

CHAPTER 159

THE MINING AND MINERALS

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CHAPTER 159

THE MINING AND MINERALS ACT

Commencement: 28 October, 2022
except section 286(2)(s) deemed to
have commenced on 1 July, 2021

An Act to provide for the law relating to mineral resources to give effect to Article 244 of the Constitution; to strengthen the administrative structures for the effective management of the mineral subsector; to provide for the acquisition, management and dissemination of geological information; to regulate the licensing and participation of commercial entities in mining operations; to provide for Government participation in mining operations; to provide for value addition with a view of promoting local growth by reaping benefits across the whole value chain; to provide for an open, transparent and competitive process of licensing; to create a conducive environment for the promotion of exploitation of Uganda's mineral potential; to provide for sustainable mineral marketing strategies by setting up buying and auctioning centers; to provide for the formalisation of artisanal and small scale mining; to provide for national content development in mining operations; to provide for the regulation and management of geothermal resources; to provide for efficient and safe mining operations; to provide for decommissioning of mining infrastructure; to provide for payments arising from mining operations and for related matters.

PART I—PRELIMINARY

1. Application of Act

This Act applies to—

- (a) all activities, operations and transactions related to the prospecting, exploration, mining, development, exploitation, research and beneficiation of minerals, including the processing, smelting, refining of minerals and trading of mineral substances; and
- (b) the extraction of geothermal resources for direct use.

2. Purpose of Act

The purpose of this Act is—

- (a) to ensure the rational, integrated and safe exploitation and use of mineral resources;
- (b) to ensure the protection of mineral resources and the environment;
- (c) to strengthen the legal and regulatory framework for the regulation and conduct of mining operations and the extraction of geothermal resources for direct use;
- (d) to ensure that revenues generated from the mineral subsector are managed in a fair and transparent manner in support of Uganda's sustainable development;
- (e) to create an enabling environment that regulates the coexistence of mineral rights and other land use rights;
- (f) to strengthen and set up institutional structures for effective management of the mineral subsector including enhancing the capacity of the Directorate for the effective governance of the mineral subsector;
- (g) to promote transparency of mining operations through competitive and predictable licensing and efficient, equitable, accountable and transparent management of mineral revenues;
- (h) to organise, licence, regulate and transform artisanal and small scale mining in Uganda;
- (i) to promote value addition and beneficiation of minerals;
- (j) to promote and facilitate mineral trade, marketing systems and utilisation of mineral products;
- (k) to ensure that mineral products and services are of acceptable quality and standards;
- (l) to create an enabling environment for attracting investment in the conduct of mining operations;
- (m) to promote State participation in the development of strategic minerals;
- (n) to enforce and protect health, safety and the environment in the mineral subsector;
- (o) to provide a framework for gender mainstreaming, equity and human rights and eradication of child labour in the mining industry;
- (p) to prohibit illegal exploitation of minerals and illicit trade in minerals;

- (q) to promote local content in the mineral subsector; including the procurement of local goods and services of quality, optimal cost and in a timely manner;
- (r) to impose restrictions and prohibitions on the use of mineral resources;
- (s) to ensure that environmental, social and economic impacts of decommissioning are planned, financed and implemented in a manner that meets the interests and needs of the community;
- (t) to provide for the progressive rehabilitation and decommissioning of mine sites;
- (u) to promote the development of integrated infrastructure projects that promote mining;
- (v) to promote regional and international cooperation; and
- (w) to promote and guide public private partnerships in mining, value addition and marketing.

3. Interpretation

In this Act, unless the context otherwise requires—

“accredited consultant” means a consultant accredited by a national or international recognised authority to undertake such studies;

“affiliate” means an entity that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a company licensed under this Act;

“artisanal mining” means rudimentary mineral extraction and processing that is—

- (a) continuous or seasonal;
- (b) carried out by individuals or groups of individuals;
- (c) primarily and exclusively using manual labour and manual tools;
- (d) carried out at a single site or multiple sites; and
- (e) focused on producing mineral products that are primarily delivered or sold to—
 - (i) traders in those mineral products;
 - (ii) local artists and craftsmen; or
 - (iii) builders acting within the national economy;

“artisanal mining operations” means mining operations that do not exceed ten meters depth and undertaken in accordance with this Act and the artisanal mining licence;

“artisanal mining licence” means a licence issued under section 97;

“artisanal mining licence area” means the land which is the subject of an artisanal mining licence;

“authorised officer” means a public officer designated under section 243;

“Board” means the Board of Directors of the Uganda National Mining Company;

“borehole” means a narrow shaft bored into the ground, either vertically

or horizontally as part of geotechnical investigation, environmental site assessment, mineral exploration, temperature measurement, installing piers or underground utilities, for geothermal installations, or for underground storage of unwanted substances;

“capital” means all cash contributions, plant, machinery, equipment, buildings, spare parts, raw materials and other business assets, other than goodwill;

“capital investment” means the capital necessary to bring the mine into production or such other amount as may be prescribed by regulations;

“complex project” means a project with significant integrated components, unique equipment, multifaceted systems, intricate phasing, or that is marginal in context;

“control” means ownership of greater than five percent of the share

capital of a company and the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of an entity, whether through the ability to exercise voting power, by contract or otherwise;

“currency point” has the value assigned to it in Schedule 1 to this Act;

“Directorate” means Directorate of Geological Surveys and Mines;

“environment” means—

- (a) the physical factors of the surroundings of human beings, including land, water, air, atmosphere, climate, sound, odour and taste;
- (b) the biological factors of animals and plants; and
- (c) the social factors of aesthetics, health, safety and wellbeing of people,

and includes human interaction with both the natural and the built environment;

“environmental audit” means a systematic, documented and periodic

evaluation used to determine how well specified projects or an organisation’s management system, facilities and equipment are performing in conserving the environment and its resources and conform to the requirements of this Act and any other written law;

- “environmental and social impact assessment” means an analytical process that systematically examines the likely environmental and social impacts of a proposed project, evaluates alternatives and designs appropriate mitigation, management and monitoring measures, taking into account interrelated socio-economic, cultural and human health impacts, both beneficial and adverse;
- “environmental management and monitoring plan” means the plan required to be produced and submitted to the Minister by the licence holder in accordance with the National Environment Act;
- “excavation” means any trench, pit, shaft or other open working;
- “exploration area” means the land covered under an exploration licence;
- “exploration licence” means an exploration licence granted under section 42;
- “explore” means to define the extent and determine the economic value of a mineral deposit and includes activities undertaken in order to identify and determine the presence of minerals or mineral deposits and to assess the extent and economic value of a mineral deposit;
- “geothermal resource” means a reservoir of heat occurring naturally within the subsurface of the earth carried to the earth’s surface by water or steam;
- “good mining industry practice” means the exercise of that degree of skill, diligence, prudence and right which would reasonably and ordinarily be expected to be applied by a skilled and experienced person engaged in the mining industry globally under similar circumstances;
- “highly capitalised project” means a project whose capital investment is above three hundred million United States Dollars;
- “holder” means a person to whom a licence or permit is granted under this Act, and includes every person to whom that licence or permit is lawfully transferred or assigned;
- “in default” means in breach of any of the provisions of this Act, any condition of a licence or permit or any provision of a mineral agreement;
- “inspector of mines” includes a person appointed as an inspector of mines or an authorised officer designated by the Minister under section 243;
- “land” includes land beneath any water, the seabed and sub-soil of such land;
- “large scale mining” means the intentional mining of minerals in mechanised operations, involving the excavation of large surface

- pits, sinking of shafts, driving of adits or other underground openings with limitations to the extent of the mining operations dictated by the extent of the ore body and the capital investment threshold prescribed in Schedule 2 to this Act;
- “large scale mining area” means an area subject to a large scale mining licence;
- “medium scale mining area” means an area subject to a medium scale mining licence;
- “mine” includes any place, excavation or working where any operation connected with mining is carried on and all buildings, premises, erections and appliances used for, or in connection with such operation;
- “mineral” means any substance, whether in solid, liquid or gaseous form occurring naturally in or on the earth, formed by or subject to a geological process; but does not include petroleum, as defined under the Petroleum (Exploration, Development and Production) Act or substances excluded from the definition of minerals under Article 244(5) of the Constitution;
- “mineral agreement” means an agreement entered into by the Minister in accordance with section 27;
- “mineral beneficiation” includes the processing, smelting, refining, cutting, blasting or polishing of minerals;
- “mineral deposit” means a mass of naturally occurring mineral material of economic value;
- “mining operations” means all works related to the various phases of the mineral development process, including planning, prospecting, exploration, mineral deposit evaluation, mine construction, mine development, mining, the reclamation or rehabilitation and remediation of land, the extraction, beneficiation, transportation, handling, storage and marketing of a mineral substance extracted, the processing of mine tailings and all other activities necessary or convenient to carry out the rights and obligations of the licence holder under this Act;
- “mineral right” means a right to prospect, explore or mine for minerals under a prospecting licence, an exploration licence, a retention licence, a large scale mining licence, a medium scale mining licence, small scale mining licence or an artisanal mining licence;
- “mineral processing” means procedures, such as dry and wet crushing, leaching, grinding and separation of minerals or other products

containing minerals, to raise the concentration of the substance mined and includes beneficiation;

“mineral product” means a substance derived from a mineral by mining or processing;

“mining area” means land subject to a mining licence;

“Minister” means the Minister responsible for mineral development;

“ore body” means a continuous well-defined mass of material of sufficient mineral content to make extraction economically feasible;

“passageway” means any highway, road, street, footpath, or installation of any railway, tramway, wire-line, cableway, chute, pipe, sewer, drain, tunnel, shaft, fluming or watercourse, and includes any right of way, easement or hereditament;

“precious mineral” includes—

- (a) precious stones, namely agate, amber, amethyst, cat’s eye, chrysolite, diamond, emerald, garnet, opal, ruby, sapphire, turquoise; and
- (b) precious metals, namely gold, silver, platinum, iridium, osmium, palladium, ruthenium, rhodium, or any other substances of a similar nature to any of them;

“primary host community” means a single community of persons mutually agreed by the holder of a large scale, medium scale, or small scale mining licence and the local government, where the mining area is located, but if there is no community of persons residing within thirty kilometres of any boundary defining the mining area, the primary host community shall be the local government;

“programme of development and mining operations” means a programme of development and mining operations prepared by a holder and approved by the Minister on the granting of a large scale mining licence, and includes any amendments to such programme made in accordance with this Act;

“programme of exploration operations” means a programme of exploration operations prepared by a holder of a mineral exploration licence, and approved by the Minister on the granting of an exploration licence and includes any amendments to such programme made in accordance with this Act;

“prospecting” means to intentionally search for minerals and mineral deposits and includes any operations to test the mineral-bearing qualities of any area;

“prospecting licence” means a prospecting licence issued under section 35;

“refining” means purifying of a mineral or other mineral product derived from a mineral ore to produce a metal or compound;

“rehabilitation” means the restoration of an area subject to a mineral right to the satisfaction of the Minister and the National Environment Management Authority in accordance with the National Environment Act;

“retention area” means land subject to a retention licence;

“retention licence” means a retention licence issued under section 53;

“small scale mining licence” means a small scale mining licence issued under section 86;

“small scale mining licence area” means an area that is subject to a small scale mining licence;

“small scale operations” means prospecting or mining operations undertaken under a small scale mining licence;

“smelting” means the extraction of metal from its ore by a process involving heating and melting;

“State” means the Government of Uganda;

“strategic minerals” means minerals that are essential to the economic development and national security of Uganda as may be prescribed by the Minister by statutory instrument;

“surface rights” means the exclusive right to use land, or the surface of the land, or a right of entry onto land required by the holder of a mineral right or licence for the purpose of carrying out mineral operations;

“surrender” means the giving up of all or a portion of a mineral right;

“termination” means the lapse of a mineral right by expiry of time, surrender or cancellation; and where the surrender or cancellation is in respect of a part of an area covered by the mineral right, the mineral right shall be deemed to have been surrendered or cancelled in respect of that part only;

“written law” has the same meaning as in the Interpretation Act.

4. Environmental principles

A person involved in mining and minerals operations or any other person performing functions, duties or powers under this Act in relation to the management and exploitation of mineral resources or ensuring sustainability, shall take into account, and give effect to the principles and safeguards of

environmental management prescribed under the National Environment Act and any other written law.

5. Responsibility of mineral rights holder

(1) A mineral rights holder and any other party participating in mining operations in Uganda shall be responsible for ensuring that the mining operations are conducted in accordance with this Act and any other written law.

(2) A mineral rights holder shall ensure that a person carrying out work for the mineral rights holder, either personally or as an employee, contractor or sub-contractor, complies with this Act, administrative decisions issued under this Act and any other written law.

6. Compliance with other written laws

Where any act is prohibited or otherwise regulated by any written law other than this Act, nothing in this Act shall be construed as authorising the holder of a mineral right to do any such act, otherwise than in accordance with that law.

7. Security for compliance

(1) The Minister may make such arrangements as appear appropriate to him or her to ensure that the holder of a mineral right complies with this Act and regulations made under this Act, including provision of financial guarantees or financial security in a manner prescribed by regulations.

(2) The Minister may suspend or cancel a mineral right in accordance with this Act if the holder of a mineral right fails to provide the guarantee or security required under subsection (1).

PART II—MINERAL RIGHTS

8. Ownership of minerals

(1) In accordance with Article 244 of the Constitution, the entire property in, and control of, all minerals in, on, or under, any land or waters in Uganda are and shall be vested in the Government, notwithstanding any

right of ownership of or by any person in relation to any land in, on, or under which such minerals are found.

(2) For the avoidance of doubt, the Government of Uganda shall hold mineral rights on behalf of and for the benefit of the people of Uganda.

9. Prohibition of unauthorised activities

(1) A person shall not conduct prospecting, exploration, mining, processing, refining or other beneficiation operation under Uganda's jurisdiction without an authorisation, licence, lease, permit or approval in accordance with this Act, the National Environment Act or any other written law.

(2) The Minister may, in consultation with the relevant state authority, prohibit mining operations in the interest of security, public safety, environmental protection or national economic development.

(3) A person who contravenes subsection (1) commits an offence and is liable, on conviction—

- (a) in the case of an individual, to a fine not exceeding fifty thousand currency points or to imprisonment for a term not exceeding five years, or both; and
- (b) in the case of a body corporate, to a fine not exceeding fifty thousand currency points.

(4) Court may in addition to the penalties imposed under this section, order that the mineral substances that were extracted illegally and any items and instruments used in the commission of the offence be seized and forfeited to Government.

10. Aiding illegal operators

A person who aids illegal prospectors or operators in contravening the provisions of section 9 commits an offence and is liable, on conviction, to a fine not exceeding twenty-five thousand currency points or to imprisonment for a term not exceeding two years, or both.

11. Acquisition of mineral right

(1) Subject to the provisions of this Act, a person may acquire the right to prospect, explore for, retain, mine, process, refine, smelt, fabricate or dispose of any mineral in Uganda by acquiring such right in accordance with this Act.

(2) Subject to the Constitution and this Act, the right to explore for, retain, mine and trade in minerals may be acquired and held under and in accordance with a mineral right granted under this Act, notwithstanding any right of ownership or otherwise which any person may possess over the land on which the mineral right is granted.

(3) A person shall not prospect, explore for, retain, mine, process, refine, smelt, fabricate or dispose of any mineral in Uganda except under and in accordance with a licence issued under this Act.

(4) Except for a prospecting licence, an exploration licence and a retention licence, a mineral right under this Act shall be granted subject to proof of acquisition of surface rights over the land that is subject to the mineral right.

(5) Any person who contravenes subsection (2) or (3) commits an offence and is liable, on conviction—

- (a) in the case of an individual, to a fine not exceeding ten thousand currency points or to imprisonment for a term not exceeding three years, or both; and
- (b) in the case of a body corporate, to a fine not exceeding one hundred thousand currency points.

(6) Where a person is convicted of an offence under subsection (5), the court before which such person is convicted may—

- (a) order the forfeiture of all minerals unlawfully obtained by such person; and
- (b) in the event that the minerals cannot for any reason be forfeited, order the forfeiture of such sums of money as the court shall determine as the reasonable value of the minerals,

and any minerals or their value so forfeited shall become the property of Government.

12. Restrictions on acquisition of mineral right

- (1) A mineral right shall not be granted to or held by
 - (a) an individual who—
 - (i) is not a citizen of Uganda;
 - (ii) is under the age of eighteen years; or
 - (iii) is or becomes an undischarged bankrupt, as a result of having been adjudged or otherwise declared bankrupt under any written law; or
 - (2) a company—
 - (i) which has not been registered or incorporated under the Companies Act; or
 - (ii) which is in liquidation, except where the liquidation is part of a scheme for the administration or re-organisation of such company.
- (3) For the avoidance of doubt, except for an artisanal mining licence and a small scale mining licence, a mineral right under this Act shall only be granted to—
 - (a) a company registered or incorporated under the Companies Act;
 - (b) a body corporate registered or incorporated under the laws of Uganda;
 - (c) a partnership under the Partnership Act;
 - (d) a cooperative society registered under the Cooperative Societies Act;
 - (e) a trustee incorporated under the Trustees Incorporation Act; or
 - (f) an association or business registered under any other written law.

13. Form and content of mineral right

- (1) A mineral right shall be granted by the Minister as provided for under this Act and shall be in such form as may be prescribed by regulations.
- (2) A mineral right shall specify—
 - (a) the name, address and nationality of the holder of the mineral right;
 - (b) the date of the grant of the mineral right and the period for which it is granted;
 - (c) a description of the area over which it is granted;
 - (d) the mineral or minerals in respect of which it is granted; and

- (e) the conditions on which the mineral right is granted.

14. Types of mineral rights

The following mineral rights may be granted under this Act—

- (a) prospecting licence;
- (b) exploration licence;
- (c) retention licence;
- (d) large scale mining licence;
- (e) medium scale mining licence;
- (f) small scale mining licence; and
- (g) artisanal mining licence.

PART III—ADMINISTRATION

15. Administration, management and development

The administration, management and regulation of the mineral subsector under this Act shall be undertaken by the Directorate of Geological Surveys and Mines, subject to the overall policy guidance of the Minister.

16. Functions of Minister

- (1) The Minister shall—
 - (a) mobilise financial and other resources for the management and development of the mineral subsector;
 - (b) provide policy guidance, oversight and adherence to standards;
 - (c) be responsible for granting mineral rights, licences, permits and other authorisations under this Act; and
 - (d) perform any other function incidental to the purposes of this Act.

(2) The Minister shall, in granting mineral rights and licences under this Act, coordinate with other Government Ministries, departments, agencies and local governments responsible for infrastructure development to earmark areas for public infrastructure projects in order to promote the development of integrated infrastructure projects that promote mining.

- (3) The Minister may, for the purposes of subsection (1), withdraw or cause a mineral rights holder to relinquish portions of licence areas covering

land that has been earmarked for public infrastructure projects at no cost to Government.

17. Powers of Minister

(1) The Minister may, at all reasonable times, enter upon any land, prospecting area, exploration area, mining area or mine, refinery, factory or any premises where minerals are being explored, mined, stored, refined or smelted for the purpose of ensuring compliance with this Act.

(2) The Minister may, with respect to the health and safety of persons employed by a holder of a mineral right, issue written directions to and impose restrictions on such holder of a mineral right or any person employed by the holder of a mineral right.

(3) In exercising his or her powers and functions under this Act, the Minister shall—

- (a) ensure that as little damage and inconvenience as possible is caused to the registered owner, customary owner, lawful occupant or *bona fide* occupant of the land on which the powers are exercised; and
- (b) take into account the spatial, physical planning and land use considerations as determined by the National Physical Planning Board.

Directorate of Geological Surveys and Mines

18. Functions of Directorate of Geological Surveys and Mines

(1) The Directorate of Geological Surveys and Mines is responsible for the regulation and management of minerals and mining activities through the department of geological surveys, the department of mines, the department of geothermal resources and any other departments that shall be created within the Directorate.

- (2) The department of geological survey shall
 - (a) establish and promote the mineral potential of Uganda through reconnaissance, exploration, geological mapping, geochemical surveys, geophysical surveys and any other method;

- (b) collect, manage and provide access to geological data and information from mineral exploration and development operations;
 - (c) promote mineral beneficiation and value addition;
 - (d) establish and maintain an accredited mineral laboratory for analysing mineral samples, rocks, mineral concentrates, tailings or minerals;
 - (e) promote and conduct research and development in the mineral subsector; and
 - (f) perform such other functions incidental to the department of geological survey.
- (3) The department of mines shall—
- (a) be responsible for the regulation of mineral rights, monitor implementation of programmes, plans and reports; and inspect, monitor and audit mining operations;
 - (b) enforce the provisions of this Act and any other written law to implement the certification of designated minerals;
 - (c) assess and verify mineral royalty and other payments under this Act;
 - (d) mainstream and organise artisanal mining in Uganda;
 - (e) regulate and manage the impact of mineral activities on the economy, environment and socio-economic life;
 - (f) facilitate the development of skills and capacity among Ugandans and promote technological development in the mineral subsector;
 - (g) encourage private sector participation in the exploration and exploitation of mineral resources;
 - (h) recommend to the Minister the suspension or revocation of mineral rights as a result of inspections and monitoring;
 - (i) develop and observe internationally accepted standards of health, safety, environmental protection and the protection of human rights in the mineral subsector, in consultation with the Uganda National Bureau of Standards and other relevant Government agencies; and
 - (j) perform such other functions incidental to the functions of the department of mines.
- (4) The department of geothermal resources shall—
- (a) conduct surface and subsurface exploration of geothermal prospects;

- (b) undertake pre-feasibility and feasibility studies in order to provide an economic basis for licensing of geothermal resources;
- (c) participate in the preparation of agreements including implementation agreements, and direct use contracts to support licences and enable private sector participation in the development of energy from geothermal resources;
- (d) promote the sustainable development of geothermal resources;
- (e) regulate and monitor the performance and technical compliance of licences for geothermal operations;
- (f) recommend to the Minister the suspension or revocation of licences for geothermal operations as a result of noncompliance;
- (g) manage the geothermal database and provide information to stakeholders, conduct research, and advise on appropriate geothermal technology and development; and
- (h) perform any other function incidental to the functions of the department of geothermal resources.

(5) The Directorate may, for the purposes of this Act, establish regional offices.

Designation of the Mining Cadastre Department

19. The Mining Cadastre Department

(1) The Minister responsible for public service shall, in consultation with the Minister, establish a Mining Cadastre Department within the Directorate of Geological Surveys and Mines to administer mineral rights and maintain the cadastral registers.

- (2) The Mining Cadastre Department shall—
 - (a) receive, evaluate and process applications for mineral rights and other licences and permits under this Act including applications for renewal, extension, reduction, transfer, and abandonment; and make recommendations to the Minister on the applications;
 - (b) establish and manage a transparent, accessible and competitive licensing regime and implement a well-developed mining cadastre and registry system;
 - (c) manage the computerised mining cadastre and registry system;
 - (d) maintain public cadastral maps and cadastre registers; and

- (e) perform any other function incidental to the function of the Mining Cadastre Department.

Uganda National Mining Company

20. Establishment of Uganda National Mining Company

(1) There shall be incorporated, under the Companies Act, a Uganda National Mining Company which shall be wholly owned by the State to manage Uganda's commercial holding and participating interests of the State in mineral agreements.

(2) The Uganda National Mining Company shall be subject to and managed in accordance with the Companies Act and this Act.

21. Functions of Uganda National Mining Company

The functions of the Uganda National Mining Company are—

- (a) to manage the State's strategic commercial interests in the mineral subsector;
- (b) to optimise value to its shareholders;
- (c) to participate in accordance with the terms of mineral agreements, in joint ventures in which it holds an interest on behalf of the State;
- (d) to participate in meetings of the operating committees in furtherance of its participation in the respective joint operating agreements;
- (e) to study and propose new mining ventures locally and internationally; and
- (f) to undertake the exploration and mining operations in the best interest of the State where private entities are unwilling to do so.

22. Board of Directors of Uganda National Mining Company

(1) The Board shall be appointed by the Minister with the approval of Cabinet.

(2) The Board appointed under subsection (1) shall be diverse with qualifications, experience and demonstrable competence in geoscience, mining, metallurgy, mining economics, business administration and mining law.

(3) The Chairperson and members of the Board shall be persons of high moral character and proven integrity.

(4) The Board shall be composed of nine members and at least one-third of members of the Board shall be women.

(5) The Minister shall designate a chairperson of the Board from among members appointed under subsection (1).

(6) The Board shall submit the following matters to the annual general meeting

- (a) plans for the coming year, as well as outlook for the intermediate term and significant changes in any of the plans;
- (b) plans regarding projects of major significance to the State's participation in mining operations in accordance with this Act;
- (c) main features of the budget for the coming year;
- (d) performance in the previous year; and
- (e) annual report and annual accounts in respect of the participating interests of the State.

(7) The Board shall, in addition to the requirements of subsection (6), submit to the annual general meeting of the Company all matters that are assumed to comprise principal or political aspects of significance or that may entail significant socio-economic or social effects.

(8) The Board shall inform the Minister of matters which are to be submitted to the annual general meeting.

(9) The Board shall advise the Minister on matters of Production Sharing Agreements.

23. Annual report and accounts of Uganda National Mining Company

The Board shall submit to the annual general meeting—

- (a) audited accounts of revenues and expenditure in respect of the State's participating interests; and
- (b) an annual report containing an overview of the participating interests managed by the company, including a resource account.

24. Funds of Uganda National Mining Company

Funds of the Uganda National Mining Company shall come from the Consolidated Fund and any other sources that may from time to time be directed by the Minister responsible for finance, and shall be managed in accordance with the Public Finance Management Act.

25. Instructions to Uganda National Mining Company

(1) The Minister may issue instructions to the Board in respect of how the Uganda National Mining Company shall execute its functions under this Act.

(2) Instructions issued under subsection (1) shall be in respect of the mining and mineral policy.

Role of Local Governments

26. Role of local governments

- (1) For purposes of this Act, a local government shall—
- (a) integrate publicly available mineral deposit information provided by the Directorate into their development plan and participate in the implementation of mining policies, laws and mineral related activities in collaboration with the Directorate;
 - (b) monitor and regulate the exploitation of minerals in collaboration with the Directorate in a manner prescribed by regulations;
 - (c) create awareness of mining activities within their areas of jurisdiction in collaboration with the Directorate;
 - (d) facilitate dialogue between the local communities or project affected persons and mineral rights holders;
 - (e) participate in the resolution of disputes arising from mineral related operations in collaboration with the Directorate; and
 - (f) receive reports and plans of the companies operating in their jurisdiction every six months.

(2) Local authorities shall serve as facilitators, as far as is required, for negotiation and implementation of community development agreements as prescribed in section 228.

