

# NIGERIAN MINING CORPORATION ACT

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## NIGERIAN MINING CORPORATION ACT

**An Act to establish the Nigerian Mining Corporation as a statutory corporation empowered to engage in prospecting for mining and refining minerals of various kinds occurring in Nigeria apart from coal and petroleum.**

[1972 No. 39.]

[24th October, 1972]

[Commencement.]

### 1. Establishment of the Nigerian Mining Corporation

(1) There shall be established a body by the name of the Nigerian Mining Corporation which shall be a body corporate with perpetual succession and a common seal.

(2) The Corporation shall consist of the members mentioned in section 2 of this Act and the provisions of the First Schedule to this Act shall have effect with respect to the powers and procedures of the Corporation and other matters there mentioned.

[First Schedule.]

## 2. **Membership**

(1) The Corporation shall consist of a chairman to be appointed by the President and the following other members, that is-

[1977 No. 34.]

(a) the Director of Mineral Resources;

(b) the Director of Geological Surveys;

(c) the Permanent Secretary, Federal Ministry of Finance or his representative;

(d) the general manager of the Corporation; and

(e) five other persons to be appointed by the President who, by reason of any necessary ability, experience, specialised knowledge of the mining industry or their business or professional attainment, have a special contribution to make to the work of the Corporation.

(2) The President may, by order published in the *Federal Gazette*, increase or reduce or otherwise vary the composition of membership of the Corporation.

## 3. **Tenure of office, etc.**

(1) Subject to this Act, a member of the Corporation who is not a public officer shall, unless he previously vacates his office-

(a) hold office for a period of three years on such terms as may be specified in his instrument of appointment; and

(b) be eligible for re-appointment, and such member shall be paid out of the moneys at the disposal of the Corporation such remuneration and allowances as the Minister with the approval of the President may determine.

(2) Without prejudice to section 11 of the Interpretation Act (which provides, among other things, for the removal of appointees by the person who appointed them) any member of the Corporation not being a public officer-

[Cap. 123.]

(a) shall cease to hold office if he resigns his office by a notice in writing signed by him and served on the Minister;

(b) may be removed from office by notice in writing served on him by the Minister for reasons stated in that notice.

## 4. **Functions of the Corporation**

Subject to the provisions of this Act, and without prejudice to the operation of section 2 of the Nigerian Steel Development Authority Act, the Corporation shall be charged with the general duty of-

(a) exploring and prospecting for, working, mining or otherwise acquiring, processing and disposing of minerals of various kinds occurring in Nigeria other than petroleum or coal;

(b) smelting, roasting, assaying, amalgamating, refining, or otherwise treating the minerals aforesaid in any manner calculated to render the products and by-products of any such mineral marketable;

(c) purchasing the ores or the products and by-products of any of the minerals aforesaid from any source outside Nigeria in any case where they are not available in Nigeria;

(d) marketing the ores, products and by-products of any or all the minerals aforesaid;

(e) performing the other functions conferred on it by or pursuant to this Act.

## **5. Powers of the Corporation**

Subject to the other provisions of this Act, the Corporation shall have power to do anything which in its opinion is calculated to facilitate the carrying on of its activities including, without prejudice to the generality of the foregoing, the power to--

(a) sue and be sued in its corporate name;

(b) hold and manage movable and immovable property;

(c) construct and maintain such roads, railways, sidings, tramways, bridges, reservoirs, watercourses, buildings, plant and machinery and such other works as may be necessary for, or conducive to, the discharge of the functions conferred on it by or under this Act;

(d) purchase or otherwise acquire or take over any asset, business, property, privilege, contract, right, obligation and liability of any company, firm or person in furtherance of the business engaged in by the Corporation;

(e) enter into contracts or partnerships with any company, firm or person which in the opinion of the Corporation will facilitate the discharge of its functions under this Act;

(f) train managerial and technical staff for the purpose of the running of its operations;

(g) undertake such research as may be necessary for the performance of its functions under this Act, and for that purpose it may establish such number of research laboratories including mineralogical, chemical, mineral dressing and assay laboratories either independently or in partnership with any company, firm or person, as it may determine in each case

(h) exercise such other powers as are necessary or expedient for giving full effect to the provisions of this Act.

