and special site right held in connexion with a mining lease or special lease, shall be surveyed in accordance with the provisions of the Surveyors Act, subject to such modifications as may be required under the provisions of this Act.

*(Cap 260.)*

(2) Every applicant for any such mining tenement shall, in addition to any other deposit required under the provisions of this Act, deposit with his application the sum of forty dollars in respect of the survey fee, and if such application is refused before survey is made the amount so deposited shall be returned to the applicant.

(3) If the application for such a mining tenement is approved, the applicant shall be notified of the estimated amount of the survey fee, and if such fee is in excess of the amount specified in subsection (2), he shall be required to deposit the amount of such excess with the Director within thirty days of being so notified:

Provided that upon completion of survey and the receipt of plans in due order the Director shall determine the exact amount payable by the applicant and shall cause any corresponding adjustment to be made in the amount previously deposited by the applicant in respect of the survey fee.

(4) The Director may require a survey of any other mining tenement to be made in accordance with the provisions of this section and for such purpose may require the holder of, or applicant for, such tenement to deposit with him the estimated amount of the survey fee.

#### *Grant of prospector's right*

**23.**-(1) The Director or an authorised officer may grant to any person a prospector's right on application being made in the prescribed form in writing upon the payment of the prescribed fee:

Provided that a prospector's right shall not be granted -

- (a) to any person who is under twenty-one years of age;
- (b) to any person who is unable to prove to the satisfaction of the officer issuing the right that he can understand the provisions of this Act to such extent as to enable him to carry out the obligations imposed by it;
- (c) to any person to whom there has previously been issued a prospector's right which has not been surrendered or cancelled and which is in all other respects still valid;
- (d) except with the consent of the Minister, to any person who has been convicted of an offence under the provisions of this Act or any other Act made in connection with mining, explosives or the employment of labour or of an offence involving dishonesty or fraud, since he was last issued with a prospector's right.

(2) A prospector's right shall not be granted in the name of a company partnership but may be granted to an individual as agent of a company or partnership and in such case application shall be made by the individual in person who must either-

- (a) be the lawfully constituted attorney of the company or partnership;
- (b) produce a document in writing signed by a director or responsible manager or partner or agent of the company or partnership, containing an undertaking by the company or partnership to be responsible for the acts and omissions of the individual, who shall also be responsible for his own acts and omissions.

(3) A prospector's right shall not be transferable and shall be in force for a period of one year from the date of grant.

(4) A prospector's right shall be produced whenever demanded by inspector, authorised

officer or police officer or by the owner or occupier of any land on which the holder thereof is prospecting.

*Rights and obligations under prospector's right*

**24.** (1) Subject to the provisions of this Act and to any law relating to drainage, land conservation and the control of natural water supplies, the holder of a prospector's right may -

(a) enter any land open to prospecting having first given notice in writing to the owner or occupier of his intention to do so, such notice to include the name and address of the prospector and the number of prospector's right:

Provided that he shall not enter on-

(i) unalienated native land unless he shall have sent copies of such notice to the Native Land Trust Board and to Commissioner for the Division in which such land is situated, and has complied with all reasonable directions given by such Commissioner for the maintenance of amicable relations between such prospector and the native owners;

(ii) land the subject of a prospecting licence or special prospecting licence except with the consent in writing of the holder prospecting licence or special prospecting licence;

(iii) land the subject of a permit to mine, mining lease or special mining lease, for precious metals or precious stones;

(iv) land the subject of a permit to mine, mining lease or special mining lease, for minerals other than precious metals or precious stones except with the consent in writing of the holder thereof and then only for the purpose of prospecting for minerals other than those specified in the permit to mine, mining lease or special mining lease:

Notwithstanding anything contained in this proviso the Director may, if in his opinion any consent required by sub-paragraphs (ii) or (iv) is being unreasonably withheld, waive the requirement for consent therein contained subject to such conditions as he may see fit to impose and any such waiver shall be a decision of the Director;

(b) prospect for all minerals except minerals for which prospecting is forbidden or restricted under the provisions of section 4;

(c) remove any undergrowth and cut, take and use for prospecting purposes without payment therefor, any tree not being a planted tree or a tree of the sandalwood species or Yasidina (*Santalum yasi*) or a tree included in class 1, 2 or 3 in the First Schedule to the Forest Regulations:

Provided that the Director may impose restrictions on or regulate the clearing of trees or bush when such clearing shall appear to him likely to interfere with the course of any stream or to cause erosion;

*(Amended by 13 of 1977, s. 11.)*

(d) sink shafts and pits or dig holes and trenches but shall not remove over burden from ground which can reasonably be tested or sample by pits not exceeding four feet square or by bore holes:

Provided that-

(i) such excavations shall be fenced or secured, and on the prospector leaving the neighbourhood, filled up in such a manner as to prevent persons or livestock inadvertently entering therein; and

(ii) if any holder of a prospector's right neglects to comply with provisions of this paragraph, the Director shall have the right to cause such excavations to be filled up or to take such other protective measures as may be necessary and for so doing may charge such holder such sum as the Director considers reasonable, and such sum shall be a lawful deduction from any

amount deposited by such holder with the Director under provisions of this Act. Such filling up by the Director and the payment of such sum by the holder shall not exempt the holder from his liability under the provisions of this Act or any other law for his failure to fill up such excavations;

(e) use so much water from a water-course as will enable him to test the mineral-bearing qualities of the land by washing, sluicing or other means:

Provided that where, in the opinion of an inspector, such use of water interferes with or is likely to interfere with any existing user of water, or to interrupt or adversely affect the quality and flow of any water, the holder shall cease such use, on being required to do so by the inspector, until he has made such arrangements as will satisfy the inspector;

(f) mark out and apply for a mining tenement.

(2) In the event of the owner or occupier of any land entered by any prospector under the provisions of subsection (1) making representations to the Director concerning the activity of such prospector on that land, the Director or an inspector may give such directions to the prospector as the Director or such inspector may give such directions to the prospector as the Director or such inspector considers necessary for the purpose of avoiding friction between such prospector and the owner or occupier of such land and the prospector shall -

(a) comply with such directions; and

(b) if so required by the Director or an inspector, desist from prospecting on such land until amicable relations are, in the opinion of the Director or an inspector, established between him and the owner or occupier of such land.

(3) Every notice given under the provisions of paragraph (a) of subsection (1) shall expire at the end of three months after it is given.

(4) The requirements of paragraph (a) of subsection (1) as to the giving of notice therein required to be given shall be sufficiently complied with by post such notice by registered post to the last known address of the owner or occupier of the land, or if such address is not known to the prospector and cannot be ascertained by the exercise of reasonable diligence, by affixing such notice in a conspicuous position on such land in such manner that it can be easily seen by a person entering upon such land.

*Ancillary rights and restrictions under a prospector's right*

**25.-(1)** -Whilst engaged in bona fide prospecting the holder of a prospector's right may -

(a) on any unimproved land-

(i) erect a temporary camp and such temporary structures as may be necessary and enter into temporary occupation thereof :

Provided that if the owner or occupier of such land shall so require, the camp and structures shall be erected in such suitable place thereon as he may select;

(ii) take fuel, other than standing timber, for domestic use;

(b) take water for his domestic use from any spring, water hole, lake, river or stream:

Provided that he shall not be entitled to take or use any water artificially conserved by the owner or occupier of any land without the consent of such owner or occupier.

