

**MINING ORDINANCE
- CHAPTER 285**

LONG TITLE

Long title VerDate:30/06/1997

To make better provision with regard to prospecting for minerals and mining, and for purposes connected therewith.

[15 October 1954] G.N.A. 123 of 1954

(Originally 33 of 1954)

SECT 1

Short title VerDate:30/06/1997

PART I

PRELIMINARY PROVISIONS

This Ordinance may be cited as the Mining Ordinance.

SECT 2

Interpretation VerDate:01/07/1997

Adaptation amendments retroactively made - see 29 of 1998 ss. 61 & 105; 57 of 1999 s. 3

In this Ordinance, unless the context otherwise requires-

"Commissioner" means the Commissioner of Mines appointed under the provisions of section 42 and also the Deputy Commissioner of Mines appointed under that section;

"functions" includes powers and duties;

"Government land" means all land other than private land; (Amended 29 of 1998 s. 61)

"mine" (çᵠ|â ') includes any place, excavation or working whereon, wherein or whereby an operation in connexion with mining is carried on;

"to mine" means intentionally to win minerals and includes any operation necessary for the purpose;

"mines officer" means any officer appointed under the provisions of section 42;

"mineral" includes-

(a) metalliferous ores and other substances in their natural state which are obtainable only by mining or in the course of prospecting operations;

(b) metalliferous ores and other substances in their natural state mined or obtained in the course of prospecting operations;

(c) the valuable parts of such ores or other substances when unmanufactured;

(d) the product of treating or dressing such ores or other substances for marketing or export; and

(e) kaolin,

and also includes, for the purposes of section 3 but not otherwise,-

(i) any clay other than kaolin;

(ii) granite, porphyry, limestone and sand; and

(iii) any common mineral substance which the Chief Executive by notice in the Gazette declares not to be a mineral for the purposes of the provisions of this Ordinance other than section 3, (Amended 57 of 1999 s. 3)

but does not include mineral oils; (Replaced 3 of 1969 s. 2)

"mineral oil" includes pitch, asphalt and natural gas;

"owner", in its application to land, means the person entitled to the land under Government Lease or agreement for lease or other form of valid title from the Government; (Amended 29 of 1998 s. 105)

"pollute" includes any contamination with any chemical or any other substance in such a quantity as to be injurious to human, animal or vegetable life;

"private land" means land held under lease, agreement for lease, tenancy agreement, licence, permit, deed of appropriation, or other valid title from the Government, and also land occupied by Her Majesty's forces under lease, licence, permit, requisition or other permanent or temporary title; (Amended 29 of 1998 s. 105)

"prospect" and "prospecting" mean to search for minerals and also such working as is reasonably necessary to enable the prospector to test the mineral-bearing qualities of the land; (Amended 33 of 1960 s. 2)

"regulations" means any regulations for the time being in force, made under the provisions of this Ordinance;

"Superintendent" means the Superintendent of Mines appointed under the provisions of section 42;

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

SECT 3

Property in and control of minerals declared to be vested in the Government VerDate:01/07/1997

Adaptation amendments retroactively made - see 29 of 1998 s. 105; 57 of 1999 s. 3

PART II

GENERAL PROVISIONS

It is hereby declared that the entire property in and control of all minerals and mineral oils in, under or upon any lands or under any waters within Hong Kong is vested in the Government, save in so far as such property and control may be limited by any express grant by the Government.

(Amended 29 of 1998 s. 105; 57 of 1999 s. 3)

SECT 4

Prospecting and mining restricted VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

Save as provided in this Ordinance, no person shall prospect or mine in, under or upon any lands or under any waters within Hong Kong.(Amended 57 of 1999 s. 3)

SECT 5

Ordinance not to apply to mineral oils VerDate:30/06/1997

Nothing in this Ordinance shall be construed so as to confer any right to prospect for or to win any mineral oil.

SECT 6

Saving of sacred areas, trees and other objects of veneration VerDate:30/06/1997

(1) Nothing in this Ordinance shall be construed so as to sanction prospecting or mining in, under or upon any area held to be sacred or to sanction the injury or destruction of any tree or other thing which is the object of veneration.

(2) If any question arises under this section as to whether any area is held to be sacred or whether any tree or other thing is the object of veneration, such question shall be referred to the Director of Home Affairs, whose decision shall be final. (Amended L.N. 18 of 1983; L.N. 262 of 1989; L.N. 621 of 1994)

SECT 7

Holder of mining title not resident in Hong Kong to appoint attorney resident in Hong Kong
VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

(1) When not resident in Hong Kong every holder of a prospecting or mining licence and every lessee of a mining lease shall at all times have a duly authorized attorney, approved by the Director of Lands, resident in Hong Kong, with full power to represent the holder or lessee in all matters relating to his licence or lease, and shall, within one month after appointing such attorney or making any change in such appointment, produce to the Director of Lands the original of the power of attorney or of the document whereby such power of attorney is altered, and supply a copy thereof for his retention.
(Amended 57 of 1999 s. 3)

(2) If the holder of a prospecting or mining licence or the lessee of a mining lease fails to comply with any of the provisions of subsection

(1), the Director of Lands may, by a notice published in the Gazette, prohibit the continuance of operations in the area the subject of the licence or lease.

(3) If any such default continues for three months after the publication of the notice mentioned in subsection (2), the Director of Lands may, by a further notice published in the Gazette, revoke the licence or lease. (Amended 8 of 1993 s. 3; L.N. 291 of 1993)

SECT 8

Plans of prospecting and mining operations VerDate:30/06/1997

(1) Every holder of a prospecting or mining licence and every lessee of a mining lease shall, at all times, keep correct plans of all prospecting or mining done, and correct records of all minerals found and ore reserves calculated on the area the subject of his licence or lease, and shall supply to the Commissioner, on request, copies of such plans and records. (Amended 33 of 1960 s. 26)

(2) The plans required to be kept by subsection (1) shall be on the on the prescribed scale.