**PART IV—MINERAL AGREEMENTS AND APPLICATION
FOR MINERAL RIGHTS**

27. Mineral agreements

- (1) The Minister may enter into an agreement, in this section referred to as a mineral agreement, consistent with the provisions of this Act, with any person with respect to any matter relating to or connected with operations or activities under an exploration licence or a large scale mining licence in respect of highly capitalised and complex projects.
- (2) A mineral agreement shall include terms and conditions relating to—
- (a) minimum exploration or mining operations to be carried out and the work plan determined for purposes of such operations;
 - (b) the minimum expenditure in respect of exploration or mining operations;
 - (c) financial obligations;
 - (d) production sharing arrangements where minerals have been ascertained and quantified;
 - (e) the manner in which exploration or mining operations shall be carried out;
 - (f) the processing of any mineral or group of minerals found, obtained or mined by the holder of a mineral right in the course of exploration or mining operations;
 - (g) the basis on which the market value of any mineral or group of minerals in question may from time to time be determined;
 - (h) project financing and insurance arrangements;
 - (i) environmental management obligations;
 - (j) health and safety obligations;
 - (k) requirements for local content, including the use of local labour and goods;
 - (l) community benefit sharing and community development, including the obligation to conclude community development agreements with the affected communities;
 - (m) the establishment of culturally relevant local dispute resolution mechanisms;
 - (n) resolution of disputes through arbitration mechanisms;
 - (o) the right of the Minister to withdraw or cause to be relinquished portions of the licence area covering land that has been earmarked

- by Government for a public infrastructure project, at no cost to Government;
- (p) the protection of the land rights or any customary rights of any of the registered owner, customary owner, lawful occupant or *bona fide* occupant of the land in the area subject to a mineral right; and
- (q) any other matter incidental to or connected with the provisions of this subsection.

(3) Any term or condition contained in a mineral agreement that is inconsistent with any provision of this Act or written law shall, to the extent of the inconsistency, be void and of no legal effect.

(4) Nothing contained in a mineral agreement shall be construed as absolving any party to such agreement from any requirement prescribed by law.

(5) The Minister shall lay before Parliament, a mineral agreement signed and adopted by Government within sixty days from the date of signing of the agreement.

28. Model agreements

(1) The Minister shall develop or cause to be developed a model mining agreement or other model agreements as may be entered into by Government under this section which shall be submitted to Cabinet for approval.

(2) The Minister shall lay before Parliament the model mining agreement or other model agreement approved by Cabinet under subsection (1).

(3) A model agreement approved by Cabinet shall guide the negotiations of any future agreements under this section.

29. Application for exploration licence on first come first serve basis

(1) The Director shall, in a manner prescribed by regulations, receive applications for an exploration licence on first come, first serve basis and submit the applications to the Minister for consideration and grant.

(2) For the purposes of subsection (1), “first come first serve” means the principle by which applications are considered, approved or granted in the order of receipt, where the application received first in time shall have priority over other competing applications.

30. Announcement of areas for exploration, medium scale or large scale mining licence

(1) Notwithstanding section 29, the Minister may, in a manner prescribed by regulations, announce areas open for bidding for exploration licences, medium scale mining licences or large scale mining licences under this Act.

(2) The announcement referred to in subsection (1) shall be published in the *Gazette*, in a newspaper of wide circulation and in other electronic and print media.

(3) The announcement shall—

- (a) state the area that is open for exploration or mining, including the size and boundary of the area;
- (b) stipulate a period of not less than three months for making applications;
- (c) include a summary of matters required to be included in an application under this Act; and
- (d) contain any other information as the Minister may consider necessary.

(4) The Minister may, in the announcement, stipulate, as a condition for an exploration licence, medium scale mining licence or a large scale mining licence, that the applicant shall enter into agreements with the Uganda National Mining Company on terms prescribed by regulations.

(5) The bidding process shall be carried out in accordance with this Act.

(6) The Minister shall consider bids submitted under this section and shall select the bid which is most likely to promote the expeditious and beneficial development of the mineral resources of the area having regard to—

- (a) the programme of exploration or mining operations which the applicant proposes to carry out and the commitments as regards expenditure which the applicant is prepared to make;
- (b) the financial and technical resources of the applicant;
- (c) the legal status of the applicant; and
- (d) the previous experience of the applicant in the conduct of exploration or mining operations.

(7) For avoidance of doubt, competitive bidding shall not apply to areas under a mineral right, except for a mineral right held by a State-owned enterprise.

31. Publication of notice of applications

(1) The Minister shall, within fourteen days after receiving an application in response to announcement of areas for an exploration licence, a medium scale mining licence or a large scale mining licence under section 30, cause a notice of the application to be published in the *Gazette*, in a newspaper of wide circulation and in other electronic and print media.

- (2) A notice published under subsection (1) shall—
 - (a) indicate the receipt of the application for an exploration licence;
 - (b) contain a description of the nature and location of the proposed undertaking of the medium scale licence and large scale mining licence;
 - (c) inform members of the public that the application may, within the limits of commercial confidentiality, be inspected at the offices of the Minister; and
 - (d) invite directly affected parties and local authorities in areas affected by the proposed mining operation who object to the granting of the licence, whether on personal, environmental or other grounds, to lodge with the Minister an objection within a specified time, being not less than thirty days from the date of the notice.

32. Objection to proposed mining operation

(1) A party affected by a proposed mining operation under section 30 may lodge with the Minister an objection to the grant of a licence, setting out the grounds of the objection.

(2) The Minister shall consider the objection raised under subsection (1) and make a decision within fourteen days from the date of receipt of the objection.

(3) Where the Minister upholds the objection, the licence shall not be granted.

(4) Where the Minister dismisses the objection, the Minister may grant a licence.

(5) The Minister may, in granting a licence under subsection (4), include a condition that the Minister may withdraw or cause to be relinquished portions of the licence area covering land that has been earmarked by Government for a public infrastructure project, at no cost to Government.

(6) A person aggrieved by the decision of the Minister under subsection (2), may appeal to the High Court within thirty days of receipt of the

decision. Application for Mineral Rights

33. Mining Cadastre

(1) There is established a Mining Cadastre for the management of applications for mineral rights and other licences and permits issued under this Act, including licensing, communication, reporting and assessment of payments.

(2) All applicants for mineral rights and other licences and permits issued under this Act shall be required to register on the Mining Cadastre in a manner prescribed by regulations.

(3) The Minister may, by regulations, prescribe additional provisions and procedures relating to the Mining Cadastre.

Prospecting Licence

34. Application for prospecting licence

(1) An application for a prospecting licence shall be made to the Minister in a manner prescribed by regulations.

- (2) An application for a prospecting licence shall—
- (a) contain in respect of an individual, the name and nationality of each individual making the application;
 - (b) contain the registered name and place of incorporation of the company and
 - (i) a certified copy of the certificate of incorporation of the company;
 - (ii) a certified copy of the memorandum and articles of association;
 - (iii) the names and nationalities of the company directors; and
 - (iv) the name of every shareholder who is a beneficial owner of five percent or more of the issued share capital;
 - (c) contain the company profile and history of prospecting in Uganda and elsewhere;
 - (d) be accompanied by a statement giving particulars of the technical and financial resources available to the applicant;
 - (e) give details of any mineral right held within Uganda by the applicant or by any person controlling, controlled by or under joint or common control with the applicant;
 - (f) be accompanied by proof of payment of the prescribed fees; and
 - (g) set out any other matter as may be prescribed by regulations.

35. Grant of prospecting licence

(1) Subject to the provisions of this Act, the Minister may grant a prospecting licence in accordance with this Act.

(2) The Minister shall, where he or she rejects an application for a prospecting licence, give the applicant a statement in writing of the reasons for the rejection.

36. Duration of prospecting licence

A prospecting licence shall be valid for a period of one year and is not renewable.

37. Rights of prospecting licence holder

(1) Subject to this Act and to the conditions of a prospecting licence granted under this Act, the holder of a prospecting licence, the employees,

servants or agents of the holder of a prospecting licence shall have a non-exclusive right to carry on prospecting operations for any mineral.

(2) For the purpose of exercising the right conferred under subsection (1), the holder of a prospecting licence may—

- (a) enter on or fly over any area not otherwise subject to an exploration or mining licence;
- (b) erect camps and temporary buildings, including installations in any water forming part of the prospecting area, provided that the erection of any camp or building is in accordance with written law;
- (c) take and remove specimens and samples from the prospecting area not exceeding the limit prescribed by regulations; and
- (d) dispose of, with the prior written permission of the Minister, mineral specimens and samples obtained from prospecting operations.

(3) The erection of camps and buildings and the doing of any act or thing under subsection (1) shall not be construed as conferring any right or title to or interest in the land covered by the area.

38. Obligations of holder of prospecting licence

- (1) The holder of a prospecting licence shall—
 - (a) carry on prospecting operations in accordance with the licence;
 - (b) conduct prospecting operations in an environmentally and socially responsible manner in accordance with this Act, the National Environment Act and any other written law;
 - (c) submit to the Minister quarterly, or at such other intervals as may be prescribed by regulations, geological and financial reports and any other information;
 - (d) report any mineral discovery to the Minister;
 - (e) remove on or before the expiration of the prospecting licence, any camps, temporary buildings or installations which may have been erected;
 - (f) repair or make good any damage caused to the surface of the land to the satisfaction of the Minister and the National Environment Management Authority;
 - (g) compensate users of land for damage to land and property, where applicable; and
 - (h) pay the fees prescribed by regulations.

(2) The Minister may, by regulations, prescribe additional obligations for the holder of a prospecting licence.

(3) A prospecting licence shall not authorise the holder of the licence to engage in drilling or excavation or to prospect over an area of land that is, or forms part of—

- (a) an exploration area, a mining area, a retention area, an artisanal or small scale mining licence area; or
- (b) a reserve, game reserve, national park, forest, wetland or an urban centre, special conservation areas, conservation area or protected area,

unless the holder of the prospecting licence has first given notice to and obtained permission from the relevant authorities and complies with any conditions imposed by the authorities.

39. Minerals obtained during prospecting

(1) Minerals obtained in the course of prospecting under a prospecting licence shall be the property of the Government and, except for such reasonable quantities as may be prescribed for the purposes of sampling, assay, analysis or other examination, shall not be disposed of by the holder of the licence or by any other person without the written consent of the Minister.

(2) Where the holder of a prospecting licence desires to retain or dispose of any minerals obtained in the course of prospecting, the licence holder shall apply to the Minister in a manner prescribed by regulations stating the kind and quantity of minerals in respect of which the application is made and the situation of the land from which the mineral was obtained.

(3) The Minister may, where he or she is satisfied that it is reasonably necessary to enable the holder of a prospecting licence to test the mineral bearing qualities of the land on which the licence holder is prospecting, authorise the licence holder in writing to retain any such minerals or dispose of the minerals, upon payment of the prescribed royalties.

*Exploration Licence***40. Application for exploration licence**

- (1) An application for an exploration licence shall be made to the Minister in a manner prescribed by regulations.
- (2) An application for an exploration licence shall—
(a) be accompanied by a certified copy of the certificate of incorporation, memorandum and articles of association and a board resolution of the company;
(b) be accompanied by a plan of the area over which the licence is sought, drawn in such a manner and showing such particulars as may be prescribed by regulations;
(c) identify the minerals in respect of which the licence is sought;
(d) give—
(i) in respect of the person or, where there is more than one person, the name and nationality of each person, making the application; and
(ii) in the case of a body corporate, the name of the corporation and place of incorporation, the names and nationalities of the directors, managers and other officers of a similar rank; and where the body corporate has a share capital, the name of any person who is the beneficial owner of more than five per cent of the issued share capital;
(e) information on the financial status and the technical competence and experience of the applicant;
(f) state the period, not exceeding four years, for which the licence is sought;
(g) be accompanied by a proposed programme of exploration operations for the proposed period of the licence and the estimated cost of the operations;
(h) contain evidence in support of the existence of the minerals which the licence will cover in the proposed exploration area;
(i) contain a statement giving particulars of the applicant's proposals with regard to the employment and training of Ugandan citizens and a training plan and budget which shall be submitted to the Minister for approval in accordance with this Act and any other written law;

- (j) contain a statement on the procurement plan of goods and services available in Uganda and commitment to give priority to locally available goods and services in accordance with this Act and any other written law; and
 - (k) contain any other matter as may be prescribed by regulations or information which the applicant wishes the Minister to consider.
- (3) An application made under this section shall comply with the National Environment Act.

41. Processing of application for exploration licence

The Mining Cadastre Department shall process an application for an exploration licence expeditiously, and in any case not later than thirty days after receipt of the application and submit to the Minister recommendations for a decision.

42. Grant of exploration licence

- (1) Subject to provisions of this Act, the Minister may grant an exploration licence.
- (2) There shall be attached to an exploration licence a programme of exploration operations approved by the Minister.
- (3) The Minister may, in granting a licence under subsection (1), include a condition that the Minister may withdraw or cause to be relinquished portions of the licence area covering land that has been earmarked by Government for public infrastructure projects, at no cost to Government.
- (4) The Minister shall, where he or she refuses to grant an exploration licence, give the applicant a statement in writing of the reasons for the refusal.
- (5) Except in special circumstances prescribed by regulations, a person shall not directly or indirectly through beneficial ownership, hold more than five exploration licences at any given time under this Act.
- (6) For the purposes of this section, “beneficial ownership” means the control, possession, custody or enjoyment by any person, directly or indirectly, of a reasonably significant economic interest in a given legal entity or receives

significant economic benefit from such a legal entity, even where formal ownership or title may be in the name of another person or entity.

(7) In addition to any other qualifying criteria, a person is automatically considered to be a beneficial owner where such person owns five percent or more of the legal entity in question.

43. Content of exploration licence

- (1) An exploration licence shall state—
 - (a) the date of grant of the licence;
 - (b) the exploration area to which the licence relates;
 - (c) the mineral to which the licence relates; and
 - (d) the conditions on which the licence is granted.

(2) There may be included in an exploration licence, a provision with respect to the exercise by the Government, or the Uganda National Mining Company of an option to acquire on stipulated terms, or on terms to be agreed, an interest in any venture for the exploration which may be carried on in the exploration area.

(3) The option to acquire a stake in an exploration venture by the Government or the Uganda National Mining Company under subsection (2) shall be exercised at the time of grant of the exploration licence and in the case of a medium scale or large scale mining licence, the option to acquire a stake shall be exercised at the time of grant of the medium scale or large scale mining licence.

44. Exploration area

(1) The area of land in respect of which an exploration licence may be granted shall not be more than two hundred fifty square kilometres; except that a person may hold more than one exploration licence, in which case there shall be no amalgamation of the exploration licence areas for purposes of discharging obligations under this Act.

(2) Subject to subsection (4), the exploration area shall be reduced in size to eliminate from the area—

- (a) at the end of the initial term of the exploration licence, not less than half of the initial area except where the mineral rights holder

- has undertaken a comprehensive exploration and has evidence to prove that the mineral target extends beyond fifty percent of the exploration area of the licence, in which case the Minister may consider renewing up to one hundred percent of the licence area;
- (b) at the end of each period of renewal, half of the remaining area, or such lower proportion as the Minister may determine except where the exploration licence holder has undertaken a comprehensive exploration and has evidence to prove that the mineral target extends beyond fifty percent of the exploration area of the licence, in which case the Minister may consider renewing up to one hundred percent of the licence area; and
- (c) the area covered by any retention licence or mining licence granted in respect of the area.

(3) The holder of an exploration licence shall designate, prior to the end of each of the periods referred to in subsection (2), the area or areas to be eliminated from the exploration area and, in default thereof, the designation shall be made by the Minister.

(4) Where a person holds two or more contiguous exploration licences covering the same period and the same mineral or minerals, the Minister shall, for the purposes of the elimination under subsection (2), of part of any of the areas, permit the areas covered thereby to be deemed to be one area, the subject of one exploration licence.

(5) The amalgamation under subsection (4) shall not exceed the maximum allowable area of two hundred fifty square kilometers and where two licences are not covering the same period, the amalgamated licence shall take effect on the anniversary of grant of the earlier of the two licences.

(6) Compensation shall not be payable to the holder of any exploration licence arising out of reductions in area effected in terms of subsection (2).

45. Restrictions on grant of exploration licence

(1) An exploration licence shall not be granted over an area of land which is the subject of a large scale mining licence, medium scale mining licence, retention licence, artisanal or small scale mining licence; or in a fragile or sensitive ecosystem or protected area without the consent in writing of the responsible Ministry, department or agency of Government.

(2) Where an area of land is subject to an exploration licence, no other exploration licence shall be granted in respect of that area, except in respect of an exploration licence for geothermal resources.

(3) An exploration licence shall not be granted to an applicant unless the Minister is satisfied that—

- (a) the applicant has adequate financial resources, technical competence and experience to carry out effective exploration operations;
- (b) the programme of proposed exploration operations is adequate for the period of the licence;
- (c) the applicant's proposal for exploration operations has provided for the employment and training of Ugandan citizens and purchase of goods and services available in Uganda;
- (d) the applicant is able and willing to comply with the terms and conditions of the exploration licence;
- (e) the relevant consents required under any other written law have been obtained;
- (f) the minerals to which the proposed exploration licence relate exist in the proposed exploration area; and
- (g) the applicant is not in default.

46. Duration of exploration licence

Subject to the provisions of this Act, an exploration licence shall be valid for a period not exceeding four years from the date of grant of the exploration licence.

47. Renewal of exploration licence

(1) An exploration licence may be renewed for a single period not exceeding three years.

(2) Subject to subsection (1), the holder of an exploration licence may, three months before the expiration of the licence, apply for renewal of the licence in respect of the exploration area.

(3) An application for renewal shall be made in a manner prescribed by regulations, and shall be accompanied by the prescribed fee.

(4) The Mining Cadastre Department shall process an application for renewal of an exploration licence expeditiously, and in any case not later than thirty days after receipt of the application and submit to the Minister recommendations for a decision.

(5) A renewal under subsection (1) shall take effect immediately after the expiration of the exploration licence being renewed.

(6) The Minister may, in renewing a licence under this section, include a condition that the Minister may withdraw or cause to be relinquished portions of the licence area covering land that has been earmarked by Government for a public infrastructure project, at no cost to Government.

48. Rights of holder of exploration licence

(1) Subject to the provisions of this Act and any other written law, an exploration licence confers on the holder of the licence the exclusive right to carry on exploration operations in the area of land and for the mineral to which the licence relates.

(2) For the purposes of exercising the right under subsection (1), the holder of an exploration licence may, subject to this Act and the conditions of the licence, either the holder of an exploration licence, or by or through the employees or agents of the holder of an exploration licence, enter the exploration area and erect camps and temporary buildings, including installations in any waters forming part of the exploration area.

(3) The erection of camps or buildings under subsection (2) shall not be construed as conferring any right or title to or interest in the exploration area and shall be done in accordance with this Act and the National Environment Act.

49. Obligations of holder of exploration licence

- (1) The holder of an exploration licence shall—
 - (a) commence exploration not later than four months from the date of issue of the licence;
 - (b) pay the prescribed annual mineral rent for the whole area covered by the exploration licence, in accordance with this Act, prior to the grant of the licence, and thereafter, annually on or before the

- anniversary of the grant until the termination of the exploration licence;
- (c) carry on exploration operations in accordance with the approved programme of exploration operations and the certificate of approval of environmental and social impact assessment;
 - (d) notify the Minister of the discovery of any mineral other than the mineral to which the licence relates within thirty days of the discovery;
 - (e) unless the Minister otherwise stipulates, remove, within sixty days of the expiry of the exploration licence, any camps, temporary buildings or machinery erected or installed by the licence holder or otherwise make good any damage to the surface of the land occasioned by such removal and other activities, to the satisfaction of the Minister and any relevant authority;
 - (f) subject to the conditions of the exploration licence, expend on exploration not less than the amounts specified in the exploration programme to be expended;
 - (g) comply with the requirements of the National Environment Act and any other written law;
 - (h) submit to the Minister, at such intervals as may be prescribed, reports and information verified in a manner as may be prescribed by regulations;
 - (i) employ and train citizens of Uganda in accordance with the training plan approved by the Minister;
 - (j) keep and maintain in Uganda, an address which shall be registered with the Minister, and to which all communications and notices shall be sent; and
 - (k) carry out any other obligations as may be prescribed by regulations.

(2) The Minister shall automatically cancel a licence where the licence holder fails to pay the annual mineral rent fourteen days after the due date.

(3) The holder of an exploration licence shall keep, at the address referred to in subsection (1)(j), full and accurate records to the satisfaction of the Minister, of the licence holder's exploration operations which shall

- (a) boreholes drilled; show—
- (b) formations penetrated, with detailed logs of the formations;
- (c) minerals discovered;
- (d) the result of any geochemical or geophysical analysis;

- (e) the result of any analysis and identification of samples removed for such purposes;
- (f) the geological interpretation of the records maintained under paragraphs (a), (b), (c), (d) and (e);
- (g) the number and particulars of persons employed by nationality, gender and position held;
- (h) any other work done under the exploration licence; and
- (i) such other matters as may be prescribed by regulations.

(4) The holder of an exploration licence shall submit to the Minister the records kept under subsection (1), quarterly or at such other interval as may be prescribed by regulations, together with any reports prepared from or as a result of such records.

(5) A person who intentionally or negligently provides the Mining Cadastre with false or misleading records under this section commits an offence and is liable, on conviction, to a fine not exceeding ten thousand currency points or to imprisonment for a term not exceeding five years, or both.

50. Amendment of exploration programme

The holder of an exploration licence shall notify the Minister of any amendments proposed to be made to the programme of exploration operations, and the amendments shall, unless rejected by the Minister within two months after being notified, have effect after such a period.

51. Application for mining licence

The holder of an exploration licence shall apply for a small scale, medium scale or large scale mining licence at least sixty days before the expiry of the exploration licence or retention licence in accordance with this Act.

Retention Licence

52. Application for retention licence

(1) The holder of an exploration licence may apply to the Minister for the grant of a retention licence on the grounds that—

- (a) the holder of an exploration licence has identified a mineral deposit within the exploration area which is potentially of commercial significance; and
- (b) the mineral deposit cannot be developed immediately by reason of adverse market conditions, economic factors or other factors beyond reasonable control of the holder of an exploration licence, which are of a temporary nature.

(2) An application for a retention licence shall be made to the Minister in a manner prescribed by regulations.

(3) An application for a retention licence shall be made at least three months before the expiry of the exploration licence and shall be accompanied by the prescribed fees and—

- (a) a copy of the exploration licence, which must still be valid, and proof of payment for any taxes and fees due;
- (b) a board resolution of the company authorising the application for a retention licence;
- (c) the period applied for;
- (d) the minerals in respect of which the licence is sought;
- (e) a pre-feasibility study and assessment by an accredited consultant on
 - (i) the extent and prospects for recovery and the commercial and economic significance of the mineral deposit concerned;
 - (ii) the impact of mining operations on the environment and the proposed means of eliminating or mitigating any adverse effects;
 - (iii) forecast for market trend; and
- (f) such other information as may be prescribed by regulations or as the Minister may reasonably require regarding the proposals of the applicant for the retention and development of the deposit.

53. Grant of retention licence

Where the Minister is satisfied that commercial development of a mineral deposit is not possible for reasons specified in an application for a retention licence, but may be possible within a period of three years from the date of the application, the Minister may grant a retention licence to the applicant over that part of the exploration area.

54. Duration of retention licence

A retention licence may be granted for a period not exceeding three years.

55. Renewal of retention licence

(1) Where the Minister is satisfied that commercial development of a mineral deposit is or has not been possible at the expiry of a retention licence, that licence may, on the application of the holder, be renewed for a single period not exceeding two years.

(2) The Minister shall, before renewing a retention licence, require the holder of the licence to provide him or her with such updated studies and assessments of the prospects of the development and commercial exploitation of the mineral deposit concerned.

56. Rights and obligations under retention licence

(1) A retention licence confers on the holder of the licence an exclusive right to apply for a mining licence over the area in respect of which the retention licence has been granted.

- (2) The holder of a retention licence shall—
(a) continue to carry out studies referred to in section 52(3)(e) during the period of the licence; and
(b) pay the prescribed annual mineral rent for the whole area covered by the retention licence, in accordance with this Act, prior to the grant of the licence, and thereafter, annually on or before the anniversary of the grant until the termination or expiry of the retention licence.

57. Power to request retention licence holder to apply for mining licence

Where the Minister is satisfied that commercial mineral development of an area that is subject to a retention licence has become possible during the currency of the licence, the Minister may by notice to the holder of the licence, require the holder to apply for a mining licence in respect of the area concerned and may, at any time thereafter, cancel the retention licence.

Large Scale Mining Licence

58. Threshold for large scale mining licence

The threshold for large scale mining licence is prescribed in Schedule 2 to this Act.

59. Application for large scale mining licence

- (1) An application for a large scale mining licence shall be made to the Minister in a manner prescribed by regulations.
- (2) An application for the grant of a large scale mining licence shall—
 - (a) contain a copy of the exploration licence or retention licence, which must still be valid;
 - (b) contain proof of payment of any taxes and fees due;
 - (c) contain, in respect of the company—
 - (i) the registered name and place of incorporation of the company;
 - (ii) the certificate of incorporation and a certified copy of its memorandum and articles of association;
 - (iii) a board resolution; and
 - (iv) the names and nationalities of its directors and the name of every shareholder who is the beneficial owner of five percent or more of the issued share capital;
 - (d) where applicable, contain the company profile and history of mining operations in Uganda and elsewhere and the details of any mineral rights held in Uganda, by the applicant or by any person controlling, controlled by or under joint or common control with the applicant;
 - (e) state the period applied for, informed by a feasibility study;
 - (f) state the minerals in respect of which the licence is sought;
 - (g) be accompanied by a plan of the area over which the licence is sought, drawn in such manner as may be prescribed by regulations;
 - (h) identify the name and qualifications of the person responsible for supervising the proposed programme of mining operations;
 - (i) be accompanied by a statement giving details of the mineral deposits in the area of land over which the large scale licence is sought, including details of all known mineral reserves proved,

- estimated or inferred, and mining conditions in accordance with recognised international mining standards;
- (j) be accompanied by a statement giving particulars of expected infrastructure requirements;
 - (k) be accompanied by an environmental and social impact assessment in accordance with the National Environment Act;
 - (l) be accompanied by a feasibility study and assessment by an appropriate expert or accredited consultant, indicating—
 - (i) the extent and prospect for recovery and the commercial and economic significance of the mineral deposit concerned; and
 - (ii) a detailed timetable for the work to be carried out;
 - (2) contain the identification of interested and affected parties including the registered owner, customary owner, lawful occupant or *bona fide* occupant of the proposed mining area and details of minutes of any consultative meetings with interested and affected parties and the results of the consultation;
 - (3) be accompanied by a report on the goods and services required for the mining operations which can be obtained within Uganda and the applicant's proposals with respect to the procurement of those goods and services;
 - (4) contain a statement giving particulars of the applicant's proposals with respect to the employment and training of citizens of Uganda, technology transfer and progressive reduction of expatriate workers in the industry;
 - (5) be accompanied by details of the applicant's proposals for insurance including health cover for its employees and workers' compensation;
 - (6) contain proposals for value addition;
 - (7) be accompanied by the proposed marketing arrangements for the sale of the mineral to be produced;
 - (8) indicate the financial and technical resources available to the applicant to carry out the obligations under the licence;
 - (9) contain a plan for co-existence with customary landowners or communities owning the land in the area subject to a mineral right;
 - (10) be accompanied by a business plan giving a detailed forecast of capital investment, operating costs and revenues; and the anticipated type and source of financing including the year for the positive cash flow, financial plan and capital structure;
 - (11) contain a statement giving particulars of the proposed programme of mining operations, including a statement of—

- (i) the estimated date by which the applicant intends to break-even;
- (ii) the estimated capacity of production and scale of operations;
- (iii) the estimated overall recovery of mineral and mineral products;
- (iv) the nature of the mineral products;
- (v) proposals for the progressive rehabilitation and decommissioning of land disturbed by mining and for the mitigation of the effects of mining on surface water and ground water and on adjoining or neighbouring lands; and
- (vi) restitution of land rights at the expiry or termination of a mineral right or after mine closure; and
- (w) contain any other information as may be prescribed by regulations.