(2) A prospector shall not burn any grass, bush, forest, undergrowth or other standing vegetation or cause or permit the same to be burned, except at such times and in accordance with such conditions as may, from time to time, be specified by the Director by notice in the Gazette and in one newspaper circulating in Fiji.

(3) The holder of a prospector's right shall pay compensation to the persons entitled thereto for all damage done to the surface of any land or to an improvements thereon, in exercise of the liberties and powers conferred by such right, and such compensation shall become payable at the time when such damage occurs.

#### *Grant of prospecting licences*

**26.**-(1) Subject to the provisions of this Act and to any terms and conditions not inconsistent therewith that he may think fit, the Director may grant a prospecting licence over an area, not exceeding 400 ha to prospect for such minerals as are specified in the licence, to any person who, being the holder of a prospector's right, has, either personally or by an agent who is the prospector's right, given notice as required under the provisions of paragraph (a) subsection (1) of section 24 and, before the expiry of such notice, marked out in the prescribed manner the area over which the licence is applied for:

Provided that the total area the subject of all prospecting licences held, directly or indirectly, by any one person shall not exceed 1,200 ha.

(2) Every application for a prospecting licence shall be made in the prescribed form and shall be accompanied by the prescribed fees.

(3) (a) Before granting any prospecting licence the Director may require the applicant to deposit a bond with or without sureties in the sum of one hundred dollars or such greater sum as the Director may think fit.

(b) The bond shall be given to the Director by the applicant or by some other person approved by the Director and shall be conditioned upon the due execution and observance of all the covenants, terms and conditions of the licence when granted.

(c) The sum mentioned in the bond given under the provisions of this subsection shall not be a penalty but shall be liquidated damages and recoverable in full unless the person giving the bond proves performance of every condition upon which the bond is defeasible.

(4) On the application of the holder the Director may add to or vary the minerals specified in any prospecting licence.

(5) A prospecting licence may be granted for such period as may be prescribed and may be extended for such periods as the Director may determine.

*(Amended by 7 of 1966, s. 41.)*

*Rights under a prospecting licence*

**27.**-(1) Subject to the provisions of this Act, the holder of a prospecting licence shall have the exclusive right to prospect for the mineral or minerals specified in his licence on the land the subject of his licence, and for such purposes may -

- (a) enter upon such land with his servants and agents and thereon exercise all or any of the rights conferred upon the holder of a prospector's right by the provisions of this Act;
- (b) on and over any unimproved land the subject of his licence, erect and maintain such machinery and plant and construct such passageways, as may be necessary.

(2) The holder of a prospecting licence who shall have fulfilled all conditions attached thereto may, upon payment of the prescribed fees -

- (a) apply for extension of such licence at any time before such licence expires or within seven days thereafter;  
*(Amended by 7 of 1966, s. 41.)*
- (b) mark out any reduced area or areas within the land the subject of such licence if applying for an extension of such licence in respect of such reduced area or areas only;  
*(Amended by 7 of 1966, s. 41.)*
- (c) mark out and apply for the grant of any other mining tenement or tenements over the whole or any part of the land the subject of his licence.

*Disposal of minerals obtained in prospecting*

**28.** All minerals obtained in the course of prospecting under a prospector's right or prospecting licence shall be the property of the Crown and shall not be removed from the vicinity whence they were obtained nor disposed of by the holder of the right or licence without the consent in writing of the Director, except in so far as may be necessary for the purpose of sampling and assay.

*Grant of permit to mine or mining lease cancels prospecting licence*

**29.** A prospecting licence shall be cancelled automatically by the grant to the holder of such prospecting licence of a permit to mine, mining lease or special mining lease over the whole or any part of the land the subject of that prospecting licence:

Provided that if within fourteen days after the grant of such permit or lease, as the case may be, the holder of the licence applies for a new prospecting licence in respect of the whole or any part of the land the subject of the licence so cancelled but not the subject of such permit or lease, his application for such new prospecting licence shall be given priority over all other applications in respect of the same land or any part thereof.

### *Special prospecting licence*

**30.**-(1) Notwithstanding the provisions of section **26**, the Director may, subject to the approval of the Minister, grant special prospecting licences upon such terms and conditions, whether in accordance with the provisions of this Act or not, as the Minister may think fit, but, save as varied by any such terms and conditions, the provisions of this Act applicable to a prospecting licence shall be applicable to all such special prospecting licences:

Provided that, unless an applicant satisfies the Director that there are unusual circumstances which warrant it, a special prospecting licence shall not be granted in respect of any area which is less than 1,300 ha in extent.

(2) The application for a special prospecting licence shall be in the form prescribed for a prospecting licence.

### *Grant of permit to mine*

**31.**-(1) Subject to the provisions of this Act and to any terms and conditions not inconsistent therewith that he may think fit, the Director may grant a permit to mine-

(a) to any person who, being the holder of a prospector's right, has, either personally or by an agent who is the holder of a prospector's right, given notice as required under the provisions of paragraph (a) of subsection (1) of section **24** and, before the expiry of such notice, marked out in the prescribed manner the area over which the permit to mine is applied for; or  
(b) to the holder of a prospecting licence in respect of the whole or any part of the land the subject of that licence.

(2) A permit to mine shall be of such shape and size as may be prescribed and may be granted for a period of two years commencing from the date of the grant of the permit.

(3) A permit to mine may be extended for a period of one year in respect of each such extension.

*(Amended by 7 of 1966, s. 41.)*

(4) Whenever the Director shall be satisfied that the mineral bearing qualities of the land or any portion thereof the subject of a permit to mine are such as to justify the grant of a mining lease or mining leases over all or any part of such land, he may, by notice in writing served on the holder of such permit, cancel the permit to mine either in respect of the whole or any specified part of the land the subject of such permit, as from a date being not earlier than three months after the date of such notice. On making application therefor in the prescribed form and on payment of the prescribed fees, not later than one month before the expiry of such notice, the holder of such permit shall be entitled to the grant of a mining lease or mining leases over the whole or any part of the land specified in such notice and until the grant of any lease or leases so applied for such permit to mine shall remain in full force and effect in respect of the land the subject of such application.

(5) The holder of a permit to mine cancelled under the pro subsection (4) shall have a preferential claim to a permit to mine in respect of any portion of the land the subject of the cancelled permit for which no application for mining lease or mining leases is made within six months from such cancellation.

*Grant of mining lease*

**32.**-(1) Subject to the provisions of this Act and to any terms and conditions not inconsistent therewith that he may think fit, the Director may grant a mining lease -

(a) to any person who, being the holder of a prospector's right, has, either personally or by an agent who is the holder of a prospector's right, given notice as required under the provisions of paragraph (a) of subsection (1) of section **24** and, before the expiry of such notice, marked out in the prescribed manner the area over which the lease applied for;

(b) to the holder of a prospecting licence in respect of the whole or any part of the land the subject of that licence; or

(c) to the holder of a permit to mine in respect of the whole or any part of the land the subject of that permit.