SECT 9

Lands excluded from prospecting and mining VerDate:02/12/2007

(1) No prospecting licence, mining licence or mining lease granted under this Ordinance shall be deemed to authorize prospecting or mining on or in, or the occupation of, any of the following lands- (Amended 11 of 2007 s. 36)

(a) land set apart for, or used for or appropriated or dedicated to, any public purpose (other than mining), except with the prior consent in writing of the Director of Lands and subject to such conditions as he may impose; (Amended L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993)

(b) land appropriated for any railway or situate within 100 metres of any railway, except with the prior consent in writing of the Kowloon-Canton Railway Corporation and subject to such conditions as it may impose; (See G.N. 67 of 1960. Amended L.N. 87 of 1986; 11 of 2007 s. 36)

(c) land which is the site of, or is within 100 metres of, any Government or public building, the limits of any reservoir or catchment area, or any road in use by vehicular traffic, or any land which is the site of or forms part of any thoroughfare, except with the prior consent in writing of the Director of Lands and subject to such conditions as he may impose. (Amended L.N. 76 of 1982; L.N. 87 of 1986; L.N. 94 of 1986; L.N. 291 of 1993)

(d) land actually under cultivation, except with the prior consent in writing of the owner and any lawful occupier of the land;

(e) land which is the site of, or is within 100 metres of, any building, except with the prior consent in writing of all persons having any estate or interest in such land or building. (Amended L.N. 87 of 1986)

(2) During the Concession Period within the meaning of section 2(1) of the Mass Transit Railway Ordinance (Cap 556), in subsection (1)(b)-

(a) "railway" means "KCRC Railway" within the meaning of section 2(1) of that Ordinance;

(b) the reference to Kowloon-Canton Railway Corporation shall be construed as a reference to the MTR Corporation Limited. (Added 11 of 2007 s. 36)

SECT 10

Royalties VerDate:30/06/1997

There shall be paid in respect of all minerals obtained in the course of prospecting or mining operations such royalties as may be prescribed:

Provided that no royalty shall be payable on any mineral sample certified by the Commissioner as being required solely for the purpose of assay or experiment or as a scientific specimen and not being of a greater quantity than in his opinion is necessary for such purpose. (Amended 33 of 1960 s. 26)

SECT 11

Chief Executive may close areas to prospecting or mining VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

(1) The Chief Executive may, by notice in the Gazette, declare any area to be closed to prospecting or mining, either generally or for any specified mineral and for such period as may be specified in such notice or without period assigned, and thereupon a prospecting licence, mining licence or mining lease, whether granted before or after publication of such notice, shall not be taken to authorize the holder or lessee to prospect or mine, as the case may be, in contravention of the terms of such notice.

(2) The Chief Executive may grant authority on such terms as he may think fit to any person (including the holder of any existing licence or lease) to prospect or mine in, under or upon any land which has been declared to be closed to prospecting or mining.
(Amended 57 of 1999 s. 3)

SECT 12

Compensation where action is taken under section 11 VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

(1) Where any area has been closed to prospecting or mining under section 11 compensation shall be paid by the Chief Executive out of the general revenue to the holder of a prospecting or mining licence or the lessee of a mining lease who is adversely affected by such closure.
(Replaced 33 of 1960 s. 4. Amended 57 of 1999 s. 3)

(2) Compensation shall be payable in the case of a prospecting licence in respect of disturbance and for the expenses incurred in prospecting the area and in the case of a mining licence or lease in

respect of disturbance and for the loss of reasonable expectation of profits from proved minerals in, under or upon any land within the area in respect of which the mining licence or lease is held. (Replaced 33 of 1960 s. 4)

(3) Any dispute as to what are proved minerals in, under or upon any land to which this section relates, and any dispute as to whether any compensation is payable or as to the amount of such compensation, shall, in default of agreement, be determined by arbitration in accordance with the provisions of the Arbitration Ordinance (Cap 341).
(Amended 33 of 1960 s. 4)

SECT 13

Prospecting licences VerDate:30/06/1997

PART III

PROSPECTING

(1) The Commissioner may grant to any person applying therefore in the prescribed manner and on payment of the prescribed fee a prospecting licence.

(2) A prospecting licence shall be in the prescribed form and shall be subject to such terms and conditions as the Commissioner may determine.

(3) A prospecting licence shall not be transferable and any right or interest conferred thereby shall not be assignable except with the prior consent in writing of the Commissioner.

(4) A prospecting licence shall remain in force for six months from the date thereof, unless previously cancelled under the provisions of this Ordinance, but a licence not so cancelled may be renewed by the Commissioner for further terms of six months each:

Provided that the total period of the original licence together with all renewals thereof shall not exceed five years. (Amended 65 of 1955 s.2; 33 of 1960 s.5)

SECT 14

Rights of the holder VerDate:01/07/1997

Amendments retroactively made - see 29 of 1998 s. 105

(1) The holder of a prospecting licence shall have the right to enter upon and prospect on any Government land within the area the subject of the licence and, subject to the provisions of subsection (2), on any private land within such area, and may, whilst engaged in bona fide prospecting, make bore holes, dig trenches, sink shafts and generally make the necessary excavations, subject to the terms and conditions of the licence. (Amended 33 of 1960 s. 6; 29 of 1998 s. 105)

(2) The holder of a prospecting licence shall have no right to enter upon or prospect on private land unless he obtains the prior consent in writing of the owner and any lawful occupier thereof.

(3) The holder of a prospecting licence shall not take any steps which may have the object or direct result of minerals being won in quantities in excess of those required to prove the mineral-bearing qualities and quantities of the area the subject of the licence. (Added 33 of 1960 s. 6)

SECT 15

Duties of the holder VerDate:30/06/1997

The holder of a prospecting licence shall-

- (a) carry on all prospecting in a safe and workmanlike manner in accordance with the regulations;
- (b) keep such registers and books and make such returns as may be prescribed;
- (c) permit at all reasonable times any mines officer to inspect any prospecting and to inspect and take copies of any register and any book of account in the possession or under the control of the holder and kept in connection with the prospecting;
- (d) not divert water from any river, stream, spring, reservoir, filter-bed, well or watercourse without the prior consent in writing of the Commissioner; (Amended 33 of 1960 s.26)
- (e) if not personally residing within the area the subject of his licence or sufficiently near thereto as to give continuous supervision to the prospecting on such lands, at all times have a responsible agent supervising the prospecting.

SECT 16

Ownership and disposal of minerals VerDate:01/07/1997

Amendments retroactively made - see 29 of 1998 s. 105

- (1) Minerals obtained in the course of prospecting under a prospecting licence shall be the property of the Government and shall not be removed from the land or disposed of except with the prior consent in writing of, and upon such terms and conditions as may be imposed by, the Commissioner; but nothing herein contained shall be construed to prohibit any such holder from removing, from time to time, samples of such minerals sufficient in quantity to enable them to be tested or analysed or experiments to be made for the purpose of ascertaining the content and the commercial value thereof. (Amended 29 of 1998 s. 105)
- (2) The Commissioner may authorize the removal of minerals from the land from which they have been obtained to any place approved by him for safe custody, subject to such conditions as he may impose.
- (3) If the holder of a prospecting licence desires to retain or dispose of any minerals obtained in the course of prospecting, he shall make application to the Commissioner in the prescribed manner and, if the Commissioner is satisfied that such holder has been conducting such operations only as are reasonably necessary to enable him to test the mining potentialities of the land, he may authorize the applicant to retain and dispose of the minerals in respect of which application is made on payment of the prescribed royalty.
(Amended 33 of 1960 s. 26)

SECT 17

Further prospecting licences for same area VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

Where any area is the subject of a prospecting licence, the Chief Executive in Council may authorize the grant of a further prospecting licence in respect of the same area for a different mineral if he is satisfied that by so doing the rights or interests of the holder of any existing prospecting licence will not be prejudicially affected.

