

**Minerals and Mining Decree  
No 34 of 1999  
Laws of the Federation of Nigeria**

10th May 1999

The Federal Military Government hereby decrees as follows -

**Chapter 1**

**Minerals and Mining**

**Part 1**

**Ownership of Minerals**

1. (1) The entire property in and control of all minerals, in, under or upon any land in Nigeria, its contiguous continental shelf and of all rivers, streams and watercourses throughout Nigeria, any area covered by territorial waters or constituency, the Exclusively Economic Zone is and shall be vested in the Government of the Federation for and on behalf of the people of Nigeria.
- (2) All lands in which minerals have been found in commercial quantities shall, from the commencement of this Decree be acquired by the Government of the Federation in accordance with the provisions of the land Use Act and the Minister may, from time to time, with the approval of the Federal Executive Council, designate such lands as security lands.

**Part II**

**Functions of Minister with Respect to Mineral Development**

2. The Minister shall -
  - (a) ensure the orderly and systematic development of the mineral resources of the country;
  - (b) have a well planned and coherent programme of exploration of mineral resources taking into account the national interest, state security, economic development, ecological and environmental factors;
  - (c) monitor the development and exploration of all the minerals considered strategic;
  - (d) set out the procedure for monitoring development in mineral sector and involve the private agencies as partners in mineral resources development;
  - (e) ensure that in the exploration of the mineral resources, an equitable balance is maintained between foreign and indigenous interests;
  - (f) identify areas where Government intervention is desirable in achieving policy goals and proper prospective in mineral resource development;
  - (g) define the roles to be played by the Federal, State, Local Government and private investors in the administration of mineral exploitation

- (h) create avenues for the private sector to adequately and meaningfully perform its roles in the mineral sector;
- (i) highlight public awareness in the various mineral resources available in Nigeria;
- (j) collate detailed data concerning Nigeria's minerals and identify their quantity and quality;
- (k) ensure planned development of the mineral resources through research and acquisition of modern technology by indigenous operators;
- (l) encourage the private sector to take the leadership role in the exploration and exploitation of the mineral resources;
- (m) accelerate the development of technical and professional manpower required in the mineral sector;
- (n) introduce adequate measures to discourage illegal mining by -
  - (i) equipping and strengthening the Inspectorate to Division of the Ministry
  - (ii) controlling the abuse of use of licences,
  - (iii) monitoring the activities of the mineral processing facilities,
  - (iv) enlightening the public on evil of illegal mining,
  - (v) establishing mines field police, and
  - (vi) providing maximum fine and sentence for illegal miners;
- (o) protect society and the environment from the adverse effects of unapproved mining practices and operations; and
- (p) prescribe measures for the general welfare and safety of workers engaged in the exploitation of minerals.

3. (1) There is hereby established for each State of Federation a Committee to be known as the Mineral Resources Committee (in this section referred to as "the Committee").

(2) The Committee shall consist of -

- (a) a chairman to be appointed by the Minister from amongst persons in the State who have considerable knowledge of mineral resources in that State;
- (b) the Commissioner responsible for land matters or mineral related matters in the State;
- (c) the Federal Mines Officer in the State,
- (d) the Permanent Secretary of the Ministry of Agriculture or Forestry in the State;
- (e) the Surveyor General of the State;
- (f) one person to represent the Local Governments in the State nominated by the Commissioner responsible for Local Governments in the State; and
- (g) two other persons appointed by the Minister.

(3) The functions of the Committee are to -

- (a) consider and advise the Minister on issues affecting returns of necessary reports affecting grants of mining titles;
  - (b) consider issues affecting compensation and make necessary recommendations to the Minister;
  - (c) discuss, consider and advise the Minister on matters affecting pollution and degradation of any land on which any mineral was or is being extracted;
  - (d) consider and discuss such other matters relating to mineral resources development within the State as the Minister may, from time to time, refer to the Committee.
- (4) The Committee shall -
- (a) meet at least once every three months and at such times as the Minister may deem necessary;
  - (b) regulate its own procedure.
- (5) The Federal Mines Officer in the State appointed pursuant to subsection (2)(c) of this section shall be the Secretary of the Committee.
- (6) The Committee shall forward its report to the Minister after each meeting.

### **Part III**

#### **Mining Operations - General**

4. No person shall prospect or mine on any land in Nigeria or divert or impound water for the purpose of mining operations except
5. (1) No person shall be qualified for the grant of any mining title under this Decree unless the person is a body corporate duly incorporated under the Companies and Allied Matters Decree 1990.
- (2) The holder of a mining title shall not, without the prior consent of the Minister -
- (a) transfer the equity shares of the company to any other company or person; or
  - (b) enter into agreement, arrangement or understanding with any other company or person if the transfer, agreement or understanding will give the person or company control of the mining title.
- (3) Where a mining title had been granted to or held by any unincorporated body or person prior to the coming into force of this Decree that unincorporated body or person shall, within the period of six months from the coming into force of this Decree, comply with the provisions of subsection (1) of this section.
6. (1) Notwithstanding anything in this Decree, no person shall prospect or conduct mining operations unless he holds a licence or lease granted by the Minister.
- (2) Any licence or lease issued pursuant to subsection (1) of this section shall be subject to such conditions as may be prescribed in the licence or lease or by regulations made under this Decree.
7. (1) Nothing in this Decree shall be construed as preventing any citizen of Nigeria from winning, subject to such conditions as may be prescribed by the Minister, salt, soda, potash or galena from any land (other than land within the area of a mining lease or land designated by the Minister as security land pursuant to subsection (2) of section 1 of this Decree) from which it had been the custom of the members of the community to which he belongs to win before the coming into force of this Decree.

- (2) The Minister may by Order published in the Gazette direct the provisions of subsection (1) of this section to apply, within such local limits as may be prescribed by the Order, to any mineral which the Minister is satisfied has before the commencement of this Decree, been customarily won by any community.
- (3) Where before the commencement of this Decree, it was the custom of the members of any community to win any of the minerals to which subsections (1) and (2) of this section apply from any lands over which a mining lease is granted, the lessee shall, during the continuance of the lease, pay to the members of that community compensation as prescribed by the Minister under this Decree.
8. (1) No person shall, in the course of prospecting or mining, carry out operations on, in or under any area held to be sacred or permit injury or destruction of any tree or other thing which is the object of veneration.
- (2) Where any question arises under this section as to whether an area is held to be sacred or a tree or thing is the object of veneration, the question shall be decided by the Administrator of the State, whose decision shall be final.
- (3) A licensee or lessee who causes injury or damage to any area, tree or thing mentioned in subsection (1) of this section shall pay fair and adequate compensation to the persons or communities affected by the injury or damage.
9. (1) A holder of an exclusive prospecting licence or mining title and a lessee of a mining lease shall at all times -
- (a) keep correct plans of every prospecting or mining done,
- (b) keep correct records of every mineral found and ore reserve calculated on the area of his licence or lease; and
- (c) supply to the Minister on request, copies of the plans and records at such time and periods as the Minister may so demand.
- (2) The plans required to be kept by subsection (1) shall be on the prescribed scale.
10. (1) The Minister shall require an applicant for an exclusive prospecting licence, mining lease or mining title to provide -
- (a) proof of sufficient working capital for the prospecting, development or working of the area applied for and of technical competence to carry on the proposed prospecting or mining operation;
- (b) a banker's guarantee as prescribed in Form K in Schedule 1 to this Decree for such sum as the Minister may determine;
- (c) a report on the mineral or on the area of a mining lease prepared by the prospector or any other expert;
- (d) the proposed programme of prospecting or mining operation provided that the proposed programme of prospecting and mining does include a detailed programme of progressive reclamation and rehabilitation of lands so disturbed; and
- (e) any other further information as the Minister may require or prescribe.
- (2) Where an applicant fails to satisfy the Minister as provided in subsection (1) of this section, the Minister may refuse the application but the applicant may submit a new application to the Minister with any information on the matters required.

11. (1) Where several applications are received on the same area or for overlapping areas from two or more persons on the same business day the application which is first received and in the proper form, shall be deemed to have priority over the others.
  - (2) The decision of the Minister on any question of priority shall be final.
12. (1) The holder of an exclusive prospecting licence, a milling lease or other mining title shall not assign the licence or lease or any portion of the rights or interests conferred by the licence or lease without the consent in writing of the Minister and the consent shall be by endorsement on the instrument of assignment.
  - (2) The assignee shall be liable for all fees and obligations of the assignor under this Decree which may have accrued at the time of assignment.
  - (3) An assignment shall be as in Form G in Schedule 1 to this Decree.
  - (4) Where an application has been made for an exclusive prospecting licence or a mining lease, the provisions of this section shall apply in respect of the application, and any consequential amendment for the purpose shall be made in Form G to Schedule 1 to this Decree.
  - (5) Where an assignment is effected and approved by the Minister, the assignee shall be entitled to any right which the assignor has in accordance with subsection (1) of section 21, subsection (2) of section 32, subsection (1) of section 1 and subsection (1) of section 37 of this Decree.
13. (1) A holder of any mining title shall not transfer his licence or lease or any portion of the rights or interest conferred in the licence or lease without the consent of the Minister in writing.
  - (2) In an application for an assignment or transfer of mining title, the applicant shall give to the Minister such details of the assignment or transfer as may be required in the case of an application for the mining title, together with any other information the Minister may require.
  - (3) Subject to the provisions of section 12(1) and subsection (1) of this section, the Minister may in his discretion and taking into consideration all matters required -
    - (a) refuse to give his consent to the assignment or transfer; or
    - (b) give his consent with or without any conditions prescribed by him,and the decision of the Minister on the issue of assignment or transfer of mining titles shall be final.
14. (1) No prospecting right, exclusive prospecting licence or mining lease granted under this Decree shall authorise prospecting or mining on or in or the erection of beacons on or the occupation of any land -
  - (a) set apart for, or used for or appropriated or dedicated to any public purpose (other than mining) except with the prior consent of the Head of State, Commander-in-Chief of the Armed Forces;
  - (b) within the area of an oil pipeline licence granted under the Oil Pipeline Act, without the consent of the Minister as defined in section 2 of that Act;
  - (c) situate within any township, except with the prior approval of the Minister after consultation with other appropriate authorities;
  - (d) occupied by any town, village, market, burial ground or cemetery, except with the prior permission of the Minister;
  - (e) appropriated for a railway or situate within one hundred metres of a railway, except with the prior consent in writing of the Minister and subject to such conditions as the Minister may specify;

- (f) land which is the site of, or is within fifty metres of any government or public building, reservoir, dam, public road or tramway, except with the prior consent in writing of the Minister and subject to such conditions as the Minister may specify;
  - (g) actually under cultivation, except with the prior consent of occupier;
  - (h) within the site of, or within fifty metres of any building, without prior notice to the owner or occupier of the building;
  - (i) over which exclusive prospecting licences or mining leases have previously been granted by the Minister and are still subsisting;
  - (j) which has been declared as a national monument under the National Commission for Museums and Monuments Act; and
  - (k) which has been previously declared congested area and closed to prospecting.
- (2) No prospecting licence or mining lease shall be granted within areas demarcated as developmental areas by the Federal Government, a State Government or a Local Government Council except with the express consent in writing of the Minister after consultation with the State Government or the Local Government Council concerned.
- (3) Licences or leases granted in developmental areas shall be, in any case, subject to restoration to the satisfaction of the Minister and shall be so certified after the expiry of the period contained in the licence or lease.
- (4) Where a lease, granted prior to demarcation, falls within a newly demarcated area, the lessee shall be entitled to adequate notice of not less than 3 years, from the Minister or be paid appropriate compensation for immediate vacation of the lease.
- (5) Any person prospecting or mining on or under any lands specified in subsection (1) without the requisite consent or authority shall be guilty of an offence.
- 15.** (1) Any mineral obtained in the course of prospecting or mining operations shall be liable to such royalty as may be prescribed by the Minister and published in the Gazette.
- (2) The Minister may reduce or waive royalty on any mineral which the Minister is satisfied is being exported solely for the purpose of analysis or experiment or as a scientific specimen, not being in greater quantity than in his opinion is necessary for that purpose.
- (3) The Minister may defer payment of royalty on any mineral for a specific period as in his discretion becomes necessary, by publication in the Gazette.
- 16.** (1) An exporter of any mineral specified in section 15 of this Decree shall -
- (a) before the mineral is entered for export, declare on the appropriate customs entry form the state in which the mineral was extracted;
  - (b) on demand made by the prescribed authority, furnish the information relating to any mineral which the exporter has exported under paragraph (a) of this subsection within the time and in the manner as may be required.
- (2) A person who does not comply with any of the provisions of subsection (1) of this section, commits an offence and is liable on conviction -
- (a) to a penalty of twenty thousand naira; and
  - (b) in the case of failure to comply with a requirement of the prescribed authority under subsection (1) of this section, by which he was required to do any act at a specified time or within a specified

period, to an additional penalty of twenty thousand naira for each day after that time or after the end of that period, as the case may be, during which the failure to do the act in question continues.