(2) A mining lease may be granted for such term being not less than five nor more than twenty-one years as the Director may think fit. The date of commencement of such term shall be the date of the grant of the lease or such other date as the Director may decide:

Provided that if a mining lease is granted to the holder of a permit to mine over the whole or any part of the land the subject of such permit, such lease shall commence from the date of the grant of such permit.

(3) If at the expiration of the term originally granted or of any extension thereof the holder of a mining lease shall -

(a) be conducting mining operations thereon in a normal and businesslike manner; and

(b) have given two months' notice in writing in that behalf,

then he shall, on payment of the prescribed fees, be entitled to obtain an extension thereof for a further term not exceeding twenty-one years upon the conditions which are then generally applicable to new mining leases:

Provided that he shall not be so entitled if the lease is liable to cancellation under any of the provisions of this Act.

*(Amended by 7 of 1966, s. 41.)*

(4) Subject to the provisions of section **21**, a mining lease may be surrendered in the manner provided by section **62** of the Land Transfer Act.

*(Cap. 131.)*

*Application for permit to mine and mining lease*

**33.**-(1) Every application for a permit to mine or mining lease shall be in the prescribed form and shall be accompanied by the prescribed fees, together with a deposit for the first half year's rent and such other deposits as may be required under the provisions of sections **16** and **22**.

(2) An applicant for a permit to mine or mining lease shall, until the application is refused or otherwise disposed of, be deemed to have sufficient title to the land the subject of the application and to the minerals therein contained to support an action or prosecution for trespass.

*Rights under permit to mine and mining lease*

**34.**-(1) Subject to the provisions of this Act, the holder of a permit to mine or mining lease shall have the exclusive right to mine on or under the land the subject of his tenement for the mineral or minerals specified in his tenement and remove or dispose of any such mineral or minerals, and for such purposes may

(a) make all necessary excavations;

(b) erect, construct and maintain houses and buildings for the use of himself, his servants and agents;

(c) erect, construct and maintain such machinery and buildings, workshop, and other erections as may be necessary or convenient;

(d) stack or dump any products of mining;

(e) lay water pipes and make water races and ponds, dams and reservoirs and divert any water on or flowing through the land the subject of his tenement:

Provided that any water so diverted shall be returned to its natural channel before it leaves such land;

(f) construct and maintain all such passageways, communications and conveniences as may be necessary or convenient.

(2) Before commencing any mining operations or any new mining operation on or under any land the subject of any permit to mine or mining lease, every person entitled to mine on or under such land shall give to the owner or occupier of such land, notice, in such manner as may be prescribed, of his intention to commence such operations and of the nature of any such operations of which previous notice has not been given.

*Provisions applicable when precious metals or stones are found on land held under permit to mine or mining lease for other minerals*

**35.**-(1) Any person who finds any precious metals or precious stones on or under any land the subject of an existing mining tenement held by any other person may, unless such precious metals or precious stones are specified in the mining tenement held by such other person, apply for a prospecting licence, permit to mine or mining lease for the purpose of prospecting for or mining such precious metals or precious stones and, subject to the compliance by such person with the provisions of this Act relating to the grant of the mining tenement so applied for, the Director may grant such mining tenement to such person over the whole or any part of

the land the subject of the existing mining tenement.

(2) The holder of any mining tenement granted pursuant to the provisions of subsection (1) shall not be entitled to exercise any of the rights conferred by such mining tenement so as to interfere with any workings in the actual use of the holder of any other mining tenement previously granted in respect of the same land and shall not prospect or mine on or under any land within 185m from any of the houses, buildings, machinery or workings or any of the crushing, smelting or other works used for the reduction or treatment of minerals of the holder of any such other tenement. In the event of any dispute as to whether any workings are in actual use or whether any works are used for the reduction or treatment of minerals, the Director may decide the dispute or refer the same to arbitration.

*Provisions applicable when person desires to mine other minerals*

**36.** On the application of the holder of any permit to mine or mining lease, the Director may alter or vary such permit to mine or mining lease so as to enable the holder thereof to mine for any mineral or minerals not specified in such permit or lease.

*Special mining lease*

**37.**-(1) Notwithstanding the provisions of section **32**, the Director may, subject to the approval of the Minister, grant special mining leases upon such terms and conditions, whether in accordance with the provisions of this Act or not, as the Minister may think fit but save as varied by any such terms and conditions the provisions of this Act applicable to a mining lease shall be applicable to all special mining leases.

(2) The application for a special mining lease shall be in the form prescribed for a mining lease.

*Grant of special site right*

**38.**-(1) Subject to the provisions of this Act and to any terms and not inconsistent therewith that he may think fit, the Director may grant site right to the holder of a mining tenement who, being the holder of a prospector's right, has, either personally or by an agent who is the holder of a prospector's right, given notice as required under the provisions of paragraph (a) of subsection (1) of section **24** and, before the expiry of such notice, marked out in the prescribed manner the area over which the right is applied for.

(2) Every application for a special site right shall be in the prescribed form and shall be accompanied by the prescribed fees, together with a deposit of the first half year's rent and such deposits as may be required under the provisions of sections **16** and **22**.

(3) Notwithstanding any arbitration which may be requested or proceeding, the grant of a special site right shall be sufficient authority for the holder to enter into occupation of the land the subject of such right for the purposes therein.

(4) Special site rights may be granted for such purposes, for such period such manner as may be prescribed, in respect of the following acts or things:-

- (a) the construction and use of passageways other than roads;
- (b) water-rights;
- (c) erection of machinery;
- (d) disposal of earth and tailings; and
- (e) erection of furnaces:

Provided that:

- (i) the Director may issue special site rights for such other purposes in respect of water or land as may, in his opinion, be necessary or advisable for the conduct of prospecting or mining operations or for any other purposes connected with mining;
  - (ii) water-rights for the generation of electric power shall not be granted under the provisions of this section unless such electric power is to be used by the holder of a mining tenement for the purpose of prospecting or mining operations conducted on such tenement;
  - (iii) nothing in this Act shall affect any right to use water under the provisions of the Rivers and Streams Act.
- (Cap. 121. 1967 Edition.)*

(5) Land the subject of a special site right shall be of such dimensions as may be prescribed or as near thereto as circumstances will permit.

(6) A special site right may be extended for such periods as the Director may determine.

*(Amended by 7 of 1966, s. 41.)*

(7) Subject to the provisions of section **21** of this Act a special site right may be surrendered in the manner provided by section **62** of the Land Transfer Act.

*(Cap. 131.)*

#### *Road access licences*

**39.**-(1) No person shall, in the exercise of any rights conferred on him under the provisions of this Act, construct any road on or over any land not being the subject of a mining tenement held by him without first obtaining a road access licence empowering him to do so:

Provided that the holder of a mining tenement shall have the right of pedestrian access for himself, his servants and agents, to and from his tenement, and for that purpose may pass without hindrance over any unimproved land.