(Amended 57 of 1999 s. 3)

SECT 18

Cancellation of prospecting licence VerDate:30/06/1997

The Commissioner may, by notice in writing, cancel a prospecting licence-

(a) if the holder thereof or any attorney, partner, agent or servant of such holder is convicted of any offence against this Ordinance or the regulations made thereunder; (Replaced 33 of 1960 s. 8)

(b) if the holder commits any breach of the provisions of this Ordinance, or of the regulations made thereunder, or of the terms or conditions whether express or implied of his licence, not amounting to an offence against this Ordinance or the regulations made thereunder, and if, on being called upon by the Commissioner to show cause within a time specified why his licence should not be revoked, he fails to comply with such order or if the cause shown is in the opinion of the Commissioner inadequate; (Replaced 33 of 1960 s. 8)

(c) if, without the consent in writing of the Commissioner, the holder wholly or substantially discontinues prospecting. (Amended 33 of 1960 s. 8)
(Amended 33 of 1960 s. 8)

SECT 19

Mining VerDate:30/06/1997

PART IV

MINING

Mining shall only be lawful under a mining licence or mining lease.(Added 33 of 1960 s.9)

SECT 20

Mining licences VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

(1) The Commissioner may grant to any person applying therefor in the prescribed manner and on payment of the prescribed fee a mining licence : (Amended 33 of 1960 s. 10)

Provided that the person, if any, who is carrying on under licence adequate prospecting operations on the area shall be preferred. (Added 33 of 1960 s. 10)

(2) A mining licence shall be in the prescribed form, shall specify the area and the minerals in respect of which it is granted, and shall be subject to such rentals, fees, royalties, premiums and other payments as may be prescribed and to such terms and conditions as the Commissioner may determine.

(3) A mining licence shall not be transferable and any right or interest conferred thereby shall not be assignable except with the prior consent in writing of the Commissioner.

(4) A mining licence shall remain in force for six months from the date thereof, unless previously cancelled under the provisions of this Ordinance, but a licence not so cancelled may be renewed by the Commissioner for further terms of six months each:

Provided that the total period of the original licence together with all renewals thereof shall not, save with the consent of the Chief Executive, exceed five years. (Replaced 33 of 1960 s. 10. Amended 57 of 1999 s. 3)

SECT 21

Cancellation of mining licence VerDate:30/06/1997

The Commissioner may, by notice in writing, cancel a mining licence-

(a) if the holder thereof or any attorney, partner, agent or servant of such holder is convicted of any offence against this Ordinance or the regulations made thereunder; (Replaced 33 of 1960 s.11)

(b) if the holder commits any breach of the provisions of this Ordinance, or of the regulations made thereunder, or of the terms or conditions whether express or implied of his licence, not amounting to an offence against this Ordinance or the regulations made thereunder, and if, on being called upon by the Commissioner to show cause within a time specified why his licence should not be revoked, he fails to comply with such order or if the cause shown is in the opinion of the Commissioner inadequate; (Replaced 33 of 1939 s.11)

(c) if, without the consent in writing of the Commissioner, the holder wholly or substantially discontinues mining operations. (Amended 33 of 1960 s.11)
(Amended 33 of 1960 s.11)

SECT 22

Mining leases VerDate:30/06/1997

(1) The Director of Lands may grant a mining lease to any person applying therefor in the prescribed manner, if the Commissioner is satisfied that the mineral-bearing qualities and quantities of the land in the area applied for are such as to justify the grant of a mining lease:

(Amended 33 of 1960 s. 12)

Provided that-

(a) the person, if any, who is carrying on or has carried on under licence adequate prospecting or mining operations on the area shall be preferred; and

(b) if a person having a prior claim to a mining lease is unable to obtain the same on the ground that he does not command sufficient working capital to ensure the proper development and working of the area applied for, the person who obtains a mining lease in respect of the area, if he has not himself adequately prospected or mined the same under licence, shall compensate such other person in such an amount as shall be determined by the Director of Lands.

(2) Any amount so determined may be recovered by the person entitled thereto by civil action, and in such action a certificate under the hand of the Director of Lands specifying the amount of compensation so determined shall, without further proof, be received as conclusive evidence of the amount thereof.

(3) A mining lease shall specify the area and the minerals in respect of which it is granted, and shall be subject to such rentals, fees, royalties, premiums and other payments as may be prescribed, and shall contain such covenants and conditions and shall be in such form, as the Director of Lands may determine.

(Amended 8 of 1993 s. 3; L.N. 291 of 1993)

SECT 23

Requirements as to capital VerDate:30/06/1997

(1) An applicant for a mining lease shall satisfy the Director of Lands that he commands sufficient working capital to ensure the proper development and working of the area applied for, and the Director of Lands may require the applicant to furnish a guarantee of a bank or person approved by the Director of Lands, for such amount and in such form as he may determine.

(2) In the event of the applicant failing to satisfy him as aforesaid or, when so required, to furnish a guarantee to the satisfaction of the Director of Lands, the Director of Lands may refuse the application, but the applicant may make a fresh application at any time.

(Amended 8 of 1993 s. 3; L.N. 291 of 1993)

MINING ORDINANCE - SECT 24

Duration and renewal of mining lease VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

(1) A mining lease may be granted for such term not being more than twenty-one years as the Director of Lands may determine. (Amended 33 of 1960 s. 13; L.N. 291 of 1993)

(2) If, during the term originally granted or any renewal thereof-

(a) the lessee has carried on work in a normal and businesslike manner;

(b) the lessee has in all respects performed and observed all the terms and conditions of the lease;
and

(c) the lessee has given to the Director of Lands not less than six months' prior notice in writing of his desire to obtain renewal of the lease,

the lessee may be granted, on payment of the prescribed fee and subject to the provisions of this section, a renewal of the lease for such term as may be approved by the Director of Lands, not exceeding twenty-one years, upon the conditions and subject to such rentals, fees, royalties, premiums and other payments as are then applicable to new leases and subject to such covenants and conditions as the Director of Lands may determine.

(Amended L.N. 291 of 1993)

(3) The Chief Executive in Council may authorize the grant or renewal of a mining lease for a term of more than twenty-one years.