60. Disposal of application for large scale mining licence

(1) An application for a large scale mining licence shall be advertised in the *Gazette*, newspapers of wide circulation and other electronic media, and copies of the accompanying plan and maps shall be displayed at the relevant district, subcounty and parish headquarters and such other place as the Minister may specify.

(2) The applicant shall submit, together with the application, written proof that he or she has obtained surface rights from the landowner or lawful occupant of the area that the applicant intends to mine.

(3) Upon receipt of the application referred to in subsection (2), the Minister shall forward the application and the accompanying documents to the Mining Cadastre Department for review and verification that the application meets the requirements of this Act and any other written law and that the applicant has secured the surface rights of the mining area applied for.

(4) The Mining Cadastre Department shall, after reviewing the application under subsection (3), make recommendations to the Minister whether to grant or reject an application.

(5) The Minister may, upon receipt of the recommendations of the Mining Cadastre Department under subsection (4)—

- (a) grant the large scale mining licence applied for on such terms and conditions as may be prescribed by regulations; or

(b) refuse to grant the large scale mining licence.

(6) Where the Minister refuses to grant the large scale mining licence, he or she shall inform the applicant in writing, stating the reasons for refusal.

61. Restriction on grant of large scale mining licence

(1) Subject to section 70(4), a large scale mining licence shall not be granted over an area of land in, or which is, a mining area, an exploration area or a retention licence area unless the applicant is the holder of an exploration licence, a retention licence, an artisanal mining licence, a small scale mining licence or medium scale mining licence as the case may be, in respect of that area.

(2) A large scale mining licence shall not be granted to an applicant unless the applicant satisfies the Minister that

- (a) the area of land over which the licence is sought is not in excess of the area reasonably required to carry out the applicant's programme of proposed mining operations;
- (b) the programme of proposed mining operations takes proper account of the certificate of approval of environmental and social impact assessment issued by the National Environment Management Authority and health and safety factors;
- (c) the feasibility study of the relevant mineral body indicates that the mineral deposit in question can be profitably mined;
- (d) the applicant has adequate financial resources, technical competence and experience to carry on effective mining operations;
- (e) the applicant's proposals for the employment and training of citizens of Uganda are adequate;
- (f) the applicant's proposals with respect to the procurement of goods and services obtainable within Uganda are adequate;
- (g) the applicant demonstrates a willingness and an ability to comply with the terms and conditions applicable to the large scale mining licence;
- (h) the applicant has secured the surface rights of the land which is the subject of application; and
- (i) the applicant is not in default.

(3) The Minister may, in granting a large scale mining licence, include a condition that the Minister may withdraw or cause to be relinquished portions

of the licence area covering land that has been earmarked by Government for a public infrastructure project, at no cost to Government.

62. Disposal and notice of decision on large scale mining licence applications

(1) The Minister shall, within sixty days after receipt of an application under section 59, notify the applicant of the decision on the application.

(2) Where the application is approved, the applicant shall be notified of the details of the proposed large scale mining licence, including the terms and conditions of the licence and the applicant shall within thirty days inform the Minister in writing of the acceptance or rejection of the details and terms and conditions of the licence.

(3) Where the applicant fails to give notice of the acceptance of the proposed licence and any terms and conditions on which the large scale mining licence is granted or rejects the details and terms and conditions of the licence, the application shall be taken to have lapsed.

(4) The grant of a large scale mining licence shall be published in the *Gazette* and in a newspaper of wide circulation or any other electronic or print media.

63. Contents of large scale mining licence

A large scale mining licence shall specify—

- (a) the date of the grant of the large scale mining licence and the period for which it is granted;
- (b) the mineral for which it is granted;
- (c) a description, plan and maps of the area of land over which it is granted;
- (d) the conditions on which it is granted;
- (e) particulars of the applicant's proposals for the employment and training of citizens of Uganda;
- (f) particulars of the applicant's proposals with respect to the procurement of goods and services obtainable within Uganda, which shall form part of the licence;

- (g) conditions or restrictions relating to any land rights or surface rights of the registered owner, customary owner, lawful occupant or *bona fide* occupant of the land;
- (h) conditions with respect to value addition, disposal or sale of the mineral to be mined; and
- (i) any other related information as may be prescribed by regulations.

64. Area of large scale mining licence

(1) The surface area covered by a large scale mining licence shall be demarcated by the shape of the mineral body but shall not exceed fifty square kilometers.

(2) The area referred to under subsection (1) shall be located entirely within the area for the exploration licence or retention licence or licences which belong to the same holder, from which it derives.

65. Duration of large scale mining licence

The period for which a large scale mining licence is granted shall be specified in the licence and shall not exceed twenty one years or the estimated life of the mineral body proposed to be mined, whichever is shorter.

66. Renewal of large scale mining licence

(1) The holder of a large scale mining licence may apply to the Minister for the renewal of the licence in respect of all or part of the mining area, fifteen months before the expiry of the licence.

- (2) An application under subsection (1) shall—
 - (a) state the period, not exceeding fifteen years or the life of the mineral ore body whichever is shorter, for which renewal is sought;
 - (b) be accompanied by a statement giving particulars of mining operations proposed to be carried out in the renewed period;
 - (c) demonstrate that the applicant has complied with the environmental performance requirements contained in the certificate of approval of environmental and social impact assessment and the compliance audit required under the National Environment Act;

- (d) state any likely effects on the environment and proposed measures to be taken to mitigate such effects in accordance with the National Environment Act;
- (e) be accompanied by a statement giving details of—
 - (i) the latest proved probable and possible mineral reserves in accordance with international classification and reporting of mineral resources and reserves;
 - (ii) the capital investments to be made and the production costs and revenue forecasts in respect of the renewed period;
 - (iii) any expected changes in the method of mining, processing, marketing and disposal of mineral products;
 - (iv) such information as the Minister may require; and
- (f) where renewal of the licence is sought in respect of part of the large scale mining licence area, be accompanied by a plan and maps and description identifying that part of the mining area.

(3) Subject to subsection (4), where an application is duly made under this section for the renewal of a large scale mining licence, the Minister shall renew such large scale mining licence for a period not exceeding fifteen years at a time until the life of the mineral body, subject to such conditions as the Minister may determine.

- (4) The Minister shall not renew a large scale mining licence, where—
 - (a) the applicant is in default;
 - (b) the development of the mining area has not proceeded in accordance with the approved mine development plan;
 - (c) the programme of mining operations proposed to be carried out does not meet the parameters prescribed by regulations;
 - (d) the Minister has given the applicant notice of his or her intention to refuse to renew the large scale mining licence—
 - (i) giving in the notice, particulars of the ground for the intended refusal;
 - (ii) stating a date, which shall be at least ninety days before which the applicant may take appropriate action or make representations with respect to the ground for the intended refusal; and
 - (iii) the applicant has not, before that date referred to in subparagraph (ii) made appropriate amendments to the application or made representations, which are satisfactory to remove the ground for the intended refusal.

67. Amendment of programme of operations of large scale mining licence

(1) A holder of a large scale mining licence shall not amend a programme of development and mining operations without the approval of the Minister.

(2) Notwithstanding subsection (1) and the conditions of the large scale mining licence, the holder of a large scale mining licence may, notify the Minister of amendments the holder of large scale mining licence wishes to make to the programme of development and mining operations; and such amendments shall, unless the Minister rejects them within three months after being so notified, have effect after such period.

68. Rights of holder of large scale mining licence

Subject to the provisions of this Act, any other written law, and any condition of a large scale mining licence, the holder of a large scale mining licence shall have the exclusive right to carry on exploration and mining operations in the mining area to which the large scale mining licence relates and may—

- (a) take all reasonable measures on and under the surface of the mining area to mine and process the minerals to which the large scale mining licence relates;
- (b) erect the necessary equipment, plant, machinery and buildings for the purpose of mining, dressing, treating, smelting and refining the minerals or storage of mineral products recovered by the holder of the large scale mining licence during mining operations in accordance with the approved mine development plan;
- (c) dispose of any mineral products recovered in accordance with this Act and regulations made under this Act; and
- (d) dispose of any mineral or waste product in accordance with the National Environment Act and mining industry best practice.

69. Obligations of holder of large scale mining licence

(1) Subject to this Act and any other written law, the holder of a large scale mining licence shall—

- (a) develop and mine the mineral deposits covered by the large scale mining licence in accordance with the approved programme of

- development and mining operations and the terms and conditions of the licence;
- (b) commence production on or before the date specified in the approved programme of development and mining operations as the proposed date of such production;
 - (c) demarcate and keep demarcated the mining area in a manner prescribed by regulations;
 - (d) keep and maintain in Uganda an address which shall be registered with the Mining Cadastre, and to which all communications and notices shall be addressed;
 - (e) compensate for any surface rights for the area subject to a mineral right;
 - (f) pay the surface area fees for the whole area covered by the large scale mining licence in a sequence of three years for the duration of the large scale mining licence in accordance with this Act prior to grant of the licence;
 - (g) submit and comply with the requirements of a certificate of approval of environmental and social impact assessment issued under the National Environment Act;
 - (h) obtain a financial guarantee in accordance with the National Environment Act;
 - (i) engage with the community including entering into community agreements in accordance with this Act specifying the terms and conditions for use and access to land;
 - (j) carry out rehabilitation work on all or part of the large scale mining licence area, in accordance with the decommissioning plan approved by the National Environment Management Authority; and
 - (k) have a land use agreement with the registered owner, customary owner, lawful occupant or *bona fide* occupant.
- (2) The holder of a large scale mining licence shall—
- (a) maintain at the address referred to in subsection (1)(d), and submit monthly to the Minister complete and accurate records of operations relating to the licence including—
 - (i) copies of all maps and geological reports, including interpretations, sample analyses, aerial photographs, core minerals, logs and tests and all other data obtained and compiled by the holder of the large scale mining licence;

- (ii) systematic financial statements and such other books of accounts as the Minister may require, and where the holder is engaged in any activity not connected with the operations under the large scale mining licence, the holder shall maintain separate books of accounts of the operations under the large scale mining licence; and
 - (iii) such other reports and information as the Minister may require;
- (b) permit an authorised officer at any time to inspect the books and records maintained under paragraph (a); and shall deliver to the Minister, without charge, copies of any part of such books and records, upon request; and
 - (c) within ninety days after the end of each financial year, furnish the Minister with a copy of the audited annual financial report, showing the profit or loss for the financial year and the state of financial affairs of the holder of the large scale mining licence for the year in question.

70. Minerals not under mineral right

- (1) Where in the course of exercising mineral rights under the licence, the holder of a large scale mining licence, small scale mining licence or artisanal mining licence discovers any other mineral to which the mineral right does not relate, the concerned holder shall—
 - (a) immediately, but in any case not later than fourteen days after the discovery, notify the Minister in writing giving particulars of the deposits or the mineral discovered, and the site and circumstances of the discovery;
 - (b) secure the area where the mineral was discovered, and shall not allow third parties to access the area without the permission of the Minister;
 - (c) mark the area in the manner prescribed by regulations to identify the site; and
 - (d) immediately stop the exploitation of the mineral not covered by the licence granted and apply to have the new mineral added to the existing mining licence.
- (2) The holder of a mineral right who discovers a mineral under subsection (1), may apply to the Minister to have the mining of such mineral

included in the mineral right of that holder, giving in the application a proposed programme of mining operations in respect of the discovery.

(3) Where the Minister is satisfied with a proposed programme of mining operations submitted under subsection (2), the Minister may approve such programme on such terms and conditions as the Minister considers necessary and may amend the mining licence accordingly.

(4) Where the holder of a mining licence does not wish to develop a newly discovered mineral or minerals, the holder shall notify the Minister and the minerals shall be stockpiled in an environmentally sound manner until it is disposed of by Government in a manner prescribed by regulations.

Medium Scale Mining Licence

71. Threshold for Medium Scale mining licence

The threshold for medium scale mining licence is prescribed in Schedule 2 to this Act.

72. Eligibility for medium scale mining licence

(1) A person who intends to carry out medium scale mining operations shall apply for a medium scale mining licence in a manner prescribed by regulations.

(2) A medium scale mining licence shall be granted to—
(a) a joint venture or partnership registered in accordance with the Partnerships Act comprising of Ugandan citizens and foreigners; or
(b) a company registered and incorporated under the Companies Act.

73. Persons ineligible for medium scale mining licences

(1) A medium scale mining licence shall not be granted to an individual, cooperative or association.

(2) A medium scale mining licence shall not be granted to a body corporate which is not registered and incorporated under the Companies Act, or any other written law—

- (a) which is in liquidation other than a liquidation which forms part of a scheme for the administration or re-organisation of such body corporate;
- (b) in respect of which an order has been made by a court of competent jurisdiction for its winding up or dissolution;
- (c) which has made a composition or arrangement with its creditors; or
- (d) which has any shareholder who is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any written law, or enters into any arrangement or scheme of composition with creditors; or has been convicted of an offence involving fraud or dishonesty.

74. Application for medium scale mining licence

(1) A person who wishes to carry on medium scale mining operations shall apply to the Minister for a medium scale mining licence.

(2) An application for a medium scale mining licence under subsection (1), shall be made to the Minister in a manner prescribed by regulations and shall be accompanied by the prescribed fee.

- (3) An application for a medium scale mining licence shall—
- (a) state the full name of the applicant and, in the case of a partnership, the full name and nationality of each person; and in the case of a body corporate, the registered name of the body corporate and particulars of its shareholders, if any;
 - (b) identify the mineral in respect of which the licence is sought;
 - (c) indicate the area in respect of which the licence is sought;
 - (d) be accompanied, in case of a body corporate, where applicable, by a certified certificate of incorporation, memorandum and articles of association and a board resolution;
 - (e) be accompanied by a statement of particulars of the nature of the mining operations proposed to be carried out, the capital and experience available to the applicant to conduct mining operations of the mineral efficiently and effectively;
 - (f) be accompanied by a plan of the area over which the licence is sought, drawn in a manner prescribed by regulations;
 - (g) be accompanied by documentary evidence that consent to use the land for mining purposes has been given to the applicant by the lawful occupants or owners of the land for mining purposes;

- (h) state the period applied for;
 - (i) give or be accompanied by a statement giving particulars of the programme of proposed mining operations, including a statement of—
 - (i) the likely effects of the proposed mining operations on the environment and on the local population and proposals for mitigation and compensation measures;
 - (ii) any particular health or other risks involved in the proposed mining operations, particularly radioactive minerals, and proposals for their mitigation or elimination;
 - (iii) proposed programme for value addition, where applicable;
 - (iv) the proposed marketing arrangements for the sale of minerals produced; and
 - (v) any other matter as may be prescribed by regulations.
- (4) The applicant shall show written proof of obtaining surface rights from the registered owner, customary owner, lawful occupant or *bona fide* occupant of the area the applicant intends to mine.
- ## 75. **Grant of medium scale mining licence**
- (1) Upon receipt of an application for a medium scale mining licence under section 74, the Mining Cadastre Department shall review and make recommendations for grant or rejection of the application to the Minister.
 - (2) The Minister may, upon receipt of the recommendations of the Mining Cadastre Department under subsection (1)—
 - (a) grant the medium scale mining licence applied for on such terms and conditions as the Minister may determine; or
 - (b) refuse to grant the medium scale mining licence.
 - (3) Where the Minister refuses to grant the medium scale mining licence, he or she shall inform the applicant, in writing, stating reasons for the refusal.
 - (4) The Minister shall, before refusing to grant a medium scale mining licence to an applicant—
 - (a) give to the applicant notice of the grounds of his or her intended refusal;

- (b) in such notice, require the applicant to correct or remedy within the time specified in the notice any defect or omission which forms the basis of the grounds for the intended refusal; and
- (c) shall only refuse to grant the licence where the applicant fails to correct or remedy such defect or omission within the time referred to under paragraph (b).

76. Restrictions on grant of medium scale mining licence

(1) A medium scale mining licence shall not be granted over an area of land in or which is, an exploration area, a retention area or a mining area unless the applicant is the holder of an exploration licence, a retention licence, an artisanal mining licence, a small scale mining licence or large scale mining licence, as the case may be, in respect of that area.

(2) Where an area of land is subject to a medium scale mining licence, no other medium scale mining licence shall be granted in respect of that area.

(3) A medium scale mining licence shall not be granted to an applicant unless the Minister is satisfied that

- (a) the applicant has adequate financial resources, technical competence and experience to carry out effective mining operations;
- (b) the programme of proposed medium scale mining operations is adequate for the duration of the licence;
- (c) the applicant's proposal for medium scale mining operations has provided for the employment and training of Ugandan citizens and purchase of goods and services available in Uganda;
- (d) the applicant is able and willing to comply with the terms and conditions of the medium scale mining licence;
- (e) the minerals to which the proposed medium scale mining licence relate exist in the proposed exploration area; and
- (f) the applicant is not in default.

(4) The Minister may, in granting or renewing a medium scale mining licence, include a condition that the Minister may withdraw or cause to be relinquished portions of the licence area covering land that has been earmarked by Government for a public infrastructure project, at no cost to Government.

77. Size of area covered by medium scale mining licence

(1) The surface area covered by a medium scale mining licence shall be demarcated by the shape of the ore body not exceeding fifty square kilometers.

(2) The area referred to under subsection (1) must be located entirely within the area for the exploration licence or retention licence or licences which belong to the same holder, from which it derives.

78. Duration, renewal and revocation of medium scale mining licence

(1) Subject to subsection (2), a medium scale mining licence shall be valid for a period not exceeding ten years, renewable on application made to the Minister for such further periods not exceeding seven years at a time, subject to this Act.

(2) The Minister shall not renew a medium scale mining licence under subsection (1) where—

- (a) the applicant has not carried on mining operations in line with the conditions of grant of a medium scale mining licence;
- (b) the operations in a medium scale mining licence area have exceeded the threshold allowable for such operations;
- (c) the applicant has not carried out effective rehabilitation and reclamation of the applicant's mined out areas or has not paid the prescribed fee;
- (d) the applicant has not reported diligently on its mining operations; or
- (e) the applicant is in default.

79. Cancellation of medium scale mining licence

The Minister may revoke a medium scale mining licence where—

- (a) within a period of one year from the date the licence was granted or renewed, no mining operations have commenced under the licence; or
- (b) the medium scale mining licence is not being worked in accordance with the mine development plan and the conditions of the licence.

80. Rights and duties of holder of medium scale mining licence

- (1) The holder of a medium scale mining licence has—
 - (a) the right to enter the mining area to which the medium scale mining licence relates, subject to this Act and the conditions of the licence;
 - (b) the exclusive right to explore and mine in that area; and
 - (c) the right to remove and dispose of the mineral in respect of which the licence was issued.

- (2) The holder of a medium scale mining licence shall—
 - (a) carry on exploration and mining operations in good faith, in the licensed area;
 - (b) furnish the Minister with such information relating to the operations under the licence as the Minister may reasonably require;
 - (c) carry out promptly any directives relating to the exploration or mining operations which may be given by the Minister or an authorised officer for the purpose of ensuring safety or good mining practices;
 - (d) before ceasing any exploration or mining operations, notify the Minister in writing of the intention of the holder of a medium scale mining licence to begin or cease any such exploration or mining operations;
 - (e) carry out environmental and social assessment, rehabilitation, reclamation and restoration of mined out areas in accordance with the mines closure plan submitted under this Act and the National Environment Act;
 - (f) submit to the Minister monthly returns of the operations of the holder of a medium scale mining licence in a manner prescribed by regulations;
 - (g) employ a mines manager approved by the Minister for the purpose of supervising its exploration or mining operations;
 - (h) sell the minerals obtained in the medium scale mining licence area in a manner prescribed by regulations;
 - (i) keep accurate records of winnings from the medium scale mining licence area and the records shall be produced for inspection, upon demand by an authorised officer; and
 - (j) submit reports prescribed by regulations.

81. Operations of medium scale miners

(1) A holder of a medium scale mining licence shall explore for, mine and produce minerals in an effective and efficient manner.

(2) A holder of a medium scale mining licence shall carry out their work in compliance with the National Environment Act, the Occupational Safety and Health Act and any other applicable written law.

(3) The Minister may by regulations prescribe measures for the protection, health and safety of medium scale mining operations.

82. Sale of minerals

A holder of a medium scale mining licence shall sell minerals won in a manner prescribed by regulations.

*Small Scale Mining Licence***83. Threshold for small scale mining licence**

The threshold for small scale mining licence is prescribed in Schedule 2 to this Act.

84. Eligibility for small scale mining licence

(1) A person who wishes to carry out small scale mining operations shall apply for a small scale mining licence in a manner prescribed by regulations.

- (2) A small scale mining licence shall be granted to—
- (a) an individual who is a citizen of Uganda;
 - (b) a cooperative society or associations registered under the laws of Uganda comprising Ugandan citizens exclusively;
 - (c) a partnership registered in accordance with the Partnership Act comprising of Ugandan citizens holding one hundred percent of the shares; or
 - (d) a company registered and incorporated under the Companies Act and having one hundred percent of its shares held by Ugandan citizens.

(3) A small scale mining licence shall not be granted to a cooperative society which is not registered in accordance with the Cooperative Societies Act.

(4) A small scale mining licence shall not be granted to a body corporate—

- (a) which is not registered and incorporated under the Companies Act or any other applicable written law;
- (b) which is in liquidation other than a liquidation which forms part of a scheme for the administration or re-organisation of such body corporate;
- (c) in respect of which an order has been made by a court of competent jurisdiction for its winding up or dissolution;
- (d) which has made a composition or arrangement with the creditors; or
- (e) which has among its shareholders, any shareholder who holds at least a ten percent share of the company or a director who would be disqualified in terms of subsection (4)(a) or (d).

85. Application for small scale mining licence

(1) A person who wishes to carry on small scale mining operations shall apply to the Minister for a small scale mining licence.

(2) An application for a small scale mining licence under subsection (1), shall be made to the Minister in a manner prescribed by regulations and be accompanied by the prescribed fee.

- (3) An application for a small scale mining licence shall—
 - (a) state the full name of the applicant and, in the case of a partnership or other association of persons, the full names and nationalities of all such persons; and in the case of a body corporate, the registered name of the body corporate and particulars of the shareholders;
 - (b) identify the mineral in respect of which the licence is sought;
 - (c) indicate the area in respect of which the licence is sought;
 - (d) be accompanied, in case of a body corporate, by a certified copy of certificate of incorporation, memorandum and articles of association and a board resolution;
 - (e) be accompanied by a statement of particulars of the nature of the mining operations proposed to be carried out, the capital and

experience available to the applicant to conduct prospecting and mining operations of the mineral efficiently and effectively;

- (f) be accompanied by a plan of the area over which the licence is sought, drawn in a manner prescribed by regulations;
- (g) be accompanied by documentary evidence that consent to use the land for mining purposes has been given to the applicant by the registered owner, customary owner, lawful occupant or *bona fide* occupant of the land for mining purposes;
- (h) be accompanied by a certificate of approval of environmental and social impact assessment;
- (i) state the period applied for; and
- (j) give or be accompanied by a statement giving particulars of the programme of proposed mining operations, including a statement of—
 - (i) the likely effects of the proposed mining operations on the environment and on the local population and proposals for mitigation and compensation measures;
 - (ii) any particular health or other risks involved in the proposed mining operations, particularly radioactive minerals, and proposals for their mitigation or elimination;
 - (iii) proposed programme for value addition, where applicable;
 - (iv) the proposed marketing arrangements for the sale of the mineral production; and
 - (v) any other matter as may be prescribed by regulations.

(4) The applicant shall show written proof of obtaining surface rights from the registered owner, customary owner, lawful occupant or *bona fide* occupant of the area the applicant intends to mine.

86. Grant of small scale mining licence

(1) Upon receipt of an application for a small scale mining licence under section 85, the Mining Cadastre Department shall review and make recommendations to the Minister for grant or rejection of the application.

(2) The Mining Cadastre Department shall, after reviewing the application under subsection (1), make recommendations to the Minister on whether to grant or reject the application.

(3) The Minister may, upon receipt of the recommendations of the Mining Cadastre Department under subsection (2)—

- (a) grant the small scale mining licence applied for on such terms and conditions as the Minister may determine; or
- (b) refuse to grant the small scale mining licence.

(4) Where the Minister refuses to grant the small scale mining licence, he or she shall inform the applicant, stating reasons for the refusal.

(5) The Minister shall, before refusing to grant a small scale mining licence to an applicant—

- (a) give to the applicant notice of the grounds of his or her intended refusal;
- (b) in such notice, require the applicant to correct or remedy within a reasonable time, any defect or omission which forms the basis of the grounds for the intended refusal; and
- (c) shall only refuse to grant the licence where the applicant fails to correct or remedy such defect or omission within such reasonable time.

(6) The Minister may, in granting or renewing a small scale mining licence under the Act, include a condition that the Minister may withdraw or cause to be relinquished portions of the licence area covering land that has been earmarked by Government for a public infrastructure project, at no cost to Government.

87. Restrictions on grant of small scale mining licence

(1) A small scale mining licence shall not be granted over an area of land in or which is, an exploration area, a retention area or a mining area unless the applicant is the holder of an exploration licence, a retention licence, an artisanal mining licence, a medium scale mining licence or large scale mining licence, as the case may be, in respect of that area.

(2) Where an area of land is subject to a small scale mining licence, no other small scale mining licence shall be granted in respect of that area.