(2) Subject to the provisions of this Act and to any terms and conditions not inconsistent therewith that he may think fit, the Director may grant a road access licence to the holder of a mining tenement, who, being the holder of a prospector's right, has, either personally or by an agent who is the holder of a prospector's right, given notice as required under the provisions

of paragraph (a) of subsection (1) of section **24** and, before the expiry of such notice, marked out in the prescribed manner the area over which the licence is applied for.

(3) A road access licence shall authorise the holder, his servants and agents, with or without vehicles and animals, to pass over the land the subject of such licence and to construct roads thereon.

(4) Every application for a road access licence shall be in the prescribed form and shall be accompanied by the prescribed fees together with a deposit of the first half year's rent and such deposits as may be required under the provisions of sections **16** and **22**.

(5) A road access licence may be granted for such periods as may be prescribed and may be extended for such periods as the Director may determine.

*(Amended by 7 of 1966, s. 41.)*

(6) Subject to the provisions of section **21**, a road access licence may be surrendered in the manner provided by section **62** of the Land Transfer Act.

*(Cap. 131.)*

(7) The Director may require the applicant for a road access licence to adjust his marking out to follow such route as the Director shall consider reasonable and convenient for all parties who may be affected by the road.

(8) Any right to any road conferred upon the holder of a mini under the provisions of this Act shall expire when such mining is terminated or abandoned for any reason whatsoever and thereupon shall, if required by the owner or occupier, restore the surface of the former state so far as is practicable, and the provisions as to compensation contained in section **40** shall apply:

Provided that the holder of any other mining tenement in the same vicinity who wishes to use such road may apply for a road access licence over the whole or any part of the land the subject of the expiring licence and if such licence is granted the obligations of the holder of the expiring licence under the provisions of this subsection shall cease in respect of the land the subject of the licence so granted.

(9) The holder of a road access licence shall not hinder or prevent any other person from passing over the land the subject of that licence:

Provided that -

(a) where any person uses such road in such manner as to do a damage thereto or to enhance substantially the cost of upkeep thereof, the holder of the licence may require him to contribute to the cost of making good such damage or to the cost of upkeep; and

(b) where any person uses such road in such manner as to interfere materially with the free use and enjoyment thereof by the holder of the licence, the holder of the licence may require him to limit his use of the road so as to remove such interference.

(10) If any dispute arises in connexion with damage, upkeep or interference under the provisions of subsection (9), any person affected by such dispute may lodge a complaint with the Director who shall decide the matter at issue.

(11) If any other mining tenement is granted in respect of any part of the subject of a road access licence the holder of such other tenement may the holder of the road access licence to deviate the road and the cost of such deviation shall be borne by the holder of such other tenement:

Provided that the approval of the Director shall first be obtained before any such deviation may be required and, if he approves the deviation, the Director shall amend the road access licence accordingly.

### **PART III-DAMAGE AND COMPENSATION**

#### *Compensation payable for damage to surface of land and improvements thereon*

**40.-**(1) It shall be an implied condition of every mining tenement holder thereof shall pay compensation to the persons entitled thereto for all damage done to the surface of any land and to any improvements thereon by any prospecting, mining or other operations conducted on such land by the holder of such mining tenement under the authority of any of the provisions of this Act:

Provided that in determining the amount of any such compensation no allowance shall be made for any mineral known or supposed to be on or under any land.

(2) The amount of compensation payable under this section shall be mutually agreed between the holder of the mining tenement and the persons entitled to such compensation.

(3) If the parties are unable to agree as to the amount of compensation payable, then the Director may, either of his own initiative or at the request of any of the parties, assess the amount of compensation payable or likely to become payable and shall thereupon give notice in writing of such assessment to the parties affected by it, and require the holder of the mining tenement to deposit with him the amount so assessed or, in lieu thereof, such guarantee in like amount as may be approved by him. Until such amount or guarantee in lieu thereof is deposited with the Director the holder of the mining tenement shall not be entitled to use occupy the land the subject of his tenement.

(4) Any party affected by any assessment made by the Director under provisions of subsection (3) who is dissatisfied with such assessment, may, by request in writing, require that the question be referred to arbitration:

Provided that every such request shall be made to the Director within thirty days of the date of such assessment or within such further time as the Director may think fit and a copy of every such request shall be delivered in like time to every other party affected by such assessment.

(5) Compensation payable under the provisions of this section for damage done to any improvements shall be payable at the time when such damage occurs but in the case of

damage to the surface of any land compensation for such damage shall not become payable until the mining tenement is terminated:

Provided that the holder of a mining tenement may make an advance payment of compensation for any damage done or likely to be done to the surface of the land the subject of his tenement and such payment shall be set off against his liability on the termination of his mining tenement.

(6) When land is restored in accordance with the provisions of section **43**, no compensation shall be payable in respect of any damage to the surface of the land so restored.

(7) When surface rent is payable pursuant to the provisions of section **41** in respect of any land the subject of a mining tenement, no compensation shall be payable under the provisions of this section for any damage done to an improvements effected to such land after the date on which surface rent began to be payable.

(8) Any person who has received compensation under the provisions of this section for damage done to any improvements on any land the subject of a mining tenement shall not be entitled to claim any further compensation in respect of the same damage but shall be entitled from time to time to receive such further compensation as the Director may determine for any further damage done to any improvements on such land by the operations of the holder of such mining tenement.

*Surface rent payable for disturbance of surface rights*

**41.**-(1) It shall be an implied covenant of every mining tenement, other than a prospecting licence, that the holder thereof shall pay surface rent to the person entitled to the surface rights of any land the subject of such tenement as compensation for any disturbance of such surface rights by any prospecting, mining or other operations conducted on such land by the holder of such mining tenement under the authority of any of the provisions of this Act:

Provided that, in respect of a permit to mine, mining lease or special mining lease, surface rent shall be payable only in respect of that portion of the surface of such land which the holder of such permit or lease is entitled to use an occupy.

(2) The amount of surface rent payable shall be mutually agreed in writing between the holder of the mining tenement and the person entitled to the surface rights of the land the subject of such tenement and every such agreement or a certified copy thereof shall be filed in the office of the Director on payment of the prescribed fee.

(3) If the parties are unable to agree as to the amount of surface rent payable the provisions of subsections (3) and (4) of section **40** as to assessment of compensation shall apply *mutatis mutandis*.

(4) Surface rent shall be paid to the person entitled thereto half - yearly in advance in each January and July and evidence of such payment shall be presented to the Director within fourteen days of such payment:

Provided that before commencing any operations on the land the subject of his tenement the

holder of every mining tenement in respect of which surface rent is payable shall pay surface rent on a *pro rata* basis up to the end of the next ensuing half year.

*Director may suspend and cancel tenement*

42. If, in any case where the holder of a mining tenement is required to pay compensation under the provisions of this Part, payment is in arrears or the amount deposited is insufficient, the Director may suspend such mining tenement, until the amount payable has been paid and until such holder has deposited with him such further sums as may be demanded as security for further payments, and, if such payment and deposit is not made within such time as the Director may consider reasonable, the mining tenement may be cancelled in accordance with the provisions of section 65.

*Restoration of land*

43.-(1) During the currency of any mining tenement the Director may direct the holder thereof to restore the surface of the land the subject of such tenement where such surface has been disturbed by prospecting or mining operations. Such requirements of restoration shall be embodied in an appendix to such tenement before issue or by attachment thereto upon due service of such order.