- (3) A proper officer of the Nigerian Customs Service may refuse to accept the entry of any mineral in respect of which he is satisfied that the provisions of subsection (1) of this section have not been complied with.
17. (1) Whenever any mineral is exported solely for the purpose of analysis or experiment or as a scientific specimen, the Minister shall require the result of analysis to be forwarded to him and the person exporting the sample shall obtain a certificate of the result of analysis of the sample and deliver, within six months of the export of the sample, a true copy of the certificate to the Minister.
- (2) A person who fails to comply with the provisions of this section commits an offence.

#### **Part IV**

##### **Mining Incentives and other Assistance**

18. The holder of a mining lease shall, where qualified, be entitled to the following capital allowances -
- (a) depreciation or capital allowance of 75 per Cent of the certified true capital expenditure incurred in the year of investment and 50 per cent in subsequent years;
  - (b) losses in each financial year not exceeding the value of capital allowances for the year which may be carried forward;
  - (c) investment allowance of 5 per cent;
  - (d) capitalisation of all expenditure on prospecting and exploration approved by the Minister on the advice of the Director of Mines where the holder starts mining development.
19. (1) The holder of a mining lease shall be granted the following benefits as appropriate -
- (a) exemption from payment of customs and import duties in respect of an approved plant, machinery, equipment and accessories imported specifically and exclusively for the commencement of the mineral operations, and may after establishment receive additional relief from payment of customs and excise duties for spare parts, equipment and accessories;
  - (b) expatriate quota and resident permit in respect of the approved expatriate personnel;
  - (c) personal remittance quota for expatriate personnel, free from any tax imposed by any enactment for the transfer of external currency out of Nigeria.
- (2) For the purpose of subsection (1)(a) of this section, the Minister shall approve the appropriate machinery, equipment, and accessories to be imported by the holder of a mining lease for the purpose of this section.
20. Where the holder of a mining lease earns foreign exchange from the sale of its minerals it may be permitted by the Central Bank of Nigeria to retain in an external account a portion of its foreign exchange earnings for use in acquiring spare parts and other inputs required for the mining operations which would otherwise not be readily available without the use of such earning.
21. Subject to the provision of this Decree, a holder of a mining lease shall be guaranteed free transferability through the Central Bank in convertible currency of -
- (a) payments in respect of loan servicing where a certified foreign loan has been obtained by the holder for his mining operations;

- (b) the remittance of foreign capital in the event of sale or liquidation of the mining operations or any interest therein attributable to foreign investment.
- 22. (1) The tax relief period of a company granted a mining lease under this Decree shall commence on the date of operation and subject to the provisions of this Decree or any other relevant financial enactment, the tax relief shall continue for three years.
- (2) The tax relief period of a company granted a mining lease under this Decree may, by the end of the three years, be extended by the Minister for one further period of two years.
- (3) The Minister shall not extend the tax relief period of a company in exercise of the power conferred under subsection (2) of this section unless the Minister is satisfied as to -
  - (a) the rate of expansion, standard of efficiency and the level of development of the company in operation of mining for which the lease was granted;
  - (b) the implementation of any conditions upon which the lease was granted;
  - (c) the training and development of Nigerian personnel in the operation of the mineral concerned.
- 23. (1) Notwithstanding any provisions of this Decree and subject to the powers conferred upon the Minister by this Decree, application of the provisions of sections 24 and 25(1) and (2) of the Nigerian Investment Promotion Council Decree 1995 shall apply to any foreign investment made by any company granted a mining lease under this Decree.
- (2) Notwithstanding the provisions of this Decree and any condition imposed on a mining lease, the provisions of section 15 of the Foreign Exchange (Monitoring and Miscellaneous Provisions) Decree 1995 shall apply to investment of foreign currencies and capital in solid minerals development in Nigeria.
- (3) The Minister may, by order published in the Gazette apply the provisions of sections 18 to 23 of this Decree to holders of other mining titles.
- 24. The Minister shall -
  - (a) co-ordinate and monitor all investment activities in mineral resources;
  - (b) initiate and support measures to enhance the investment estimate for both Nigerian and non-Nigerian investors;
  - (c) promote investments for the development of mineral ventures in and outside Nigeria;
  - (d) collect, collate, analyse and disseminate information about investment capital and advise on request, the availability, choice or suitability of partners in joint ventures projects in mineral resources;
  - (e) register and keep records of all enterprises and companies established and pursuing activities in mineral resources and allied projects;
  - (f) identify specific mineral resources, projects and invite interested investors for participation in those projects.
  - (g) initiate, organise and participate in promotional activities in mineral resources and development, by exhibitions, conferences, seminars and workshops geared towards the stimulation of investments in mineral resources;
  - (h) maintain liaison between investors and Government Departments and Agencies set up for the purpose of development of mineral resources and allied projects; and

- (i) provide and disseminate up-to-date information on incentives in mineral resources available to investors under this Decree
25. The Minister shall provide the following additional assistance to small scale miners -
- (a) organise and group small miners into co-operatives;
  - (b) organise simple and better techniques of mining for small scale miners;
  - (c) provide basic mining equipment for small scale miner;
  - (d) provide such technical consultancy as may improve the skill of small scale miners; and
  - (e) provide support services which may enhance interest and investment in mineral resources.

## **Part V**

### **Prospecting**

#### **A Prospecting Titles**

26. (1) No person shall prospect for any mineral unless he is a prospecting right or an exclusive prospecting licence issued him in accordance with the provisions of this Decree
27. (1) The Minister may, by notice published in the Gazette, declare an area to be closed to prospecting generally or for a specified mineral for such period as he may specify in the notice.
- (2) The Minister may grant authority on such terms as he may think fit to any person to prospect and to erect beacons on any land which has been declared to be closed to prospecting.
- (3) No person, other than the holder of an exclusive prospecting licence or his agent, shall prospect or erect beacons within an area which is closed to prospecting.
- (4) A person who prospects within an area which is closed to prospecting in contravention of this section commits an offence under this Decree.
28. (1) The Minister may, by notice published in the Gazette, prohibit prospecting for any specified mineral.
- (2) Where the Minister prohibits prospecting under subsection (1) of this section; a prospecting right or exclusive prospecting licence granted before or after the notice issued by the Minister shall not authorise the holder to prospect for that mineral unless the contrary is expressly approved by the Minister.
29. (1) Where the holder, in the course of exercising its right under a prospecting right or licence, discovers any mineral not included in its licence, it shall notify the Minister of the discovery and may apply to the Minister for an endorsement of its prospecting right or licence to include that mineral.
- (2) An application for an endorsement of a prospecting right or licence under subsection (1) of this section shall -
- (a) specify the mineral discovered;
  - (b) state particulars of the time, situation and the circumstances of the discovery; and
  - (c) have appended to it a proposed programme of prospecting operations in respect of that mineral.

- (3) Subject to the provisions of subsection (1) of this section, the Minister may permit the endorsement of the exclusive prospecting licence to include the mineral discovered.
30. (1) Any mineral raised or obtained in the course of prospecting under a prospecting right or an exclusive prospecting licence shall be the property of the Federal Republic of Nigeria held for and on behalf of the people of Nigeria.
- (2) No person, whether or not the holder of a right or licence under this Decree, shall remove from the land or dispose of any mineral obtained in the course of prospecting by the holder except with the consent of the Minister.
- (3) If the holder of a prospecting right or an exclusive prospecting licence or his agent during the course of prospecting discovers any radio-active mineral or any mineral which may reasonably be expected to be radio-active, he shall forthwith notify the Minister of the discovery in writing.
- (4) The provisions of the Nuclear Safety and Radioactive Decree 1995 shall apply to any radio-active mineral discovered pursuant to subsection 3 of this section.
- (5) The Minister may authorise the removal of the radio-active minerals from the land from which they have been obtained to any place approved by him for safe custody, subject to such conditions, if any, as he may think fit and in accordance with subsection (3) of this section.
31. If the holder of a prospecting right or an exclusive prospecting Licence desires to retain or dispose of any minerals raised or obtained in the course of prospecting, he shall make application to the Minister in the prescribed manner, and if the Minister is satisfied that the prospector has been conducting the work only as was reasonably necessary to enable him to test the mineral bearing qualities of the land, he may authorise the applicant to retain and dispose of the minerals in respect of which application is made on payment of the prescribed royalties.
32. (1) The Minister may issue to any company, upon payment of the prescribed fee, a prospecting right as contained in Form A in the Schedule I to this Decree, and he may by, endorsement thereon -
- (a) restrict the use of the prospecting right -
- (i) to specified local government areas,
- (ii) to specified minerals; or
- (b) impose any conditions as he may consider necessary.
- (2) Notwithstanding anything contained in subsection (1) of this section, a prospecting right shall not be granted except with the consent of the Minister to any company which -
- (a) has been or whose director or partner has been convicted of an offence under this Decree; or
- (b) which has previously held any right, licence or lease granted under this Decree, or under any previous enactment relating to minerals which has been revoked by reason of a breach of the terms or conditions of the same; or
- (c) is unable to give satisfactory proof that it possesses sufficient funds or credit to enable it to pay -
- (i) any reasonable expenses that may be incurred by prospecting in an adequate matter,
- (ii) any compensation that may be required in the exercise of the rights conferred by the prospecting right.
- (3) A prospecting right shall remain in force for one year unless revoked or determined under the provisions of this Decree.

- (4) The holder of a prospecting right shall, during the currency of the right, keep continuously in his employment a person who possesses adequate professional qualifications and experience in geology or mining who shall be in charge of the prospecting operations of the holder and who shall have been registered for that purpose with the prescribed officer.
- (5) Any change in employment of ~ person referred to in subsection (4) of this section shall be notified to the Minister.