## **6. General manager and secretary of the Corporation**

(1) There shall be an officer of the Corporation to be known as the general manager of the Corporation who shall be appointed by the President on the recommendation of the Minister.

(2) The general manager shall be the chief executive of the Corporation and shall be responsible for the general administration of the Corporation, the execution of the policy of the Corporation and the transaction of its day-to-day business.

(3) There shall be appointed by the Corporation a secretary to the Corporation who shall be an officer but not a member of the Corporation and shall keep the Corporation's records and conduct its correspondence and perform such other duties as the Corporation may, from time to time direct or require.

#### **7. Staff generally**

(1) Subject to this Act the Corporation may appoint such persons as members of its staff as it considers necessary and may approve conditions of service including provision for the payment of pensions: Provided that no pensions scheme shall be put into operation without the prior approval in writing of the Federal Civil Service Commission.

(2) If the Minister thinks it expedient that any vacancy in the staff of the Corporation should be filled by a person holding office in any of the civil services of the Federation, he shall inform the Federal Civil Service Commission and thereafter the Federal Civil Service Commission may fill the vacancy by way of secondment or transfer.

(3) Where a person is seconded pursuant to subsection (2) of this section, he shall be notified of the terms and conditions of the secondment; and the secondment shall be without prejudice to any pension right which, but for the secondment, would still accrue to him.

(4) A person, seconded under subsection (2) of this section, may elect to be transferred to the staff of the Corporation in which case any previous service in any of the public services as aforesaid shall count as service for the purposes of any pension subsequently payable by the Corporation.

(5) Where a person who is a member of any of the public services of the Federation is transferred to the service of the Corporation then if the Federal Civil Service Commission so directs--

(a) that person's former service in that public service shall be taken into account in applying the provisions of the Pensions Act; and

(b) that Act shall have effect as if that person's service with the Corporation were service in the said public service.

#### **8. Borrowing powers**

(1) Subject to subsection (2) of this section, the Corporation may, from time to time, borrow such sums as it may require in the exercise of its functions under this Act.

(2) Subject to the following provisions of this section of this Act the Corporation shall not, without the approval of the President, borrow any sum of money whereby the amount in the aggregate outstanding on any loan or on all loans at any time exceeds N400,000.

(3) Nothing in this section shall prevent the Corporation from borrowing in excess of the limit imposed under subsection (2) of this section for the purpose of paying off any loan.

(4) A person lending to the Corporation shall not be bound to enquire whether the borrowing is within the power of the Corporation.

#### **9. Establishment of fund by the Corporation**

(1) The Corporation shall establish and maintain a fund from which there shall be defrayed all expenditure by the Corporation.

(2) There shall be paid and credited to the fund established in pursuance of subsection (1) of this section-

(a) such sums as may, from time to time, be lent or granted to the Corporation by the Government of the Federation or a State;

(b) such sums as may, from time to time, be lent to the Corporation by any person;

(c) all property and investments acquired by or vested in the Corporation and all moneys earned or arising therefrom; and

(d) such sums as may be received by the Corporation in the course of its operations or in relation to the exercise of any or all of its functions under this Act.

#### **10. Expenditure of the Corporation, etc.**

(1) The Corporation may, from time to time, apply the proceeds of the fund established in pursuance of section 9 of this section-

(a) to the cost of administration of the Corporation or of any subsidiary it might acquire pursuant to this Act;

(b) to the repayment of any money borrowed pursuant to this Act;

(c) to the granting of loans to its officers and servants for such purposes and on such terms and conditions as it may approve; and

(d) for and in connection with all or any of its functions under this Act or any other written law.

(2) With the approval of the President the Minister may issue to the Corporation directives as to the disposal of surplus funds and, subject to such directives, the Corporation may invest its funds and maintain a general financial reserve.

#### **11. Accounts and audit**

(1) The Corporation shall keep proper accounts and proper records in relation thereto and shall prepare in respect of each financial year a statement of accounts in such form as the Minister may direct, being a form which shall conform with the best commercial standards.

(2) The Corporation shall as soon as may be after the end of the financial year to which the accounts relate cause its accounts to be audited by auditors appointed from the list of auditors and in accordance with the guidelines supplied by Auditor-General for the Federation.