(2) When any mining tenement is terminated or abandoned for any reason whatsoever, the person whose tenement has been terminated or abandoned shall, not later than thirty days from the date of termination or abandonment of the tenement, fill up all shafts, pits, holes and other excavations or otherwise secure them in a permanent manner so as to prevent persons or livestock inadvertently entering therein, and shall remove all posts marking out the land the subject of the tenement; and shall within such period certificate to the Director that he has complied with the provisions of this section as to the fencing or filling up of shafts, pits, holes and other excavations and the removal of posts:

Provided that no such person shall be liable for filling up or securing any excavations made by other persons on the land the subject of his tenement, prior to the grant thereof, if, on application for the tenement, he has shown on the plans submitted with his application, the position, of these excavations in relation to the boundaries of the land, or if he submits within a period of one month from the date of grant of the tenement, a plan showing the position of such excavation.

(3) If any person, whose mining tenement has been terminated or abandoned, neglects to fill up or secure any excavations or to notify the Director within prescribed time, the Director shall have the right to cause such excavations to be filled up or secured and for so doing may charge such person such sum as the Director considers reasonable, and such charge shall be a lawful deduction from any amount deposited by such person with the Director under the provisions of this Act:

Provided that such filling up or securing by the Director and the payment of such charge shall not exempt such person from his liability under the provisions of this Act or any other law for his failure to fill up or secure such excavations.

(4) Where a mining tenement is renewed in respect of a reduced area only, the provisions of subsections (2) and (3) shall apply to the land not included in renewal.

#### **PART IV-REGISTRATION, APPROVAL AND STAMPING OF DOCUMENTS**

##### *Registration of prospector's rights, prospecting licences and permits to mine*

44.-(1) The Director shall keep a register called the "Register of Prospectors' Rights" in which shall be recorded the name in full, the place of residence and the occupation of every person to whom a prospector's right is granted.

(2) Every prospecting licence, special prospecting licence and permit to mine shall be recorded in registers to be kept by the Director called the "Register of Prospecting Licences" and the "Register of Permits to Mine".

##### *Mining leases, special site rights and road access licenses to be registered by the Registrar of Titles*

45.-(1) Every mining lease, special mining lease, special site right and road access licence shall be recorded in registers, to be kept by the Registrar of Titles called the "Register of Mining Leases", the "Register of Special Site Rights" and the "Register of Road Access Licences".

(2) On registration, every mining lease, special mining lease, special site right and road access licence shall be subject to the provisions of the Land Transfer Act in so far as such provisions are not inconsistent with the provisions of this Act, in the same manner as if such lease, right or licence were a lease under the provisions of the Land Transfer Act, and shall be dealt with in like manner.

*(Cap. 131.)*

(3) It shall be lawful for the Registrar of Titles to charge and collect in respect of any mining lease, special mining lease, special site right or road access licence, registered under the provisions of this Act, or in respect of any dealing with such lease, right or licence, the fees prescribed under the Land Transfer Act (including the fees for registering any such lease, right or licence) in the same manner as if such lease, right or licence were a lease under the provisions of that Act.

*(Cap. 131.)*

(4) In the event of any mining lease, special mining lease, special site right or road access licence being granted over any alienated or native land the instrument of title of the owner of such land shall be referred to in such lease, right or licence and on registration thereof the Registrar of Titles shall give notice of such registration to the holder of the duplicate instrument of title to the land affected by such registration and shall enter a memorial of the lease, right or licence on instrument of title and on the duplicate thereof, if produced to him.

*Director's consent required to deal in tenement*

**46.**-(1) The holder of a mining tenement or of any interest therein shall not transfer or otherwise deal in his right or interest, or any part or share thereof in any manner whatsoever without first obtaining the approval in writing of the Director and no evidence of any such dealing shall be admissible in any court unless such prior approval has been obtained:

Provided that the Director shall not, without the prior consent of the Minister, grant such approval in the case of a mining tenement the grant of which is required by any of the provisions of this Act to be approved by the Minister.

(2) Every dealing in a mining tenement or interest therein shall be in and shall state the full and true consideration passing between the parties thereto, otherwise the dealing shall be null and void.

(3) (a) Every dealing in a mining tenement shall be presented to the Director for the endorsement of his approval together with a certificate copy which shall be retained by the Director, and, until so endorsed each such dealing shall be null and void, and no dealing shall be endorsed unless it is stamped to the satisfaction of the Commissioner of Stamp Duties.

(b) Every such dealing shall be presented for endorsement and, where necessary, for registration in the appropriate Register within twenty-one days of the date thereof: Provided that the Director or Registrar of Titles may in his discretion, on reasonable cause being shown, extend the time for endorsement or registration.

*Agreements relating to mining tenements to be disclosed*

**47.** Every applicant for or holder of a mining tenement, and every transferee or proposed transferee thereof shall disclose to the Director every agreement which he has entered into or intends to enter into with any other person relating to the disposition or working of the tenement and the financing of the prospecting or mining operations intended to be conducted on or under the mining tenement, together with the name, address and occupation of such person.

*Transmission of tenement on death, bankruptcy or unsoundness of mind*

**48.**-(1) In any case where the holder of any mining tenement shall -

(a) die;

(b) have a receiving order in bankruptcy made against him; or

(c) be found to be of unsound mind under the provisions of any law relating to mental treatment for the time being in force in Fiji,

the obligations imposed upon such holder by this Act shall not be enforceable until after the expiration of ninety days -

(i) from the date of the grant of probate or the issue of letters of administration;

(ii) from the date of the receiving order; or  
(iii) from the date of the appointment of any committee of the estate of the person of unsound mind,

as the case may be:

Provided that the Director may extend any such period.

(2) The personal representative, receiver in bankruptcy or committee, as the case may be, of any deceased, bankrupt or person of unsound mind referred to in subsection (1) may make application to the Director or to the Registrar of Title as may be appropriate, to be registered as the proprietor of any mining tenement held by such deceased, bankrupt or person of unsound mind. Upon production to him of the probate, letters of administration, receiving order, order of appointment or such other evidence as he may require, the Director or the Registrar of Title, as the case may be, shall cause to be entered in the appropriate register a memorial of the date and hour of production of the same, with such further particulars as he may deem necessary and, upon such entry being made such personal representative, receiver in bankruptcy or committee, as the case may be, shall become the registered holder of such mining tenement and the Director or Registrar of Titles, as the case may be, shall note such registration by memorandum on the probate, letters of administration, receiving order or order of appointment produced to him:

Provided that the title to such mining tenement of such personal representative, receiver in bankruptcy or committee shall relate back and take effect from the date of death or the date of such receiving order or order of appointment, as the case may be.

## **PART V-MISCELLANEOUS**

### *Indemnification of Director and inspector*

**49.** Neither the Director nor any person acting under his authority nor a inspector shall be personally liable to any action, suit or proceeding for or in respect of any act or matter bona fide done or omitted to be done in the exercise or supposed exercise of any of the powers conferred on him by the provisions of this Act.