33. (1) The holder of a prospecting right may -

- (a) enter upon and prospect on any land within any Local Government Area specified in the prospecting right (not being land closed to prospecting) including any of the lands referred to in section 14 of this Decree, if he has first obtained the consent of the Local Government Council stated to be entitled to give the consent but not otherwise;
- (b) whilst engaged in bona fide prospecting, construct a camp and take timber (other than protected trees), and water from any lake, or watercourse not the subject of a water licence for domestic purposes or for the purposes of prospecting;
- (c) sink shafts or wells and dig holes or trenches so, however, that the holder -
  - (i) shall not divert water from any watercourse without the consent in writing of the Minister,
  - (ii) shall not prospect in any forest reserve except with the consent of the Minister,
  - (iii) intending to prospect on private land or on land occupied under State lease or the subject of a right of occupancy, shall give notice to the Chairman of the Local Government Council concerned and, to the occupier of the land before commencing prospecting operations on the land.

(2) A person who is carrying out underground prospecting may be granted permit by the proper authority to take protected without the payment of royalties and fees but if any question arises as to whether the operations for which a protected tree is required or is being used are or are not prospecting, the matter shall be referred to the Minister whose decision shall be final.

(3) The holder of a prospecting right who fails to give any notice required under subsection (1) of this section or fails to comply with the conditions imposed by the Minister commits an offence.

(4) The holder of a prospecting right shall fill up any shafts, wells, holes or trenches made by him and restore the ground to its original state at the completion of prospecting operations.

(5) A holder of a prospecting licence who fails to comply with the provisions of subsection (4) of this section commits an offence.

#### B - Exclusive Prospecting Licences

34. (1) The Minister may, grant an exclusive prospecting licence to prospect for such minerals as are stated in the licence to any company which -

- (a) being the holder of a prospecting right, has beaconed the area over which the licence is applied for; or
- (b) has, by an agent who is the holder of a prospecting right on its behalf, beaconed the area.

(2) On the application of any licensee, the Minister may add to or vary the minerals so stated in any exclusive prospecting licence.

- (3) The applicant for an exclusive prospecting licence shall be informed, at the time of approval of its application, of any special conditions which the Minister proposes to include any lease granted by virtue of the exclusive prospecting licence.
  - (4) An exclusive prospecting licence shall be in Form B set out in Schedule 1 to this Decree.
  - (5) An exclusive prospecting licence shall not be grant in respect of an area exceeding 20 square kilometres.
  - (6) An applicant for an exclusive prospecting licence shall satisfy the provisions of section 10 of this Decree.
35. (1) An exclusive prospecting licence shall be granted for 2 years from the date specified in the licence but may be iewed in whole or in part for further terms of one year each to a maximum of -
- (a) two renewals, where the mineral is in alluvium;
  - (b) four renewals, where the mineral is covered by basalt; and
  - (c) five renewals, where the mineral is in lode.
- (2) The Minister may grant renewals of the licence in whole or part for such further periods of one year, if it be shown that all obligations have been fulfilled or that prospecting operations have been stopped or seriously hindered by circumstances beyond the control of the licensee.
  - (3) Where the application for renewal is refused the licence shall be valid for a further period of three months from on which it would otherwise have expired.
  - (4) An application for the renewal of an exclusive licence shall be made in writing at least one month before the date of the expiry of the licence and the licence and a copy of the plans required by section 9 of this Decree and the rent for the following year shall be forwarded together with application.
  - (5) When an application is made as aforesaid but the applicant is not notified whether his application is granted before the date on which the licence expired, the holder may continue his prospecting operations until he is notified that his application is refused but if approved the renewal shall date from the date on which the licence would but for the renewal have expired.
  - (6) If the application for renewal is not approved, the applicant and no other person may, during the a period of three months commencing on the day after the notice of refusal, or the date of the expiration of the licence, whichever shall be later, beacon and apply for mining leases within the area of the exclusive prospecting licence but every application for renewal of exclusive prospecting licence shall satisfy the conditions specified by section 10 of this Decree.
36. When application is made for an exclusive prospecting licence in respect of an area which includes any private land or land occupied under a State lease or right of occupancy, notice of the application shall be given in the prescribed manner to the owner or occupier of the land before the licence is granted.
37. (1) The holder of an exclusive prospecting licence -
- (a) shall have the sole right of prospecting upon the land within the area of his licence and for that purpose may
    - (i) enter upon the land with his agents and workmen and thereupon exercise all or any of the rights conferred upon the holder of a prospecting right,
    - (ii) employ in prospecting on the land any number of persons who for the purpose of such prospecting shall not be required to hold prospecting rights, and

- (iii) erect and maintain the machinery and plant and subject to the provisions of Part XII of this Chapter of this Decree, construct such ways may be necessary for or in connection with his prospecting operations;
  - (b) who has fulfilled all the conditions attached, shall be entitled within a period of three months from the date of expiry of the licence and subject to the provisions of this Decree, to the grant of a mining lease for any mineral for which he was authorised to prospect (the authority not having been determined by a notice) under section 30 of this Decree, in respect of any portion of the area included in the licence.
38. (1) The holder of an exclusive prospecting licence shall, during the currency of the licence, carry on in a safe, orderly, skilful, efficient and workman like manner in accordance with the regulations, prospecting operations on the land included in the area in respect of which the licence has been granted.
- (2) The Minister may, on the application of the holder and for good cause shown, suspend the obligation to work imposed by this section in respect of any licence for such time as the Minister may deem proper and may in the same manner direct that any time or any part of the period shall not be reckoned in the currency of the licence, if during that time no work is done by the holder on the lands included in the area covered by the licence.
- (3) Unless otherwise provided, the rights and obligations imposed by section 33 of this Decree on the holder of a prospecting right shall apply to the holder of an exclusive prospecting licence.
- (4) The holder of an exclusive prospecting licence shall, at all times, have a responsible agent supervising his prospecting operations in accordance with section 32(4) of this Decree.
39. The holder of an exclusive prospecting licence may, on payment of the prescribed fee, surrender his licence and the surrender shall -
- (a) be in Form C in the Schedule 1 to this Decree; and
  - (b) not affect any liability incurred by the holder before surrender takes effect especially the restoration of any land area used for the prospecting and no rent shall be refunded.
40. The Minister may, in his discretion, grant a special exclusive prospecting licence in respect of any area exceeding the area specified in section 34(5) of this Decree and for a period exceeding two years on such special terms and conditions as the Minister may specify.
41. (1) A special exclusive prospecting licence shall be granted subject to the provisions of this Decree and the regulations applicable to an exclusive prospecting licence except where the provisions are at variance with any special terms and conditions imposed by the Minister.
- (2) A special exclusive prospecting licence may be renewed at the discretion of the Minister for further terms of one year each up to a maximum of five renewals.

## **Part VI**

### **Mining**

42. A person shall only carry out mining if he has a mining lease issued to him under the provisions of this Decree.
43. (1) Where an application is made under the provisions of this Decree for a mining lease and it is probable that delay may ensue in the consideration of the application owing to difficulty in the completion of the survey or any other reason, the Minister, in his discretion, may grant to the applicant a temporary mining lease as in Form D in Schedule 1 to this Decree.
- (2) Any temporary mining lease granted pursuant to subsection (1) of this section may be subject to such covenants and conditions as may be imposed under the provisions of this Decree in respect of a mining

lease and to such further conditions and restrictions as the Minister, in his discretion, may deem necessary.

- (3) A temporary mining lease shall be for the period specified by the Minister and shall entitle the grantee, subject to the provisions of this Decree and any regulations made under this Decree, to -
    - (a) mine in the area applied for and shown on a plan be supplied by the applicant; and
    - (b) dispose of the minerals won from there.
  - (4) The temporary mining lease shall not entitle or give any claim to the grantee to a mining lease over the area concerned or affect the consideration of the application for the mining lease in respect of which the temporary grant is made.
44. Subject to the provisions of this Decree or any regulations made under it, the Minister may at any time cancel a temporary mining lease and nothing done, granted or permitted under the provisions of this section shall in any way be construed as limiting the discretion conferred upon the Minister under the provisions of this section or of section 34 or 56 of this Decree.
45. The grantee of a temporary mining lease or the lessee of a mining lease or the agent of the lessee, holder or grantee, shall, if he discovers during the course of mining any radio-active mineral or any mineral which may reasonably be expected to be radio-active, immediately notify the discovery in writing to the Minister.
46. (1) The Minister, in his discretion, may by order mines land require the grantee of a mining lease reasonably to restore any area in respect of which mining operations having been, is being, or is to be carried out, on or after the date on which this Decree comes into operation.
- (2) Any order under subsection (1) of this section may contain all or any of the provisions of the covenants and conditions which may be imposed under the provisions of that subsection and upon due service of the order, the provisions thereof shall be deemed to be covenants and conditions of the lease or grant concerned.
47. (1) Mining leases shall be of such kinds and in respect of such areas as may be prescribed by regulations made under this Decree.
48. (1) The Minister may grant a mining lease to -
  - (a) any company which being the holder of a prospecting right has beaconed the area over which the lease is applied for or who has, by grant of a mining lease or a prospecting right on his behalf, beaconed the area and given the notice prescribed under section 38 of this Decree; or
  - (b) the holder of an exclusive prospecting licence in respect of any land lying wholly within the area of its licence which holder has by itself or its agent carried on adequate prospecting operations in the area.

(2) The Minister may in any case make the grant subject to such covenants and conditions as he may think fit and, in particular, may require the restoration of any area used for mining operations by the replacement of the surface soil, the filling of worked areas, the removal of any tailing or other dumps or heap caused by mining operations and such other methods as may be general or in respect of any particular mining operations or method of mining.

(3) A mining lease shall be as in the Form F in Schedule I to this Decree and shall specify the minerals which the lessee is entitled to mine within his lease but, if an applicant so desires, the Minister may add to or vary the minerals endorsed on the lease.
49. (1) The Minister may offer and grant a special mining lease on any land to a company if he is satisfied that by reason of the difficulties and cost attending the mining operations in, on, or under that land or for any other cause it is necessary that a special mining lease be granted.

- (2) The Minister may fix the form of and the area to be comprised in any special mining lease, the rent and royalty to be paid and the labour and other conditions, reservations and exceptions to be contained in the lease but in all other respects the special mining lease and the applications for it shall be subject to the provisions of this Decree and any regulations made under this Decree.

50. (1) A mining lease shall not be granted by the Minister to any company unless the company has employed a person who possesses adequate professional qualifications and experience in mining and is satisfied that the company shall, during the currency of the lease, have such qualified person in its employment.

- (2) Where a mining lease has been granted, the lease shall remain in force during such time only as the lessee employs a person who possesses adequate mining experience or qualifications in mining, to personally supervise the mining operations being undertaken by the company during the period of the lease.

- (3) Where a person, who to the satisfaction of the Minister, possesses adequate mining experience or qualification in mining, is not available to supervise the mining operations being undertaken under a lease, the lease shall not cease and determine, if the Minister is satisfied that

- (a) the cessation of supervision is of a purely temporary nature; and
- (b) the company shall cease operations until suitable supervision is again available; or
- (c) if the operation continues, it shall be without detriment to the mineral resources of Nigeria.

51. (1) A mining lease may be granted for a term not exceeding twenty-one years.

- (2) If at the expiration of the term originally granted -

- (a) the lessee is carrying on work in a normal and businesslike manner;
- (b) the mining lease is not at that time liable to be forfeited under any of the provisions of this Decree; and
- (c) the lessee has given to the Minister six months notice in writing in that behalf,

the lessee shall be entitled, on payment of the prescribed fee and subject to the provisions of this section, to a renewal of the lease on such terms as may be approved, not exceeding ten years, on the conditions which may be applicable to new leases and subject to all covenants and conditions which may be imposed under the provisions of this Decree.