(Added 33 of 1960 s. 13. Amended 57 of 1999 s. 3)

(Amended 8 of 1993 s. 3)

SECT 25

Rights under a mining licence or mining lease VerDate:01/07/1997

Amendments retroactively made - see 29 of 1998 s. 105

A mining licence or mining lease shall be deemed to confer on the holder or lessee the following rights-

(a) to carry out mining operations below the surface of the area in respect of which the licence or lease is granted;

(b) to enter upon, use and carry out mining operations on the surface of any Government land within the said area; and (Amended 29 of 1998 s. 105)

(c) with the prior consent in writing of the owner and any lawful occupier of any private land within the said area, to enter upon, use and carry out mining operations on the surface thereof.

SECT 26

Assignment, etc. of mining rights VerDate:30/06/1997

The lessee of a mining lease shall not assign, mortgage, charge, underlet or otherwise alienate or dispose of any of his rights under the lease, or enter into any agreement so to do, without the prior consent in writing of the Director of Lands.

(Amended 8 of 1993 s. 3; L.N. 291 of 1993)

SECT 27

Diversion or pollution of waters prohibited VerDate:30/06/1997

(1) The holder of a mining licence or mining lease shall not-

(a) divert the waters of any river, stream, spring, reservoir, filter-bed, well or watercourse, without the prior consent in writing of the Commissioner; or (Amended 33 of 1960 s.26)

(b) pollute, or permit to become polluted, any water, or in any way render such water unfit for the purpose for which it is being used.

(2) Any holder of a mining licence or mining lease who contravenes any of the provisions of subsection (1) may, without prejudice to any other remedy therefor, be required by the Commissioner to take such action as may be directed to prevent a continuance or recurrence of such contravention and within such time as may be specified. (Amended 33 of 1960 s.26)

SECT 28

Purification of water VerDate:30/06/1997

Every person who uses water in connection with mining operations, whether for the generation of power or for the removal of mineral substances or for concentrating, milling or otherwise, shall make such provision as will ensure that all water so used shall not contain any injurious substance in quantities likely to prove detrimental to human, animal or vegetable life when it leaves the mining area in which it has been so used.

SECT 28A

Discharges and deposits under Water Pollution Control Ordinance VerDate:30/06/1997

No offence under section 27 or 28 is committed by a person who makes a discharge or deposit under and in accordance with a licence under the Water Pollution Control Ordinance (Cap 358).
(Added 41 of 1980 s. 50. Amended 67 of 1990 s. 23)

SECT 29

Power of Commissioner to close mine VerDate:30/06/1997

If at any time it is shown to the satisfaction of the Commissioner that a mine is in such condition as to render mining dangerous to the safety or health of persons employed in or about such mine, the Commissioner may order either that such mine be closed, and a notice to that effect be published in the Gazette, or that such works be executed as will enable mining to be carried out with due regard to the safety or health of persons employed in or about such mine.

SECT 30

Acceptance of rent not to operate as a waiver of right of re-entry or forfeiture VerDate:01/07/1997

Amendments retroactively made - see 29 of 1998 s. 105

The acceptance by or on behalf of the Government of any rent shall not operate as a waiver by the Government of any right of re-entry accruing or of any forfeiture incurred by reason of the breach of any of the provisions of this Ordinance or the regulations or of any covenant or condition, express or implied, in any lease granted under this Ordinance.
(Amended 29 of 1998 s. 105)

SECT 31

Power of Director of Lands to revoke a mining lease VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

(1) Subject to the provisions of subsections (2), (3), (4) and (5), the Director of Lands may, by notice in writing, revoke any mining lease in any of the following cases, that is to say- (Amended 33 of 1960 s. 14; 8 of 1993 s. 3; L.N. 291 of 1993)

(a) if the lessee or any attorney, partner, agent or servant of such lessee is convicted of any offence against this Ordinance or the regulations made thereunder; (Replaced 33 of 1960 s. 14)

(b) if the lessee commits any breach of the provisions of this Ordinance, or of the regulations made thereunder, or of the terms or conditions whether express or implied of his lease, not amounting to an offence against this Ordinance or the regulations made thereunder, and, on being given an opportunity to show cause as required by subsection (2), fails to show cause within a reasonable time or shows cause which is in the opinion of the Commissioner inadequate; (Replaced 33 of 1960 s. 14)

(c) if, without the consent in writing of the Commissioner, the lessee wholly or substantially discontinues mining operations during a continuous period of six months; or (Amended 33 of 1960 s. 14)

(d) if the lease has been granted in error, whether such error relates to the area or to the boundaries or to any other matter whatsoever. (Amended 33 of 1960 s. 14)

(2) The lessee or his attorney shall be given an opportunity to show cause why the lease should not be revoked.

(3) Before a lease is revoked under the provisions of subsection (1), the Director of Lands shall give notice in writing of his intention to the lessee or his attorney, specifying the reasons for the proposed revocation, and the lessee or his attorney may, within one month after receipt of such notice, appeal by way of petition to the Chief Executive in Council against the proposed revocation. (Amended 8 of 1993 s. 3; L.N. 291 of 1993)

(4) A petition to the Chief Executive in Council under the provisions of subsection (3) shall be lodged with the Clerk to the Executive Council. (Amended 14 of 1994 s. 24)

(5) On consideration of the petition, the Chief Executive in Council may make such order as he thinks proper and such order shall be final.
(Amended 57 of 1999 s. 3)

SECT 32

Mining Compensation Board VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

PART V

COMPENSATION

(1) For the purpose of hearing appeals under section 33, a Mining Compensation Board (hereinafter referred to as the Board) shall be established, and shall consist of a Chairman and two other members appointed by the Chief Executive.

(2) The members of the Board shall retain their membership during the discretion of the Chief Executive and, subject thereto, for such period as may be specified in their instruments of appointment.

(3) The procedure of the Board on the hearing of an appeal shall, subject to any regulations made in that behalf under section 67, be of an informal character, but shall be such as to allow each of the parties an adequate opportunity to present his case.

(4) The Chief Executive shall appoint a Secretary to the Board, and may determine his remuneration, if any.
(Amended 57 of 1999 s. 3)

SECT 33

Compensation for disturbance of surface of surface rights, etc. VerDate:30/06/1997

(1) Reasonable compensation for-

(a) the use of the surface of any private land within the area of a prospecting or mining licence or of a mining lease and any disturbance of the surface rights in such land; and

(b) any damage to any land wherever situate or to anything built, planted, grown or standing thereon caused by prospecting or mining operations,

shall be paid by the person prospecting or mining to the owner of the land and any lawful occupier thereof. (Replaced 33 of 1960 s.15)

(2) Any dispute as to whether any compensation is payable under subsection (1), or as to the amount of any compensation so payable, may, in default of agreement, be referred to, and determined by, the Commissioner, who shall notify the parties of his decision.