### *Government not liable for rent, etc., unpaid and irrecoverable by the Director*

**50.** Neither the Government nor the Minister nor the Director nor any person acting under their authority shall be liable to any action, suit, claim or proceeding for the recovery of any rent, compensation or other charges which may be due and payable but remaining unpaid by any holder of a mining tenement under the provisions of this Act.

### *Livestock not to be impounded*

**51.** The holder of any mining tenement shall not have the right to impound, disturb, molest or in any way whatsoever prevent any livestock from depasturing on the land the subject of his

mining tenement unless such land is enclosed by a substantial fence and he has paid surface rent in respect of such land pursuant to the provisions of section 41.

#### *Proof of documents*

**52.** Subject to the provisions of section 46 and to the provisions of the Stamp Duties Act, in all proceedings in any court the production of any document purporting to be a lease, licence, permit, right, certificate or other document issued by the Director or any authorised officer under the provisions of this Act shall, until the contrary is proved, be sufficient evidence that the document is what it purports to be and that it was lawfully issued.

*(Cap. 205.)*

#### *Director may issue certified and duplicate copies of documents*

**53.-** (1) The Director may issue a certified copy of any prospector's right, prospecting licence, special prospecting licence, permit to mine, certificate document filed with him on payment of the prescribed fee and such certificate copy shall be received in evidence in any court.

(2) Upon the application of the holder thereof the Director may, subject to payment of the prescribed fee and to such conditions as to proof of loss or destruction as he thinks fit, issue a duplicate of any prospector's right, prospecting licence, special prospecting licence or permit to mine which he is satisfied has been lost or destroyed, and such duplicate shall be available for all purposes and uses and have the same force and effect as the lost or destroyed right, licence or permit:

Provided that the Director shall not issue such duplicate unless the applicant therefor has given not less than fourteen days notice in the Gazette and in one newspaper circulating in Fiji of his intention to make such application.

#### *Royalties*

**54.-** (1) All minerals obtained in the course of prospecting operations shall be liable to the prescribed royalties and no mineral exported unless such royalties are paid or secured in accordance with the prescribed conditions:

Provided that the Director may, by permit in writing, exempt from small quantities of such minerals exported as commercial samples or specimens or for the purpose of analysis or experiment as he thinks fit.

(2) Whenever a mineral sample is exported solely for the purpose of analysis or experiment or as a scientific specimen the person exporting such sample shall obtain a certificate of the result of any analysis of such sample and shall deliver a certified true copy thereof to the Director within six months of the export of such sample.

(3) The Minister may, by notice in the Gazette, remit the whole or any part of any royalties payable by any person in respect of any mineral or minerals for such period as may be specified in such notice.

*Recovery of rents, etc.*

**55.** Any arrears of rents, royalties or fees payable to the Crown under provisions of this Act may, in addition to any other legal remedy, be recovered as a civil debt at the suit of the Director or an authorised officer.

*Disputes*

**56.-** (1) Any dispute referred to arbitration under the provisions of this Act shall be referred to a single arbitrator chosen by the parties, or, if they are unable to agree, to an arbitrator chosen by the Chief Justice. Each party shall have power to appoint an assessor to sit with the arbitrator but the arbitrator alone shall have the power to decide and the award shall be his alone.

(2) Every arbitration shall take place at Suva or at such other place within Fiji as the single arbitrator shall decide and the procedure thereat shall be governed by the provisions of the Arbitration Act.

*(Cap. 38.)*

**PART VI-PENALTIES**

*Unlawful prospecting and mining*

**57.-** (1) No person shall prospect for any minerals on any land in Fiji or mark out any land for the purpose of applying for a mining tenement unless he is the holder of a prospector's right:

Provided that it shall not be necessary that any person employed on the land the subject of a mining tenement shall be the holder of a prospector's right.

(2) No person shall mine or employ any other person to mine on any land Fiji unless he has first obtained a permit to mine, mining lease or special mining lease entitling him to do so.

(3) Any person contravening any of the provisions of subsections (1) or (2) shall be guilty of an offence and shall be liable to a fine not exceeding four hundred dollars or to imprisonment for a term not exceeding one year and to the forfeiture of all minerals obtained, or, if such minerals cannot be forfeited, shall pay such sum as the court may assess as the value thereof.

*Penalty for failure to notify owner*

**58.** Any holder of a prospector's right who marks out for a mining tenement any land without first notifying the owner or occupier of the land in accordance with the provisions of paragraph (a) of subsection (1) of section 24, shall be guilty of an offence and shall be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months.

*Assault on authorised person, etc.*

**59.** Any person who -

(a) assaults, obstructs or resists the Director or an inspector or any authorised officer or any bailiff in lawfully entering upon any land in performance of his duty or in the exercise of his powers under the provisions of this Act; or

(b) after being removed by any officer authorised under the provisions of this Act from any land the subject of a mining tenement, forcibly or clandestinely retakes or retains possession thereof or of any share therein; or

(c) resists or prevents the taking, using or diverting of any water by any person authorised under the provisions of this Act to take, use or divert such water,

shall be guilty of an offence and shall be liable to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding six months.

*Fraud by applicant for mining tenement*

**60.**-(1) Any person who represents that he has obtained the grant of a mining tenement and thereby induces or attempts to induce any person to invest capital in any company or syndicate connected therewith before he has obtained the grant of such mining tenement shall be liable to forfeit any claim to the grant thereof, and, if he already holds a prospector's right or any mining tenement, shall be liable to have his prospector's right and his tenement cancelled:

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

(2) Any applicant for a mining tenement or any holder thereof who wilfully or recklessly gives false information as to any of the matters in respect of which information is or may be required to be given under the provisions of this Act, shall be guilty of an offence and shall be liable to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

*Salting or fraudulent deposit of metal and fraudulent sampling*

**61.** Any person who, with intent to defraud, places or deposits, or is an accessory to the placing or depositing, of any mineral or ore in any place, or does any other act, for the purpose of misleading any person as to the nature, quality or quantity of the mineral naturally occurring at such place or who, with intent to defraud, mingles or causes to be mingled with any sample of mineral or ore any valuable mineral or any substance whatsoever which will increase the value or in any way change the nature of such mineral or ore, shall be guilty of a felony and shall be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

*Attempts to injure underground mines*

**62.** Any person who, with intent to injure or obstruct the working underground mine -

- (a) causes water to run into the mine or into any subterranean pass communicating with the mine;
- (b) obstructs any shaft or passageway of the mine;
- (c) obstructs the working of any machine, appliance, or apparatus appertaining to or used in connexion with the mine, whether the thing in question is completed or not; or
- (d) injures or unfastens any rope, chain or other tackle used in or upon the mine or any passageway or work appertaining thereto or used therewith,

shall be guilty of a felony and shall be liable to imprisonment for a term not exceeding seven years.

*Penalty for obstructing holder of prospector's right or mining tenement*

**63.** Any person who interferes with or obstructs the holder of a prospector's right or the holder of a mining tenement, or his servants or agents, in the exercise of any right, power or liberty conferred by the provisions of this Act shall be guilty of an offence and shall be liable to a fine not exceeding one hundred dollars imprisonment for a term not exceeding six months.