- (3) Where not less than six months before the expiry of his lease, a lessee makes application in writing to the Minister for any further renewal of his mining lease, and the Minister is satisfied that -

- (a) work under the lease is being done in a proper manner according to the nature of the lease; and
- (b) the lease is not liable to forfeiture on any other grounds,

he may, after considering the advice of the Director of Mines, on reasonable grounds, grant a renewal.

- (4) The Minister may direct a lessee who has applied for the renewal of a mining lease under the provisions of subsection (3) of this section, to surrender any part of the area covered by the lease which area has been worked out or is no longer reasonably required for mining operations.

- (5) If a directive is given under subsection (4) of this section, the lease shall not be renewed until the surrender has been effected and if the surrender is not effected within a reasonable time of the service of the directive, the lessee shall lose any right to renew the lease under the provisions of subsection (3) of this section.

- (6) Where on the renewal of a mining lease it is desirable that any defects existing in the plan of the area of the lease be corrected, a corrected plan shall be made and endorsed on or attached to the lease and shall be deemed to be the plan of that area.
52. (1) A lessee who intends to surrender his mining lease in whole or in part shall give to the Minister a notice of six months in writing or such lesser period as the Minister may accept and forward the original lease -
- (a) on payment of all sums due in respect of the lease and of all fees and charges prescribed for the surrender of a lease; and
  - (b) on carrying out of all other obligations in respect of the lease.
- (2) Where only a part of the area of a mining lease is to be surrendered, the lessee shall have the area surveyed into parts by an agent or by a Government surveyor, and in the latter case, the lessee shall deposit a sum which in the opinion of the Minister is sufficient to cover the amount of all fees and charges resulting from the surrender.
- (3) The part of the area to be retained shall be surveyed and a new mining lease shall be prepared for that part.
- (4) The lessee shall surrender the original lease in exchange for the new lease prepared under subsection (3) of this section and the substituted mining lease may be subject to the same covenants and conditions as the original lease and to any other covenants and conditions which may be imposed under the provisions of this Decree.
- (5) If the surrender has not been effected before the expiry of the notice, the Minister may, unless he is satisfied that the delay is due to no fault of the applicant, treat the application as having lapsed.
- (6) Any surrender which does not comply with the requirements of this section shall be null and void.
- (7) An applicant under this section shall obtain the consent of any person who has an interest in the lease before making an application to surrender in whole or in part.
- (8) A surrender of a mining lease shall be as in Form F the Schedule 1 to this Decree.
53. Where a land which is the subject of a mining lease has been exploited and no mineral is found on it, the lease on the land shall be revoked by the Minister and the land shall be -
- (a) reclaimed and restored to its original position; and
  - (b) returned to the original owners or occupiers of the land by an order in writing made by the Minister; or
  - (c) acquired for public purpose.
54. The covenants and conditions set out in this section shall be implied on the part of the lessee in every mining lease, in the absence of any express condition to the contrary:
- (a) the lessee shall pay the rent and royalty that may become due at such time and place and in such manner as may, from time to time, be prescribed and to such persons as may, from time to time, be authorised to receive the rent or royalty;
  - (b) the lessee shall maintain all beacons in good condition and repair and shall, when so required by the Director of Mines at each corner beacon and at each point where the boundary crosses any river, road or railway, keep the boundary lines for a distance of fifty metres in each direction cut and cleared of vegetation a width of one metre and shall, if required by an Inspector, clear off vegetation on all or any of the boundary lines specified by the Inspector;
  - (c) the lessee shall, subject to the provisions of this Decree, commence mining operations in the area of the mining lease within a period of six months from the date of the lease and shall during the

continuance of the lease, unless prevented by circumstances beyond his control, continuously, vigorously and effectively carry on a mining operations in the area;

- (d) the lessee shall fulfil the working obligations prescribed by the regulations;
  - (e) the lessee shall carry on all mining operations in a safe, orderly, skilful, efficient and workmanlike manner and shall not cause danger or damage to the occupiers (if any) of the land within the area of the lease and shall observe and perform all regulations and orders made, and directives given in accordance with the provisions of this Decree;
  - (f) the lessee shall not use any portion of the area within the lease for any purpose other than those provided in sections 57 and 58 of this Decree;
  - (g) any of the persons mentioned in section 141 of this Decree shall at all reasonable times have free access to the area of the lease and to all the working therein;
  - (h) the lessee shall keep, or cause to be kept, plans and true and sufficient books of account of the mining carried on within the area of the lease, and of the disposal of the minerals won, and shall, if so required, produce or cause to be produced the plans and books for the inspection of a duly authorised officer;
  - (i) the lessee shall take all due and proper precautions and comply with all requirements of mines officers as to the safety of all persons employed by the lessee in mining operations;
  - (j) the lessee shall take all due precautions in matters concerning pollution and environmental degradation.
- 55.** (1) Where in the course of exercising its rights under this Decree, the holder of a mining lease discovers any new mineral in the area within the mining lease, he shall, within thirty days of the discovery, notify the Minister in writing of the discovery.
- (2) The notice given to the Minister under subsection (1) this Section shall -
- (a) contain particulars of the minerals discovered; and
  - (b) the site and circumstance of the discovery.
- (3) The holder of a mining lease may on notifying the Minister of the discovery of further mineral deposits apply to the Minister for the endorsement of the mineral discovered in his mining lease.
- (4) An application made under subsection (3) of this section shall have appended to it, the proposed programme of mining operations in respect of the new mineral discovered.
- (5) Where the Minister is satisfied with the programme of mining operations, he may approve the application on such terms and conditions as he thinks fit and shall accordingly endorse the mining lease.
- 56.** (1) The holder of a mining lease shall exercise his rights under this Decree subject to such limitations relating to surface rights as the Minister may prescribe.
- (2) The rights conferred by a mining lease shall be exercised in a manner consistent with the reasonable and proper conduct of the operations concerned.
- (3) Subject to the provisions of section 1(2) of this Decree, the lawful occupier of any land within an area subject to a mining lease shall retain the right to graze livestock upon or to cultivate the surface of the land in so far as the grazing or cultivation does not interfere with the mining operations in the area.
- 57.** A mining lease confers on the lessee the right to enter on the land within the area of the lease, and, subject to the provisions of this Decree, the exclusive right to mine in the land and remove and dispose of the minerals specified in the lease on payment of the prescribed royalties.

58. (1) A lessee or a grantee of a temporary title under the provisions of section 43 of this Decree who has complied with the provisions of this Decree relating to compensation and the payment of surface rent, shall have on the land within the area of the mining lease or in the area over which a temporary title has been granted, as the case may be, the right to -
- (a) make all necessary excavations;
  - (b) erect, construct and maintain such houses and buildings as in the opinion of the Director of Mines are necessary for its use and for the use of its agents and employees;
  - (c) erect, construct and maintain such engines, machinery, buildings and workshops and other erections as may be necessary or convenient;
  - (d) stack or dump any of the products of mining;
  - (e) lay water pipes and make water courses and ponds, dams and reservoir; and
  - (f) construct and maintain all such electrical transmission lines, railways, roads, landing grounds, communications and conveniences as may be necessary.
- (2) Nothing in this section shall authorise a lessee or a granted of a temporary title to make any alteration in the flow of water in any navigable waterway to obstruct or interfere with or likely obstruct or interfere with the free and safe passage of any vessel, boat, canoe or other craft.
59. (1) The lessee of a mining lease shall pay surface in advance without demand being made of it, at such rate per annum as shall be determined by the Minister for all lands occupied or used by it for any of the purposes mentioned in section 58 of this Decree, or otherwise for or in connection with his mining operations.
- (2) The Minister shall, before granting a mining lease on private or State land -
- (a) cause the owner or occupier of the land to be informed of the intention of the Minister to grant the lease; and
  - (b) require the owner or occupier of the land to state in writing' within the period specified by the Minister, the rate of the annual surface rent which the owner desires should be paid to him by the lessee for the land occupied or used by it for or in connection with its mining operations.
- (3) If within the time specified by the Minister pursuant to subsection (2) of this section, the owner or occupier of the land states the rate of the rent which he desires should be paid, and the Minister is satisfied that the rent is fair and reasonable, the surface rent payable in respect of the land of the owner or occupier shall be at the rate stated by that owner or occupier.
- (4) Subject to the provisions of subsection (2) of this section, the Minister shall fix the rate of the surface rent payable under this section and cause the lessee to be notified of the rate fixed before or as soon as may be convenient after the grant of the mining lease.
- (5) The rate of surface rent, whether fixed by the owner occupier or by the Minister, shall be subject to revision by the Minister at intervals of five years.
- (6) In fixing the surface rent payable, the Minister shall not take into consideration the damage which may be done to the surface of the land by the mining or other operations of the lessee, for which compensation is payable under section 95(1) of this Decree.
- (7) The lessee shall pay all expenses incurred by the Government in surveying, measuring or otherwise ascertaining the extent of the land in respect of which surface rent is payable under this section.
- (8) If in the opinion of the Minister it is impracticable undesirable to determine the extent of the land occupied or used by a mining lessee, the Minister may permit the lessee to pay surface rent at such rate

as the Minister may determine over the whole area of the lease and the provision of section 95(2) of this Decree shall not apply in that case.

- (9) Where under the provisions of subsection (8) of this section, the Minister permits a surface rent to be paid over the whole area of a lease, the holder of the mining lease shall not disturb the owners or occupiers of any part of the land included within the lease during the course of mining operations, until the land is actually required for any of the purposes set out in section 58 of this Decree.

60. Any question arising as to -

- (a) the extent of the land occupied or used by the lessee; or
- (b) the date on which the lessee commenced or ceased to occupy or use any land; or
- (c) the proportion of the surface rent payable to the persons entitled to receive any portion of the surface rent,

shall be referred to the Land Use and Allocation Committee of relevant State for determination, and the report of the Land Use Allocation Committee shall be taken in to consideration by the Minister in making a decision and the decision of the Minister shall be final.

61. (1) A lessee may, on the land within the area of mining the lease, cut, take and use any tree in the course of mining operations, provided that the lessee does not cut or take any protected tree except with the consent of the proper forestry officer and on payment of the fees and royalties prescribed under the Forestry Law of a State.
- (2) The owner of any protected tree cut or taken is entitled to any royalty payable in respect of the tree, and in the case of any other tree cut or taken, the compensation as may be agreed on between the owner and lessee, or in default of agreement, as may be determined in the manner prescribed in section 96 of this Decree.
- (3) A lessee is not liable to pay compensation in respect of any tree, other than a protected or an economic tree, taken from the land in respect of which he is paying surface rent under section 59 of this Decree
62. (1) Where, by reason of the grant or existence of a mining lease, the Head of State, Commander-in-Chief of the Armed Forces, in the case of Federal land or the Governor of a State, in any other case, revokes a right of occupancy over land, the subject of a certificate of occupancy or resumes possession of any land occupied under State lease, the mining lessee shall pay to the Government the amount of the compensation paid by the Government to the holder of the certificate of occupancy or to the State lessee by reason of the revocation or resumption of possession, as the case may be.
- (2) Where, after the grant of a mining lease to a lessee, a State lease or certificate of occupancy is granted in respect of any land within the area of the mining lease, which was unoccupied prior to the grant of the mining lease, the State lessee or holder of the certificate of occupancy shall not be entitled to compensation under section 95 of this Decree.
63. (1) The lessee of a mining lease who has paid all rents, royalties and other payments due to be made by it under this Decree or under the terms of its lease may, within three months, in the case of an alluvial lease, and six months, in the case of a lode lease, after the expiration or other determination of his lease, remove all or any of the plants, buildings or other property of the lessee.
- (2) Where on the expiration or determination of the lease, a lessee is in default in the payment of any rent, royalty or other payments, and in the case of a lessee who has not removed its property within -
- (a) three months in the case of an alluvial lease; or
  - (b) six months in the case of a lode lease; or
  - (c) such further period, if any, as the Minister may allow,

the plant, buildings and property of the lessee on the land, the subject of the lease, shall become the property of the Federal Government and may be dealt with and disposed of in such manner as the Minister may direct.