(3) The auditors shall on the completion of the audit of the accounts of the Corporation for each financial year prepare and submit to the Corporation the following two reports, that is to say-

(a) a general report setting out the observations and recommendations of the auditors on the financial affairs of the Corporation generally for that year and on any important matters which the auditors may consider necessary to bring to the notice of the Corporation; and

(b) a detailed report containing the observations and recommendations of the auditors in detail on all aspects of the operations of the Corporation for that year.

#### **12. Annual report**

(1) The Corporation shall prepare and submit to the Minister not later than 30 June in each financial year a report in such form as the Minister may direct on the activities of the Corporation during the immediately preceding financial year, and shall include in the

report a copy of the audited accounts of the Corporation for that year and of the reports mentioned in subsection (3) of section 11 of this Act.

(2) The Minister shall cause a copy of each report made to him under this section to be laid before the President.

### **13. Compulsory acquisition of land**

(1) Whenever there is any hindrance to the acquisition by the Corporation of any land required for any purpose of the Corporation under this Act (including any failure by the Corporation to reach agreement with the party concerned as to the amount to be paid in respect of the acquisition), the Minister, on the application of the Corporation and after such inquiry as he may think fit, may declare that the land is required for the service of the Corporation.

(2) Where a declaration is made under subsection (1) of this section, the land to which the declaration relates shall be deemed to be land required for a public purpose within the meaning of the Land Use Act, and the President may cause action to be taken under that Act for acquiring the land for the Federal Government.

(3) Where a declaration has been made under subsection (1) of this section in respect of any land and-

(a) the land has been acquired pursuant to subsection (2) of this section; or

(b) the President is satisfied that there are no rights subsisting in respect of the land, the President may vest the land in the Corporation by means of a certificate under the hand and seal of the Registrar of Deeds.

(4) The compensation (if any) payable under the Land Use Act for the acquisition of any land under this section of this Act shall in the first instance be paid by the Federal Government but the Corporation shall refund to that Government any compensation so paid and all incidental expenses incurred by the Government.

(5) A plan of the land referred to in subsection (1) of this section--

(a) containing measurements of the boundaries of the land;

(b) showing the relationship of the land to any sufficient identifying mark; and

(c) signed by the general manager of the Corporation,

shall be a sufficient description of the land for the purposes of an application under that subsection.

### **14. Protection of the Corporation's land**

Land vested in the Corporation shall not be liable to be acquired compulsorily under any enactment; and notwithstanding anything in any other enactment, no mining operations shall be carried on, in or under any land vested in the Corporation or any land over which the Corporation is entitled to rights of support for the benefit of lands so vested except with the prior consent in writing of the Minister or the Corporation.

### **15. Application etc., of certain enactments**

(1) For the purposes of this Act, the Corporation shall be subject to all rights, powers, obligations and duties to which-

(a) the holder of a prospecting right, an exclusive prospecting licence, a mining right or water licence or a lessee of a mining lease is subject under the Minerals and Mining Act;

(b) the holder of a quarrying lease or a quarrying licence is subject under the Minerals and Mining Act.

(2) Accordingly, the provisions of the enactments mentioned in subsection (1) of this section shall apply in relation to the Corporation as they apply in relation to any person under those enactments, so however that in the application thereof-

(a) the provisions of the said enactments specified in Part A of the Second Schedule to this Act shall be excluded; and

[Second Schedule.]

(b) the Forms specified in Part B of the said Schedule shall for the purposes of this Act only be consequentially modified, and subsidiary instruments made pursuant to the enactments shall be construed accordingly.

(3) Except as provided in subsection (2) of this section, nothing in this section shall be construed as authorising the disregard by the Corporation of any enactment or rule of law.

### **16. Protection of certain rights**

Where in the exercise of any function under this Act certain rights are affected the provisions of this Act shall not be construed so as to exclude-

(a) the payment of compensation in respect of any loss or damage that may have been suffered in consequence of the operation of the provisions of this Act;

(b) the determination of any right or interest in any property acquired or possessed by the Corporation and the amount of compensation payable pursuant to this section by any court of competent jurisdiction.

### **17. Prospecting rights, etc., under the Minerals and Mining Act**

For the avoidance of doubt and notwithstanding the provisions of this Act, the Minister may grant any of the rights, licences and leases under the Minerals and Mining Act to any person, other than the Corporation, for the prospecting and mining of the minerals referred to in this Act.