(3) A small scale mining licence shall not be granted to an applicant unless the Minister is satisfied that—

- (a) the applicant has adequate financial resources, technical competence and experience to carry out effective mining operations;
- (b) the programme of proposed small scale mining operations is adequate for the period of the licence;
- (c) the applicant's proposal for small scale mining operations has provided for the employment and training of Ugandan citizens and purchase of goods and services available in Uganda;
- (d) the applicant is able and willing to comply with the terms and conditions of the small scale mining licence;
- (e) the minerals to which the proposed small scale mining licence relate exist in the proposed exploration area; and
- (f) the applicant is not in default.

88. Size of area covered by small scale mining licence

The area covered by a small scale mining licence shall not exceed such area as shall be prescribed by regulations, and shall be demarcated by the applicant in a manner prescribed by regulations.

89. Duration, renewal and revocation of small scale mining licence

- (1) Subject to subsection (2), a small scale mining licence shall be valid for a period not exceeding five years, renewable on application made to the Minister for such further periods not exceeding three years at a time, subject to this Act.
- (2) The Minister shall not renew a small scale mining licence under subsection (1) where—
 - (a) the applicant has not carried on mining operations in line with the conditions of grant of a small scale mining licence;
 - (b) the operations in a small scale mining licence area have exceeded the threshold allowable for such operations;
 - (c) the mineral falls in the category of minerals excluded for small scale operations;
 - (d) the applicant has not carried out effective rehabilitation and reclamation of the applicant's mined out areas or has not paid the prescribed fee;
 - (e) the applicant has not reported diligently on its mining operations; or
 - (f) the applicant is in default.

90. Cancellation of small scale mining licence

The Minister may revoke a small scale mining licence where—

- (a) the holder of the small scale mining licence has entered into an arrangement with a person who is not a citizen of Uganda, the effect of which is to transfer to that person the benefit of such licence;
- (b) within a period of six months from the date the licence was granted or renewed no mining operations have commenced under the licence; or
- (c) the small scale mining licence is not being worked in accordance with the mine development plan and the conditions of grant of the licence.

91. Rights and duties of holder of small scale mining licence

- (1) The holder of a small scale mining licence has—
 - (a) the right to enter the mining area to which the small scale mining licence relates, subject to this Act and the conditions of the licence;
 - (b) the exclusive right to prospect for and mine in that area; and
 - (c) the right to remove and dispose of the mineral in respect of which the licence was issued.
- (2) The holder of a small scale mining licence shall—
 - (a) carry on exploration and mining operations in the licence area in good faith;
 - (b) furnish the Minister with such information relating to the operations under the licence as the Minister may reasonably require;
 - (c) carry out promptly any directives relating to the exploration or mining operations which may be given by the Minister or an authorised officer for the purpose of ensuring safety or best mining practices;
 - (d) before beginning or ceasing any exploration or mining operations, notify in writing, the appropriate local authority and an authorised officer of the intention of the holder of a small scale mining licence to begin or cease any such exploration or mining operations;
 - (e) carry out environmental and social assessment, rehabilitation, reclamation and restoration of mined out areas in accordance with the mines closure plan submitted under this Act and the National Environment Act;

- (f) submit to the Minister monthly returns of the operations of the holder of a small scale mining licence in a manner prescribed by regulations;
- (g) where not personally supervising the exploration or mining operations under the licence, employ a mines manager approved by the Minister for the purpose of supervising its exploration or mining operations;
- (h) sell the minerals obtained in the small scale mining licence area in a manner prescribed by regulations;
- (i) keep accurate records of winnings from the small scale mining licence area and the records shall be produced for inspection upon demand by an authorised officer; and
- (j) submit reports prescribed by regulations.

(3) The relevant local government shall ensure that the small scale miner concerned abides by the measures for health, safety and environmental protection prescribed by regulations.

92. Operations of small scale miners

(1) A holder of a small scale mining licence shall explore for, mine and produce minerals in an effective and efficient manner.

(2) A holder of a small scale mining licence shall carry out their work in compliance with the National Environment Act, the Occupational Safety and Health Act and any other applicable written law.

(3) The Minister may, by regulations, prescribe measures for the protection, health and safety of small scale mining operations.

93. Sale of minerals

The holder of a small scale mining licence shall sell minerals produced in the manner prescribed by regulations.

*Artisanal Mining Licence***94. Establishment of areas for artisanal mining**

(1) The Minister may, in consultation with the Directorate and the relevant local government establish an artisanal mining area, within the limits of a set geographic area where, due to the features of certain deposits of gold, diamonds or any other mineral substance, technical and economic factors do not allow for large scale, medium scale or small scale mining operations, but do allow for artisanal operations.

(2) A mining area with a valid mineral right shall not be established as an artisanal mining area and shall be expressly excluded from artisanal mining areas established in accordance with subsection (1).

(3) For the avoidance of doubt, in locations where associations or entities of artisanal miners have been formed and are operational, artisanal mining by individuals who are not registered or are not members of an association or entity is illegal and prohibited.

(4) The Minister may by regulations, prescribe procedures and conditions for establishment, gazetting and de-gazetting of areas for artisanal mining under this section.

95. Eligibility for artisanal mining licence

(1) The following are eligible to apply for an artisanal mining licence under this Act—

- (a) an individual who is a citizen of Uganda;
- (b) a cooperative society, trustee or association registered or incorporated under the laws of Uganda comprising of Ugandan citizens exclusively and whose membership shall include women and marginalised groups, where applicable;
- (c) a joint venture or partnership registered in accordance with the Partnerships Act comprising of Ugandan citizens exclusively;
- (d) a business registered under the Business Names Registration Act and exclusively owned by Ugandan citizens; or
- (e) a company registered or incorporated under the Companies Act and having one hundred percent of its shares held by Ugandan citizens.

(2) An artisanal mining licence shall not be granted to a cooperative society which is not registered in accordance with the laws of Uganda.

(3) An artisanal mining licence shall not be granted to a body corporate—

- (a) which is not registered or incorporated under the Companies Act;
- (b) which is in liquidation other than a liquidation which forms part of a scheme for the administration or re-organisation of such body corporate, where applicable;
- (c) in respect of which an order has been made by a court of competent jurisdiction for its winding up or dissolution; or
- (d) which has made a composition or arrangement with its creditors under insolvency proceedings.

96. Application for artisanal mining licence

(1) A person who intends to carry on artisanal mining operations shall apply to the Minister for an artisanal mining licence in a manner prescribed by regulations and pay the prescribed fees.

(2) An application for an artisanal mining licence shall—

- (a) state the full name of the applicant and, in the case of a partnership or other association of persons, the full names and nationalities of all such persons; and in the case of a body corporate, the registered name of the body corporate and particulars of its shareholders, if any;
- (b) be accompanied, in case of a body corporate, with a certified copy of a certificate of registration or incorporation, memorandum and articles of association and board resolution, as applicable;
- (c) identify the mineral and provide proof of occurrence of the mineral in respect of which the mining licence is sought;
- (d) indicate the area in respect of which the mining licence is sought;
- (e) be accompanied by a statement of particulars of the nature of the mining operations proposed to be carried out, the capital and technical experience available to the applicant to conduct exploration and mining operations of the mineral efficiently and effectively;
- (f) be accompanied by a plan of the area over which the licence is sought, drawn in a manner prescribed by regulations;

- (g) be accompanied by documentary evidence that consent to use the land for mining purposes has been given to the applicant by the registered owner, customary owner, lawful occupant or *bona fide* occupant of the land for mining purposes;
- (h) be accompanied by a certificate of approval of environmental and social impact assessment;
- (i) state the period applied for;
- (j) give or be accompanied by a statement of particulars of the programme of proposed mining operations, including a statement of—
 - (i) the likely effects of the proposed mining operations on the environment and on the local population and proposals for mitigation and compensation measures;
 - (ii) any particular health and other risks that are likely to be involved in the mining operations, particularly radioactive minerals, and proposals for their control or
 - (iii) elimination; the proposed production schedule and marketing arrangements for the sale of the mineral
 - (iv) produced; and set out any other matter which the applicant wishes the Minister to consider.

97. Grant of artisanal mining licence

(1) The Minister shall, upon receipt of an application for an artisanal mining licence under section 96, forward the application and the accompanying documents to the Mining Cadastre Department for review and verification to ensure that the application meets the requirements of this Act and any other written law and that the applicant has secured the surface rights or documentary evidence of consent of the mining area applied for.

(2) The Mining Cadastre Department shall, after reviewing the application under subsection (1), make recommendations to the Minister on whether to grant or reject the application.

(3) The Minister may, upon receipt of the recommendations of the Mining Cadastre Department under subsection (2)—

- (a) grant the artisanal mining licence applied for on such terms and conditions as the Minister may determine; or
- (b) refuse to grant the artisanal mining licence.

(4) Where the Minister refuses to grant the artisanal mining licence under subsection (3)(b), he or she shall inform the applicant, in writing, giving reasons for the refusal.

(5) The Minister may, in granting an artisanal mining licence under this Act, include a condition that the Minister may withdraw or cause to be relinquished, portions of the licence area covering land that has been earmarked by Government for a public infrastructure project, at no cost to Government.

98. Size of area covered by artisanal mining licence

The area covered by an artisanal mining licence shall not exceed such area as prescribed by regulations, and shall be demarcated by the applicant in the prescribed manner or as an authorised officer may, in the circumstances, consider appropriate.

99. Duration and renewal of artisanal mining licence

(1) An artisanal mining licence shall be valid for a period not exceeding three years, renewable on application made to the Minister for periods not exceeding two years at a time, subject to this Act.

(2) The Minister shall not renew an artisanal mining licence under subsection (1), where—

- (a) the applicant has not carried on exploration and mining operations in accordance with this Act, any other written law and conditions of the licence;
- (b) the artisanal mining licence area has ceased to be an area declared for artisanal mining operations;
- (c) in respect of any mineral which has ceased to be a mineral prescribed for artisanal mining operations;
- (d) the applicant has not carried out effective rehabilitation and reclamation of the mined out areas in accordance with the National Environment Act and the decommissioning plan approved under this Act;
- (e) the applicant has not reported diligently on the mining operations; or
- (f) the applicant is in default.

100. Cancellation of artisanal mining licence

The Minister may revoke an artisanal mining licence where—

- (a) the licence holder has not carried on mining operations in accordance with the terms and conditions of the licence;
- (b) within a period of one year from the date the licence was granted or renewed, no mining operations have commenced under the licence; or
- (c) the artisanal mining activities are not being undertaken in compliance with this Act, the National Environment Act and the conditions of the licence.

101. Rights and duties of holder of artisanal mining licence

(1) Subject to this Act, any other written law and any condition of an artisanal mining licence, the holder of an artisanal mining licence shall have the exclusive right to carry on exploration and mining operations in the area that is subject of the licence.

(2) The holder of an artisanal mining licence may, in the exercise of the right conferred under subsection (1), enter the licensed area, remove minerals from the area and dispose of the mineral in respect of which the licence was issued.

- (3) The holder of an artisanal mining licence shall—
 - (a) carry on prospecting, exploration and mining operations in the licence area in good faith in accordance with this Act, regulations made under this Act and conditions of the licence;
 - (b) before beginning any mining operations, subject to the provisions of any law relating to the acquisition of land, obtain a land lease or other rights to use the land subject of the artisanal mining licence;
 - (c) furnish the Minister with such information relating to the operations under the licence as the Minister may reasonably require;
 - (d) carry out promptly any directives relating to prospecting, exploration or mining operations which may be given by the Minister or an authorised officer for the purpose of ensuring safety or good mining practices;
 - (e) before beginning or ceasing any prospecting, exploration or mining operations, notify the appropriate local authority and an authorised

- officer of the intention to begin or cease any such prospecting or mining operations;
- (f) take the necessary precaution not to cause harm to human health and the environment during exploration and mining operations;
 - (g) carry out rehabilitation, reclamation and restoration of mined out areas;
 - (h) submit to the Minister monthly returns of the operations of the holder of an artisanal mining licence in a manner prescribed by regulations;
 - (i) sell the minerals obtained in the artisanal mining licence area in a manner prescribed by regulations; and
 - (j) keep accurate records of winnings from the artisanal mining licence area and such records shall be produced for inspection on demand by authorised officers.
- (4) The relevant local government shall, in liaison with the Directorate, ensure that the artisanal miners comply with the measures for health, safety and environmental protection as may be prescribed by regulations.
- (5) The Directorate may provide extension services and training to artisanal miners as regards best mining practices, value addition, licensing requirements, geology, mineral exploration or health, safety and environment.
- (6) The Directorate shall carry out any operation which is for the purpose of collecting the required information to control artisanal mining operations.
- (7) An artisanal mining licence does not confer on the holder any particular right to obtain a subsequent mineral right.

102. Operations of holder of artisanal mining licence

- (1) A holder of an artisanal mining licence shall explore for, mine and produce minerals in an effective and efficient manner.
- (2) Every holder of an artisanal mining licence shall carry out their work in compliance with the National Environment Act, the Occupational Safety and Health Act and any other written law.

(3) The Minister may, by regulations, prescribe measures for the protection of health and safety of artisanal miners and mining operations.

103. Sale of minerals

The holder of an artisanal mining licence, shall sell minerals won to a holder of a mineral dealer's licence, subject to this Act and any other written law.

PART V—EXPLORATION, EXTRACTION AND DIRECT USE OF GEOTHERMAL RESOURCES

104. Purpose of Part

(1) The purpose of this Part is to regulate the sustainable development of geothermal resources and to ensure that the exploration and utilisation of geothermal resources for direct use guarantees optimum benefits for all Ugandans through licensing for upstream exploration up to feasibility studies, direct use and extraction of geothermal resources.

(2) For the purposes of this Part “direct use of geothermal resources” includes application in greenhouses, horticulture, aquaculture, heating buildings, drying crops, pasteurising milk, natural spas and any other industrial or commercial processes or applications as may be prescribed by regulations.

105. Application for prospecting licence for geothermal resources for direct use

The procedure for application and grant of a prospecting licence contained in sections 34, 35, 36, 37, 38 and 39 shall apply to the application and grant of a prospecting licence for geothermal resources for direct use.

106. Application for exploration licence for geothermal resources for direct use

(1) The procedure for application and grant of an exploration licence contained in sections 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50 and 51 shall apply to the application and grant of an exploration licence for geothermal resources for direct use.

(2) An exploration licence granted under section 42 for the exploration of a geothermal resource shall, in addition to the rights provided in section 48, confer upon the licensee the right—

- (a) to enter upon the land within the area of the licence and sink a well or to do all things that are reasonably necessary for the conduct of operations for the exploration of a geothermal resource;
- (b) insofar as it may be necessary for and in connection with the operations referred to in subsection (1), to—
 - (i) drill and construct wells;
 - (ii) reclaim and utilise water subject to this Act and any other written law governing water resources; and
 - (iii) construct and maintain roads and other means of communication.

107. Application for licence for extraction of geothermal resources for direct use

(1) A person who intends to extract geothermal resources for direct use shall apply to the Minister for a licence for extraction of geothermal resources for direct use in a manner prescribed by regulations.

- (2) An application for the grant of a licence for extraction of geothermal resources for direct use shall—
- (a) contain a copy of a valid exploration licence or retention licence, as applicable;
 - (b) contain proof of payment of any applicable taxes and fees due;
 - (c) contain, in respect of the company—
 - (i) the registered name and place of incorporation of the company;
 - (ii) the certificate of incorporation and a certified copy of the memorandum and articles of association;
 - (iii) a board resolution, the names and nationalities of the directors and the name of every shareholder who is the beneficial owner of five percent or more of the issued share capital;
 - (iv) where applicable, the company profile and history of mining or geothermal operations in Uganda and elsewhere and the details of any mineral rights or licences held in Uganda, by the applicant or by any person controlling, controlled by or under joint or common control with the applicant;
 - (d) state the period applied for, informed by a feasibility study;

- (e) state that the licence is sought in respect of a geothermal resource;
- (f) state the direct use of geothermal resources in respect of which the licence is sought;
- (g) be accompanied by a plan of the area over which the licence is sought, drawn in such manner as may be prescribed by regulations;
- (h) identify the name and qualifications of the person responsible for supervising the proposed programme of geothermal operations;
- (i) be accompanied by a statement giving details of the geothermal resource in the area of land over which the licence is sought, including details of all known geothermal resources proved, estimated or inferred and reserves, and geothermal conditions in accordance with recognised international geothermal standards;
- (j) be accompanied by a statement of particulars of expected infrastructure requirements;
- (k) be accompanied by an environmental and social impact assessment in accordance with the National Environment Act;
- (l) be accompanied by a feasibility study and assessment carried out by appropriate experts or accredited consultants on—
 - (i) the extent and prospect for recovery and the commercial and economic significance of the geothermal resource concerned; and
 - (ii) a detailed timetable for the work which is to be carried out;
- (2) contain the identification of interested and affected parties including the registered owner, customary owner, lawful occupant or *bona fide* occupant of the proposed geothermal area and proof of consultation with interested and affected parties and the results of the consultation;
- (3) be accompanied by a report on the goods and services required for the geothermal operations which can be obtained within Uganda and the proposals of the applicant with respect to the procurement of those goods and services;
- (4) contain a statement giving particulars of the proposals of the applicant with respect to the employment and training of citizens of Uganda and technology transfer;
- (5) be accompanied by details of the proposals of the applicant for insurance including life and health cover for its employees and workers' compensation;
- (6) be accompanied by the proposed marketing arrangements for the applicable direct use of the geothermal resource;

- (r) indicate the financial and technical resources available to the applicant to carry out the obligations under the licence;
- (s) contain a plan for co-existence with customary land owners or communities owning the land in the area subject to the licence for extraction of geothermal resources for direct use;
- (t) be accompanied by a business plan giving a detailed forecast of capital investment, operating costs and revenues; and the anticipated type and source of financing including the year for the positive cash flow, financial plan and capital structure;
- (u) contain a report on the results from the exploration, with regard to the type, quality, temperature, flow rate and geographic location of the geothermal resource identified;
- (v) contain a statement giving particulars of the proposed programme of geothermal operations, including a statement of—
 - (i) the estimated date by which the applicant intends to work for profit;
 - (ii) the estimated capacity of production and scale of operations;
 - (iii) the estimated heat in MWth (Megawatts thermal);
 - (iv) the nature of the direct use;
 - (v) proposals for the progressive rehabilitation and decommissioning of land disturbed by geothermal operations and for the mitigation of the effects of the operations on surface water and ground water and on adjoining or neighbouring lands;
 - (vi) the effects of the geothermal operations on the environment and on the local population and proposals for mitigation, compensation and resettlement;
 - (vii) any particular health or other risks involved in geothermal operations and proposals for their control or elimination;
 - (viii) restitution of land rights at the expiry or termination of a licence for extraction of geothermal resources
 - (ix) for direct use or after closure of the geothermal site; and
 - (x) contain any other information as may be prescribed by regulations.
- (w) For the avoidance of doubt, the production of electricity from geothermal resources shall be regulated under the Electricity Act.

108. Disposal of application for licence for extraction of geothermal resources for direct use

(1) An application for a licence for extraction of geothermal resources for direct use shall be advertised in the *Gazette*, newspapers of wide circulation and any other electronic media, and copies of the accompanying plan and maps shall be displayed at the relevant district, subcounty and parish headquarters and any other place as the Minister may specify.

(2) The applicant shall submit together with the application, written proof of obtaining surface rights from the registered owner, customary owner, lawful occupant or *bona fide* occupant of the area where the applicant intends to conduct geothermal extraction operations.

(3) The Minister shall, upon receipt of the application in subsection (2), forward the application and the accompanying documents to the Mining Cadastre Department for review and verification that the application meets the requirements of this Act and any other applicable written law.

(4) The Mining Cadastre Department shall, after reviewing the application under subsection (3), make recommendations to the Minister on whether to grant or reject the application.

(5) The Minister may, upon receipt of the recommendations of the Mining Cadastre Department under subsection (4)—

- (a) grant the licence for extraction of geothermal resources for direct use applied for on such terms and conditions as may be prescribed by regulations; or
- (b) refuse to grant the licence for extraction of geothermal for direct use.

(6) Where the Minister refuses to grant the licence for extraction of geothermal resources for direct use, he or she shall inform the applicant in writing, stating the reasons for refusal.

(7) A licence for extraction of geothermal resources for direct use may be granted over an area of land in or which is part of an exploration area, subject to the rights of the holder of an existing exploration licence, and subject to conditions imposed by the Minister as may be prescribed by regulations.

109. Restriction on grant of licence for extraction of geothermal resources for direct use

(1) A licence for extraction of geothermal resources for direct use shall not be granted to an applicant unless the applicant satisfies the Minister that—

- (a) the area of land over which the licence is sought is not in excess of the area reasonably required to carry out the programme of proposed geothermal operations of the applicant;
- (b) the programme of proposed geothermal operations takes proper account of the certificate of approval of environmental and social impact assessment issued by the National Environment Management Authority and health and safety factors;
- (c) the feasibility study of the relevant geothermal resource indicates that the geothermal resources can be profitably used;
- (d) the applicant has adequate financial resources, technical competence and experience to carry on effective geothermal operations;
- (e) the proposals of the applicant for the employment and training of citizens of Uganda are adequate;
- (f) the proposals of the applicant with respect to the procurement of goods and services obtainable within Uganda are adequate;
- (g) the applicant demonstrates willingness and ability to comply with the terms and conditions applicable to the licence for extraction of geothermal resources for direct use;
- (h) the applicant has secured the surface rights of the land which is the subject of the application; and
- (i) the applicant is not in default of this Act, the National Environment Act, any other applicable written law or the conditions of a licence.

(2) The Minister may, in granting a licence for extraction of geothermal resources for direct use, include a condition that the Minister may withdraw or cause to be relinquished portions of the licence area covering land that has been earmarked by Government for a public infrastructure project, at no cost to Government.

110. Disposal and notice of decision on applications for licence for extraction of geothermal resources for direct use

(1) The Minister shall, within sixty days after receipt of an application under section 107, notify the applicant of the decision on the application.

(2) Where the application is approved, the applicant shall be notified of the details of the proposed licence for extraction of geothermal resources for direct use; including the terms and conditions of the licence and the applicant shall, within thirty days inform the Minister in writing of the acceptance or rejection of the details and terms and conditions of the licence.

(3) Where the applicant fails to give notice to the Minister of the acceptance of the proposed licence and any terms and conditions on which the licence for extraction of geothermal resources for direct use is granted or rejects the details and terms and conditions of the licence within the time prescribed in subsection (2), the application shall be taken to have lapsed.

(4) The grant of a licence for extraction of geothermal resources for direct use shall be published in the *Gazette* and in a newspaper of national circulation or any other print or electronic media.

111. Contents of licence for extraction of geothermal resources for direct use

A licence for extraction of geothermal resources for direct use shall—

- (a) specify the date of the grant of the licence for extraction of geothermal resources for direct use and the period for which it is granted;
- (b) specify the geothermal resource and direct use for which it is granted;
- (c) include a description, plan and maps of the area of land over which it is granted;
- (d) specify the conditions on which it is granted;
- (e) specify particulars of the proposals of the licensee for the employment and training of citizens of Uganda;
- (f) specify particulars of the proposals of the licensee with respect to the procurement of goods and services obtainable within Uganda, which shall form part of the licence; and
- (g) specify conditions or restrictions relating to any land rights or surface rights of customary land owners or the community where the land is located.

112. Area of licence for extraction of geothermal resources for direct use

(1) The surface area covered by a licence for extraction of geothermal resources for direct use shall be demarcated by the shape of the geothermal resource but shall not exceed five square kilometers.

(2) The area referred to under subsection (1) must be located entirely within the area for the exploration licence or retention licence or licences which belong to the same holder, from which it derives.

113. Duration of licence for extraction of geothermal resources for direct use

The period for which a licence for extraction of geothermal resources for direct use is granted shall be specified in the licence and shall not exceed ten years.

114. Renewal of licence for extraction of geothermal resources for direct use

(1) The holder of a licence for extraction of geothermal resources for direct use may apply to the Minister for the renewal of the licence in respect of all or part of the geothermal area, fifteen months before the expiry of the licence.

- (2) An application under subsection (1) shall—
- (a) state the period, not exceeding seven years, for which renewal is sought;
 - (b) be accompanied by a statement giving particulars of geothermal operations proposed to be carried out in the renewed period;
 - (c) demonstrate that the applicant has complied with the environmental performance requirements contained in the certificate of approval of environment and social impact assessment and the compliance audit required under the National Environment Act;
 - (d) state any likely effects on the environment and proposed measures to be taken to mitigate such effects in accordance with the National Environment Act; and
 - (e) be accompanied by a statement giving details of
 - (i) the latest proved probable and possible geothermal reserves in accordance with international classification and reporting of geothermal resources and reserves;

- (ii) the capital investments to be made and the production costs and revenue forecasts in respect of the renewed period;
- (iii) any expected changes in the method of geothermal operations, marketing and direct use; and
- (iv) such further information as the Minister may require.

(3) Where renewal of the licence is sought in respect of only part of the area covered by the licence for extraction of geothermal resources for direct use, the application shall be accompanied by a plan and maps and description identifying that part of the geothermal area.

(4) Subject to subsection (5), where an application is duly made under this section for the renewal of a licence for extraction of geothermal resources for direct use, the Minister shall renew the licence for a period not exceeding seven years at a time, until the life of the geothermal resource, subject to such conditions as the Minister may determine.

(5) The Minister shall not renew a licence for extraction of geothermal resources for direct use, where—

- (a) the applicant is in default of this Act, the National Environment Act, any other written law or the conditions of the licence;
- (b) the development of the geothermal area has not proceeded in accordance with the approved plan for extraction of geothermal resources for direct use;
- (c) the programme of geothermal operations proposed to be carried out does not meet the parameters prescribed by regulations; or
- (d) the Minister has given the applicant notice of his or her intention to refuse to renew the licence, stating in the notice, particulars of the ground for the intended refusal and stating a date, which shall be at least ninety days before which the applicant may take appropriate action or make representations with respect to the ground for the intended refusal; and
- (e) the applicant has not, before the date in paragraph (d), made appropriate amendments to the application or made representations, which are satisfactory to remove the ground for the intended refusal.

115. Amendment of programme of operations of licence for extraction of geothermal resources for direct use

(1) A holder of a licence for extraction of geothermal resources for direct use shall not amend a programme of development and geothermal operations without the approval of the Minister.

(2) Notwithstanding subsection (1) and the conditions of the licence for extraction of geothermal for direct use, the holder of a licence for extraction of geothermal resources for direct use may, notify the Minister of amendments the holder of the licence intends to make to the programme of development and geothermal operations; and the amendments shall, unless the Minister rejects them within three months after being so notified, have effect after such period.