64. The acceptance of any rent by or on behalf of the State shall not be held to operate as a waiver by the State of -
- (a) any forfeiture accruing by reason of the breach of any of the provisions of this Decree, or the regulations made under it; or
  - (b) any covenant or condition, express or implied, in any lease granted under this Decree or under any previous enactment or instrument.

## **Part VII**

### **Provisions Regarding Water**

65. No person shall, in the course of mining or prospecting for minerals, pollute or cause to be polluted any water of watercourse in the area within the mining lease or that area.
66. Every person who uses water in connection with mining operations, whether for -
- (a) the generation of power; or
  - (b) the removal of mineral substance; or
  - (c) concentration, milling, or otherwise,
- shall, whatever may be the nature and date of the document of title under which the use is enjoyed, make such provisions as shall ensure that the water so used does not contain injurious substances in quantities likely to prove detrimental to animal or vegetable life when the water leaves the mining area in which it has been so used.
67. (1) A licensee or lessee shall pay compensation to the owner or occupier -
- (a) whose land or interest in the land is injuriously affected by the exercise of the rights conferred by the licence or lease, for any such injurious effects not otherwise made good; and
  - (b) who suffers damages as a result of pollution of any source of water, used for domestic and other purposes, as a consequence of the prospecting or operations or in any work connected with the property, for any such damage not otherwise made good.
- (2) If the amount of compensation is not agreed on by the owner or occupier and the licensee or lessee, the amount shall be determined in accordance with section 96 of this Decree.
68. (1) The Minister may by Regulations prescribe the quantity of tailing that may be deposited in any natural water course by a lessee under this Decree.
- (2) No lessee shall, without permission obtained on application by it in writing to the Minister, deposit a greater quantity of tailing in any natural watercourse than that prescribed by regulations.
- (3) On the application of a mining lessee and on good cause being shown, the Minister may grant a permit authorising the deposit of greater quantities of tailing than that prescribed by the regulations and may make the grant subject to such conditions as he may deem necessary and those conditions shall be endorsed on the permit.
- (4) Every permit granted in accordance with the provisions of subsection (3) of this section shall be in Form I in Schedule 1 to this Decree and shall specify the maximum amount of tailing which may be deposited in a natural watercourse by the holder of the permit.

- (5) The Minister may revoke or vary the conditions of any permit granted under this section if the holder commits a breach of any of the conditions of the permit.
69. (1) No person shall make or permit any other person to make, without the permission of the Minister, any alterations in the water supply of any land so as to prejudicially affect the water supply enjoyed by any other person or land.
- (2) Whenever any alteration as in subsection (1) of this section is made, the lessee benefiting by the alteration shall, in absence of proof to the contrary, be presumed to have made
70. (1) A person who contravenes the provisions of sections 65, 66, 67, 68, and 69 of this Decree shall be required to take an action he is directed by order in writing to take in order to prevent a continuance or recurrence of the offence within such time as may be directed in the order.
- (2) The order referred to in subsection (1) of this section be made by the Minister or any other officer as the Minister may authorise in that behalf.
71. The Minister or any officer authorised by him in that behalf may by order in writing, require any person who, in the course of mining operations, unlawfully interferes with the bank of any watercourse to -
- (a) restore the bank to the condition in which it was immediately prior to interference; or
- (b) remake the bank in such manner as may be specified in the order.
72. (1) Subject to the provisions of this Decree and any regulations made under it, the Minister may, if it appears necessary for the proper working of the area within a mining lease, held by the lessee in respect of which the lessee has been granted a temporary title under section 43 of this Decree, grant to the lessee or grantee of a temporary title a water licence on such terms as the Minister may think fit.
- (2) The holder of a water licence may -
- (a) obtain and convey to the area of the lease such volume of water as may be required for the purpose of its mining operations;
- (b) occupy such land as may be required for a dam, reservoir or pumping station and for the conveyance of the water to the area of the lease by means of pipes, ducts, flumes, flirrows or otherwise; and
- (c) construct any works necessary for the collection, storage or conveyance of the water.
- (3) No water licence shall be granted -
- (a) until after the expiration of one month from the date on which notice of an application for a water licence is published in the Gazette and posted in a conspicuous place at the office of the Director of Mines; or
- (b) if it is shown to the satisfaction of the Minister that the exercise of the right under the licence shall prejudicially affect any existing right in or over the water supply to which it relates.
- (4) The provisions of sections 11, 59, 95, and 96 of this Decree shall apply to every water licence granted under this section.
- (5) Where the provisions of subsection (3)(b) of this section apply, the Minister shall make necessary arrangement with the person whose rights will be prejudicially affected and come to such agreement as may seem just and proper with that person
73. (1) The Minister may, pending the grant of a water licence for which application has been made, grant to the applicant on such terms as he thinks fit, prior permission to exercise and enjoy the powers and rights for which the application has been made.

- (2) No prior permission to use water shall be granted until after the expiration of one month from the date on which notice of the application has been published and posted in accordance with section 72(3)(a) of this Decree.

74. (1) Where a person applies for a lease in respect of an area and it appears that, when the lease is granted, the grant of a water licence may be necessary for the proper working of the area, the Minister may, on such terms as he thinks proper, grant to the applicant a provisional water licence under this section.

(2) A provisional water licence shall -

- (a) not become operative unless a lease in respect of an area is granted to the applicant, but where the applicant is granted a temporary title under section 43 of this Decree to mine before a mining lease is granted, the Minister may, subject to such terms as he thinks fit, permit the provisional water licence to become operative after a period of one month from the date on which notice of the application for it is published and posted in accordance with section 72(3)(a);
- (b) be subject to the provisions of section 72 of this Decree, except that the provisions of subsection (5) of that section shall not be required to be made prior to the granting of the provisional water licence; and
- (c) become operative and have the same force and effect as a water licence granted under section 72 of this Decree when a person who applies for a lease under this Decree is granted lease in respect of the area for which it applied.

(3) The provisions of section 73 of this Decree shall to a grant of provisional water licence under subsection this section.

75. (1) A holder of a water licence may apply to the Minister for an amendment to be made to the water licence with respect to -

- (a) the volume of water which may be diverted;
- (b) the lease to be served by the water licence; or
- (c) the name of the holder,

by endorsement on the water licence.

(2) No amendment shall be made in respect of an increase in the volume of water to be diverted unless notice of the application for the increase is given in the manner provided in section 72(3)(a) of this Decree and no objections is received concerning the application.

76. (1) An applicant for a water licence shall inform the Minister of persons likely to be adversely affected by the grant of the water licence and furnish the Minister with their names and such other particulars as the Minister may require.

(2) The Minister upon receiving the information required under subsection (1) of this section, shall enter into consultation with all persons likely to be affected by the grant of the water licence and shall reach such necessary agreement with such provisions as may be just and proper.

77. (1) A water licence shall remain in force as long as the mining lease for which use it was granted remains valid.

(2) A water licence shall be as in the Form H in Schedule 1 to this Decree.

78. (1) The holder of a water licence who desires to transfer the water licence to another person, shall apply to the Minister for approval for the transfer of the licence.

- (2) The Minister, if satisfied that the lease for which the water licence was obtained has been transferred, may consent to the transfer of the licence after endorsing the licence accordingly.
- (3) The transferee of a water licence shall be liable for all rents and obligations, which may have accrued at the time of the transfer.
79. The Minister may, on an application by the holder of a water licence cancel the licence if he satisfied that -
- (a) the holder of the licence has given notice in writing to the Minister of the intention to cancel the water licence;
  - (b) the cancellation will not affect any liability incurred by the holder before the cancellation of the licence;
  - (c) all rents due and fees prescribed, if any, have been paid by the holder; and
  - (d) the holder has surrendered to him the original licence for cancellation.
80. (1) The Minister may require a person to whom a water licence is granted under section 72(1) of this Decree, to permit, on such terms and conditions as are just, any other lessee to take from the water supply obtained under the water licence, if the water is not required by the holder of the water licence.
- (2) The Minister may grant, to that other lessee, a water licence to construct and maintain any pump, pipe, duct, flume or furrow as may be necessary to convey the water to the area of lease.
81. The provisions of sections 75, 76, 77, 78, 79 and 80 this Decree shall apply, in respect of any water rights granted the provisions of any other enactment or regulations repealed by this Decree.

## **Part VIII**

### **Surveys**

82. (1) Subject to the provisions of this section, the Minister shall, before granting any mining lease or exclusive prospecting licence, or water licence, require the area to be surveyed in accordance with the provisions of the Survey Co-ordination Act and the cost of the survey shall be paid by the applicant for the lease, licence or right, as the case may be, at the rate prescribed by this Decree or any other enactment.
- (2) The Minister may, if he thinks fit, waive the requirement of subsection (1) of this section as to survey in the case of a water licence or an exclusive prospecting licence.
83. Where the survey referred to in section 82 of this Decree is carried out by a licensed surveyor, it shall be completed within the period prescribed by regulations made under this Decree and when survey is carried out by a Government surveyor, the Government surveyor shall, for the purposes of the survey, be deemed to be the servant and agent of the applicant.

## **Part IX**

### **Possession and Purchase of Minerals**

84. The provisions of this Part do not apply to bona fide specimens of mineralogical, geological or educational interest or to the receipt by an employer of minerals from his' tributers.

- 85. (1)** The Federal Government shall have the right pre-emption on all minerals 'raised, Won or obtained in Nig and from any area covered by the territorial waters, or the continental shelf, Exclusive Economic Zone and pre-emption rights on products derived from the refining or treatment of the minerals.
- (2)** The price to be paid by the Federal Government for minerals or product taken in the exercise of the right of pre emption under subsection (1) of this section shall, where -
- (a)** the price is provided for in a written agreement, be the price specified in that agreement;
  - (b)** the price is not provided for in a written agreement, be the world market rate prevailing for the minerals or products as delivered at the mine or plant where the right of pre-emption in respect of the minerals or products was exercised; and
  - (c)** there is no agreement or prevailing market rate, be the price decided on by an arbitrator appointed under the Arbitration and Conciliation Decree 1988.
- 86. (1)** No person, other than an officer of the Ministry authorised in that behalf by the Minister and acting in the execution of his duty, shall possess any controlled mineral unless -
- (a)** the mineral is won from a ground held under a mining lease of which the person is the lessee and which entitles him to mine that mineral; or
  - (b)** the mineral is won from ground held under a prospecting right or exclusive prospecting licence of which the person is the holder and which entitles him to prospect that mineral; or
  - (c)** the person holds a licence issued under section 88 of this Decree in respect of that mineral: or
  - (d)** the person is in respect of that mineral within the meaning of regulations made under this Decree, a duly authorised agent or employee of a person permitted by paragraphs (a), (b) and (c) of this subsection to possess that mineral.
- 87.** No person shall purchase any controlled mineral he holds a licence to purchase it issued under section 88 of this Decree.
- 88. (1)** The Minister may, on such conditions as he thinks fit, issue a licence authorising the person named in the licence on payment by that person of the prescribed fee to possess or purchase any controlled mineral for the purposes of industrial use within Nigeria only.
- (2)** The licence issued under subsection (1) of this section shall be as in Form J in Schedule I to this Decree and shall have endorsed on it the conditions imposed by the Minister.
- (3)** A licence issued under this section shall not be transferred to any other person and shall, subject to subsection (4) of this section, continue in force for one year from the date of issue and the licence may be renewed in accordance with the provisions of sections 149 and 164 of this Decree.
- (4)** The Minister may cancel any licence issued under this section if the holder of the licence -
- (a)** is convicted of an offence under this Decree or any regulations made under this Decree; or
  - (b)** commits a breach of any of the conditions of the licence.
- (5)** The Minister may make regulations concerning the issuance of licences under this section.
- 89.** No person shall sell any controlled mineral unless satisfies himself that the buyer is the holder of a licence to is licensed to purchase the controlled mineral.
- 90.** The holder of a licence to purchase controlled minerals shall not purchase any controlled mineral unless he first satisfies himself that the seller is authorised to be in possession of the controlled mineral and to dispose of the mineral.