[Cap. M12.]

### **18. Power to make bye-laws**

(1) The Corporation may, with the approval of the Minister, make bye-laws, not inconsistent with this Act, for the general and efficient conduct of the functions conferred on it under this Act.

(2) Bye-laws made under subsection (1) of this section need not be published in the *Federal Gazette* but the Corporation shall bring them to the notice of such affected or interested persons (including officers and servants of the Corporation) in such manner as it may, from time to time, determine.

### **19. Interpretation**

(1) In this Act, unless the context otherwise requires-

**"Corporation"** means the Nigerian Mining Corporation established pursuant to section 1 of this Act;

**"functions"** include powers and duties;

**"Minister"** means the Minister charged with responsibility for mines;

**"prospecting"** has the meaning assigned thereto by section 259 of the Minerals and Mining Act.

[Cap. M12.]

(2) In this Act, the reference to minerals includes all the minerals as defined under section 259 of the Minerals and Mining Act but for the avoidance of doubt does not include-

(a) coal as defined under section 2 of the Nigerian Coal Corporation Act;

[Cap. N95.]

(b) petroleum as defined under section 15 (1) of the Petroleum Act.

[Cap. P10.]

## **20. Short title**

This Act may be cited as the Nigerian Mining Corporation Act.

### FIRST SCHEDULE

[Section 1 (2).]

*Supplementary provisions relating to the Corporation, etc.*

#### *Proceedings*

**1.** Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by majority of its members and for the chairman to have a second or casting vote), the Corporation may make standing orders regulating the proceedings of the Corporation or any committee thereof.

[Cap. 123. 1977 No. 34.]

**2.** Every meeting of the Corporation shall be presided over by the chairman or, if the chairman is unable to attend a particular meeting, the members present at the meeting shall elect one of their number to preside at the meeting.

**3.** The quorum at a meeting of the Corporation shall consist of the chairman (or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule) and four other members.

**4.** Except as provided in section 2 (1) (c) of this Act, no member of the Corporation shall be entitled to appoint a person to represent him at a meeting.

**5.** Where standing orders made pursuant to paragraph 1 of this Schedule provide for a committee of the Corporation to consist of or co-opt persons who are not members of the Corporation, the committee may advise the Corporation on any matter referred to it by the Corporation, but members of the committee who are not members of the Corporation shall be entitled to vote at a meeting of the committee.

#### *Miscellaneous*

**6.** The fixing of the seal of the Corporation shall be authenticated by the signature of the chairman or of the general manager of the Corporation.

7. Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Corporation by any person generally or specially authorised to act for that purpose by the Corporation.

8. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Corporation shall be received in evidence and, unless the contrary is proved, be presumed without further proof to have been so signed or sealed.

9. The validity of any proceedings of the Corporation or a committee thereof shall not be affected-

(a) by any vacancy in the membership of the Corporation; or

(b) by any defect in the appointment of a member of the Corporation or committee.

10. Any member of the Corporation or a committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Corporation or a committee shall forthwith disclose his interest to the Corporation or committee and shall not vote on any question relating to the contract or arrangement.

## SECOND SCHEDULE

[ Section 15 (2) (a).]

### PART A

*Modification by Minerals and Mining Act*

*The Minerals and Mining Act*

[Cap. M12.]

Section 32 (3) (which relates to the duration of a prospecting right);

Section 35 (1) and (4) (which relates to the renewal of an exclusive prospecting licence);

Section 48 (3) and (6) (which relates to the grant of a mining lease);

Section 51 (1) and (2) (which relates to the duration and consequential renewal of a mining lease);

Section 196 (which relates to the extent of area of land of, and validity of a quarrying lease);

Section 198 (4) (which relates to the duration of a quarrying licence);

Section 199 (which relates to consequential renewal of quarrying licences and leases).

### PART B

*First Schedule to the Minerals and Mining Act*

Form A (Prospecting Right)

Form B (Exclusive Prospecting Licence)

Form E (Mining Lease)

*Fifth Schedule to the Minerals and Mining Act*  
Form A (Quarrying Lease)

Form C (Quarrying Licence)

**SUBSIDIARY LEGISLATION**

*No Subsidiary Legislation*