116. Rights of holder of licence for extraction of geothermal resources for direct use

(1) Subject to this Act, any other written law and any condition of a licence for extraction of geothermal resources for direct use, the holder of a licence for extraction of geothermal resources for direct use shall have the exclusive right to carry on exploration and geothermal operations in the licence area and may—

- (a) take all reasonable measures on and under the surface of the licence area to extract and use the geothermal resource to which the licence relates;
- (b) enter into the land within the area of the licence for extraction of geothermal resources for direct use to establish a facility and extract geothermal resources and to do all such things as are reasonably necessary for the conduct of those operations;
- (c) erect the necessary equipment, plant, machinery and buildings for the purpose of using the geothermal resource during geothermal operations in accordance with the approved geothermal development plan;
- (d) reclaim and utilise any water in accordance with this Act, and the applicable written law governing water resources;
- (e) take and use the geothermal resource for the purpose specified in the licence and in accordance with this Act and regulations made under this Act; and

- (f) store or dispose of any waste product in accordance with the National Environment Act and geothermal industry best practice.
- (2) Where a by-product obtained in the production of geothermal resources may be reclaimed for further use or sale and is a mineral, the holder of a licence for extraction of geothermal resources for direct use may exploit the mineral in accordance with this Act.

117. Obligations of holder of licence for extraction of geothermal for direct use

- (1) Subject to this Act and any other applicable written law, the holder of a licence for extraction of geothermal resources for direct use shall—
 - (a) develop and extract the geothermal resource covered by the licence for extraction of geothermal resources for direct use in accordance with the approved programme of development and geothermal operations and the terms and conditions of the licence;
 - (b) commence operations on or before the date specified in the approved programme of development and geothermal operations;
 - (c) demarcate and keep demarcated, the licence area in a manner prescribed by regulations;
 - (d) keep and maintain in Uganda, an address which shall be registered with the Mining Cadastre, and to which all communications and notices shall be addressed;
 - (e) compensate for any surface rights for the area subject to a licence for extraction of geothermal resources for direct use;
 - (f) pay the surface area fees for the whole area covered by the licence for extraction of geothermal resources for direct use in a sequence of three years for the duration of the licence in accordance with this Act, prior to grant of the licence;
 - (g) submit and comply with the requirements of a certificate of approval of environmental and social impact assessment issued under the National Environment Act;
 - (h) obtain a financial guarantee in accordance with the National Environment Act;
 - (i) engage with the community, including entering into community agreements in accordance with this Act, specifying the terms and conditions for use and access to land which may include traditional use of geothermal resources;

- (j) carry out rehabilitation work on all or part of the licence area, in accordance with the decommissioning plan approved by the National Environment Management Authority; and
- (k) have a land use agreement with the registered owner, customary owner, lawful occupant or bonafide occupant.

(2) The holder of a licence for extraction of geothermal resources for direct use shall—

- (a) maintain at the address referred to in subsection (1)(d) and submit monthly to the Minister, complete and accurate records of operations relating to the licence including—
 - (i) copies of all maps and geological reports, including interpretations, sample analyses, aerial photographs, logs and analyses and all other data obtained and compiled by the holder of the licence for extraction of geothermal resources for direct use;
 - (ii) systematic financial statements and such other books of accounts as the Minister may require, and where the holder is engaged in any activity not connected with the operations under the licence, the holder shall maintain separate books of accounts the operations under the licence; and
 - (iii) such other reports and information as the Minister may request;
- (b) permit an authorised officer at any time to inspect the books and records maintained under paragraph (a); and shall deliver to the Minister, without charge, copies of any part of such books and records, upon request; and
- (c) within ninety days after the end of each financial year, furnish the Minister with a copy of the audited annual financial report, showing the profit or loss for the financial year and the state of financial affairs of the holder of the licence for the year in question.

(3) After conducting a feasibility study, if a holder of a licence for extraction of geothermal resources for direct use seeks to produce electricity, the licensee shall comply with the applicable written law relating to electricity.

118. Minerals not under licence for extraction of geothermal resources for direct use

Where in the course of exercising rights, the holder of a licence for extraction of geothermal resources for direct use discovers any other mineral or geological resource to which the licence does not relate, the holder of a licence for extraction of geothermal resources for direct use shall—

- (a) immediately, but in any case not later than seven days after the discovery, notify the Minister in writing, giving particulars of the deposits or the mineral or geological resource discovered, and the site and circumstances of the discovery;
- (b) secure the area where the mineral or geological resource was discovered, not allowing third parties to access the area without the permission of the Minister;
- (c) mark the area in a manner prescribed by regulations to identify the site; and
- (d) immediately stop the exploitation of the mineral or geological resource not permitted by the licence granted.

119. Fees, levies, rentals and charges for extraction of geothermal resources for direct use

The Minister may, by regulations, prescribe the fees, levies, rentals and any other financial obligations in respect of the extraction and direct use of geothermal resources for industrial and commercial purposes.

PART VI—VALUE ADDITION AND BENEFICIATION OF MINERALS**120. General prohibition**

(1) A person shall not process, smelt, refine, cut, blast, polish or trade in minerals or possess commercial quantities of minerals without a licence issued by the Minister under this Part.

(2) For the purposes of this Part “commercial quantities of minerals” means quantities of minerals that are sold or are destined for sale by an individual or entity to a third party for use in processing, smelting, refining, cutting, blasting, polishing or trading.

(3) For the avoidance of doubt, quantities of minerals intended for personal or domestic use are excluded from the definition of commercial quantities of minerals under subsection (2).

121. Licence for beneficiation

(1) The Minister may licence integrated projects to process, smelt, refine, cut, blast, polish and trade minerals or a licence for a combination of two or more of these projects.

(2) Notwithstanding subsection (1), the Minister may issue an independent licence for processing, smelting, refining, cutting, blasting, polishing of minerals or trade in minerals.

(3) The Minister may, by regulations, prescribe requirements for processing, gemstone cutting, polishing and blasting facilities and trade activities.

122. Eligibility for licence under this Part

(1) A person who intends to smelt, refine, cut, blast, polish, trade or construct and operate a mineral processing facility shall apply to the Minister for a licence in a manner prescribed by regulations.

(2) The following persons are eligible to apply for a mineral beneficiation licence—

- (a) an individual—
 - (i) who is at least eighteen years of age; and
 - (ii) who is a citizen of Uganda and whose principal residence is in Uganda; or
- (b) an entity registered or incorporated under the Companies Act or any other written law.

(3) The following persons shall not be eligible for a mineral beneficiation licence—

- (a) a person who is bankrupt or subject to bankruptcy, receivership or reorganisation or liquidation proceedings;
- (b) a person who has been convicted of an offence involving fraud, money laundering or corrupt activities; or

- (c) a person holding a public office and whose position causes conflict of interest.
- (4) Notwithstanding section 120, a holder of a large scale mining licence, medium scale mining licence, small scale mining licence or an artisanal mining licence is not required to obtain a separate licence for beneficiation.

Mineral Processing Licence

123. Application for mineral processing licence

- (1) An application for a mineral processing licence shall be made to the Minister in a manner prescribed by regulations.
- (2) An application under subsection (1) shall contain information pertaining to—
 - (a) the legal status of the applicant including, where a corporate body, the memorandum and articles of association, certificate of incorporation, registered address, and relevant board resolution;
 - (b) the type of mineral to be processed;
 - (c) proof of financial capacity and technical competence of the applicant;
 - (d) proof of availability of appropriate technology;
 - (e) a plan for the processing facility;
 - (f) a certificate of approval of environmental and social impact assessment issued under the National Environment Act;
 - (g) a statement of the applicant's knowledge and experience in minerals processing;
 - (h) an environment management plan;
 - (i) a waste management plan in accordance with the National Environment Act;
 - (j) a compensation, relocation and resettlement plan, where there will be land acquisition for setting up a processing or smelting plant and displacement of persons;
 - (k) a statement of the applicant's knowledge and experience in mineral processing;
 - (l) proof of surface rights;
 - (m) tax clearance from the Uganda Revenue Authority;
 - (n) proof of payment of prescribed fees; and

- (o) such other documents and information as may be prescribed by regulations.
- (3) The Minister may, upon application and proof that the applicant is in possession of or commands sufficient working capital to conduct business satisfactorily, issue to the applicant a mineral processing licence upon payment of a prescribed fee.
- (4) The Minister may grant a mineral processing licence—
 - (a) where the applicant demonstrates technical and financial capability to develop and operate the proposed processing plant in an economically viable manner; and
 - (b) the applicant has paid the prescribed fee.
- (5) Where the Minister rejects an application under this section, he or she shall give reasons for the refusal.
- (6) A mineral processing licence shall be granted for a period not exceeding five years, renewable for three years at a time.

Mineral Smelting Licence

124. Application for mineral smelting licence

- (1) An application for a mineral smelting licence shall be made to the Minister in a manner prescribed by regulations.
- (2) An application for a mineral smelting licence shall contain—
 - (a) the legal status of the applicant including, where the applicant is a corporate body, the memorandum and articles of association, certificate of incorporation, registered address, and relevant board resolution;
 - (b) a plan and layout of the mineral smelting facility;
 - (c) proof of appropriate technology;
 - (d) proof of financial capacity and technical competence of the applicant;
 - (e) an environment management plan;
 - (f) a certificate of approval of environmental and social impact assessment issued under the National Environment Act;

- (g) a waste management plan in accordance with the National Environment Act;
- (h) a compensation, relocation and resettlement plan, where there shall be land acquisition for setting up a smelting plant and displacement of persons;
- (i) a statement of the knowledge and experience of the applicant in mineral smelting;
- (j) proof of compliance with the requirements of the National Environment Act;
- (k) proof of surface rights; tax clearance from the Uganda Revenue Authority;
- (l) proof of payment of prescribed fees; and
- (m) such other documents and information as may be prescribed by regulations.

(3) The Minister may issue a mineral smelting licence for a period not exceeding fifteen years and the holder of the licence may apply for renewal for a further period of ten years at a time.

(4) An application for renewal of a mineral smelting licence under subsection (3) shall be in a manner prescribed by regulations.

125. Rights of holder of mineral smelting licence

A holder of a mineral smelting licence has the right to—

- (a) carry on mineral smelting operations in the specified area;
- (b) acquire, dispose or possess the minerals specified in the licence and carry on business as a mineral dealer licence holder;
- (c) export minerals specified in the licence in accordance with this Act and applicable written law; and
- (d) erect the necessary equipment, plant and infrastructure for the purposes of operations and the transporting, dressing or treating of the minerals in the possession of the holder of the mineral smelting licence.

126. Obligations of holder of mineral smelting licence

A holder of a mineral smelting licence shall—

- (a) employ and train citizens of Uganda and implement succession plans for expatriate employees in accordance with this Act and any other applicable written law;
- (b) export or import minerals at purity levels prescribed by regulations;
- (c) give priority to the procurement of goods and services available in Uganda;
- (d) keep a sign board with the words “holder of mineral smelting licence” and display the licence in the place of business;
- (e) adhere to environmental and social safeguards;
- (f) keep a register in respect of each relevant mineral and mineral products refined;
- (g) submit to the Minister, for approval, a plan for the procurement of goods and services available in Uganda;
- (h) dispose any mineral or waste products in accordance with the National Environment Act;
- (i) keep a register in respect of each relevant mineral and mineral products;
- (j) submit to the Minister, reports in a manner prescribed by regulations; and
- (k) carry out any other activity as may be required by the Minister.

Mineral Refining Licence

127. Application for mineral refining licence

- (1) An application for a mineral refining licence shall be made to the Minister in a manner prescribed by regulations.
- (2) An application for a mineral refining licence shall contain—
 - (a) the legal status of the applicant including, in the case of a corporate body, the memorandum and articles of association, certificate of incorporation, registered address, and relevant company resolution;
 - (b) a plan and plant layout for the mineral refining facility as prescribed by regulations;
 - (c) proof of appropriate mineral refining technology;
 - (d) proof of financial capacity of the applicant;
 - (e) organisational structure and staffing levels that includes the employment of an expert in mineral refining;
 - (f) an environment management plan in accordance with the National Environment Act which shall include a waste management plan;

- (g) a certificate of approval of environmental and social impact assessment issued under the National Environment Act;
- (h) a compensation, relocation and resettlement plan, where there will be land acquisition for setting up a mineral refinery plant and displacement of persons;
- (i) a statement of the applicant's technical competence, knowledge and experience in minerals refining;
- (j) proof of tenancy or ownership of the mineral refining facility;
- (k) tax clearance from the Uganda Revenue Authority;
- (l) proof of payment of prescribed fees; and
- (m) such other documents and information as may be prescribed by regulations.

(3) An applicant for a mineral refining licence shall demonstrate technical capacity to operate a mineral refinery facility including having at least five years' experience in the operation of a mineral refining plant or an agreement with a technology provider to install, test and commission a refining plant and train technicians to operate the mineral refining plant.

(4) The Minister may issue a mineral refining licence for a period not exceeding fifteen years, renewable for a further period of ten years at a time on application by the holder of the licence.

(5) An application for renewal under subsection (4) shall be in a manner prescribed by regulations.

(6) A holder of a mineral refining licence shall not use a mineral refining facility for which a licence has been granted, for refining of any other mineral other than the mineral authorised by the licence, except with the approval of the Minister.

(7) A person who contravenes subsection (6) commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand currency points or to imprisonment for a term not exceeding ten years, or both.

(8) A person who modifies technology with an intention of accruing benefits to the applicant for a mineral refining licence or intentionally stockpiles other accessory minerals without notifying the Minister in writing, commits an offence and is liable, on conviction, to a fine not exceeding one hundred

thousand currency points or to imprisonment for a term not exceeding ten years, or both.

128. Rights of holder of mineral refining licence

A holder of a mineral refining licence has the right to—

- (a) carry on mineral refining operations in accordance with this Act and the conditions of the licence;
- (b) acquire, dispose of or possess the minerals specified in the licence; and
- (c) erect the necessary equipment, plant and infrastructure for the purposes of mineral refining operations and the transporting, dressing or treating of the minerals in the possession of the holder of a mineral refining licence.

129. Obligations of holder of mineral refining licence

A holder of a mineral refining licence shall—

- (a) employ and train citizens of Uganda and implement succession plans for expatriate employees in accordance with this Act and any other applicable written law;
- (b) export or import minerals at purity levels prescribed by regulations;
- (c) give priority to the procurement of goods and services available in Uganda;
- (d) dispose of any mineral or waste products in accordance with the National Environment Act;
- (e) keep a sign board with the words “holder of mineral refining licence” and display the licence in the place of business;
- (f) adhere to environmental and social safeguards;
- (g) keep a register in respect of each relevant mineral and mineral products refined;
- (h) submit to the Minister reports; and
- (i) carry out any other activity as may be required by the Minister or prescribed by regulations.

*General Provisions Relating to Mineral Processing, Smelting
and Refining Licences*

130. Prohibition of transfer or lease of licence without approval

- (1) A holder of a mineral processing, smelting or refining licence shall not, without the approval in writing of the Minister—
 - (a) transfer or lease the licence or the works or any interest in the licence or part of a licence;
 - (b) enter into any agreement for—
 - (i) the amalgamation of the licence with any other person; or
 - (ii) the operation of the works by any other person;
 - (c) mortgage or otherwise create a charge in any interest in the licence.
- (2) A holder of a licence under subsection (1) may apply to the Minister, in a manner prescribed by regulations, for the transfer of a licence and shall fulfil any financial obligations under the Act, regulations made under the Act and any other written law.
- (3) The Minister shall, before approving a transfer under this section, confirm the legal, technical and financial competence of the person to whom the licence is to be transferred.
- (4) Subject to subsections (2) and (3), the Minister shall not unreasonably withhold consent to an application to transfer a licence unless he or she has reason to believe that the public interest or safety is likely to be prejudiced by the transfer.
- (5) This section applies to any other direct or indirect transfer of interest or participation in the licence, including, assignment of shareholdings and other ownership shares which may provide decisive control of the person possessing a participating interest in a licence.
- (6) The transfer of a group of licence holders' right of ownership to fixed facilities and the mortgaging of a facility is subject to the approval of the Minister.

- (7) In this section—
- (a) “control” in relation to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management by that person, whether through the ownership of shares, voting, securities, partnership or other ownership or participation interests, agreements or otherwise; and
- (b) “transfer of licence” includes the acquisition of control by the person to whom a licence under this Part is transferred.

131. Work practices for licensees

(1) A holder of a processing, smelting or refining licence shall carry out its operations in a proper and safe manner and in accordance with the requirements of this Act, any other applicable written law, conditions of the licence and mining industry best practices.

(2) Notwithstanding the general effect of subsection (1), a holder of a refining, smelting or processing licence shall take all reasonable steps necessary to secure the safety, health and welfare of personnel engaged in its operations including—

- (a) controlling the flow and preventing the waste, emission or discharge of mineral commodities or mineral products into the environment in accordance with the National Environment Act;
- (b) preventing the escape of any mixture of water, chemical or any other matter;
- (c) preventing the pollution of any water well, spring, stream, river or lake by the escape of mineral commodities or mineral products, chemicals or any other waste products, discharges or effluent;
- (d) where pollution occurs, treating or discharging the pollutant in an environmentally acceptable manner;
- (e) submitting to the Minister, before any processing, smelting or refinery operation, a detailed report on the technique and method to be employed, an estimate of the time to be taken, the material to be used and the safety measures to be employed;
- (f) ensuring that employees wear the correct personnel protective gear in accordance with the Occupational Safety and Health Act; and
- (g) establishing codes of conduct and related systems and procedures to prevent human rights abuses of the workforce, including gender based violence and discrimination.

132. Prohibition of mineral processing, smelting or refining of unauthorised substance

(1) A holder of a mineral processing, smelting or refining licence shall not use a facility for which a licence has been granted, for mineral processing, smelting or refining of any other mineral other than the mineral authorised by the licence except with the approval of the Minister.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand currency points or to imprisonment for a term not exceeding ten years, or both.

133. Notice to cease operations

(1) Where a facility is being operated in contravention of this Act, the Minister may, by notice served on the holder of the processing, smelting or refining licence, direct the licensee to take, within a reasonable time limited by the notice, all necessary steps to cease operations, and may require a licensee to dismantle, to the satisfaction of the Minister, any plant and equipment used for the purposes of the processing, smelting or refining operations.

(2) Where a direction given under this section is not complied with, the Minister shall cause a mining inspector or an authorised person to enter into the premises where the processing, smelting or refining operations is being operated and cause the direction to be carried out.

134. Surrender of licence

(1) A holder of a processing, smelting or refining licence may, during the period of the licence, after giving three months' notice to the Minister, surrender a licence in its entirety.

(2) The Minister shall require the holder of a processing, smelting or refining licence under subsection (1), to undertake the obligations of the licence and terms and conditions stipulated in the licence including decommissioning and disposal costs to be fulfilled up to the time of surrender.

135. Suspension or cancellation of processing, smelting or refinery licence

(1) Where a holder of a processing, smelting or refining licence is in default, the Minister may, by notice in writing served on the holder of the licence, suspend or cancel the licence.

(2) For the purposes of subsection (1), the holder of a processing, smelting or refining licence shall not be treated as in default unless the Minister has served on the licence holder, a notice in writing giving the particulars of any default complained of, and the licensee has not within a reasonable time specified in the notice remedied the default, or where the default cannot be remedied.

(3) Notwithstanding subsections (1) and (2), the Minister shall cancel a processing, smelting or refining licence—

- (a) where the holder of the licence is adjudged bankrupt or enters into any agreement or scheme of composition with creditors or takes advantage of any written law for the benefit of creditors;
- (b) where the holder of the licence is a body corporate and an order is made or a resolution is passed winding up the affairs of the body corporate, except where the winding up is for the purpose of—
 - (i) amalgamation of licences and the Minister has consented to the amalgamation; or
 - (ii) reconstruction of the facility and the Minister has consented to the reconstruction;
- (c) where the holder of the licence has failed to comply with the National Environment Act, the Occupational Safety and Health Act and any other applicable written law; or
- (d) where it is in the public interest to do so.

(4) Where a holder of a processing, smelting or refining licence is a body corporate or where a body corporate is among the persons who together constitute the licence holder, and the body corporate either

- (a) registers the transfer of any equity share or shares in the body corporate to any person or nominee; or
- (b) enters into an agreement, arrangement, or understanding, whether or not having legal or equitable force with any person, and the effect of doing so is to give to that person, or any other person, control of the body corporate,

the Minister may, in accordance with this Act and any other written law, serve a written notice on the holder of the licence stating that the Minister intends to cancel the licence under this section unless a change in the control of the body corporate as is specified in the notice takes place within a period of three months beginning with the date of service of the notice.

(5) Where the change specified in the notice served by the Minister under subsection (4) does not take place within three months, the Minister shall cancel the licence.

- (6) For the purposes of this section
- (a) a person is deemed to have control of a body corporate—
 - (i) where the person or the nominee of that person holds a total of five percent or more of the issued equity shares in the body corporate;
 - (ii) where the person is entitled to appoint or prevent the appointment of half, or more than half of the directors of the body corporate; or
 - (iii) where the person is entitled to exercise or control the exercise of, the right to cast votes in respect of not less than two fifths of the total number of votes in respect of issued equity shares in the body corporate;
 - (b) “equity shares”, in relation to a body corporate, means shares in the body corporate carrying voting rights in all circumstances at a general meeting of the body corporate, and includes preference shares, other than preference shares which do not have voting rights;
 - (c) “preference shares” means shares which carry the right to payment of a dividend of a fixed amount or not exceeding a fixed amount, in priority to payment of the dividend on another class or other classes of shares, whether with or without other rights; and
 - (d) the reference in paragraph (a)(iii) to the entitlement to control the exercise of the right to cast votes shall be read as including an entitlement to control the exercise of that right directly or indirectly, and includes control that is exercisable as a result of or by means of trusts.

136. Consequences of cancellation, surrender of rights or lapse of licence for beneficiation for other reasons

(1) The rights of the licence holder under the licence shall cease on the cancellation of a mineral processing, smelting or refining licence under this Act, but the cancellation shall not affect any liability incurred before the cancellation.

(2) Any legal proceedings that might have been commenced or continued against the former holder of the licence in subsection (1) may be commenced or continued against the former holder of a licence.

(3) The cancellation of a licence, surrender of rights or lapse of rights for other reasons shall not discharge the licensee from the financial or other obligations under this Act or any other applicable written law or specific conditions attached to the licence.

(4) The licensee shall fulfil all decommissioning and disposal obligations and costs under the licence in accordance with this Act and the National Environment Act.

137. Formation of cartels and monopolies

(1) The Minister shall take the necessary measures to prevent the formation of cartels, monopolies and unfair competition in processing, smelting and refining operations.

(2) A person or an agent of that person shall not form a cartel in the operations of value addition and beneficiation of minerals.

(3) A person shall not gain, hold or secure a monopoly of a business or commercial activity within the processing, smelting or refining operations.

(4) A person or agent of that person shall not indulge in or assist in cartelisation in the processing, smelting or refining operations.

(5) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand currency points or to imprisonment for a term not exceeding ten years, or both.

(6) For the purposes of this section, “cartelisation” means an agreement or a combination of or a concerted action by operators of processing, smelting or refining facilities or their agents to—

- (a) fix prices, tariffs, levies or charges;
- (b) restrict production output;
- (c) divide markets either by commodity or by area; or
- (d) allocate markets either by commodity or by area to restrain free competition and contractual stipulation that prescribes pricing levels and margins at variance with the mechanisms approved by the Minister.

138. Additional requirements for holder of licence for processing, smelting or refining

A holder of a licence to operate a processing, smelting or refining facility shall—

- (a) convert the mineral into a final product; and
- (b) produce a product that meets the set standards and specifications on the market as may be prescribed by regulations.

PART VII—BUYING, SELLING AND DEALING IN MINERALS

Mineral Dealer’s Licence

139. Prohibition of buying or selling of minerals without licence

(1) A person shall not buy or sell, either as principal or agent, any minerals or tailings unless that person is a licensed mineral dealer under this Act.

(2) A licensed mineral dealer may only buy minerals in the course of business from a person who acquired the minerals lawfully and in accordance with this Act and other applicable written law.

(3) Notwithstanding subsection (1), the holder of a mineral right may sell any minerals acquired under this Act without obtaining a mineral dealer’s licence.

140. Application for mineral dealer's licence

(1) An application for a mineral dealer's licence shall be made to the Minister in a manner prescribed by regulation.

(2) An application for a mineral dealer's licence shall contain information pertaining to—

- (a) the type of minerals to be traded;
- (b) storage facilities for the minerals;
- (c) office location;
- (d) the proposed plan or arrangements for the marketing, buying and selling of the minerals; and
- (e) financial and technical resources available to the applicant.

(3) The Minister may, upon application and proof that the applicant is in possession of or commands sufficient working capital to ensure the carrying on of business satisfactorily, issue to such person a mineral trader or dealer's licence on payment of the prescribed fee.

(4) Every mineral dealer's licence shall expire on the 31st day of December in the year in which the licence is granted.

(5) The Minister may refuse to issue a mineral dealer's licence or may revoke the licence, provided a notice of particulars of the grounds for the intended refusal or intended revocation has been given to the applicant.

141. Liability of mineral dealers for royalties

A holder of a mineral dealer's licence shall be liable for the payment of all royalties due on any minerals bought, received or exported by the holder in accordance with this Act and shall give the Minister such security as may be prescribed for the due payment of all such royalties.

142. Records to be kept by mineral dealers

(1) A holder of a mineral dealer's licence shall keep a register showing—

- (a) all purchases and sales of minerals made by the holder and the nature and weight of the minerals;

- (b) the price paid or received for the minerals and the date of each purchase or sale;
 - (c) the name and address of the vendor and the right of the vendor to be in possession of the minerals;
 - (d) details of the place of origin of the minerals;
 - (e) the name and address of the purchaser or consignee to whom the minerals are sold or consigned; and shall—
 - (i) cause every transaction to be recorded in the register within twenty-four hours of being made;
 - (ii) produce and exhibit the register to the Minister or an authorised officer, whenever required; and
 - (iii) produce the register to a police officer not below the rank of Assistant Superintendent of Police, during an investigation.
- (f) A holder of a mineral dealer's licence shall submit to the Minister quarterly, a copy of the record referred to in subsection (1) for the preceding three months, together with a declaration that the record is correct.

(3) A holder of a mineral dealer's licence who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.

143. Goldsmith's licence

(1) A person shall not manufacture any article from any precious mineral or from any substance containing any precious mineral unless the person has obtained a goldsmith's licence under this Act.

(2) An application for a goldsmith's licence shall be made to the Minister in a manner prescribed by regulations and, subject to subsection (4), the Minister may grant a licence to the applicant upon payment of the prescribed fee.

(3) A goldsmith's licence shall continue in force until the 31st day of December of the year of issue.