91. (1) The holder of a licence to purchase controlled minerals shall keep books showing -
- (a) every purchase made by him and the nature and weight of the controlled minerals purchased;
  - (b) the date of each purchase;
  - (c) the name of the seller and the title of the authority for the seller to be in possession and to dispose of the controlled minerals;
  - (d) details of the means of disposal of the controlled minerals by the licensee after purchase.
- (2) The holder of a licence to purchase controlled minerals shall -
- (a) produce the books kept under subsection (1) of this section for the inspection of any mines officer or police officer or any other officer authorised in that behalf by the Minister to inspect the books; and
  - (b) make returns every six months to the Minister.
92. (1) The holder of a licence who commits any breach of the provisions of sections 89;90 and 91 of this Decree or any of the conditions of the licence to purchase controlled minerals is liable to have the licence cancelled in addition to the penalties prescribed by section 124 of this Decree.
- (2) The Minister shall keep a register of all licensees under this Part.
93. For the purposes of this Part of this Chapter -
- "controlled minerals" means the ores of tin, columbium, tantalum, tungsten and zinc, radio-active minerals, uncut diamond, amethyst, apatite, beryl, garnet, sapphire, topaz, tourmaline, zircon, corundum, emerald, ruby chrysoberyl, and any other mineral which may by notice in the Gazette be declared by the Minister to be a controlled mineral.

## **Part X**

### **Compensation, etc.**

94. (1) The Minister may, if he so desires or when so requested by an interested party, before granting a prospecting right, exclusive prospecting licence or mining lease to any person, direct that person to -
- (a) give security by depositing with the Government such sum as may be prescribed; or
  - (b) reimburse the Federal Government for any compensation, the Federal Government paid to any State or occupier in respect of land on which the lease or licence for the minerals is given.
- (2) An interested party under subsection (1) may be the Governor of a State or the owner or occupier of any private land or of any land held under a State lease or the subject of a right of occupancy.
- (3) The Minister may accept a banker's guarantee as in Form K in Schedule 1 to this Decree, in lieu of the deposit prescribed by this section.
95. (1) A holder of a mining title shall, on the direction of the Minister, in addition to any other amounts payable under the provisions of this Decree, pay to the owner or the occupier of land held under a State lease or the subject of a right of occupancy
- (a) reasonable compensation for any disturbance of the surface rights of the owner or occupier and for any damage done to the surface of the land on which the prospecting or mining, is being, or has been carried on; and

- (b) in addition pay to the owner of any crop, economic tree, buildings or work damaged, removed or destroyed by the holder of the mining title or by any of its agents

or servants, compensation for the damage, removal or destruction of the crop, economic tree, building or work.

- (2) The holder of a mining title who is paying surface rent in respect of any land within the area of the mining title shall not pay compensation in respect of any building erected, economic tree or crops planted or work constructed on the land after the date on which the holder began to pay surface rent.
96. (1) The amount of the compensation payable under the provisions of this Part of this Chapter shall be determined by the Minister after consultation with the appropriate authority, committee or officials as may be prescribed by the Minister in that behalf.
- (2) The person liable to pay the compensation as prescribed by the Minister shall pay it within fourteen days from the date on which notice of the amount of the compensation is given him.
97. (1) Where the holder of a prospecting right or exclusive prospecting licence defaults in payment of the compensation, the Minister may suspend the prospecting licence of the holder until -
- (a) the amount awarded is paid; and
  - (b) the holder of the right or licence has deposited with the Government such further sum as security for any future payment as the Minister may demand.
- (2) If the holder of a right or licence does not make the payment and deposit within such time as the Minister considers reasonable, the Minister may revoke the prospecting right or exclusive prospecting licence of the person in default.
98. It is an implied condition in this Part of this Chapter that the holder of an exclusive prospecting licence or a mining lease shall pay the compensation prescribed in this Part of this Chapter to the person entitled to it on the directive of the Minister.
99. The holder of a mining title shall, in exercise of its rights under the licence or lease, have regard to the effect of the mining operations on the environment and take such steps as may be necessary to prevent pollution of the environment resulting from the mining operation.

## **Part XI**

### **Appointment, Duties and Powers of Mines Officers**

100. (1) There shall be appointed for carrying out the Purposes of this Decree, a Director of Mines and such inspectors and mines officers in the Ministry as may be considered necessary who shall be officers with adequate professional qualification and experience in mining.
- (2) The powers and duties of the officers appointed under subsection (1) of this section shall be those assigned to them respectively under this Decree and any regulation made under and by the Minister.
  - (3) Any of the powers vested in an Inspector of Mines this Decree may be exercised by the Director of Mines.
101. The Director of Mines shall, in addition to any other duties prescribed by this Decree and subject to the direction of the Minister -
- (a) exercise general supervision over all mining and prospecting operations in Nigeria;
  - (b) prepare and render records, reports and returns as prescribed by regulations made under this Decree or as required by the Minister;

- (c) take custody of any minerals declared by any court be forfeited to the Federal Government;
  - (d) with the prior approval of the Minister, dispose of minerals forfeited to the Federal Government pursuant to paragraph (c) of this section;
  - (e) review and recommend to the Minister programmes for controlling mining operations and the reclamation of abandoned mines lands;
  - (f) carry out investigations and inspections necessary to ensure compliance with the provisions of this Decree;
  - (g) consult with other agencies of Government in the and reclamation of mines land;
  - (h) co-operate with Federal and State Government agencies so as to minimise the duplication of inspection and administration of minerals and mining under this Decree; and
  - (i) discharge such other duties as may be assigned to him, from time to time, by the Minister.
- 102.** (1) The Director of Mines shall after consultations with the Minister and subject to the provisions of this Decree and the regulations made under it, define the duties of mines
- (2) No officer appointed under this Decree shall acquire any mining title under this Decree during the period of his appointment.
- 103.** (1) A mines officer may arrest without warrant, any person whom he finds committing or reasonably suspects to have committed an offence under this Decree or regulations made under it and may -
- (a) seize any tool, implement, equipment, or vehicle used in committing the offence; and
  - (b) any mineral won illegally.
- (2) A person arrested and the items seized, shall be taken within 48 hours before an appropriate Court, and if the person is found guilty, he shall in addition to any other punishment provided for under this Decree or any other enactment, forfeit the seize items to the Federal Government.
- (3) A mines officer may, by notice in writing, require any lessee, or any person employed by the lessee or holder, to appear before the mine officer at a reasonable time and place and give information regarding mining operations in or about the area of the mining lease which he possesses, and the lessee, holder or other person shall comply with the notice and give the information.
- (4) A mines officer may, by order in writing, direct that prospecting or mining operations be suspended in an area, whether it is the subject of a mining lease or exclusive prospecting licence or not, until such arrangements as are in his opinion necessary to prevent danger to life or property or to compliance with this Decree are made.
- (5) A mines officer may cancel or vary the terms of any notice or order, issued by him under subsection (4) this section.
- (6) An order made under subsection (4) of this section shall lapse after 14 days of its issuance, unless it is confirmed by the Director of Mines.

## **Part XII**

### **Roads**

- 104.** No person shall, in the course of prospecting or of Toads. carrying Out mining operations under this Decree, construct a road, tramway or railway over, on or under -

- (a) any State land, other than that comprised within the area of the mining lease, without the directive of the Minister after consultation with the officer in charge of lands in the Federal Capital Territory, Abuja, or in the State, as the case may be;
- (b) any customary lands, other than those comprised within the area of the mining lease, without the approval of the Minister, after consultation with the Chairman of the Local Government Council or Area Council, as the case may be;
- (c) an area covered by any part of a mining lease, other than its own mining lease or any area in respect of which an application for a lease, other than his own application has been made and a temporary title granted under section 43 of this Decree without first -
  - (i) giving notice in writing to the lessee or holder or applicant, and
  - (ii) obtaining the consent of the Minister.

- 105.** (1) A person who has constructed a road, tramway or railway in accordance with the provisions of section 104 of this Decree shall not hinder or prevent any other person from having access to or using the road, tramway or railway.
- (2) A person who constructs a road, tramway or railway may, if in his opinion, the road, tramway or railway is being used by any other person in such a manner as -
- (a) will cause appreciable damage to the road, tramway or railway; or
  - (b) substantially increase the cost of its upkeep,
- call on the user to contribute to the cost of upkeep.
- (3) Where a person uses a road, tramway or railway constructed by another person in such a manner as to interfere materially with the free use and enjoyment of it, the person who constructed the road, tramway or railway may call on that user to limit his use of the road in order to stop the interference.
- (4) A person who constructs a road, tramway or railway over any part of the area of a mining lease under section 104 of this Decree may be required by the lessee or holder of the mining lease or mining title who wishes to mine the area covered by the road to divert the road, tramway or railway to some other part of the area of the lease or title and the cost of the diversion shall be borne by the person who constructed the road, tramway or railway.
- (5) References to a person who constructs a road, tramway or railway under this section and section 104 of this Decree shall be construed as also references to a person who maintains the road, tramway or railway to which section 104 of this Decree applies.
- (6) The person who constructed a road, tramway or railway may close it for the purpose of maintenance, and may be notice, disclaim liability for damage or injury which may occur by reason of any inadequacy of the road, tramway or railway and shall be liable to any person to whom the notice is given.
- (7) A person who is constructing a road, tramway or railway shall display and keep displayed, adequate notice drawing attention to any bridges or culverts and to any precautions necessary, in the use of the road, tramway or railway and the user of a motor vehicle who neglects the precautions notified shall be liable to reimburse the person who constructed it, the cost of any damage occurring to a bridge or culvert by him.
- (8) For the purposes of this section "road, tramway or railway" includes a road, tramway or railway constructed by a local community or person and used in connection with prospecting or mining operations.

- 106.** No person shall, except in relation to mineral designated by the Minister as strategic in accordance with the provisions of this Decree, in the course of prospecting or carrying on mining operations under this Decree impede or obstruct the right of way over any public road.

### Part XIII

#### Inquiry into Accidents

- 107. (1)** The holder of a mining lease or licence shall, if an accident occurs in any mine or in connection with the mining or prospecting operations conducted under its lease, temporary title, or licence granted under this Decree involving loss of life or serious injury to a person, report the accident as soon as possible with full particulars of the accident

- (a) to the nearest office of the Ministry; or
- (b) if there is an office of the Director of Mines in the State in which the accident occurred, to the Director of Mines.

- (2) On receipt of the report made pursuant to subsection (1) of this section, the Minister shall carry out investigations into the cause of the accident.