*Penalty for injuring boundary marks*

**64.**-(1) Any person who without lawful authority wilfully breaks, defaces, removes, alters, or in any way interferes with any boundary mark, peg, pillar, or notice erected or affixed for any of the purposes of this Act, shall be guilty of an offence and shall be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding six months.

(2) For the purposes of this section, unless otherwise expressly provided, it shall be unlawful for any applicant for a mining tenement or any holder thereof to move or interfere in any way with any boundary mark purporting to mark out the area applied for, or held by him, without first obtaining the consent in writing of the Director.

*Cancellation of prospector's right or mining tenement*

**65.**-(1) If the holder of a prospector's right or mining tenement -

- (a) commits a breach of any of the provisions of this or any other Act made in connexion with mining, explosives or the employment of labour or of any of the covenants, terms or conditions of his right or tenement;
- (b) is convicted of any offence involving dishonesty or fraud; or
- (c) wholly discontinues operations under a permit to mine, mining lease or special mining lease for a continuous period of six months or more without the permission of the Director,

the Director may call upon such person to show cause, within such reasonable time as the Director may specify, why his prospector's right or mining tenement should not be cancelled and if such person fails to show cause within the time so specified or if the cause shown is, in the opinion of the Director, inadequate, the Director may cancel such prospector's right or mining tenement or, in the case of any breach mentioned in paragraph (a), may allow the holder of such right or tenement to remedy such breach within such time as the Director may specify:

Provided that in any case in which he allows the holder of any mining tenement to remedy any such breach the Director may require such holder to pay, in addition to the rent or fees normally payable in respect of that tenement, a penal rent not exceeding three times the amount of such rent or fees, for the period from the commencement of such breach until it is made good to the satisfaction of the Director. Such penal rent shall be payable monthly without demand and shall be recoverable as rent.

(2) On the cancellation of any prospector's right or mining tenement, all rights and privileges conferred thereby shall cease:

Provided that such cancellation shall not in any way affect the liability of any person to be sued or prosecuted for any breach of any of the provisions of this or any other Act or of any covenant, term or condition of any mining tenement or for the payment of any rent, fees, royalties or compensation.

(3) The allowance of any time or the payment of any penal rent under the provisions of subsection (1) shall not in any way affect the liability of any person to be sued or prosecuted for any breach of any of the provisions of this or any other Act or of any covenant, term or condition of any mining tenement.

*Penalty for mining minerals other than those specified in permit to mine or mining lease*

**66.** If the holder of any mining tenement mines for any mineral other than as specified in his permit or lease, his tenement shall be liable to cancellation and he shall be guilty of an offence and shall be liable to a fine not exceeding one hundred dollars and a further fine not exceeding ten dollars for every day on which the offence continues.

*General penalty*

**67.**-(1) Any person who-

(a) disobeys any of the provisions of this Act by -

(i) wilfully doing any act which it forbids; or

(ii) refusing or wilfully omitting to do any act which it requires to be done; or

(b) refuses or wilfully omits to carry out any lawful order, instruction or condition made, given or imposed by the Director, any inspector or authorised officer under the authority of this Act,

shall be guilty of an offence against this Act and shall, where no specific penalty is provided, be liable to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) Whenever it is proved to the satisfaction of a court that an offence against this Act has been committed by any servant or agent of the holder of any mining tenement, such holder shall be held to be liable for such offence and to the penalty provided therefor, unless he proves to the satisfaction of such court that the offence was committed without his knowledge or consent and that he had taken all reasonable means to prevent the commission of the offence:

Provided that nothing contained in this section shall be deemed to exempt any such servant or agent from the penalties provided for any such offence committed by him.

## PART VI - REGULATIONS

### *Regulations*

**68.**-(1) The Minister may make regulations prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient prescribed for carrying out or giving effect to the provisions of this Act, and in particular for -

- (1) the application for and the form and registration of prospectors' rights and mining tenements and the fees payable therefor;
- (2) the conditions to be observed and the duties to be performed by holders of prospectors' rights and mining tenements;
- (3) the method of determining the priority of applicants;
- (4) the area, dimensions and shape of mining tenements and the manner in which the area, boundaries and other particulars of land the subject of a mining tenement are to be ascertained, described, marked out and maintained;  
*(Amended by 7 of 1966, s. 41.)*
- (5) the duration of mining tenements;
- (6) the kinds of mining leases and permits to mine and the minerals which may be mined under them;
- (7) tribute agreements and contracts;
- (8) powers of attorney;
- (9) the extension, transfer, amalgamation, assignment, sublease, encumbrance, surrender and determination of mining tenements, and registration thereof and the fees payable thereon;  
*(Amended by 7 of 1966, s. 41.)*
- (10) the ascertainment and payment of royalties in respect of minerals;
- (11) the allocation of and payment of rents and fees;
- (12) the keeping of records of minerals found;
- (13) the keeping and verification of accounts and plans and sections of mines;
- (14) the mode of working mining leases and the disposal of waste and tailings;
- (15) the labour conditions to be observed and the housing and other accommodation required for labourers and the minimum number of labourers to be employed on mining tenements;
- (16) surveys and plans;
- (17) the regulation and use of the surface of the land and the cutting of timber and fuel;

- (18) the use of water and the cutting, constructing, use and maintenance races, dams and reservoirs;
- (19) trespass;
- (20) the employment and registration of labourers, the payment of wages and duties of employers and the safety of employees;
- (21) the employment of persons having charge of winding machinery providing for their periodical medical examination;
- (22) the issue of certificates and permits for managers and certain employees on mines;
- (23) the regulation of mines and the handling, storage and use of explosives therein;  
*(Amended by 37 of 1966, s. 106.)*
- (24) the determination of disputes;
- (25) the sanitary regulation of lands the subject of mining tenements and adjacent thereto;
- (26) the examination, restriction of employment and exclusion from mines of all persons found to be infected with ankylostomiasis, pneumoconiosis, tuberculosis or other infectious or contagious diseases;
- (27) the preservation of public health and the prevention of nuisances of all kinds arising from mining operations or the smelting or other treatment of any mineral product and the calculation and payment of compensation for any damage caused thereby;
- (28) the disposal of forfeited minerals;
- (29) the regulation of alluvial working by dredging, sluicing or otherwise and, among other things, the areas and methods of working; securing the bailing of water from mines so as to prevent injury from such water to any mine workings;
- (30) securing the bailing of water from mines so as to prevent injury from such water to any mine workings;
- (31) the manner in which compensation shall be ascertained and paid;
- (32) making provision for the compilation of mining statistics by requiring every person carrying on prospecting or mining operations to furnish to the Director periodical returns;
- (33) the regulation, restriction and control of the disposal and export of ores and minerals;
- (34) determining the distance, and enforcing the same, at which shafts and other mine workings are to be kept from public and private roads, ways and passages and from private land, dwellings and other buildings and for ensuring the fencing and protection of mines and works for the safety of man and beast;
- (35) the inspection, supervision and control of machinery used for mining purposes and prescribing the fees to be paid therefor and for the certificates which shall be issued by an inspector after his examination of any machinery;
- (36) the manner in which registers shall be kept;
- (37) defining the powers and duties of persons appointed or deemed to have been appointed under the provisions of this Act in all cases where such powers and duties have not been defined by this Act;
- (38) the manner in which certified copies of or duplicate certificates of lost documents may be issued and the fees therefor;
- (39) the mode of recording documents issued under the provisions of this Act;
- (40) the payment of rewards by way of moneys or mining leases to persons discovering precious metals or precious stones;
- (41) the manner of doing or performing anything by this Act required to be done or performed;
- (42) enabling the Director, an inspector or any authorised officer to enforce his orders.