(3) If any of the parties is dissatisfied with the decision of the Commissioner, such party may, within fifteen days of such notification, appeal to the Board, whose decision thereon shall be final and conclusive and shall be notified to the parties.

(4) Notice in writing of intention to appeal from a decision of the Commissioner shall be given by the person wishing to appeal to the Secretary to the Board and to any other person interested in the subject matter of the appeal.

(5) The amount of compensation awarded by the Commissioner or, in the event of an appeal, by the Board shall be paid to the Treasury for the account of the person entitled thereto, within fifteen days of the date on which the amount is notified to the person liable to pay such compensation.

(6) If the amount so awarded is not paid within the time specified in subsection (5), such amount may be recovered by the person entitled thereto by civil action.

(7) In any proceedings in court under subsection (6), a certificate under the hand of the Commissioner or of the Secretary to the Board, as the case may be, specifying the amount of compensation awarded shall, without further proof, be received as conclusive evidence of the amount of compensation payable.

(8) Upon the determination of an appeal under this section, the Board may direct that the unsuccessful party pay to the successful party the expenses reasonably incurred by the successful party in connection with the appeal, or such portion thereof as the Board may think reasonable having regard to all the circumstances (including the conduct of the appeal, the issues raised thereon and the determination of those issues), and in default of agreement between the parties as to the amount of such expenses, the Board shall determine the same.

(9) Any expenses which the Board directs to be paid under subsection (8) may be recovered by the person entitled thereto by civil action, and the provisions of subsection (7) shall apply as if the reference therein to compensation were a reference to expenses.

(10) Nothing in this section shall prevent an owner or occupier of private land from pursuing any other remedies he may have by law.

SECT 34

Meaning of specified minerals for purposes of this Part VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

PART VI

POSSESSION AND PURCHASE OF SPECIFIED MINERALS

(Amended 33 of 1960 s. 17)

For the purposes of this Part, the term "specified minerals" means any minerals, in their unmanufactured state, to which the Chief Executive may, by order, apply this Part.

(Replaced 33 of 1960 s. 18. Amended 57 of 1999 s. 3)

SECT 35

Possession of specified minerals VerDate:30/06/1997

No person shall possess any specified minerals unless he is the lessee of a mining lease or the holder of a prospecting or mining licence, or the holder of a licence granted under section 37 or is the duly authorized employee of such a lessee or holder.

(Amended 33 of 1960 s.19)

SECT 36

Purchase of specified minerals VerDate:30/06/1997

No person shall purchase any specified minerals unless he is the holder of a licence granted under section 37.

(Amended 33 of 1960 s.19)

SECT 37

Licence to purchase specified minerals VerDate:30/06/1997

(1) The Commissioner may, on payment of the prescribed fee, issue an Authorized Buyer's Licence in the prescribed form authorizing the person named therein to purchase specified minerals, and may attach to the licence such conditions as he may think fit. (Amended 33 of 1960 ss.19 &

26)

(2) Every such licence shall continue in force for one year from the date thereof, unless previously cancelled, and shall not be transferable.

SECT 38

Duty of seller of specified minerals to satisfy himself that purchaser is licensed to buy
VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

No person shall sell any specified minerals to a purchaser within Hong Kong, unless he has first satisfied himself that the purchaser is the holder of an Authorized Buyer's Licence authorizing him to purchase such specified minerals.

(Amended 33 of 1960 s. 19; 57 of 1999 s. 3)

SECT 39

Holder of licence to satisfy himself that the seller is authorized to possess and dispose of specified minerals VerDate:30/06/1997

The holder of an Authorized Buyer's Licence shall not purchase any specified minerals unless he has first satisfied himself that the vendor is authorized to be in possession of such specified minerals and to dispose of the same.

(Amended 33 of 1960 s.19)

SECT 40

Duty of licensee VerDate:30/06/1997

The holder of an Authorized Buyer's Licence shall-

(a) keep proper books showing-

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

(ii) the date of each purchase;

(iii) the name of the seller and his title or authority to be in possession and to dispose of the specified minerals;

(iv) details of disposal of the specified minerals after purchase by him; and (Amended 33 of 1960 s.19)

(b) produce such books for the inspection of any mines or police officer or member of the Preventive Service established by the Preventive Service Ordinance (Cap 342) whenever required to do so.

SECT 41

Cancellation of Authorized Buyer's Licence VerDate:30/06/1997

(1) In the event of any contravention by the holder of an Authorized Buyer's Licence of any of the provisions of section 39 or 40 or of any of the conditions of his licence, the Commissioner may, by notice in writing served upon the holder either personally or by registered post, cancel the licence and such cancellation shall be in addition to any other penalty.

(2) The Commissioner shall, before serving notice under subsection

(1), give to the holder notice of his intention to do so, adequately stating the grounds on which he intends to serve the notice and indicating that the holder may make written representations to him.

(Replaced 6 of 1994 s. 52)

SECT 41A

Appeals VerDate:30/06/1997

(1) The holder of an Authorized Buyer's Licence who is aggrieved by the service of a notice cancelling his licence under section 41 may, within 28 days from the date when he was informed of the decision, appeal to the Administrative Appeals Board.

(2) A notice that is appealed against under subsection (1) shall be suspended in its operation as from the day on which the appeal is made until such appeal is disposed of, withdrawn or abandoned unless such suspension would, in the opinion of the Commissioner, be contrary to the public interest and the notice contains a statement to that effect.

(Added 6 of 1994 s. 52)

SECT 42

Appointment of mines officers VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

PART VII

APPOINTMENT AND FUNCTIONS OF MINES OFFICERS

The Chief Executive may, from time to time, appoint a Commissioner of Mines, a Deputy Commissioner of Mines, a Superintendent of Mines, Mining Engineers, Mines Inspectors and such other officers as he may consider necessary for carrying out the purposes of this Ordinance.