- 108.** Where it appears to the Minister or Director of Mines or any other officer authorised in that behalf, that there is reason to believe that the accident was due to -

- (a) failure to comply with a provision of this Decree, or of regulations made under it; or
- (b) neglect of any lawful order given by the Minister or any other authorised officer of the Ministry,

and the Minister is satisfied that the accident might have been prevented if proper precautions were taken and observed in the prospecting or working of the land, the Minister shall, as soon as convenient, set up a panel consisting of not more than four members to inquire into the cause of the accident.

- 109.** The panel of inquiry shall determine whether -

- (a) the lessee or holder of the temporary title or licence or an agent of the lessee or holder is guilty of negligence or took all reasonable and proper precautions to prevent the accident; and
- (b) the person killed or injured works in the mine or in connection with mining or prospecting operations at the time of the accident; and
- (c) the accident resulting in the death or injury is attributable to the serious and wilful misconduct of the person killed or injured or of any other person working in common with the person killed or injured.

- 110. (1)** The panel of inquiry may, for the purpose of an inquiry under section 108 of this Decree, summon any person as a witness, call for the production of books and documents, and examine any witness and party concerned, on oath.

- (2) The summons shall be as in Form L in Schedule 1 to this Decree and shall be served by a police officer or any other person authorised by the panel issuing the summons.

- (3) The expenses of a witness called by the panel of its own invitation shall, unless the panel otherwise orders, be deemed to be costs of the panel and the expenses may be paid in the first instance by the Secretary of the panel or an officer authorised by the Minister in the same way as a State's witness's expenses and be recovered in the manner the panel may direct.

**111.** A person summoned as a witness by the Panel shall not be excused from answering any question relating to an offence connected to the accident on the grounds that the answer to the question may incriminate him or tend to incriminate him on grounds of privilege.

**112.** Where a person is summoned to attend before the Panel or to produce books or documents before the Panel and refuses or neglects to do so, or refuses to answer any question put to him by or with the concurrence of the Panel he, shall be liable on conviction to a fine not more than fifty thousand naira and not less than ten thousand naira.

**113.** In this Part of this Decree, "serious injury" means -

- (a) a fractured skull, pelvis, arm, thigh, spine, forearm or leg;
- (b) a dislocated shoulder;
- (c) the amputation of an arm, a hand, one finger or more to the same hand, a leg or foot;
- (d) the loss of the sight of an eye;
- (e) any other serious bodily injury, including internal hemorrhage or burns or asphyxia, if the injury is likely to endanger life, cause permanent incapacity or impair efficiency substantially.

#### Part XIV

##### Offences and Penalties

**114. (1)** A person who -

- (a) prospects for or mines minerals otherwise than in accordance with the provision of this Decree;
- (b) in making application for a mining lease or licence or renewal of a mining lease or licence, knowingly makes a statement which is false or misleading in any material particular;
- (c) in any report, return or affidavit submitted in pursuance of the provisions of this Decree, knowingly gives an information which is false or misleading in any material particular..
- (d) removes or disposes of any mineral contrary to the provisions of this Decree,

commits an offence

**115.** A person who pollutes the environment or uses water contrary to sections 65, 69, 71 and 99 of this Decree, commits an under this Decree.

**116.** A person who -

- (a) places or deposits, or causes to be placed or deposited in a place any mineral, with the intention to mislead any other person as to the mineral possibilities of the place; or
- (b) mingles or causes to be mingled, with samples or ore, any substances which may enhance the value or in any way change the nature of the ore, with the intention to cheat, deceive or defraud; or
- (c) engages in the business of milling, leaching, sampling, concentrating, reducing, assaying, transporting, or dealing in ores, metals or minerals, contrary to the provisions of this Decree,

commits an offence under this Decree.

**117.** A person who keeps or uses any false or fraudulent scale or weight for weighing ores, metals or minerals, or uses any false or fraudulent assay scale or weight or enriched fluxes used for ascertaining the assay value of minerals, knowing them to be false or fraudulent commits an offence under this Decree.

**118.** A person who removes any building, fixed machinery or other movable property contrary to section 63 of this Decree commits an offence.

**119.** A person who -

- (a) fails, neglects or refuses to allow or provide all reasonable facilities and assistance to any officer exercising any power under this Decree;
- (b) obstructs, hinders or delays an authorised officer in the performance of his duties under this Decree,

commits an offence under this Decree.

**120.** A person who -

- (a) fails, neglects or refuses to comply with any directive lawfully given under this Decree;
- (b) contravenes any of the other provisions of this Decree, commits an offence under this Decree.

**121. (1)** A person who falsely represents that he obtained the grant of an exclusive prospecting licence, temporary title, mining lease, or other mining title and by that representation, induces or attempts to induce any person to invest capital in a company or syndicate connected with the company, before he actually obtains the grant of the exclusive prospecting, licence, temporary title, mining lease, or other mining title, shall forfeit any claim to the grant of the licence, lease or other mining title.

(2) Where a person who makes a false representation as in subsection (1) of this section is a holder of another prospecting right or an exclusive prospecting licence, temporary title or mining lease, or other mining title, that licence or mining lease, or other mining title shall be revoked.

(3) Nothing in this section shall be construed as preventing a person who makes a false representation from liability to civil action or a criminal prosecution in respect of the representation.

**122.** A person who breaks, defaces or removes, or in any other way interferes with any boundary mark, beacon, pillar or post erected for any of the purposes of this Decree or post erected for any of the purposes of this Decree or the regulations made under it without the necessary approval or authority under this Decree commits an offence.

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

- (a) interferes with or obstructs any mining or prospecting operations authorised by or under this Decree;
- (b) interferes with any machinery, plant, work or property on, in, under or over any land in exercise of a right conferred by or under this Decree,

commits an offence.

(2) A person who is guilty of an offence under subsection (1) of this section is liable on conviction

- (a) at the first instance, to a fine not exceeding N15,000 or to imprisonment for a term not exceeding 2 years or to both the fine or imprisonment; and
- (b) at a second or subsequent offence, to imprisonment for a term not exceeding 5 years or below 2 years.

- (3) If the offence is a continuing one whether or not it is a first offence, the person convicted shall, in addition be liable to a fine of N 10,000 in respect of each day or part of a day during which the offence continues.
124. (1) A person who contravenes any of the provision of Sections 5, 6, 30(2), 69, 87, 89, and 91 of this Decree commit an offence and is liable on conviction to a fine of not less than N10,000 or more than N50,000 or to imprisonment for a term not less than 2 years or to both fine and imprisonment.
- (2) Where a person is convicted of an offence under sections 8, 89, 90, and 94 of this Decree, he shall forfeit all minerals obtained by him or if the minerals are such as cannot be forfeited, pay such sum as the court shall assess as being the value of the minerals.
- (3) A person who contravenes any of the provisions of sections 9, 10, 14, 33, 104, 105 and 106 of this Decree commits an offence and is liable on conviction to a fine of not more than N10,000 or to imprisonment for a term not exceeding 5 years or to both fine and imprisonment.
125. An offence under this Decree and the regulation to try offences made under it shall be tried by the Federal High Court.
126. (1) Where an offence under this Decree or under Regulations made thereunder is committed by a body of persons -
- (a) in the case of a body corporate, other than partnership, every director or an officer of the body;
- (b) in the case of a partnership, every partner or officer that body
- shall be deemed to be guilty of that offence.
- (2) No person shall be deemed to be guilty of an offence by virtue of subsection (1) of this section if he proves that the offence was committed without his knowledge or connivance and that he exercised all due care and diligence to prevent the commission of the offence having regard to all circumstances.
- (3) Nothing in this section shall be construed as exempting any person who actually committed an offence under this Decree from the penalties provided for the offence committed by him.
127. (1) A person convicted of an offence under this ~ for which no penalty has been provided shall be liable at the first instance, to a fine not exceeding N20,000 or imprisonment for a term not exceeding 2 years or to both the fine and imprisonment.
- (2) Where a person convicted of any offence to which subsection (1) of this section refers, commits a second or subsequent offence and is convicted for the second or subsequent offence, the Court may impose a penalty which shall not exceed twice the penalty referred to in subsection (1) of this section.
- (3) A person who commits an offence which involves the pollution of the environment contrary to the Federal Environmental Protection Agency Decree 1988 and regulations made under it, or to subsections 65, 66 and 69 of this Decree, is liable on conviction to a fine not exceeding N50,000 or imprisonment for a term not exceeding 3 years or to both fine and imprisonment.
- (4) The Court before which a person is convicted of an offence under this Decree may, in addition to any penalty that it may impose, order the forfeiture to the Federal Government of any mineral in respect of which the offence is committed or order a revocation of the mining title, as the case may be.

## **Part XV**

### **Revocation of Titles**

**128.** Nothing in this Part of this Chapter shall be construed restrict or derogate from any other~ power of the Minister in ion to the forfeiture or revocation of licences, temporary titles or leases under this Decree whether the powers are conferred by Decree or regulations made under it or by any other enactment.

**129. (1)** The Minister may, if a holder of a prospecting right or an a gent or employee of the holder is convicted by a court of competent jurisdiction of a felony or of an offence under this Decree or the regulations made under it or under any of the enactments set out in Schedule 2 to this Decree, or commits a breach of any conditions of its prospecting right, summarily revoke the prospecting right of the holder.

**(2)** The Minister may by order vary or add to the list of enactments set out in Schedule 2 to this Decree.

**130.** The Minister may in his discretion revoke an exclusive prospecting licence, a mining lease or water licence if -

**(a)** the holder or lessee or an agent or employee of the holder or lessee -

**(i)** is convicted by a court of competent jurisdiction of a felony or an offence under the provisions of this Decree or the regulations made under it or of any of the enactment set out in the Schedule 2 to this Decree, or

**(ii)** commits any breach of the provisions of this Decree or regulations made under it or of the tern or conditions, whether express or implied, of its licence or lease or of any order or notice issued or given under the provisions of this Decree or regulations made under it, and

**(iii)** on being called on by the Minister or the Director of Mines to show cause within a time specified, why its licence or lease may not be revoked, fails to comply with the order or where it does not and in the opinion of the Minister the cause is inadequate; or

**(b)** subject to the provisions of this Decree, in the case of a mining lease, the lessee wholly discontinues operation under the lease during a continuous period of six months; or

**(c)** the exclusive prospecting licence, mining lease or water licence is granted or given in error, whether the error relates to the area or to the boundaries or to any other matter whatsoever; or

**(d)** the court orders revocation of a mining title under this section 127(4) of this Decree.

**131. (1)** A special exclusive prospecting licence, special mining lease, mining lease, exclusive prospecting licence, or an application for any of those licences or leases stands revoked or refused, as the case may be, if in the case of -

**(a)** an application for a special exclusive prospecting licence, no mining lease or exclusive prospecting licence is pegged on it five years after the first pegging; or

**(b)** an application for exclusive prospecting licence, no mining lease is pegged on it three years after the first pegging; or

**(c)** a mining lease or temporary title, no reasonable amount of work is done on it during a continuous period of five years; or

**(d)** a mining lease, on expiry of title, 65 per cent of the proven reserves in the lease has not been extracted.

**(2)** Where, on the date this Decree comes into force -

**(a)** an application as mentioned in subsection (i)(a) or (b) of this section, is pending; or

**(b)** there is an existing licence or lease as is mentioned in subsection (1)(c) or (d) of this section,

the application, licence or lease shall stand refused or revoked, as the case may be, at that date.