(4) The Minister shall, before refusing to grant or renew a goldsmith's licence—

- (a) give to the applicant a notice of particulars of the grounds for his or her intended refusal;
- (b) in such notice, require the applicant to correct or remedy within a reasonable time any defect or omission which forms the basis of the grounds for the intended refusal; and
- (c) shall only refuse to grant the licence where the applicant fails to correct or remedy such defect or omission within such reasonable time.

144. Records to be kept by goldsmiths

- (1) Every licensed goldsmith shall keep a register showing—
 - (a) all purchases and sales of articles of commerce containing precious minerals made by the licensed goldsmith;
 - (b) purchases of unwrought precious minerals made by the licensed goldsmith;
 - (c) the nature, weight, price paid or received and the date of each purchase or sale of the articles and minerals referred to in paragraphs (a) and (b);
 - (d) the name and address of the respective vendor and purchaser of any of the items referred to in paragraphs (a) and (b); and shall
 - (i) cause every transaction to be recorded in the register within twenty-four hours of being made;
 - (ii) produce and exhibit the register to the Minister or an authorised officer, whenever required; and
 - (iii) produce the register to a police officer not below the rank of Assistant Superintendent of Police, during an investigation.

(2) The copies of records referred to under subsection (1) shall be submitted to the Minister quarterly.

(3) A licensed goldsmith who fails to comply with subsections (1) and (2) commits an offence and is liable, on conviction, to a fine not exceeding ten thousand currency points or to imprisonment for a term not exceeding five years, or both.

145. Compliance with mineral dealer's or goldsmith licence

- (1) A licensed mineral dealer or goldsmith shall not—

- (a) deal in minerals in a manner which is not specifically authorised by the terms of the licence of that mineral dealer or goldsmith;
 - (b) store any mineral at a place other than in or on premises specified in the licence; or
 - (c) buy, sell, deal in or receive either as principal or agent, any mineral at any place other than in or on premises specified in the licence.
- (2) A licensed mineral dealer or goldsmith who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding three thousand currency points or to imprisonment for a term not exceeding three years, or both.

146. Cancellation of mineral dealer's or goldsmith licence on conviction for an offence

Where any licensed mineral dealer or goldsmith is convicted of an offence under this Act or regulations made under this Act, and the time limit for appeal against the decision has lapsed or the appeal has been refused, the Minister shall cancel the licence of such mineral dealer or goldsmith.

147. Retail shopkeepers

The Minister may, in a manner prescribed by regulations, authorise any retail shopkeeper to sell articles partly manufactured from precious minerals without being licensed as a goldsmith, where the shopkeeper satisfies the Minister that the selling of such articles shall not constitute the sole or principal portion of the business of the shopkeeper.

148. Disposal of minerals

- (1) No mineral shall be disposed of in any manner, whether for the purposes of sampling, assay, analysis or otherwise except—
 - (a) with the written consent of the Minister;
 - (b) in accordance with the terms of the mineral right or licence concerned; or
 - (c) as otherwise permitted by or under this Act.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding ten thousand currency points or to imprisonment for a term not exceeding five years, or both.

149. Export of minerals

(1) A person shall not export any minerals from Uganda without an export permit issued under this Act.

(2) An application for an export permit shall be in a manner prescribed by regulation.

(3) The Minister may grant to any person a permit to export minerals from Uganda on conditions determined by or under this Act and regulations made under this Act and specified in the permit.

(4) The grant of a permit under subsection (3) shall not exempt the holder of the permit from complying with the requirements of any other applicable written law relating to the export of minerals including—

- (a) proof of payment of prescribed fees and royalties, where applicable;
- (b) certificate of origin, where applicable;
- (c) certificate of analysis authenticated by the country of origin; and
- (d) where minerals are not from Uganda, an export permit or any other related documents issued by the relevant Government department from the country of origin.

(5) A person who exports any mineral from Uganda in contravention of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding ten thousand currency points or to imprisonment for a term not exceeding five years, or both.

(6) For the avoidance of doubt, a holder of a mineral right under this Act shall not export geological material, fluids or products derived from minerals without authorisation of the Minister.

(7) The quantities, volumes and purity levels of geological materials and non-commercial value shall be as prescribed by regulations.

150. Import of minerals

(1) A person shall not import any minerals into Uganda without an import permit issued under this Act.

(2) An application for an import permit shall be in a manner prescribed by regulations.

(3) The Minister may grant to any person a permit to import minerals into Uganda on conditions prescribed under this Act and regulations made under this Act.

(4) A person who imports any minerals into Uganda under this section shall make a declaration before a customs officer regarding the type and quantity of minerals imported, after which the customs officer shall certify the import permit.

(5) An import permit under this section shall be issued upon payment of the prescribed fee.

(6) Before any minerals are re-exported from Uganda, the relevant import permit shall be surrendered to a customs officer who shall submit it to the Minister for approval.

(7) A person who imports any minerals into Uganda in contravention of this section commits an offence and is liable, on conviction, to a fine not exceeding ten thousand currency points or to imprisonment for a term not exceeding five years, or both.

151. Permit for research and scientific investigations

(1) Notwithstanding the provisions of this Act, the Minister may, in the public interest and for research purposes, authorise any person to undertake non-commercial investigations into the geological resources of Uganda.

(2) The person authorised under subsection (1) shall submit a report to the Minister of the information gathered or research findings on any mineral discovered.

152. Blasting certificate

(1) The Minister may grant to any person a certificate to blast rocks as a method of extraction of minerals on conditions determined by or under this Act, the National Environment Act and conditions specified in the certificate.

(2) An application for a blasting certificate shall be in a manner prescribed by regulations and shall contain—

- (a) proof of approvals required under any other applicable written law;
- (b) proof of technical competence of the applicant;
- (c) the minimum distance from the nearest residential area;
- (d) the type of explosive to be used for blasting;
- (e) proposed occupational health and safety measures; and
- (f) any other information prescribed by regulations.

(3) The grant of a certificate under subsection (1) shall not exempt the holder of the certificate from complying with the requirements of any other applicable written law relating to the blasting of minerals.

(4) A person who blasts any rock in contravention of this section commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.

153. Registration of mineral service providers

The Directorate shall register all service providers including storage facilities, transporters and shippers in a manner prescribed by regulations.

PART VIII—GENERAL PROVISIONS RELATING TO LICENCES

154. Withdrawal of application for mineral right or licence

(1) An applicant for a mineral right or licence or any renewal of such mineral right or licence may withdraw the application at any time before the application is approved or rejected, by notifying the Minister in writing that the applicant wishes to withdraw the application.

(2) Where an applicant referred to in subsection (1) withdraws the application after the application has been lodged, any applicable prescribed fee paid by the applicant shall not be refunded.

(3) The Minister may, by regulations, prescribe conditions for withdrawal of applications under this section and any applicable fines that may be payable by the applicants for withdrawal.

155. Transfer of mineral rights

(1) Subject to subsection (2), a person shall not transfer any type of mineral right or a share of a right without the approval of the Minister and any purported transfer shall be null and void.

(2) For the avoidance of doubt, a prospecting licence issued under this Act is not transferable.

(3) An application for the approval of the transfer of a mineral right other than a prospecting licence shall be submitted to the Minister in a manner prescribed by regulations.

(4) The Minister shall confirm the legal and technical capacity, competence and financial strength of the person to whom the mineral right or share of that right is to be transferred and approve or reject the application for transfer.

(5) Where the Minister has given his or her approval to the transfer of a mineral right under subsection (4), the transferee of the mineral right shall assume and be jointly and severally responsible for all rights, liabilities and duties of the transferor under the mineral right prior to the transfer.

(6) A transferee under this Act shall show commitment to either implement the existing work programme of the transferor in relation to the licence being transferred or submit a new work programme before the Minister can grant a transfer.

(7) Where the Minister rejects an application, he or she shall give the reasons for the rejection of the application.

(8) The Minister shall process an application for transfer under this section within thirty days from the date of submission of a complete application.

(9) In this section—

(a) “transfer of mineral right or share of that right” includes the acquisition of control by the person to whom a mineral right or share of that right under the Act is transferred; and

- (b) “control” in relation to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management by that person, whether through the ownership of shares, voting, securities, partnership or other ownership or participation interests, agreements or otherwise.
- (10) This section applies to any direct or indirect transfer of interest or participation in the mineral right, including, assignment of shareholdings and other ownership shares which may provide decisive control of a mineral right holder possessing a participating interest in a mineral right.
- 156. Surrender of area covered by mineral right**
- (1) Subject to this Act and any conditions of a licence, the holder of a mineral right may, surrender the area covered by the mineral right or part of the right of the holder of the mineral right by—
- (a) giving the Minister, not less than three months’ notice of the intention to surrender the whole or part of the area concerned; and
 - (b) applying to the Minister for and obtaining a certificate of surrender.
- (2) Where the application for a certificate of surrender is in respect of only part of the area covered by the mineral right, the holder shall—
- (a) in the application—
 - (i) where it relates to a mining area, provide a diagram of the area to be surrendered;
 - (ii) in the case of any other mineral right, provide a plan, in a form prescribed by the Minister, of the area to be surrendered;
 - (iii) in all cases, give records and reports with respect to the prospecting, exploration or mining operations; and
 - (b) where the application is approved, commit to demarcate the remaining area in the prescribed manner.
- (3) The Minister shall approve an application made under subsection (1) to surrender a mineral right where he or she is satisfied that—
- (a) the holder of the mineral right has submitted the request for surrender in the prescribed manner;
 - (b) the surrender shall not affect any liability incurred by the mineral right holder before the surrender of the mineral right, including environmental obligations;

- (c) all rents due and fees prescribed, where any, have been paid by the holder of the mineral right; and
 - (d) the holder of the mineral right has surrendered the original title document.
- (4) No surrender of any area covered by a mineral right shall be effective unless the Minister has issued a certificate of surrender in respect of the area.
- (5) The Mining Cadastre Department shall, where the Minister approves a surrender under subsection (3)—
- (a) effect changes accordingly;
 - (b) make an entry to that effect in the Mining Cadastre Register referred to under section 207;
 - (c) notify the person who was the holder of the mineral right that the mineral right has been cancelled or changes have been made accordingly; and
 - (d) notify the owner of the land subject of the mineral right of the surrender.
- (6) A surrender shall be without prejudice to any liabilities or obligations incurred by the holder in relation to the area surrendered prior to the date of such surrender.
- (7) Where a prospecting area, an exploration area, retention area or mining area is surrendered under this section, the holder of the mineral right to which the area relates shall—
- (a) decommission any accessory works erected or constructed by the person in accordance with the National Environment Act; and
 - (b) take all such steps as may be necessary to remedy to the reasonable satisfaction of the Minister and the National Environment Management Authority any damage caused by any prospecting, exploration or mining operations carried on by such holder to the surface of, and the environment on, the land in the area in question.
- (8) The Minister shall, upon issuance of a certificate of surrender—
- (a) where the surrender is in relation to the whole area covered ~~and by~~ a mineral right, cancel the mineral right; or
 - (b) where the surrender is in respect of part only of the area covered by a mineral right, amend the mineral right accordingly.

(9) No certificate of surrender shall be issued unless all the technical data relating to the mineral right in question has been deposited with the Minister.

(10) The Minister shall process an application for surrender under this section within thirty days from the date of submission of complete application.

(11) A person who contravenes the provisions of this section commits an offence and is liable, on conviction, to a fine not exceeding ten thousand currency points or to imprisonment for a term not exceeding seven years, or both.

157. Suspension of mineral right

(1) Subject to this Act, the Minister may suspend a mineral right where the holder of such mineral right—

- (a) violates health and safety regulations or causes environmental harm;
- (b) contravenes any provision of this Act, or the conditions of the mineral right of the holder of the mineral right or the provisions of any other applicable written law relating to mining and minerals; or
- (c) becomes insolvent or bankrupt, or enters into any agreement or scheme of composition with the creditors of the holder of the mineral right, or takes advantage of any written law for the benefit of the debtors of the holder or goes into liquidation, except as part of a scheme for the reconstruction of the holder's business organisation.

(2) The Minister shall, before suspending any mineral right, give notice to the holder in such a manner as shall be prescribed by regulations and shall, in the notice require the holder to remedy in not less than thirty calendar days any breach of the conditions of the mineral right.

(3) Where the holder of a mineral right fails to remedy any failure or contravention specified in subsection (1), the Minister may, by notice to the holder, suspend the mineral right until the failure or contravention is remedied.

(4) Upon suspension of a mineral right under this section, the rights of the holder of the mineral right shall cease, but without prejudice to any liabilities

or obligations incurred under or in relation to such mineral right prior to the date of suspension.

158. Revocation of mineral right

- (1) The Minister may revoke a mineral right where the holder of the mineral right
 - (a) fails to make payment on the due date, whether due to the Government or another person, required by or under this Act;
 - (b) contravenes any provision of this Act or the conditions of the mineral right or the provisions of any other applicable written law relating to mines, minerals and the environment;
 - (c) fails to meet any prescribed minimum annual programme of work or work expenditure requirement;
 - (d) employs or makes use of child labourers;
 - (e) becomes insolvent or bankrupt;
 - (f) enters into an agreement or scheme of composition with the holder's creditors, or takes advantage of a written law for the benefit of its debtors or goes into liquidation, except as part of a scheme for an arrangement or amalgamation;
 - (g) makes any statement to the Minister or an authorised officer in connection with the mineral right which the holder of the mineral right knows or ought to have known to be false;
 - (h) for any reason, becomes ineligible to apply for a mineral right under this Act;
 - (i) is convicted by any court of competent jurisdiction for an offence under this Act; or
 - (j) breaches any order or notice issued or given under this Act or regulations made under this Act, or on being required by the Minister or an authorised officer by notice to show cause within a time specified in the notice why the mineral right should not be revoked, fails to comply or show adequate cause.
- (2) The Minister shall, before revoking a mineral right under subsection (1), give notice to the holder of the mineral right and shall in the notice, require the holder to remedy a breach of the condition of the mineral right within a period prescribed by regulations and where the breach cannot be remedied, to show cause to the satisfaction of the Minister why the mineral right should not be revoked.

(3) On revocation of a mineral right under this section, the rights of the holder shall cease but without prejudice to the liabilities or obligations incurred by the holder of a mineral right in relation to the mineral right prior to the date of the cancellation.

159. Termination of mineral right

Any mineral right, licence, permit or authorisation granted or issued under this Act shall lapse, where—

- (a) it expires;
- (b) in the case of an individual, the holder is deceased and there are no successors in title;
- (c) a company or entity is deregistered or wound up;
- (d) the holder is liquidated or sequestrated;
- (e) the licence is revoked under section 158; or
- (f) the licence is abandoned or surrendered in accordance with this Act.

160. Restriction on grant of mineral rights after termination

(1) Upon expiry, termination or cancellation of a mineral right, no other application for a mineral right covering the same area shall be accepted until after 30 days from such expiry, termination or cancellation.

(2) Notwithstanding subsection (1), the Minister may declare the area subject to an expired, terminated or cancelled licence free for licensing even within the 30 days after expiry of such mineral right.

161. Assets on termination

(1) Upon the termination of any mineral right, the former holder of the mineral right shall deliver to the Minister within such period as may be prescribed, all the records which, prior to the termination, the former holder was obliged to maintain under this Act.

(2) Subject to the provisions of this Act, the regulations made under this Act and any provision to the contrary under any mineral right, the former holder of any mineral right may, within six months after the date of termination of the mineral right, remove from the prospecting, exploration or mining area

any building, fixed machinery or other movable property and mineral product which may have been extracted from those areas.

(3) Where the Minister certifies, in consultation with the National Environment Management Authority that any buildings or fixed machinery are necessary for the continued maintenance of any area, which is the subject of a mineral right, those buildings or fixed machinery shall not be removed without the consent of the Minister.

(4) Where the Minister refuses to consent to the removal of any such buildings or fixed machinery by the former owner of those buildings or machinery under subsection (2), the Government shall pay fair and adequate compensation to the owner of the buildings or fixed machinery concerned where the assets have not been depreciated to zero value.

162. Duties of mineral right holder on termination of mineral right

(1) The mineral right holder is responsible for any environmental damage, pollution or ecological degradation as a result of prospecting, exploration or mining operations which may occur inside and outside the boundaries of the area of such right, licence or permit.

(2) A holder of a mineral right shall be strictly liable for any harm or damage caused by prospecting, mining exploration, production operations or mineral processing, smelting or refining operations to human health or the environment.

(3) Liability shall attach to the holder of a mineral right and any other person who directly contributes to the act or omission which results in the harm or damage to human health or the environment.

(4) Where there is more than one person responsible for the harm or damage to human health or the environment, the liability shall be joint and several.

(5) Where any harm or damage is caused to the environment or biological diversity, compensation shall include the cost of reinstatement, rehabilitation, clean-up measures and restoration which are incurred and where applicable, the costs of preventative measures, and compensation to any person to whom the harm or damage is caused.

- (6) Liability under this section shall also extend to
- (a) any harm or damage caused directly or indirectly by the prospecting, exploration, mining production operations or mineral processing, smelting or refining operations to the economy or social cultural conditions of an area or community;
 - (b) any negative impact on the livelihood or indigenous knowledge systems or technologies of any community;
 - (c) any disruption or damage to any production or agricultural system;
 - (d) any reduction in yields of the local community;
 - (e) any air, water or soil contamination or damage to biological diversity; or
 - (f) any other consequential disorder.

163. Power to recover costs in event of urgent remedial measures

- (1) Where any prospecting, exploration, mining or processing, smelting or refining operation causes or results in ecological degradation, pollution or environmental damage which may be harmful to human health or the environment and requires urgent remedial measures, the Minister may direct the holder of the mineral right to—
- (a) investigate, evaluate, assess and report on the impact of any pollution or ecological degradation;
 - (b) take such measures as may be specified in the directive; and
 - (c) complete such measures before a date specified in the directive.
- (2) Where the holder fails to comply with a directive issued under subsection (1), the Minister may take such measures as may be necessary to protect the health and well-being of any affected person, to remedy ecological degradation or stop pollution of the environment at the cost of the mineral rights or licence holder.
- (3) Before the Minister implements any measure, he or she shall afford the holder an opportunity to undertake such measures.
- (4) The Minister may recover an amount equal to the funds necessary to fully implement the measures from the holder of a mineral right or licence concerned.

164. Suspension of operations

(1) The holder of a mineral right may apply to the Minister for suspension of operations under a mineral right and provide a clear justification for the proposed suspension at least thirty days prior to the proposed date of suspension.

(2) Where the holder is unable to give the required notice as provided under subsection (1) for reasons beyond the holder's control or where there is need to protect human health, the environment or property and the holder suspends operations of a mineral right, the holder shall, within three days of the suspension, notify the Minister.

(3) The suspension of operations under subsection (2) shall not exceed six months and the holder may apply in writing to the Minister for extension for a further period not exceeding twelve months.

(4) On receiving the notification under subsection (2), or on the Minister becoming aware of a suspension of operations, the Minister shall cause the matter to be investigated and shall, subject to any requirement contained in the mineral right—

- (a) give approval for the suspension; or
- (b) direct the holder of the mineral right to resume full operations under the mineral right by a specified date.

(5) Approval of suspension may be given subject to conditions that the Minister may on the advice of the Directorate and any other relevant Ministry, department or agency determine.

165. Wasteful mining and treatment practices

(1) Where the Minister considers that the holder of a mineral right or a licence for beneficiation is using wasteful mining or treatment practices, the Minister may notify the holder accordingly and require the holder of a mineral right to show cause within such period as the Minister may specify, why the holder of a mineral right should not cease to use such practices.

(2) Where, within the period specified in any notice issued under subsection (1), the holder of the mineral right or licence for beneficiation fails to satisfy the Minister that, that holder of mineral right or licence is not using

wasteful mining or treatment practices, or that the use of such practices is justified, the Minister may direct the holder of the mineral right or licence for beneficiation concerned to cease using such practices within such period as the Minister may specify or as may be prescribed by regulations.

(3) Where the holder of the mineral right or licence for beneficiation fails, after being directed under subsection (2) to cease using wasteful mining or treatment practices, the Minister may suspend the mineral right or licence for beneficiation for such period as the Minister thinks fit or cancel the mineral right or the licence for beneficiation in accordance with this Act.

166. Coordination of mining operations

(1) Where the Minister considers that the public interest or the interests of holders of mineral rights covering neighbouring or contiguous mining areas would best be served with regard to the efficient and economic exploitation of minerals by the coordination of all or part of the mining operations of the holders, the Minister may direct the holders to effect such coordination by entering into an agreement, to be approved by the Minister, within the period specified by the Minister.

(2) Before giving any directions under subsection (1), the Minister shall afford the holders of mineral rights concerned reasonable opportunity to make representations to him or her in writing.

167. Cessation, suspension or curtailment of production

(1) Subject to subsection (4), the holder of a large scale mining licence, medium scale mining licence, small scale mining licence or artisanal mining licence shall notify the Minister—

- (a) one year in advance, where the concerned holder proposes to cease production from the mine of that holder;
- (b) six months in advance, where the concerned holder proposes to suspend production from the mine; or
- (c) three months in advance, where the concerned holder proposes to curtail production from the mine.

(2) The holder of a mineral right shall, in all cases referred to in subsection (1), give good technical and economic reasons for the proposed cessation, suspension or curtailment.

(3) Where, for reasons beyond reasonable control, the holder of a large scale mining licence, medium scale mining licence, small scale mining licence or artisanal mineral licence ceases, suspends or curtails production from the mine without complying with subsection (1), the concerned holder shall, within fourteen days of the cessation, suspension or curtailment notify the Minister.

(4) Where the Minister receives a notification referred to in subsections (1) and (2), or where the Minister otherwise becomes aware of any cessation, suspension or curtailment of production, the Minister shall cause the matter to be investigated; and shall, subject to any relevant requirement contained in the mineral right, give his or her approval to the cessation, suspension or curtailment.

(5) The approval of cessation, suspension or curtailment under this section may be given subject to such conditions as the Minister may impose.

168. Financial security for environmental protection

The Minister shall, where applicable, require the holder of a mineral right or licence for beneficiation to obtain financial security for environmental protection in accordance with the National Environment Act.

PART IX—SURFACE RIGHTS

169. Restrictions on exercise of mineral rights

(1) The holder of a mineral right shall not exercise any of the rights under that mineral right—

- (a) in respect of or on any land set apart for any public purpose, other than mining, or on any land which is—
 - (i) dedicated as a place of burial;
 - (ii) a place of religious significance; or
 - (iii) the site of a public building,
except with the written consent of the owner or person who has rights over the land;
- (b) in respect of or on any land which is the site of, or which is within two hundred metres, or such greater distance as may be prescribed, of any inhabited, occupied or temporarily unoccupied house or building, or any land—

- (i) within five metres or such greater distance as may be prescribed, which has been cleared or ploughed or otherwise prepared in good faith for the growing of, or upon which there are growing agricultural crops; or
 - (ii) which is the site of, or within one hundred metres, or such greater distance as may be prescribed, of any cattle dip, tank, or similar body of water,
except with the written consent of the registered owner, customary owner, lawful occupant or *bona fide* occupant or the duly authorised agent of the registered owner, customary owner, lawful occupant or *bona fide* occupant of that land or person with rights over such land;
 - (c) in respect of or on any land reserved for the purpose of any railway track, or which is within fifty metres, or such distance as may be prescribed, of the boundaries of any land so reserved, except with the written consent of the authority responsible for railways;
 - (d) in respect of or on any land within two hundred metres, or such greater distance as may be prescribed, of the boundaries of any city or town, except with the written consent of the local authority having control over the township;
 - (e) in respect of or on any land within two hundred metres from any lake or within one hundred metres from any river, except with a permit issued under the National Environment Act;
 - (f) in respect of or on any land comprising a street, road, power station, aerodrome or oil well heads, except with the written consent of the authority having control of any such land;
 - (g) in a national park or game reserve, except with the written consent of the Uganda Wildlife Authority;
 - (h) in a swamp, except with the approval of the National Environment Management Authority;
 - (i) within a forest reserve without the written consent of the National Forestry Authority; or
 - (j) in respect of or on any land, which is held communally including cultural sites, without the written consent of the community concerned.
- (2) Any consent under subsection (1) may be given subject to such conditions as are specified in the instrument of consent.

(3) For the purpose of subsection (1)(a), “public purpose” means a purpose prescribed as such under the Constitution.

(4) A person exercising any right under a mineral right on any land shall, where required to do so by the registered owner, customary owner, lawful occupant or *bona fide* occupant of any such land, produce evidence of being the holder of such mineral right or an agent or employee of the holder; and where that person fails to do so, that person may be treated as a trespasser.

(5) The Minister may, by statutory instrument, in consultation with the relevant stakeholders declare additional protected areas to protect buildings, towns, water sources and transportation routes deemed necessary in the public interest after an investigation has been carried out.

(6) Prospecting and mining in protected areas declared under subsection (5) may be prohibited or subject to certain conditions as the Minister may deem necessary in public interest.

170. Rights under mineral right to be exercised reasonably and responsibly

The rights conferred by a mineral right or licence under this Act shall be exercised reasonably and in such a manner as not to adversely affect the interests of the registered owner, customary owner, lawful occupant or *bona fide* occupant of the land on which the rights are exercised.

171. Acquisition of exclusive rights

(1) An applicant for a large scale mining licence, medium scale mining licence, small scale mining licence or artisanal mining licence may, where that applicant requires the exclusive use of the whole or any part of the mining area concerned, and where requested by the registered owner, customary owner, lawful occupant or *bona fide* occupant of any part of such area, obtain a land lease or other rights to use the area upon such terms as to duration or the extent of the land to which the land lease or mining licence shall relate, as may be agreed between the holder and the registered owner, customary owner, lawful occupant or *bona fide* occupant of the land in question.

(2) Where the mining operations are significant to Government, the land may be acquired through compulsory land acquisition in accordance with the Constitution and the Land Acquisition Act.

(3) Where an applicant referred to under subsection (1) and the registered owner, customary owner, lawful occupant or *bona fide* occupant fail to agree, the parties may utilise the service of the Chief Government Valuer to assess and recommend an award of compensation to the registered owner, customary owner, lawful occupant or *bona fide* occupant of the land or refer the matter to be determined through arbitration within thirty days from the date the matter is submitted for arbitration.

(4) Notwithstanding subsection (2), where the issue of disagreement relates to the value of the land, the Minister may refer the matter to the Chief Government Valuer to assess and determine the value.

(5) In assessing any rent payable under this section, an arbitrator shall determine the rent in relation to values, at the time of arbitration, current in the area in which the mining licence is situated, for land of a similar nature, but

172. Compensation for disturbance of right

(1) A holder of a prospecting, exploration or retention licence shall, where the concerned holder requires the exclusive use of the whole or any part of the licensed area concerned or where requested by the registered owner, customary owner, lawful occupant or *bona fide* occupant of any part of such area, obtain a land lease or other rights to use the area upon such terms as to duration or the extent of the land to which the lease or licence applies; and shall relate, as may be agreed between the holder and the registered owner, customary owner, lawful occupant or *bona fide* occupant of the land in question, or failing an agreement, as may be determined by arbitration.