(Amended 57 of 1999 s. 3)

SECT 43

Functions of the Superintendent of Mines VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

In addition to any other functions prescribed by this Ordinance, the Superintendent shall-

(a) subject to the control and directions of the Commissioner, exercise general supervision over all mining and prospecting operations;

(b) prepare and render such records, reports and returns as may be prescribed by the regulations or as may be required by the Commissioner or the Chief Executive; and

(c) take into his custody any minerals declared by any court to be forfeited to the Government, and dispose of such minerals by sale, and after such sale, pay the proceeds to the Treasury.
(Amended 57 of 1999 s. 3)

SECT 44

Powers of mines officers VerDate:30/06/1997

Any mines officer may-

(a) by notice in writing, require the holder of a prospecting or mining licence or the lessee under a mining lease or any person employed by such holder or lessee to appear before him at any reasonable time and place and give such information regarding prospecting or mining operations in or about the area the subject of the prospecting or mining licence or mining lease as he may possess, and every such holder or lessee or person shall comply with such notice and give such information;

(b) by order in writing, suspend work in the area, or any part thereof, the subject of any prospecting or mining licence or mining lease, until such arrangements have been made as are, in his opinion, necessary to prevent danger to life or property;

(c) cancel or vary the terms of any such notice or order; and

(d) exercise all the powers conferred upon labour inspectors by the Factories and Industrial Undertakings Ordinance (Cap 59) in so far as they are applicable to prospecting or mining operations.
(Replaced 34 of 1955
s.15)

SECT 45

Power to enter upon land and inspect, etc. VerDate:30/06/1997

A mines officer may-

(a) enter upon any land on which prospecting or mining is being carried out or in respect of which a prospecting or mining licence or a mining lease exists, and inspect such land and any works thereon;

(b) inspect and take copies of any registers, books, documents and plans connected with such prospecting or mining;

(c) take samples, make surveys and do any other act or thing necessary for the purpose of discharging his functions under this Ordinance or the regulations.

SECT 46

Public officers may be authorized to discharge functions of mines officer VerDate:30/06/1997

The Commissioner may, by writing under his hand, authorize any public officer to discharge all or any of the functions of a mines officer under this Ordinance and the regulations, and where the authority is not general, it shall specify the functions which the public officer may discharge.

SECT 47

Accidents to be reported VerDate:30/06/1997

PART VIII

INQUIRIES INTO ACCIDENTS, ETC.

(1) If in any mine, or in connection with mining or prospecting operations, any accident causing loss of life occurs, the lessee or the holder of the licence shall within twenty-four hours of its occurrence report the accident to a mines officer and to the nearest police station.

(2) Any other accident occurring within the area of the lease or licence and resulting in disablement of any employee of the lessee or the holder of the licence so as to cause him to be incapable of performing his ordinary work for one day or more shall be reported to a mines officer by the lessee or the holder of the licence within forty-eight hours of its occurrence.

(3) If, in any mine, or in connection with mining or prospecting operations, any dangerous occurrence, as specified in the regulations made under the Ordinance, takes place, whether any personal injury has been caused or not, the lessee or the holder of the licence shall within twenty-four hours report such occurrence to a mines officer, and in the case of such an occurrence in the New Territories to the appropriate District Officer.

(4) If any accident causing disablement is reported under subsection (2) and the person disabled subsequently dies as a result of the accident, notice in writing of the death shall be given within twenty-four hours thereof to a mines officer and to the police station nearest to the place where the accident occurred.

(5) Every report made under subsection (1) or (2) shall state the names of every person suffering death or disablement, the nature and extent of the injuries to every such person, and the circumstances in which the accident occurred, and may be made by telephone, orally or in writing.

(6) Every report made under subsection (3) shall be in writing, and in addition to any report required under subsection (1) or (2), and shall include particulars of the time of the occurrence of the accident, any damage to the building in which the accident occurred or to the machinery or plant therein, and the circumstances in which the accident occurred.

(Replaced 33 of 1960 s.20)

SECT 48

Commissioner of Mines to decide if inquiry by Superintendent shall be held in certain cases

VerDate:30/06/1997

If after receiving a report of the happening of an accident or of any dangerous occurrence and after such investigation, if any, as he may think necessary, the Commissioner is of the opinion that an inquiry into the cause of the accident or dangerous occurrence should be held, he shall instruct the Superintendent to hold such inquiry.

SECT 49

Procedure if inquiry conducted by Commissioner VerDate:30/06/1997

(1) If, upon the holding of any inquiry by the Superintendent, the proceedings are frustrated or delayed owing to the unwillingness of any witness to attend before the Superintendent or to produce books or records or to answer any question, or if such frustration or delay is brought about by any other cause, the Superintendent shall remit the inquiry to the Commissioner, who for the purposes of making further inquiry shall have all the powers of a magistrate to summon witnesses, to call for the production of books and documents and examine witnesses and parties concerned on oath.

(2) Any person summoned to attend before the Commissioner or to produce books or documents as aforesaid who fails to do so, or who refuses to answer any question put to him by or with the concurrence of the Commissioner, shall be guilty of an offence and shall be liable to a fine of one thousand dollars:

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

SECT 50

Saving VerDate:04/05/1998

Any inquiry held by virtue of the provisions of this Part shall not derogate in any way from the powers or jurisdiction exercisable by coroners under the Coroners Ordinance (Cap 504).

(Amended 57 of 1967 Schedule; 27 of 1997 s. 78)

SECT 51

Unlawful prospecting and mining VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

PART IX

OFFENCES AND PENALTIES

Any person who-

(a) prospects, save under the authority of, and in accordance with the terms and conditions of, a valid prospecting licence;

(b) mines, save under the authority of, and in accordance with the terms and conditions of, a valid mining licence or mining lease;

(c) prospects or mines on any of the lands mentioned in section 9 without the requisite authority;

(d) prospects or mines in contravention of a declaration under section 11; or (Amended 33 of 1960 s. 21; 57 of 1999 s. 3)

(e) fails to comply with any order of the Commissioner under section 29,

shall be guilty of an offence and shall be liable to a fine of five thousand dollars and to imprisonment for 2 years.

SECT 52

Penalty for contraventions of section 8, 15, 27 or 28 VerDate:30/06/1997

Any person who contravenes the provisions of section 8, 15, 27 or 28 shall be guilty of an offence and shall be liable to a fine of two thousand dollars and to imprisonment for twelve months.

SECT 53

Offences and penalties in relation to possession and purchase of minerals VerDate:30/06/1997

Any person who contravenes the provisions of section 35, 36, 38, 39 or 40 shall be guilty of an offence and shall be liable to a fine of four thousand dollars and to imprisonment for twelve months.

SECT 54

Fraud by applicant for prospecting licence or mining licence VerDate:30/06/1997

(1) Any person who falsely represents that he has obtained the grant of a prospecting or mining licence or mining lease, and thereby induces or attempts to induce any person to invest capital in connection therewith before he has obtained the grant of such prospecting or mining licence or mining lease, shall be liable to forfeit any claim to the grant of such prospecting or mining licence or mining lease.

(2) Nothing in this section shall relieve any person from liability to civil action or criminal prosecution in respect of the said representation.

SECT 55

Wilfully or recklessly giving false information or withholding information, and contravention of section 66(8) VerDate:30/06/1997

Any person who-

(a) wilfully or recklessly gives false information, or who withholds information, as to any of the matters in respect of which information is required to be given under this Ordinance or the regulations made thereunder; or

(b) contravenes the provisions of subsection (8) of section 66,

shall be guilty of an offence and shall be liable to a fine of one thousand dollars and to imprisonment for six months.