- (3) The holder of a title revoked or an applicant for an application refused under sections 129 and 130 of this Decree or under, subsection (1) to (3) of this section may not re-apply over the same area.
- 132.** (1) A person aggrieved by a revocation or refusal under sections 129 and 130 of this Decree may appeal to the Minister.
- (2) The Minister may set up an investigating committee to look into the appeal and make a report to the Minister.
- (3) The Minister after deliberating on the report submitted to him by committee set up for this purpose, shall make final decision on the appeal.
- 133.** A notice sent to the last known address of the holder, grantee or lessee in Nigeria or published in the Gazette shall be for all purposes, sufficient notice to the holder, grantee or lessee of the revocation of this licence, temporary title or lease.
- 134.** Any revocation under this Part of this Chapter shall be without prejudice to any claim against the lessee or holder which may already have accrued to the State.
- 135.** (1) Where a prospecting right, exclusive prospecting licence, mining lease or water licence becomes liable to revocation under the provisions of section 129 or paragraph (a) of section 130 of this Decree by reason of the conviction of the holder or lessee or of an agent or employee of the holder or lessee, the Minister -
- (a) shall not revoke the right, licence or lease until the time limited for giving notice of any appeal against the conviction has elapsed, or until any appeal brought against the conviction is determined;
- (b) may, if notice is given of an appeal against conviction, direct that prospecting or mining operations may continue on condition that all winning and the proceeds of winning in the case of mining are paid to and held in trust by Minister, who shall release appropriate funds for mining operations, pending the hearing and determination of the appeal;
- (c) may revoke the right, licence or lease at any time within but not later than six months after the date conviction or determination or withdrawal of any appeal against conviction, whichever is the latest.
- (2) Except as may otherwise be provided in the mining title, all immovable assets of the holder of a revoked mining which are on the area covered by the mining title shall vest in the Federal Government on the effective date of termination of lease, right or licence for whatever reason.
- 136.** Every exclusive prospecting licence, temporary title or mining lease shall be bounded by vertical planes from the surface boundary lines drawn downwards to an unlimited depth from the surface.
- 137.** (1) Whenever any land, the subject of an exclusive prospecting licence, temporary title or mining lease is required for other public purposes, the Minister may order the holder of the exclusive prospecting licence, temporary titles or the lessee of the mining lease to surrender the land.
- (2) The holder of an exclusive prospecting or the lessee of the mining lease ordered to surrender the land covered by its licence or lease shall, within a reasonable time surrender the area in accordance with the procedure prescribed under sections 51 and 52 of this
- 138.** (1) The holder of a mining title who surrenders any land as provided for in section 137 of this Decree shall be paid compensation for any interference with any way, work, building or plant or for the expenses, incurred in prospecting the area required for public purpose and, in the case of a mining lease, for the loss or reasonable expectation of profits from proved minerals 1 the land required for public purposes.
- (2) Any question arising as to what are proved minerals, shall be determined by the Minister, after obtaining the report of a special committee set up by the Minister for that purposes.

- (3) The compensation payable to any of the persons mentioned in subsection (1) of this section shall, if not agreed between the parties, be determined by the court.

**139.** (1) The grant of any mining lease, temporary title or exclusive prospecting licence under this Decree shall not limit the power of the Minister to -

- (a) grant any other lease, right of occupancy or licence (not being a mining lease or exclusive prospecting licence) to any other person in respect of any portion of the area covered by a mining lease, temporary title or exclusive prospecting licence not being used for mining operation for the time being, but a person to whom the other lease, or licence is subsequently granted shall not receive any compensation from the Government for any disturbance of any rights under the lease, right of occupancy or licence by reason of the exercise by the holder of the mining lease, of the temporary title or prospecting licence, or any right conferred by the lease, title or licence; or
- (b) take from the land covered by the mining lease, temporary title, or exclusive prospecting licence, any materials required for the construction of railways, road, buildings or other public works or for research; or
- (c) use or, subject to the provisions of paragraph (c) section 104 of this Decree, allow the use of any road constructed on the area covered by the grant.

(2) The Minister may, before authorising the use of any road referred to in subsection (1) of this section for vehicular traffic by persons, other than Government officers or servants, require the person desiring to use the road for mining purposes to pay to the person who constructed the road, such sum as the Minister may consider to be a fair contribution to the cost of construction and maintenance.

(3) The Minister shall convey his directives for any further information or modification, in respect of any application made pursuant to the provisions of this Decree not later than 180 days from the receipt of the application.

(4) Where all the conditions antecedent to the grant, approval or refusal of the application have been fulfilled, the Minister shall within 180 days of receiving the application convey his decision in writing to the applicant.

(5) Pursuant to right and titles granted under this Decree the Minister may give directives to facilitate mining operations or proposed mining operations if he is satisfied that there is unreasonable obstruction to the execution of the operations.

(6) A person who fails to comply with the directives issued under subsection (5) of this section commits an offence under this Decree.

**140.** (1) Where a lease or licence is granted under the Petroleum Act in respect of any lands within the area of a mining lease, temporary title, or exclusive prospecting licence under this Decree, the rights of the holder of a petroleum licence or lease shall, for and in relation to its mining or prospecting operation prevail over the rights of the lessee or holder of the right, temporary title or licence under this Decree.

(2) If it is intended that petroleum on or under land within the area of a mining lease shall be worked by the Government, or if the applicants for or the holder of a licence or lease under the Petroleum Act requests the Minister to determine any lease under this Decree, and satisfies the Minister that the determination is necessary in the interest of the applicant and gives security for the payment of any compensation payable under subsection (3) of this section, the Minister may, by notice served on the lessee under this Decree, determine the lease from the date specified in the licence or lease.

(3) The lessee whose mining lease is determined under this section shall be entitled to receive reasonable compensation for the loss or damage, if any, as may have been sustained by him in consequence of the determination.

(4) Where a lease is determined for the purposes of the Government, compensation shall be paid by the Government and in any other case, by the person who requested for the determination of the lease, and the amount of the compensation, if not agreed on between the parties, shall be determined by the court.

- 141.** (1) An officer of the Ministry authorised in writing by the Minister or a member of the Forestry, Survey or Geological Survey Departments of the Ministry, may enter on any land on which mining or prospecting operations are being carried out or which is within the area of any mining lease, temporary title or exclusive prospecting licence under this Decree for the purpose of inspecting any prospecting or mining operations or works in connection with the prospecting or mining or of making any survey.
- (2) An officer of the Ministry authorised in writing by the Minister or an officer of the Geological Survey Department may at any time take samples, make surveys and perform any operations he may deem necessary for the purpose of making a report on any land.
- 142.** A building or any other structure used only in or in connection with the extraction of minerals from a mine or quarry shall not be deemed to be a factory for the purposes of the Factories Decree 1987 and the building or other structure shall be subject to the direction and control of the Minister or the Director of Mines in accordance with the provisions of this Decree.
- 143.** (1) A holder of an exclusive prospecting licence, mining lease or an applicant for a lease, to whom a temporary title granted and whose licence, lease or right or temporary grant is revoked, surrendered or has expired by effluxion of time shall, not later than 30 days from the date of the notice of revocation or the date of surrender or expiry -
- (a) remove all temporary beacons demarcating the area covered by the licence or lease; and
- (b) inform the Director of Mines that he has complied with the provisions of this section.
- (2) if a person fails to comply with the provisions of subsection (1)(a) of this section, the Director of Mines may cause the beacons to be removed and charge the person an amount reasonably expended in removing the beacons and the amount shall be a lawful deduction from the deposit lodged by the person with the Federal Government under the provisions of this Decree but this subsection shall not exempt the person who failed to remove the beacons from liability to a penalty for having committed an offence.
- 144.** (1) The Minister shall if, in his opinion it may be necessary in order to secure safe or economic mining on the area covered by a mining lease or temporary title, prohibit the lessee, holder or grantee of a lease, right or title from employing tributers to mine underground in the area.
- (2) The holder or grantee of a lease or right shall not employ tributers to mine underground without the prior permission in writing of the Minister.
- 145.** (1) Where it appears to the Minister that there is unreasonable delay in the submission of report required for the purpose of considering or approving an application for a special exclusive prospecting licence, special mining lease, exclusive prospecting licence, a mining lease, or water licence, the Minister shall call upon the authority responsible for issuing the report to issue the report within reasonable period as he may specify.
- (2) If at the expiration of the period specified by the Minister for the submission of the report, the report is not issued, the Minister shall proceed to grant the application.
- 146.** (1) The Minister may make regulations for -
- (a) the manner in which applications for any licence, right or lease under this Decree may be made or withdrawn and the forms to be used for the application;
- (b) the fees, rents and payments to be paid for any licence, right or lease granted;
- (c) the size and shape of the areas over which exclusive prospecting licences may be granted;
- (d) the size and shape of the areas over which mining lease, may be granted;

- (e) the manner in which areas and boundaries are being surveyed, marked and beacons and the fees payable in respect of the survey;
  - (f) the exemption of an area of land to be included in a licence for the exclusive prospecting of, or a lease for the mining of, any carbonaceous mineral from the provisions of section 82 of this Decree;
  - (g) the working conditions to be applied to exclusive prospecting licences and mining lease;
  - (h) the registration of tributers;
  - (i) controlling the time and manner of receipt of and payment for minerals obtained by tribute labour and the manner in which the accounts shall be kept;
  - (l) the construction and use of roads, tramways and railways;
  - (k) safe construction and erection of houses, pits, shafts, machinery and other works to be used for prospecting or mining purposes;
  - (l) the fencing off or rendering secure of any shaft, tunnel, well, trench, drive or other works constructed or made for prospecting or mining purposes;
  - (m) the prohibition of or restriction on, the grazing of cattle in any mining area;
  - (n) the cutting down and use of timber for prospecting and I mining operations
- (2) The Minister may also make regulations for -
- (a) the safety, welfare, health and housing conditions persons employed in prospecting or mining operations and the carrying on of prospecting or mining operations in a safe, sanitary, proper, economic and effectual manner;
  - (b) the renewal, assignment (when provided for by this Decree) and surrender of any right or title granted under this Decree;
  - (c) the returns to be rendered and the accounts books and plans to be kept by lessees and holders of temporary titles and exclusive prospecting licences;
  - (d) royalties to be paid to Government, the method of calculation of the amount of the royalties and the manner and time of payment thereof;
  - (e) the prevention of pollution of any natural water supply disposal of sludge, slit and tailing and the control of sludge channels;
  - (f) the furnishing by owners or managers of mines of statistical returns and the keeping and production by them books and plans;
  - (g) the procedure on an appeal to the Minister;
  - (h) the fees to be paid in respect of any matter or thing done under this Decree;
  - (i) the procedure to be followed under any section of this
  - (j) the control of the pollution or wasting of water, wherever situated and wherever obtained;
  - (k) the disposal of any poisonous or noxious products resulting from prospecting or mining operations, pollution and environmental degradation generally;

- (l) the determination of what proportion of any precious mineral per tonne an ore may contain without coming under the definition of precious minerals;
  - (m) the amount of tailing which may be deposited in any natural watercourse;
  - (n) the methods to be employed to ascertain the horsepower of labour-saving apparatus;
  - (o) the holding of an inquiry where evidence may be taken upon oath into any accident occurring in any mine or in connection with mining or prospecting operations conducted under a mining lease, temporary title or exclusive prospecting licence involving loss of life or serious injury to any person;
  - (p) providing for the forfeiture of any mineral illegally won, sold, purchased or processed;
  - (q) appropriate work programme within specific time limit and funds applicable;
  - (r) the penalties which may be imposed for the breach any of the regulations made under this Decree
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