(2) Where the holder of a mineral right fails to pay compensation when so demanded under this section, or where the registered owner, customary owner, lawful occupant or *bona fide* occupant of any land is dissatisfied with any compensation offered, the dispute shall be determined by arbitration.

(3) Compensation under this section shall be at market value.

173. Option for compensation of land owners and lawful occupants

The registered owner, customary owner, lawful occupant or *bona fide* occupant of any land subject to a mineral right is entitled to compensation under this Act or to a share of royalties under section 179(4).

174. Interference with passageways

(1) No holder of a mineral right shall at any time, in the exercise of the rights granted under this Act, interfere with or perform any act which may interfere with the exercise of any right of passageway in the area covered by such mineral right or perform any act which may damage or tend to damage any passageway, without first obtaining the consent in writing of the holder of the right of passageway; except that in the case of customary public rights of passageway, or where the holder of the right of passageway cannot be found by the person requiring consent, the consent of the Chief Administrative Officer of the district concerned shall be deemed sufficient consent.

(2) Nothing in this section shall prevent the holder of a mineral right from diverting any public path within the area of the licence, where the diversion is made entirely within the area held by the holder of a mineral right and is aligned and maintained to the satisfaction of the Chief Administrative Officer of the district concerned; and on conclusion of the exploration or mining operations, the affected public path is restored to the condition in which it was before the interference.

175. Rights in waters and wetlands

Except as otherwise provided in this Act, all rights in wetlands and in the waters of any spring, stream, river, watercourse, pond or lake on or under public land, are vested in the Government; and no such wetlands or water shall be obstructed, dammed, diverted, polluted or otherwise interfered with, directly or indirectly, except in accordance with the Water Act and the National Environment Act.

176. Grant of water rights

(1) Every application for a mineral right or licence for beneficiation shall indicate whether the applicant intends—

- (a) to utilise for prospecting, exploration, mining or beneficiation operations any water existing within the boundaries of the mineral right or licence for beneficiation;
 - (b) to utilise any natural source of water existing at the site to which mining or beneficiation products are conveyed for washing or treatment;
 - (c) to obtain and convey to the area of the mineral right or licence for beneficiation, from any natural water supply outside the boundaries of the mineral right or licence for beneficiation, such specified volume of water as may be required for the relevant operations;
 - (d) to occupy any land that may be required for the construction of a dam, reservoir or pumping station and for the conveyance of such water to the area where the water is utilised, by means of pipes, ditches, flumes, furrows or otherwise, and for such conveyance to have a right of passageway; or
 - (e) to construct any works necessary for the collection, storage or conveyance of such water.
- (2) The Water Act shall apply in relation to and for the purpose of acquiring the right to use water in any manner or for any purpose or object specified in subsection (1).

PART X—CERTIFICATION OF MINERALS PRODUCTS

177. Designation of Directorate as competent authority

- (1) The Directorate is designated as the competent authority for purposes of this Part including mine site inspection and certification for purposes of the International Conference on the Great Lakes Region (Implementation of the Pact on Security, Stability and Development in the Great Lakes Region) Act and regulations made thereunder.
- (2) The functions of the competent authority include—
- (a) to prevent illegal exploitation of designated minerals;
 - (b) to enforce this Act against the illegal exploitation of designated minerals;
 - (c) to pursue the recovery of illegally exploited designated minerals, where appropriate;
 - (d) to conduct investigations against persons suspected of engaging in the illegal exploitation of designated minerals in Uganda;

- (e) to conduct research and analyse information on the illegal exploitation of designated minerals and maintain a database of such information;
- (f) to propose to the Minister specific measures for combating the illegal exploitation of designated minerals;
- (g) to collaborate with the International Conference on the Great Lakes Region (ICGLR) Steering Committee and the competent authorities of Member States with a view to combating the illegal exploitation of designated minerals in the Member States;
- (h) to liaise with State organs on matters regarding the prevention and control of illegal exploitation of designated minerals;
- (i) to collaborate with other State organs, the ICGLR Conference Secretariat, relevant international organisations, civil society organisations and any agency which could provide relevant information or support it in the fight against illegal exploitation of designated minerals;
- (j) to conduct public education and awareness raising on the illegal exploitation of designated minerals; and
- (k) to take such other action as it considers desirable to combat the illegal exploitation of designated minerals.

(3) The competent authority shall develop and maintain a comprehensive database of the mine sites in Uganda that produce designated minerals.

(4) The database referred to in subsection (3) shall contain the information prescribed by regulations made under the International Conference on the Great Lakes Region (Implementation of the Pact on Security, Stability and Development in the Great Lakes Region) Act.

(5) The competent authority shall physically inspect each mine site, before issuing the first ICGLR Certificate for minerals originating from that site, and thereafter, inspect the mine site at least once in each year in accordance with regulations made under the International Conference on the Great Lakes Region (Implementation of the Pact on Security, Stability and Development in the Great Lakes Region) Act.

(6) For purpose of this Act—

- (a) “designated mineral” means a mineral that originates in or transits through the territory of the Member States, that is subject to the

- ICGLR Regional Certification Mechanism and includes gold (Au), cassiterite (tin)(Sn), coltan (tantalum)(Ta), wolframite (tungsten) (W) and any other mineral that may be designated by the ICGLR Member States; and
- (b) “ICGLR Conference Secretariat” means the Secretariat of the International Conference of the Great Lakes Region.

PART XI—FINANCIAL AND OTHER MATTERS

178. State equity participation

- (1) Upon the coming into force of this Act, the grant by the Minister of a large scale or medium scale mining licence may give the State an ownership interest, at no cost, of up to a maximum of fifteen percent, in a large scale mining licence, or medium scale mining licence.
- (2) Subsection (1) shall not apply to large scale or medium scale mining licences granted before the commencement of this Act, except where such terms are already contained in the mining licence.
- (3) The interest under subsection (1) shall not be diluted by eventual increases in capital of the holder of a large scale or medium scale mining licence.
- (4) Notwithstanding subsection (1), the State may acquire a supplementary participation, in cash, according to the terms agreed with each relevant mineral rights holder within the scope of a mineral agreement.
- (5) The acquisition option under subsection (4) may be scheduled over time or exercised only once.
- (6) For the avoidance of doubt, the total participation held by the State under subsections (1) and (4) shall not exceed thirty-five percent.
- (7) The State reserves the right to auction, in an open and transparent process, all or part of its share acquired under this section, except that pre-emption shall apply for the other shareholders of the company holding the large scale or medium scale mining licence to purchase from the State.

(8) The shareholders of a company holding a large scale or medium scale mining licence shall sign a shareholders' agreement that defines, inter alia, decisions which are not to be made without the prior agreement of the State.

(9) The Uganda National Mining Company established under section 20 shall manage the State participation under this section.

179. Royalties

(1) All minerals obtained or mined in the course of prospecting, exploration or mining operations shall be subject to the payment of royalties on the gross value of the minerals produced based on the prevailing market price of the minerals at such rates as shall be prescribed by the Minister in collaboration with the Minister responsible for finance by statutory instrument.

(2) The holder of a mineral right or licence for beneficiation shall submit returns to the Commissioner General of the Uganda Revenue Authority and to the Minister relating to the payment of royalty.

(3) Any mineral samples, including mineral samples removed for purposes of testing, shall not be liable to royalty except where they exceed the maximum value as stipulated by the Minister by regulations.

(4) The royalty payable under subsection (1) shall be distributed in the manner prescribed in Schedule 3 to this Act.

(5) For the purposes of this section, "mineral beneficiation" means mineral processing, smelting or refining or any process of improving the grade or quality of minerals.

180. Collection of royalties and taxes

(1) The Income Tax Act shall apply to the assessment, collection and enforcement of, and right of appeal with respect to administration of any royalty, tax or charge imposed under this Part.

(2) The Commissioner General of the Uganda Revenue Authority shall be responsible for the collection of mineral royalties and other payments under this Act.

(3) The Minister shall be responsible for the assessment of royalties and other payments arising from mining operations.

(4) The Public Finance Management Act shall apply to the utilisation and management of revenues from mining operations under this Act.

181. Payments

(1) All fees, charges and royalties payable to the State under this Act shall be paid to the Uganda Revenue Authority.

(2) A payment under subsection (1) shall be accompanied by a statement from the holder stating—

- (a) the details of the mineral or mineral product; and
- (b) the relevant point of sale.

(3) A copy of the statement referred to under subsection (2) shall be delivered to the Commissioner General of the Uganda Revenue Authority and the Minister.

(4) A mineral rights holder shall report the royalty liability for each month by the fifteenth day of the month to the Commissioner General of the Uganda Revenue Authority and the Minister.

182. Waiver of royalty

The Minister may, with the approval of the Cabinet, waive in whole or in part, any royalty payable on any mineral obtained or mined from a particular deposit, for such period as the Minister may determine, where he or she considers it expedient to do so in the interests of the production of any such mineral.

183. Provisional royalties

Where for any reason it is impractical to assess the amount of any royalty due, the Minister may, in consultation with the Ministry responsible for finance, assess a provisional royalty in a manner prescribed by regulations.

184. Valuation of minerals

The value of any mineral, whether for export or for domestic consumption, shall be determined in a manner prescribed by regulations.

185. Royalty on stockpiled minerals

Where a mineral is to be stockpiled by the holder of a large scale mining licence, a medium scale mining licence, a small scale mining licence or artisanal mining licence, a notice to stockpile shall be given to the Minister who shall assess the value of the mineral for the determination of royalty due and the royalty determined shall be paid as though the mineral has been disposed of commercially.

186. Due date for payment of royalty

(1) The assessed royalty on any mineral shall be due within thirty days from the date of the assessment.

(2) Any delay in the payment of royalty shall attract interest on the unpaid royalty at the rate of two percent per annum above the commercial bank lending rate as established by the Bank of Uganda and the interest on any such unpaid royalty shall not be deductible for purposes of assessing taxable income.

187. Failure to pay royalty on due date

(1) Where the holder of a mineral right fails to pay any royalty payable on or before the due date, the Minister shall—

- (a) by notice served on the holder, prohibit the holder from disposing of any mineral obtained or mined, by the person from the mining area concerned, or from any other mining area held by that holder, until all outstanding royalties have been paid or until an arrangement has been made, acceptable to the Minister for the payment of the royalty, and the holder shall comply with the notice; and
- (b) suspend the respective licence.

(2) Notwithstanding subsection (1), where the mineral right holder does not pay the royalty payable within forty-five days, the Minister shall revoke the mineral right or licence.

(3) Where there is a default in payment of royalties by a mineral right holder, the Commissioner General of the Uganda Revenue Authority shall issue a notice in accordance with the Income Tax Act.

(4) Any holder of a mineral right or licence who contravenes or fails to comply with a notice given under subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand currency points.

188. Recovery of royalty and other payments

(1) A fee, royalty or other charge payable under this Act which remains unpaid shall be deemed to be a debt due to the Government and may be recoverable under summary proceedings in accordance with the applicable written law.

(2) In any proceedings under subsection (1), a certificate of the Minister issued under section 211 certifying that a specified amount of royalty or an annual surface rent of a specified amount is payable by an identified person, shall be received as evidence of that fact but without prejudice to the right to adduce evidence in rebuttal.

(3) Where two or more persons are the joint holders of a mineral right when royalty becomes payable, those persons are jointly and severally liable for the payment of the royalty or annual surface rent without prejudice to any agreement, express or implied existing between or among them.

189. Annual mineral rents

(1) There shall be payable to the Government by an applicant for, or the holder of, a large scale mining licence, a medium scale mining licence, a small scale mining licence, an artisanal mining licence, a retention licence or an exploration licence, an annual mineral rent of such amount as shall be prescribed by the Minister by regulations.

(2) The annual mineral rent payable under subsection (1) is payable prior to the grant of a large scale mining licence, a medium scale mining licence, a small scale mining licence, an artisanal mining licence, a retention licence or an exploration licence and thereafter, annually on the anniversary of the grant until the termination of the mineral right concerned.

190. Payment of tax and other fees

(1) Taxation of mining operations shall be in accordance with the tax laws of Uganda.

(2) An applicant or holder of a mineral right, licence or permit under this Act shall pay such fees or charges at such time as may be prescribed by the Minister by regulations.

- (3) The fees and charges prescribed under subsection (2) may include—
- (a) application filing fees;
 - (b) report filing fees;
 - (c) fees for access to geological data;
 - (d) fees for access to public registers; and
 - (e) any other fees that may be prescribed by regulations.

(4) The fees and charges prescribed under subsection (2) may include annual charges payable prior to the grant of a mineral right, licence or permit and thereafter annually for the duration of the mineral right, licence or permit, where applicable.

191. Keeping of records

(1) A holder of a mineral right, licence or permit under this Act who wins, extracts, produces, disposes, processes, refines, smelts or otherwise deals in minerals or mineral products shall maintain up-to-date records.

- (2) The records required to be kept under subsection (1) shall include—
- (a) the quantity of minerals; and
 - (b) the commercially relevant characteristics of the minerals or mineral products.

(3) An authorised officer or officer of the Uganda Revenue Authority shall inspect and examine any samples, books, records and accounts to ascertain the quantity, quality, grade or value of minerals or mineral products for the purpose of ascertaining or verifying the amount of any royalty or tax payable.

192. Application of Regulations

The Income Tax (Transfer Pricing) Regulations shall apply to transactions under this Act.

Incentives for Exploration, Development, Processing, Trade and Transportation of Minerals

193. Powers of Minister responsible for finance in relation to taxation

- (1) Notwithstanding the provisions of the Income Tax Act, the Minister responsible for finance, in consultation with the Minister, may provide for—
 - (a) fiscal, tax, financial and other instruments to—
 - (i) encourage the formalisation of small scale and artisanal mining;
 - (ii) promote local investment in the mineral subsector;
 - (iii) increase and stabilise local employment in the mineral subsector;
 - (iv) improve practices in the mineral subsector;
 - (v) promote the development of local content in the mineral subsector;
 - (vi) promote research and development in the mineral subsector;
 - (vii) promote state participation;
 - (viii) encourage good environmental practice, including the conservation of the environment and natural resources and the prevention or abatement of pollution; or
 - (ix) promote any other Government policy;
 - (b) tax and economic disincentives to deter unsustainable mining practices and deleterious environmental behaviour that leads to depletion of the environment and natural resources or activities that cause pollution.
 - (2) The incentives referred to under subsection (1) may include—
 - (a) priority for the award of certain Government contracts;
 - (b) protection from competition;
 - (c) preferential access to credit or preferential terms for credit;
 - (d) Government subsidies;
 - (e) the provision of services or material and equipment to licensees for free or at discounted prices;
 - (f) assistance in securing local permits and licences;

- (g) assistance in identifying office location and mining sites;
- (h) joint ventures and downstream service provider matchmaking;
- (i) facilitation of access to financial and technical assistance programmes available in Uganda;
- (j) facilitated service connections with local utilities; or
- (k) any additional incentives as the Minister responsible for finance may determine.

(3) The Directorate may periodically prepare proposals and packages of economic tools and financial instruments in consultation with the Minister and the Minister responsible for finance for purposes of enhancing and promoting investment in the mineral subsector.

- (4) The incentives under this section shall be—
- (a) carefully designed so that they are only provided to the target population or activity;
 - (b) easy to administer and not subject the beneficiaries to onerous paperwork or procedures in order to benefit from them;
 - (c) part of a comprehensive policy with clear objectives and a realistic timeline;
 - (d) evaluated as to their effectiveness and modified or eliminated where they are not effective in achieving the policy goals or where they produce significant unintended negative consequences; and
 - (e) implemented in a manner that prevents abuse.

PART XII—NATIONAL CONTENT

194. Recruitment, training and promotion plan

(1) A mineral right, licence or permit issued under this Act shall include a commitment by the holder to maximise knowledge transfer to Ugandan citizens and to establish in the country, management and technical capabilities and any necessary facilities for technical work.

(2) The holder of a mineral right, licence or permit shall within twelve months after the grant of the mineral right, licence or permit under this Act, and on each subsequent anniversary of that grant, submit to the Minister for approval, a detailed programme for recruitment, training and promotion of Ugandans taking into account gender and equity, in accordance with this Act and any other applicable written law.

(3) The programme referred to under subsection (2) shall be a condition for the grant of a mining right, licence or permit.

(4) The implementation of the programme shall be regularly monitored by the Directorate.

195. Employment of Ugandan citizens

(1) A mineral rights holder, licensee, contractor or subcontractor shall employ and train Ugandan citizens and implement a succession plan for the replacement of expatriate employees in a manner prescribed by regulations.

(2) A holder of a mineral right, licence or permit shall, as may be prescribed by regulations—

- (a) conduct training programmes for the benefit of employees;
- (b) undertake capacity building for the employees;
- (c) only engage non-citizen technical experts in accordance with such local standards for registration as may be prescribed in any applicable written law;
- (d) work towards replacing technical non-citizen employees with citizens in a manner prescribed by regulations;
- (e) provide a linkage with the universities for purposes of research and environmental management;
- (f) have an organisation structure including the recruitment plan, staffing levels, percentage of jobs for Ugandan citizens during the course of the project;
- (g) where applicable and necessary, facilitate and carry out socially responsible investment for the local communities; and
- (h) implement a community development agreement.

(3) The licensee, contractor or subcontractor shall in accordance with this Act or any other written law on local content give priority to employment of Ugandan citizens from the jurisdiction of the licensed activity.

(4) Where the holder of a mineral right, licensee, contractor or subcontractor is unable to find a Ugandan citizen who is qualified for a particular technical or managerial position, the mineral rights holder, licensee, contractor or subcontractor may employ citizens of an East African Community Member State subject to any applicable written law.

(5) The burden of proof of failure to find a suitable Ugandan citizen shall be on the mineral rights holder, licensee, contractor or subcontractor.

196. Priority of goods and services available in Uganda, EAC and the African Union

(1) The holder of a mineral right, licensee, contractor and subcontractor shall give preference to goods which are produced or available in Uganda and services which are rendered by Ugandan citizens and companies owned by Ugandan citizens.

(2) The holder of a mineral right, licensee, contractor and subcontractor shall develop a plan for the procurement of goods and services available in Uganda and in particular, within the area of operation or, where the goods and services are not available within the said area, then from sources based within the national jurisdiction of the operations.

(3) Where the goods and services are not available in Uganda, the mineral rights holder, licensee, contractors and subcontractors may source the goods and services from within the East African Community or a Member State of the African Union.

(4) The plan referred to in subsection (2) shall be submitted to the Minister within ninety days from the date of issue of the mineral right or licence.

(5) The Minister shall review the plan for compliance with this Act and any other applicable written law.

(6) The Minister may require additional information or modification of the plan by written notice to the mineral right holder, licensee, contractors and subcontractors within thirty days from the date of submission of the plan or of any subsequent submission in response to a request of the Minister.

(7) The Minister shall issue his or her approval of the plan within thirty days of the submission of the plan or of the latest submission in response to a request from the Minister for additional information or modification of the plan, provided that there is no outstanding further request for additional information or modification of the proposed procurement plan.

(8) The holder of a mineral right, licensee, contractors and subcontractors shall implement the procurement plan approved by the Minister.

(9) The holder of a mineral right, licensee, contractor and subcontractor shall file an annual report of the implementation of the approved plan with the Minister indicating the results of the plan during the covered year in a manner prescribed by regulations, and the Minister may require that the report be independently audited.

197. Technology transfer

(1) A large scale, medium scale, or small scale mining licence, other licences or permits issued under this Act shall include a commitment by the holder to maximise technology transfer to Ugandans and to establish in Uganda, management and technical capabilities and any necessary facilities for technical work.

(2) Regulations made under this Act shall prescribe the requirements for technology transfer relating to the mining industry to Ugandans to be employed by the holder of a mineral right, licensee, contractor and subcontractor.

(3) The technology transfer required under subsection (1) shall be a shared responsibility between the Government and the holder of a mineral right, licensee, contractor and subcontractor.

(4) The holder of a mineral right, licensee, contractor and subcontractor shall keep at the address in Uganda, accurate geological maps and plans, geophysical records, technical data and interpretations relating to the technology used.

198. Research and training

The Minister, in consultation with relevant stakeholders and local government—

(a) may carry out or commission research for the purpose of conservation, development and utilisation of mineral resources, and for the conservation of geological, archeological, cultural, and biological diversity resources; and

- (b) shall ensure the training of officers of the Directorate and other public officers and stakeholders for the development and sustainable management of mineral resources.

PART XIII—GEOLOGICAL, GEOSCIENTIFIC AND MINERAL INFORMATION

199. Financing of Directorate to undertake geological surveys

(1) The Government shall ensure full government ownership of geological and mineral data and information.

(2) The Government shall ensure that the Directorate is adequately financed and that sufficient resources are allocated for the development and management of geological, geophysical, geochemical, and other geoscientific information including collection, processing, interpretation and promotion of geoscientific data.

(3) The Government may explore innovative ways of financing geoscientific data generation and management through public-private partnerships in accordance with the Public Private Partnership Act.

200. Collection, ownership, custodianship, management and accessibility of data

- (1) The Minister shall establish and maintain a Data Bank—
(a) for the storage of all geoscientific data generated under this Act;
(b) to standardise minerals information; and
(c) to act as the central depository for minerals information.

(2) All geoscientific data and geological materials acquired under a mineral right, licence or permit granted under this Act belong to the Government.

(3) A mineral rights holder shall submit to the Minister all data generated during its exploration or mining operations and the required supports including samples, cores and cuttings, in a manner that shall be prescribed by regulation.

(4) Notwithstanding subsection (3), any developer or contractor drilling boreholes, carrying out civil works involving large excavations or

conducting geotechnical investigations shall submit geological samples, cores and cuttings to the Minister for future reference.

(5) The Minister shall, by regulations, specify the format of the information to be submitted under this Act.

(6) Subject to the Constitution and the Access to Information Act, geoscientific information submitted under subsection (3) shall remain confidential for as long as the mineral right is active.

(7) At the issuance of the mineral right, the Minister may provide the mineral right holder with all the geoscientific data available for the area of the mineral right, in accordance with the data management policy prescribed by regulations.

(8) The mineral rights holder may use the information provided under subsection (6) as well as any other information generated during the exploration or mining phase.

(9) Where any information is deemed sensitive on the basis of national interest or commercial purposes, a request may be made for confidentiality on an exceptional basis and the Minister shall determine the scope of such exception and provide a duration after which such information will be made available to the general public.

201. Geological surveying or prospecting

(1) The Minister shall undertake geological surveys and prospecting for minerals using all appropriate technologies.

(2) The holder of a mineral right including the National Mining Company, who conducts prospecting operations, technical cooperation studies, exploration operations or production operations shall submit the information, data, reports and interpretations to the Minister free of charge in a manner prescribed by regulations.

(3) The holder of a mineral right including the National Mining Company shall, in addition to the requirement of subsection (2), quarterly, commencing three months after the grant of the mineral right, submit to the Minister in or in respect of the period concerned—

- (a) a summary of all geological, geochemical and geophysical work carried out;
 - (b) a summary of all drilling activity and results obtained; and
 - (c) copies of maps, tapes or reports of other geological, geochemical and geophysical data prepared by the licensee.
- (4) The licensee shall disclose to the Government, the technology necessary for the evaluation and understanding of any raw data, processed data or interpreted data resulting from the work of the licensee in the licence area.
- (5) The Minister shall maintain copies of all studies, reviews, evaluations, data compilations, investigations, inspections and reports by topic and in a chronological order.
- (6) The records, data and information acquired by the Minister under subsection (1) or submitted under subsection (2) or (3) shall be archived and maintained indefinitely in a secure environment in hard copy and electronic format.
- (7) Subject to the Constitution and the Access to Information Act, the records maintained under subsection (3) shall be accessible to the committee of Parliament responsible for oversight of mining operations and to judicial or arbitration tribunals exercising jurisdiction over a dispute, upon formal request.
- (8) A person who contravenes subsection (2), (3) or (4) commits an offence and is liable, on conviction, to a fine not exceeding one thousand currency points or to imprisonment for a term not exceeding one year, or both.

202. Management of mining and mineral resources information

- (1) The Directorate shall—
 - (a) gather, document, evaluate and disseminate information on mineral resources;
 - (b) carry out public education and awareness on mineral resources;
 - (c) foster information exchange on minerals with other Ministries, departments, agencies of Government, foreign agencies, international and non-governmental agencies, as applicable;
 - (d) coordinate with relevant local governments in the management of mineral information;
 - (e) advise Government on mineral information gaps and needs; and

- (f) establish guidelines and principles for the gathering, documentation, evaluation, security and dissemination of minerals and geoscientific information.
- (2) Subject to confidentiality, the Directorate may publish any minerals or geoscientific information that it considers necessary for public education and awareness.

203. Confidentiality of data

- (1) Subject to the Constitution and the Access to Information Act, all information, data, reports and interpretations submitted to the Minister under this Act and regulations made under this Act shall be kept confidential for a period—
 - (a) when the mineral right is active; or
 - (b) ending on the date on which the mineral right, licence or permit to which such information, data, reports and interpretations thereof relate have lapsed or are cancelled or terminated, or the area to which such permits or rights relate have been abandoned or relinquished.
- (2) The Government—
 - (a) is not liable for the bona fide or inadvertent release of information or data submitted under this Act; and
 - (b) does not guarantee the accuracy or completeness of any such information or data or interpretation of the data or information.
- (3) All data disclosed to third parties shall be disclosed on terms, which to the extent possible ensure that they are treated as confidential by the recipient for as long as the data remains subject to the data confidentiality agreement.

204. Power of Minister to require information

- (1) Where the Minister has reason to believe that a person is capable of giving information or producing or making available books or documents relating to minerals obtained, mined or processed by the holder of a mineral right or licence or the value of such minerals or mineral products, the Minister may, in writing order that person—
 - (a) to furnish to him or her in writing, within the period and in the manner specified in the order, any such information;

- (b) to attend before him or her or a person specified in the order, at a specified time and place, and answer questions relating to minerals obtained, mined or processed by such holder or the value of such minerals or mineral products; or
 - (c) to produce or make available to a person specified in the order, at a specified time and place, books or documents in the custody, power or control of that person relating to minerals obtained, mined or processed by such holder or the value of such mineral or mineral product.
- (2) A person is not exempt from furnishing information, answering a question or producing or making available books or documents when required to do so under this Act or subsection (1) merely because the information to be so furnished, the answer to the question or the production or making available of any such books or documents, might tend to incriminate that person or make him or her liable to a penalty; but the information so furnished is not admissible in evidence against such person in any proceeding other than proceedings for an offence against this section.
- (3) Where books or documents are made available pursuant to a requirement under subsection (1)(c), the person to whom the books or documents are made available may make copies of or take extracts from those books or documents.
- (4) A person shall not—
- (a) refuse or fail to comply with a requirement under subsection (1) to the extent to which that person is capable of complying with such requirement;
 - (b) in purported compliance with such a requirement, knowingly furnish information that is false or misleading in a material particular;
 - (c) when attending before the Minister or an authorised officer in pursuance of such a requirement, knowingly make a statement or produce a document which is, or knowingly produce books which are false or misleading in a material particular; or
 - (d) when making available books or documents required under this Act or any other applicable written law, knowingly make available books which are, or a document which is, false or misleading in a material particular.