(Replaced 33 of 1960 s.22)

SECT 56

Interfering with mining prospecting or the exercise of any right conferred by this Ordinance

VerDate:30/06/1997

Any person who-

- (a) interferes with any mining or prospecting operations authorized by or under this Ordinance;
- (b) obstructs any person in the exercise of any right conferred by or under this Ordinance;
- (c) interferes with any machinery, plant, works or property established on, in, under or over any land in exercise of a right conferred by or under this Ordinance,

shall be guilty of an offence and shall be liable to a fine of two thousand dollars and to imprisonment for twelve months.

SECT 57

Salting VerDate:30/06/1997

Any person who places or deposits, or is an accessory to the placing or depositing of, any metal, ore or mineral in any place with intent to mislead any person as to the nature, quality or quantity of the mineral naturally occurring at such place, or who mingles or causes to be mingled with any sample of metal, mineral or ore, any valuable metal or any substance whatsoever which will increase or decrease the value or in any way change the nature of the said metal, mineral or ore, with intent to defraud any person, shall be guilty of an offence triable upon indictment and shall be liable to a fine of ten thousand dollars and to imprisonment for five years.

(Amended 50 of 1991 s. 4)

SECT 58

Liability of employer for offences committed by his employees VerDate:30/06/1997

Whenever it is proved to the satisfaction of any court having jurisdiction that an offence against this Ordinance or the regulations has been committed by any employee of the holder of any licence or lease granted under this Ordinance, the employer 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 exercised all due diligence to prevent the commission of the offence:

Provided that nothing in this section shall be deemed to exempt the employee from the penalties provided for the offence committed by him.

SECT 59

Forfeiture VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

(1) It shall be lawful for a magistrate to order to be forfeited to the Government any minerals with respect to which any offence against section 35, 36, 38, 39 or 51 has been committed, whether any person has been convicted of such offence or not, and upon the making of such order for forfeiture the said minerals shall be deemed to be the property of the Government. (Amended 33 of 1960 s. 23)

(2) Before making any such order, the magistrate shall give to any person claiming or appearing to the magistrate to be the owner of or otherwise interested in such minerals an opportunity of being heard.

(3) It shall be lawful for the Chief Executive in his absolute discretion to give effect to any claim for relief from such forfeiture where such claim is established to his satisfaction on equitable, moral or other grounds.

(Amended 57 of 1999 s. 3)

SECT 60

Service of documents VerDate:30/06/1997

PART X

MISCELLANEOUS PROVISIONS

Save as is otherwise expressly provided, any notice or other document required or authorized to be served under this Ordinance or the regulations may be served either-

(a) by delivering it to the person on whom it is to be served; or

(b) by leaving it at the usual or last known place of abode or business of that person; or

(c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode or business; or

(d) in the case of an incorporated company, by delivering it to the secretary of the company at its registered or principal office or sending it in a prepaid registered letter addressed to the secretary of the company at that office.

SECT 61

Right of the Chief Executive to take materials VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

The grant of any licence or lease under this Ordinance shall not limit the power of the Chief Executive to take from the land the subject of the licence or lease any materials required for the construction of railways, roads, buildings or other public works, and such other materials as are not included in the licence or lease, but so that such taking shall not interfere with or hinder any mining operations carried on under such licence or lease.

(Amended 57 of 1999 s. 3)

SECT 62

Government servants prohibited from acquiring rights VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

No person while in the service of the Government shall, directly or indirectly, acquire or hold for his own benefit any right or interest under any prospecting or mining licence or mining lease, and any licence

or lease or other document or transaction purporting to confer any such right or interest on any such person shall be null and void.
(Amended 57 of 1999 s. 3)

SECT 63

Officers empowered to conduct prosecutions VerDate:30/06/1997

Notwithstanding the provisions of any other enactment, any mines officer authorized in writing by the Commissioner, either generally or in any particular case, may conduct the prosecution of any offence against this Ordinance or the regulations.

SECT 64

Lateral limits VerDate:30/06/1997

The lateral limits of the area in respect of which a prospecting or mining licence or mining lease is granted, shall be vertical planes passing through the surface boundaries of such area.

SECT 65

Resumption of land required for public purposes VerDate:01/07/1997

Adaptation amendments retroactively made - see 29 of 1998 ss. 62 & 105; 57 of 1999 s. 3

(1) Whenever the Chief Executive in Council decides that the resumption of any Government land within the area of a mining lease is required for a public purpose, the Chief Executive may call upon the lessee thereof to surrender his rights and interests in such land under his lease, and the lessee shall, within two months after the date upon which such decision is communicated to him, execute an instrument of surrender thereof in such form as may be approved by the Director of Lands. (Amended 8 of 1993 s. 3; L.N. 291 of 1993; 29 of 1998 s. 105; 57 of 1999 s. 3)

(2) In this section, the expression "resumption for a public purpose" has the meaning ascribed to that expression by section 2 of the Lands Resumption Ordinance (Cap 124), but otherwise the provisions of that Ordinance shall have no application to a resumption under the provisions of subsection (1).
(Amended 29 of 1998 s. 62)

(3) If the lessee fails to execute an instrument of surrender within due time as provided in subsection (1), the Chief Executive may revoke the mining lease, and thereupon the lease and the rights of the parties thereunder shall absolutely determine but without prejudice to the rights and remedies of the parties in respect of any antecedent breach, non-observance or non-performance of the provisions thereof.
(Amended 57 of 1999 s. 3)

(4) Compensation shall be paid by the Government to the lessee for disturbance, and also for the loss of reasonable expectation of profits from proved minerals in, under or upon any land resumed under this section.

(5) Any dispute as to what are proved minerals in, under or upon any land resumed as aforesaid, and any dispute as to whether any compensation is payable or as to the amount of such compensation, shall, in default of agreement, be determined by arbitration in accordance with the provisions of the Arbitration Ordinance (Cap 341).

SECT 66

Power of Director of Lands and Commissioner to require giving of security, and provisions in connection therewith VerDate:01/07/1997

Amendments retroactively made - see 29 of 1998 s. 105

(1) In the case of a mining lease, the Director of Lands, and, in the case of a prospecting or mining licence, the Commissioner, may-

- (a) as a condition precedent to the grant or renewal thereof; or
- (b) at any time during the currency thereof,

require the person to whom the lease or licence is to be granted or whose lease or licence is to be renewed or the lessee or licensee as the case may be, to give, within such reasonable period as he may specify, security for any one or more or all of the following-

- (i) any sum which may become payable under section 33 by way of compensation;
- (ii) any sum which may become payable to the Government by way of royalties, rental or fees;
(Amended 29 of 1998 s. 105)

(iii) any sum which may become payable to the Government by way of damages or otherwise in respect of any contravention of any term, covenant or condition of the lease or licence or which may become payable to the Government under such terms, covenants or conditions or under any regulations made under this Ordinance or otherwise. (Amended 29 of 1998 s. 105)

(2) Where security has been given in accordance with the provisions of subsection (1), the Director of Lands, in the case of a mining lease, and the Commissioner, in the case of a prospecting or mining licence, may, so long as the lease or licence is in force, require the lessee or licensee to give, within such period as he may specify, additional security for any one or more or all of the matters set out in subsection (1).