(2) The regulations may be made to apply to the whole of Fiji or to any particular part thereof.

**CHAPTER 146**

**MINING**

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**SECTION 2-DECLARATION OF MINERAL SUBSTANCES**

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*Gazette Notice No. 2008 of 1979, Legal Notice No. 29 of 1983*

The following mineral substance is declared to be a mineral substance included in paragraph (c) of the definition of "minerals" in section 2 of the Act:-

Glass Sand

The following mineral substances are declared to be mineral substances included in paragraph (f) of the definition of "minerals" in section 2 of the Act:

Geothermal resources and their heat

**SECTION 5-GOVERNMENT PROTECTION AREAS**

The following areas are declared to be Government protection areas:-

*Legal Notice No. 37 of 1983*

**NAMULOMULO GOVERNMENT PROTECTION AREA**

All that piece of land in the tikina of Nawaka in the province of Ba having area of 100 hectares that is bounded by a line commencing at a point (being point at the termination of a line commencing at the Navuso Trigonometrical Station and running thence on a bearing of 300 degrees for 1,700 metres) and running thence on a bearing of 360 degrees for 1,000 metres, then on a bearing of 90 degrees for 1,000 metres, then on a bearing of 180 degrees for 1,000 metres, then on a bearing of 270 degrees for 1,000 metres to the point of commencement (all bearings being true).

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*Legal Notice No. 28 of 1983*

**QALIMARE (No. 1) GOVERNMENT PROTECTION AREA**

All that piece of land in the tikina of Ruwailevu in the province of Nadoga and Navosa having an area of 150 hectares that is bounded by a line commencing at a point (being the point at the termination of a line commencing at the Vatunauga Trigonometrical Station and running thence on a bearing of 138 degrees for 500 metres and then on a bearing of 90 degrees for 450 metres) and running thence on a bearing of 360 degrees for 500 metres, then on a bearing of 90 degrees for 3 000 metres, then on a bearing of 180 degrees for 500 metres, then on a bearing of 270 degrees for 3,000 metres to the point of commencement (all bearings being true).

#### QALIMARE (No. 2) GOVERNMENT PROTECTION AREA

All that piece of land in the tikina of Ruwailevu in the province of Nadroga and Navosa having an area of 200 hectares that is bounded by a line commencing at a point (being the point at the termination of a line commencing at the Vatunauga Trigonometrical Station and running thence on a bearing of 138 degrees for 500 metres) and running thence on a bearing of 180 degrees for 1,000 metres, then on a bearing of 270 degrees for 2,000 metres, then on a bearing of 360 degrees for 1,000 metres, then on a bearing of 90 degrees for 2,000 metres to the point of commencement (all bearings being true).

*Legal Notice No. 30 of 1983*

#### QALIMARE (No. 3) GOVERNMENT PROTECTION AREA

All that piece of land in the tikina of Ruwailevu in the province of Nadroga and Navosa having an area of 200 hectares that is bounded by a line commencing at a point (being the point at the termination of a line commencing at the Vatunauga Trigonometrical Station and running thence on a bearing of 138 degrees for 500 metres) and running thence on a bearing of 90 degrees for 2,000 metres, then on a bearing of 180 degrees for 1,000 metres, then on a bearing of 270 degrees for 2,000 metres, then on a bearing of 360 degrees for 1,000 metres to the point of commencement (all bearings being true).

*Legal Notice No. 37 of 1983*

#### WAINIVESI GOVERNMENT PROTECTION AREA

All that piece of land in the tikina of Sawakasa in the province of Tailevu having an area of 175 hectares that is bounded by a line commencing at a point (being the point at the termination of a line commencing at the Vatanitu Trigonometrical Station and running thence on a bearing of 331 degrees for 3050 metres) and running thence on a bearing of 227 degrees 30 minutes for 3,500 metres, then on a bearing of 317 degrees 30 minutes for 500 metres, then on a bearing of 47 degrees 30 minutes for 3,500 minutes, then on a bearing of 137 degrees 30 minutes for 500 metres to the point of commencement (all bearings being true).

#### WAINIVOLA GOVERNMENT PROTECTION AREA

All that piece of land in the tikina of Sawakasa in the province of Tailevu having an area of 150 hectares that is bounded by a line commencing at a point (being the point at the

termination of a line commencing at the Korosarau Trigonometrical Station and running thence on a bearing of 188 degrees for 2,350 metres) and running thence on a bearing of 180 degrees for 1,000 metres, then on a bearing of 270 degrees for 1,500 metres, then on a bearing of 360 degrees for 1,000 metres, then on a bearing of 90 degrees for 1,500 metres to the point of commencement (all bearings being true).

#### WAINIVOSULE GOVERNMENT PROTECTION AREA

All that piece of land in the tikina of Sawakasa in the province of Tailevu having an area of 150 hectares that is bounded by a line commencing at a point (being the point at the termination of a line commencing at the Vatanitu Trigonometrical Station and running thence on a bearing of 236 degrees for 2,250 metres) and running thence on a bearing of 270 degrees for 1,000 metres, then on a bearing of 360 degrees for 1,500 metres, then on a bearing of 90 degrees for 1,000 metres, then on a bearing of 180 degrees for 1,500 metres to the point of commencement (all bearings being true).

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#### SECTION 11-CLOSED AREAS

##### *Legal Notice No. 17 of 1974*

1. The following area is closed to prospecting or mining for bauxite:-

All that parcel of land situated in the tikina of Wainunu, Vuya and Wailevu in the province of Bua and Cakaudrove in the Island of Vanua Levu containing an area of approximately 2,818 acres more particularly delineated and shown coloured yellow on Plan No. M.B. 70 kept at the office of the Director of Mines, Suva with copies also available for inspection at the offices of the Divisional Surveyors at Suva, Labasa and Lautoka.

##### *Legal Notice No. 112 of 1975*

2. The following area is closed to prospecting or mining or entry upon occupation under any prospector's right or mining tenement:-

All that parcel of land situated in the tikina of Wainikoroiluva, Suva, Veivatuloa, Namosi and Waimaro, provinces of Namosi, Rewa and Naitasiri, containing an area of approximately 65,693 acres and being bounded by lines commencing from the datum post which is at a distance of 2.4 miles and on a bearing of 168° 30' from a fixed point at Latitude 17° 56' 15" south and Longitude 178° 05' 00" East; thence 86° 30' for 10.4 miles to No. 1 corner post; thence 176° 30' for 10.3 miles to No. 2 corner post; thence 244° 30' for 2.3 miles to No. 3 corner post; thence 278° 52' for 7.1 miles to No. 4 corner post; thence 348° 30' for 9.9 miles to the datum post.