(3) Such security or additional security shall be of such amount as the Director of Lands or the Commissioner, as the case may be, shall determine and may be given by way of the deposit of cash with the Director of Accounting Services or the guarantee of such bank or other person as may be approved, for the time being, by the Director of Accounting Services. (Amended L.N. 16 of 1977; L.N. 453 of 1993)

(4) Where security (which expression shall include, where applicable, additional security) has been given in accordance with the provisions of this section, and, at any time, the same has become reduced or been extinguished by reason of any payment therefrom or for any other reason, the lessee or licensee, as the case may be, shall, so long as the lease or licence is in force and upon being required so to do by the Director of Lands or the Commissioner, as the case may be, give such further security, in the manner specified in subsection (3), as may be necessary to restore such security to an amount not less than the amount of the same immediately prior to such reduction or extinguishment.

(5) Without prejudice to any other provisions of this Ordinance, where any lessee or licensee fails to comply with-

(a) any requirement of the Director of Lands or the Commissioner made, under subsection (1), during the currency of any lease or licence;

(b) any requirement of the Director of Lands or the Commissioner made under subsection (2); or

(c) the provisions of subsection (4),
the Director of Lands or the Commissioner, as the case may be, may forthwith determine the lease or licence by notice in writing to the lessee or licensee, and thereupon the lease or licence shall be deemed to have been determined in the same manner as if it had been determined in consequence of a breach of a term, covenant or condition thereof.

(6) (a) Where the amount of any compensation payable under section 33 has been finally determined and the same has not been paid within fifteen days of such determination, it shall be lawful for the Director of Accounting Services to pay the same to the person entitled thereto out of any cash deposited under the provisions of this section, so far as the same will allow. (Amended L.N. 16 of 1977; L.N. 453 of 1993)

(b) For the purposes of paragraph (a), the amount of any compensation shall be deemed to have been finally determined-

(i) when the same has been agreed; or

(ii) where the same has been determined by the Commissioner under subsection (2) of section 33, if, within the time limited therefor by subsection (3) of that section, neither party has appealed to the Board; or

(iii) in the event of an appeal under the said subsection (3) when the same has been determined by the Board.

(7) Upon the expiry or determination of the lease or licence, the Director of Accounting Services shall, when he is satisfied that no, or no further, sums, being sums in respect of which the security (which expression shall include, where applicable, additional security) was given, remain unpaid, return or release such security, or the balance thereof, if any, as the case may be, to the person by whom the same was given. (Amended L.N. 16 of 1977; L.N. 453 of 1993)

(8) Where, under subsections (1) and (2), respectively, the Director of Lands or the Commissioner has required security or additional security to be given for any sum which may become payable to the Government by way of royalties, no ore or mineral shall be disposed of or removed from the mining area until such security has been given in accordance with the provisions of this section.
(Added 33 of 1960 s. 24. Amended 8 of 1993 s. 3; L.N. 291 of 1993; 29 of 1998 s. 105)

SECT 67

Power of Chief Executive in Council to make regulations VerDate:01/07/1997

Adaptation amendments retroactively made - see 57 of 1999 s. 3

(1) The Chief Executive in Council may by regulation provide for- (Amended 57 of 1999 s. 3)

(a) all matters which by this Ordinance are required or permitted to be prescribed;

- (b) the manner in which application for prospecting licences, mining licences and mining leases shall be made, and the forms to be used;
- (c) the rentals, fees, premiums and other payments to be paid for prospecting licences, mining licences and mining leases;
- (d) the rates of royalties to be paid to the Government, the method of calculation of the amount of such royalties and the manner and time of payment thereof, or the determination of all or any of such matters by the Commissioner; (Amended 8 of 1966 s. 2)
- (e) the extent of the areas in respect of which prospecting licences, mining licences and mining leases may be granted;
- (f) the manner in which areas and boundaries shall be surveyed and marked, and the fees payable in respect of such survey;
- (g) the imposition of obligations upon holders of prospecting and mining licences and upon lessees of mining leases; (Replaced 33 of 1960 s. 25)
- (h) the construction and use of roads, tramways and railways;
- (i) the making of pits and shafts, and the construction and erection of houses, machinery and other works to be used for mining purposes;
- (j) the fencing off or rendering secure of any shaft, tunnel, well, trench, drive or other works constructed or made for prospecting or mining purposes;
- (k) the grazing of animals;
- (l) the cutting down and use of timber for the purpose of carrying out prospecting or mining;
- (m) the returns to be rendered and the accounts, registers, books and plans to be kept by the holders of prospecting licences, mining licences and mining leases;
- (n) the disposal of any poisonous or noxious products resulting from prospecting or mining;
- (o) the disposal of sludge and tailings and the declaring of watercourses to be sludge channels;
- (p) the safety, welfare, health and housing conditions of persons employed in mining operations and the carrying on of prospecting or mining operations in a safe, sanitary, proper, economic and effectual manner;
- (q) the fees to be paid in respect of any matter or thing done under this Ordinance;
- (r) the procedure on appeal under Part V to the Board;
- (s) the imposition of a penalty not exceeding a fine of one thousand dollars and six months' imprisonment for a contravention of any regulation; and
- (t) the better carrying out of the provisions of this Ordinance.

(Amended 33 of 1960 s. 25)

(2) Any regulations made under subsection (1) shall be in addition to and not in derogation of the provisions of-

(a) the Dangerous Goods Ordinance (Cap 295);

(b) the Boilers and Pressure Vessels Ordinance (Cap 56); (Amended 87 of 1988 s. 58)

(c) the Factories and Industrial Undertakings Ordinance (Cap 59);
(Replaced 34 of 1955 s. 15)

(d) the New Territories Ordinance (Cap 97);

(e) the Buildings Ordinance (Cap 123),
and of the provisions of any regulations made thereunder; but if there is any conflict between any regulations made under subsection (1) and any such provisions as aforesaid, the regulations made under subsection (1) shall prevail.

SECT 68

Saving VerDate:30/06/1997

Nothing in this Ordinance shall exempt any person from compliance with the provisions of the Radiation Ordinance (Cap 303).

(Amended 80 of 1997 s. 102)