(5) Any person who contravenes subsection (4) commits an offence and is liable, on conviction, to a fine not exceeding three thousand currency points or to imprisonment for a term not exceeding one year, or both.

205. Annual report

(1) The Directorate shall prepare and submit to the Minister, a report detailing the activities and operations of the Directorate during the year to which the report relates, as soon as possible, but in any case, not later than three months after the end of each financial year.

- (2) The report under subsection (1) shall contain—
- (a) the mineral resources and reserve estimates;
 - (b) the amount of minerals produced and forecast by mineral rights holders and licensees;
 - (c) a description of the major positive and negative developments in the mineral subsector during the year;
 - (d) the number of each type of mineral right, licence and permit in existence at the beginning and the end of the year;
 - (e) the geographical areas covered by mineral rights, licences and permits, where applicable;
 - (f) a description of significant geoscientific information developed subject to confidentiality requirements;
 - (g) domestic consumption, imports and exports;
 - (h) sales and royalty receipts for each mineral commodity and product, by type of mineral right, licence and permit;
 - (i) statistics of employment by type of mineral right and position, including average wages or salaries;
 - (j) statistics on health, safety and the efficacy of environmental protection measures in the mineral subsector; and
 - (k) any other information as may be prescribed by regulations.

206. Publication

The Minister shall publish on the Ministry website—

- (a) all mineral agreements entered into by the Uganda National Mining Company;
- (b) all mineral rights, licences and permits including current mineral rights, licences and permits that expired during the year;

- (c) summaries of all preliminary and final environmental and social impact assessments or studies for mineral projects and operations;
- (d) the annual report of the Directorate on the sector; and
- (e) annual statistical summaries of exploration, mining and processing results, royalties and fees charged and received.

PART XIV—REGISTRATION, INFORMATION AND RECORDS

207. Register

(1) The Minister shall cause a record of every mineral right, other than a prospecting licence, granted under this Act and of any dealings with or affecting every such mineral right to be kept in a register.

(2) When a mineral right, other than a prospecting licence, is granted, the Minister shall cause the name of the person to whom the mineral right is granted to be recorded in the register as the holder of that mineral right in a manner prescribed by regulations.

(3) Where the Minister is satisfied that a mistake has been made or that some matter has been incorrectly entered in the register, the Directorate shall rectify the register by correcting that mistake or incorrect entry.

(4) The grant, renewal, suspension or termination of any mineral right or licence issued under this Act, other than a prospecting licence, and any mineral dealer's licence or goldsmith's licence shall be published in the *Gazette*.

208. Mining Cadastre and Registry System

(1) The Minister shall establish and maintain a series of files to be known as the Mining Cadastre Registers for the purposes of this Act, comprising of—

- (a) a register of prospecting licences;
- (b) a register of exploration licences;
- (c) a register of large scale mining licences;
- (d) a register of medium scale mining licences;
- (e) a register of small scale mining licences;
- (f) a register of artisanal mining licences;
- (g) a register of licences for beneficiation; and
- (h) a register of all other licences and permits issued under this Act.

(2) The registers kept under subsection (1) shall be accessible to the public during regular business hours or online and copies shall be made available upon request and payment of the prescribed fee to cover the reasonable cost of reproduction.

(3) All entries in the registers shall be signed by an authorised officer who made the entry.

(4) The entries made on each day shall be reviewed by the supervisor of the office in which the entries are made, who shall sign the registry for that day and any corrections shall require the signature of an authorised officer.

(5) All registries of mineral rights applications, issuances, transactions and withdrawals or other terminations shall be archived no less often than on an annual basis, in chronological order, and shall be maintained indefinitely in a secure environment in electronic format with a duplicate in hard copy.

(6) All information related to mineral rights, licences or permits, shall be submitted into, processed, sent from and stored in the Mining Cadastre and Registry System.

(7) All mineral agreements issued under this Act shall be maintained in a digital format in the Mining Cadastre and Registry System.

(8) The holder of a mineral right shall be issued with one hard copy of the mineral right and an additional copy shall be retained by the Mining Cadastre and Registry System.

(9) The information to be included in the Mining Cadastre and Registry System shall be prescribed by regulations.

209. Cadastral maps

(1) The Minister shall cause to be established and maintained an up-to-date digital mining cadastral maps of Uganda.

(2) The cadastral maps maintained within the Mining Cadastre and Registry System shall include all areas—

- (a) that have mineral occurrences or mineral deposits;
- (b) where mineral rights are currently in force;

- (c) where mineral rights applications are pending;
- (d) which are restricted from mining and mineral related operations under the Act or any other applicable written law;
- (e) where applications for licence for extraction of geothermal for direct use are pending; and
- (f) which are restricted from geothermal operations under this Act or any other applicable written law.

210. Replacement of original instrument

Where the original of any instrument creating or evidencing any right under this Act is lost or destroyed or so obliterated as to become inellegible, the Minister may, at the request of the holder of the instrument, cause a copy of the instrument to be prepared and endorsed with all the entries that were in the original instrument, so far as these can be ascertained from the records and other available information; and the Minister shall make and sign a memorandum on the copy stating that such copy is a substitute to be used in place of the original.

211. Certificate of evidence

- (1) The Minister may give a certificate stating that—
 - (a) a mineral right, licence or permit was granted, transferred, suspended, surrendered or cancelled on or with effect from a date specified in such certificate;
 - (b) any land, identified in the certificate is or was on a date specified in the certificate subject to a mineral right, licence or permit;
 - (c) a mineral specified in the certificate is or was on a date specified in the certificate subject to a mineral right;
 - (d) any condition specified in the certificate is or was on a date so specified a condition of a mineral right, licence or permit;
 - (e) a certificate of surrender was issued in respect of land identified on the date specified;
 - (f) any condition specified in the certificate is a condition on which a certificate of surrender was issued or on which any consent or approval so specified was given; or
 - (g) a person named in the certificate is or was on a date specified on the certificate the holder of a mineral right, licence or permit.

(2) The power under subsection (1) to give a certificate stating that any matter referred to in paragraphs (a), (b), (c), (d), (e), (f) and (g) is or was the case, includes a power to state that any such matter is not or was not the case.

(3) The Minister may issue a certificate of a type referred to in subsection (1), and such certificate shall be received in proceedings before any court as evidence of any matter, but without prejudice to the right to adduce evidence in rebuttal.

PART XV—PROTECTION OF ENVIRONMENT

212. Prohibition of pollution

(1) A holder of a mineral right, licence or permit shall, in accordance with the requirements of this Act, the National Environment Act and any other applicable written law, and in accordance with good mining industry practice, conduct operations in such manner as to—

- (a) preserve in as far as is possible, the natural environment;
- (b) minimise and control waste or undue loss of or damage to natural, geological, biological, cultural, or archeological resources;
- (c) prevent and where unavoidable, promptly treat pollution and contamination of the environment; and
- (d) take no steps which may unnecessarily or unreasonably restrict or limit further development of the natural resources of the mineral right, licence or permit area or adjacent areas.

(2) A holder of a mineral right, licence, or permit shall put in place measures to prevent the pollution from occurring during operations, including by use of best available techniques and best environmental practices.

(3) Subject to subsection (1), where pollution has occurred contrary to this Act and the National Environment Act, the holder of a mineral right, licence or permit under this Act shall—

- (a) take the necessary action to stop further pollution and minimise the impacts of the pollution on human health and the environment;
- (b) give notice of the pollution to the Minister, the National Environment Authority and any other relevant lead agency in accordance with the National Environment Act;
- (c) take steps to mitigate any damage or nuisance resulting from the pollution or from measures to counteract it;

- (d) take steps to clean up and restore the environment as near as possible to its original state; and
 - (e) pay compensation for the damage caused in accordance with the National Environment Act and any other applicable written law.
- (4) Where the person responsible for the pollution fails to comply with the requirements of subsection (1), the National Environment Management Authority may, in consultation with the Minister—
- (a) order the person to stop the activities causing the pollution;
 - (b) order the person to implement the measures prescribed under subsection (1);
 - (c) implement the measures under subsection (1) at the cost of the person responsible for the pollution;
 - (d) suspend or revoke a certificate, licence or approval issued under the National Environment Act; and
 - (e) carry out any other measures as the National Environment Management Authority deems necessary.

213. Liability of holder of mineral right, licence or permit for pollution

(1) A holder of a mineral right, licence or permit under this Act who pollutes the environment contrary to this Act, the National Environment Act or any other applicable written law is strictly liable for any damage caused to human health or the environment, regardless of fault.

(2) Notwithstanding subsection (1), a person who does an act or makes an omission that may aggravate the damage or nuisance caused by earlier pollution is equally and jointly responsible for the pollution.

214. Liability for pollution damage caused without licence

(1) Where pollution damage occurs during prospecting, exploration, mining, or processing operations and the operation has been conducted without a mineral right, licence or permit, the person that conducted the operations is liable for the damage, regardless of fault.

(2) The liability referred to under subsection (1) shall rest on any other person who has taken part in the operations, and who knew or should have known, that the activity was conducted without a mineral right, licence or permit.

215. Environmental and social impact assessment and environmental audits

(1) Every holder of a mineral right, licence or permit shall carry out an environmental and social impact assessment of the proposed operations in accordance with the National Environment Act.

(2) The holder of a mineral right, licence or permit referred to in subsection (1) shall commence field operations under this Act only after securing a certificate of approval of the proposed operations from the National Environment Management Authority.

(3) The holder of a mineral right, licence or permit referred to in subsection (1) shall carry out an annual environmental audit in accordance with the National Environment Act and shall keep records describing how far the operations conform to the approved environmental and social impact assessment.

216. Environmental protection standards

(1) An applicant for a mineral right, licence or permit shall submit to the Minister an environmental management and monitoring plan approved by the National Environment Management Authority indicating the type and quantity of wastes to be generated from any exploration, mining, processing, smelting or refining operations under this Act and the proposed methods of disposal.

(2) Notwithstanding the provisions of subsection (1), the holder of a mineral right, licence or permit may exceed the standards and guidelines prescribed under the National Environment Act, where authorised by a pollution control licence issued under the National Environment Act.

(3) The environmental management and monitoring plan referred to in subsection (1) may be revised either by the holder of the of a mineral right, licence or permit, or where required by the Minister or the National Environment Management Authority.

217. Decommissioning plan

(1) A holder of a mineral right, licence or permit who intends to close or abandon the mine or operation or a major part of the mine or to decommission a facility or processing plant shall submit a decommissioning plan to the Minister—

- (a) before the mineral right, licence or permit expires or is surrendered; or
- (b) before the use of a facility is terminated permanently.

(2) Unless the Minister consents to or directs otherwise, the decommissioning plan shall be submitted at the earliest four years, but at the latest twelve months before the beginning of the process of closing or abandoning the mine or operation or a major part of the mine or operation or before decommissioning a facility or processing plant.

(3) The decommissioning plan referred to in subsection (1) shall contain

- (a) an identification of the prospecting, exploration, mining, or processing area concerned, its current uses and productivity prior to the operations;
- (b) proposals for continued prospecting, exploration, mining, or processing operation or shut down of operations, decommissioning of facilities and any other information prescribed by regulations;
- (c) a detailed timetable of the accomplishment of each major step to be carried out under the decommissioning plan which may include—
 - (i) the reinstatement, levelling, re-vegetation and contouring of the affected land;
 - (ii) the filling in, sealing or fencing off of excavations, shafts and tunnels; or
 - (iii) any other method that may be prescribed;
- (d) measure for closure and rehabilitation of open pits;
- (e) the procedures for safeguarding, closure and rehabilitation of underground mine sites with an explanation of the methods by which—
 - (i) the shaft compartments are to be abandoned and hoisting ropes disposed of; and
 - (ii) the shafts and entrances from the surface are to be secured;
- (f) the methods by which—
 - (i) explosives, fuses and detonators will be disposed of; and

- (ii) the remaining chemical reagents, fuel, lubricants and other chemical substances are to be removed and disposed of;
 - (g) the closure and rehabilitation of—
 - (i) preparation and processing plants;
 - (ii) heap leach pads;
 - (iii) process ponds;
 - (iv) ancillary facilities;
 - (v) tailings storage facilities;
 - (vi) waste dumps; and
 - (vii) other installations at the mine site or operation.
 - (h) The decommissioning plan shall—
 - (a) provide an inventory of contaminated areas and a description of the methods by which these are to be rehabilitated and restored; and
 - (b) include the use to which the land is proposed to be put after the restoration and a statement of the utility and capacity of the restored land to support a variety of alternative uses.
- (5) The decommissioning of facilities referred to in subsection (2) may constitute further use of the facilities in mining operations, other uses, complete or part removal and disposal or abandonment.
- (6) The decommissioning plan shall contain the information and evaluations deemed necessary in order to make a direction under section 224.
- (7) The Minister may, on receipt of the decommissioning plan under this section, require further information and evaluations, or require a new or amended decommissioning plan.
- (8) In making a decision whether to approve the decommissioning plan, the Minister shall take into account—
 - (a) the steps taken to comply with applicable environmental protection standards, existing land use policies and plans and any applicable health and safety standards; and
 - (b) the consideration that has been given in developing the decommissioning plan in a manner consistent with local physical, environmental and climatological conditions.
- (9) In making a decision whether to approve the decommissioning plan, the Minister shall consult the National Environment Management Authority and

shall in addition to subsection (8) ensure that the decommissioning plan takes into account

- (a) the steps taken to comply with the National Environment Act, applicable environmental protection standards, existing land use policies and plans and any applicable health and safety standards; and
- (b) the consideration that has been given in developing the decommissioning plan in a manner consistent with local physical, environmental and climatological conditions.

(10) The mineral rights holder or licensee shall update the decommissioning plan—

- (a) in conjunction with any subsequent application for permission to make additions or substantial changes to the facilities;
- (b) whenever the expected method or costs of carrying out the decommissioning work have changed significantly as a result of new techniques for the work becoming available;
- (c) where the previously assumed techniques are no longer permissible or considered adequate; or
- (d) when requested by the Minister, within a reasonable time limit specified in the request.

218. Decommissioning Fund

(1) There is established a Decommissioning Fund for each large scale, medium scale, small scale or artisanal mining licence or for other facilities operated in relation to a licence for beneficiation for the purpose of meeting the costs related to the implementation of a decommissioning plan.

(2) The Decommissioning Fund shall be applied to the implementation of activities approved in the decommissioning plan including post mine closure transition measures as may be prescribed by regulations.

(3) Payments into the Decommissioning Fund shall commence from the calendar quarter in whichever of the following situations occurs first

- (a) the mining operations has reached fifty percent of the aggregate recoverable reserves as determined in an approved development plan and any successive reappraisal of such initial recoverable reserves;
- (b) five years before the expiry of the licence, where applicable;

- (c) on notice of surrender; or
- (d) the licence has reached fifty percent of its current duration period.

(4) For every subsequent calendar quarter in which mining is undertaken or a facility operated, the Minister shall charge the mineral rights holder or licensee a portion of the estimated future cost for decommissioning of facilities to be deposited in the fund in a manner prescribed by Regulations.

(5) The amount deposited in the Decommissioning Fund shall be charged as operating costs subject to deductions under the Income Tax Act.

(6) Where the Decommissioning Fund is not sufficient to cover the implementation of the decommissioning plan, the mineral rights holder, licensee, and where applicable, the owner of the facilities shall cover the costs and expenses.

(7) Where any amount remains in the Decommissioning Fund after the decommissioning plan has been implemented by the licensee, such funds shall accrue to the Government where it has been fully depreciated under the Income Tax Act.

(8) Where the decommissioning plan has been implemented by Government after the licensee has failed or neglected to do so, any amount that remains in the Decommissioning Fund shall accrue to the Government.

(9) The management of the Decommissioning Fund shall be done by a committee consisting of representatives of the Government and the mineral rights holder or licensee, in a manner prescribed by regulations.

219. Closure of open pit mines

The holder of a large scale, medium scale, small scale or artisanal mining licence shall—

- (a) satisfy the relevant authorities that the pits in the mine do not have the potential to pollute any water source; and
- (b) where an open pit mine is closed permanently or for an indefinite period—
 - (i) secure the open pit mine to prevent unauthorised entry and post warning signs to that effect at the mine; or

- (ii) perform remedial work at the mine so that the workings at the mine or pit present no greater hazard than the prevailing natural topographic features of the area.

220. Openings to underground mines

(1) The holder of a large scale, medium scale, and small scale mining licence shall if a shaft, raise, adit or other opening to the surface of the mine is abandoned or where the workings at the mine are discontinued, ensure that the shaft, raise, adit or other opening is secured against unauthorised entry in accordance with this section.

(2) A shaft, raise, adit or other opening shall be secured by covering it at the top of bedrock or at the top of the concrete collar of the shaft, raise, adit or opening with a bulkhead of reinforced concrete designed by a professional engineer.

(3) The holder of a large scale, medium scale and small scale mining licence shall where a mine or any part of the mine is to be closed or abandoned and the plant associated with that mine or part of a mine presents a hazard, secure the mine to protect the plant against unauthorised entry and comply with the National Environment Act.

(4) The holder of a large scale, medium scale, and small scale mining licence shall ensure that the cover required under this Act is clearly marked with a substantial one-metre high marker or sign that identifies the party responsible for the opening and the cover.

221. Disposal of explosives

The holder of a large scale, medium scale or small scale mining licence shall, where a mine is to be closed or abandoned—

- (a) ensure that each explosive, detonator or detonating cord is disposed of in a safe manner and in accordance with the manufacturer's instructions and in accordance with the Explosives Act, regulations made under that Act; and any other applicable written law; and
- (b) at least fourteen days before the disposal of any explosive, detonator or detonating cord, notify the Minister in writing of the disposal procedure to be used.

222. Closure of processing plants

The holder of a licence for beneficiation shall rehabilitate the site of the processing facilities and decontaminate the sites of refineries, smelting plants or processing facility, assay labs and associated areas of the operations.

223. Closure of ancillary facilities

(1) The holder of a mineral right, licence or permit shall, where a mine or operations or part of a mine to which the licence or permit relates is closed down or abandoned, rehabilitate and decontaminate the sites of ancillary facilities.

(2) The holder of a mineral right, licence or permit or previous holder of a mineral right, licence or permit or an owner of a facility that has ceased to exist, remains responsible for any environmental liability, pollution, ecological degradation, the pumping and treatment of extraneous water, compliance to the conditions of the environmental authorisation and the management and sustainable closure thereof, until the Minister has issued a closure certificate in accordance with this Act and the National Environment Act.

224. Direction for protection of environment

(1) Where a mineral right, licence or permit over any land is wholly or partly terminated, the Minister may, by notice served on the person who was the last holder of the mineral right, licence or permit concerned, direct the person to take such steps to protect the environment, within such time as may be specified in the notice to give effect, in relation to the land which is no longer subject to such mineral right, licence or permit, and in relation to any conditions included in the mineral right, licence or permit.

(2) A person to whom a direction is given under subsection (1) who fails or neglects to comply with such direction commits an offence and is liable, on conviction

- (a) in the case of an individual, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding two years, or both; and
- (b) in the case of a body corporate, to a fine not exceeding five hundred currency points.

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

(4) Costs and expenses incurred under subsection (3) are a debt due to the Government and are recoverable as such from the financial security provided under section 168 or from the Decommissioning Fund under section 218 of this Act or by civil action in a court of competent jurisdiction.

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

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

(7) Where two or more persons are the joint holders of a mineral right, licence or permit, those persons are jointly and severally liable for the payment of any costs and expenses which may be recovered under this section from the person who is or was the last holder of the mineral right, licence or permit without prejudice to any right to contribution existing between them.

225. Environment management systems

(1) A holder of a mineral right, licence or permit under this Act shall establish, maintain and implement an environment management system in accordance with the National Environment Act.

(2) An environment management system shall be a documented structured framework of processes, practices and measures—

- (a) to ensure that project activities are planned, organised, performed and managed in compliance with the National Environment Act, conditions of licences and permits;
- (b) to ensure better management of environmental impacts caused by mining operations or project activities; and
- (c) to demonstrate sound environmental management, while improving environmental performance.

226. Disposal of decommissioned facilities

(1) The Minister may issue directions relating to the disposal of decommissioned facilities and shall stipulate a time limit for the implementation of the directions.

(2) Directions issued under subsection (1) shall be based, among other factors, on technical, safety, environmental and economic aspects as well as on consideration for other users.

(3) The Minister may stipulate specific conditions in connection with the directions.

(4) The licensee and the owner of a facility shall ensure that a direction relating to disposal is carried out, unless otherwise directed by the Minister.

(5) The obligation to carry out the direction relating to disposal applies even where the direction is made or is to be implemented after the expiry of the licence.

(6) Where a mineral right, licence or permit has been transferred in accordance with this Act, the holder of a mineral right, licensee and the owner shall jointly ensure that a direction relating to disposal is carried out, unless otherwise directed by the Minister.

(7) Where the direction is to the effect that the facility shall continue to be used in the mining or processing operations or for other purposes, the licensee, owner and user are jointly obliged to ensure that future directions on disposal are carried out, unless otherwise directed by the Minister.

(8) Where a direction relating to disposal of a facility is not carried out within the stipulated time, the Minister may take the necessary measures on behalf of the licensee or other responsible parties.

(9) Where the Minister takes any measures under subsection (8) on behalf of a licensee or other responsible person, any risks or costs incurred arising out of that measure, shall be borne by the licensee or other responsible person.

PART XVI—COMMUNITY ENGAGEMENT**227. Participation of mining communities**

(1) The holder of a large scale, medium scale, small scale or artisanal mining licence shall assist in the development of mining communities affected by its operations to promote sustainable development, enhance the general welfare and the quality of life of the inhabitants, and shall recognise and respect the rights, customs, traditions and religion of local communities.

(2) The holder of a large scale, medium scale or small scale mining licence shall negotiate and implement a community development agreement with the primary host community where the approved mining operations are located in a manner prescribed by regulations.

228. Negotiation of community development agreements

(1) A holder of a mineral right, except a prospecting, exploration or artisanal mining licence, shall negotiate a community development agreement with representatives from communities likely to be affected by the mining operations of the holder, including benefits sharing.

(2) The conclusion of a community development agreement with the communities likely to be affected by the holder's mining operations shall be a prerequisite for commencement of operations under a mineral right.

(3) The holder of a large scale, medium scale or small scale mining licence shall, after obtaining the mining licence, submit to the Minister the community development agreement, signed jointly with representatives from communities likely to be affected by the mining operations of the holder and all other affected parties.

(4) The holder of a licence shall fulfil its obligations under the community development agreement.

(5) The Minister may, in consultation with the relevant stakeholders develop a Model Community Development Agreement to guide negotiations between the community and the licence holder.

(6) For the purposes of this section, “consultation” means an open, inclusive and non-coercive process, conducted in the official language and the local language of the community, for exchange of information, ideas and viewpoints about the potential benefits and impacts of mining operations and shall strive to include, in socially and culturally acceptable forms, all socio-economic and environmental elements in the area affected by the subject matter under consideration, including men, women, youth, and historically disadvantaged and vulnerable groups.

(7) Where indigenous or tribal populations are part of the consultation under this section, the parties shall refer to international guidelines as to the appropriate way to proceed and shall strive for full prior disclosure, informed participation and due consideration of issues put forward in advance of any decisions to be taken as part of the consultation.

229. Compensation and resettlement

(1) A holder of a large scale, medium scale or small scale mining licence or a licence for beneficiation shall, before the grant of the licence, give notice to a person—

- (a) who claims a right or an interest in the land over which an application for a licence has been made under this Act; or
- (b) whose right or interest in the land is affected in any manner by the application for the licence.

(2) The notice shall be communicated to the affected persons through local leaders and posted in public places including markets, churches, mosques and schools in the affected community or make public announcements on radio, print media, television or any other media.

(3) A person referred to in subsection (1) and the applicant for a licence shall cause an assessment of the affected land by an assessor appointed by both parties within sixty days from the date of the notification to the affected person by the applicant for the licence, taking into account—

- (a) particulars of the claim or interest in the land;
- (b) the manner in which the claim, right or interest has been affected or is likely to be affected by the operations or activities of the applicant;
- (c) the extent of damage likely to be done, where any;

- (d) the type of compensation claimed, whether in cash or in kind, which may include replacement of property, and the basis for computation of the amount of compensation claimed; and
 - (e) particulars of other persons known to the claimant to have an interest in the land and details of that interest.
- (4) A claim for compensation under subsection (3) shall be copied to the Minister.
- (5) The applicant shall provide sufficient information to enable the claimant make an informed decision and give consent to the compensation.
- (6) The Minister shall, by regulations prescribe procedures for assessment and payment of compensation and resettlement including the functions of an assessor appointed under subsection (3).

PART XVII—OCCUPATIONAL SAFETY AND HEALTH

230. Safety

- (1) A holder of a mineral right, licence or permit under this Act shall ensure that the mining operations and licensed activities are conducted in a manner that enables a high level of safety to be maintained and further developed in accordance with technological developments, best mining industry practices, the Occupational Health and Safety Act and any other applicable written law.
- (2) A holder of a mineral right, licence or permit shall—
 - (a) identify the hazards and evaluate the risks associated with any work performed in the course of mining operations or activities carried out under the mineral right, licence or permit which constitute a hazard to the health of persons employed for the purposes of that work and the steps that need to be taken to comply with the provisions of this Act and regulations made under this Act; and
 - (b) prevent the exposure of the persons referred to in paragraph (a) to the hazards.
- (3) A holder of a mineral right, licence, or permit shall ensure that during operations, measures are put in place to secure the safety, health and welfare of all persons engaged in such operations in accordance with this Act,

the Occupational Safety and Health Act and any other applicable written law and the generally accepted practices in the international mining industry.

(4) A holder of a mineral right, licence or permit shall not employ or in any way use—

- (a) a person under fourteen years in a mine, or in any other work-site including non-formal settings and agriculture, where work conditions may be considered hazardous to the child by the Minister and that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development;
- (b) indentured workers or other forms of forced labour, including unregulated use of prison labour; or
- (c) undocumented workers, migrant workers, or any other person without an appropriate work permit.

(5) A person who contravenes this provision commits an offence and is liable, on conviction, to a fine not exceeding ten thousand currency points or to imprisonment for a term not exceeding seven years, or both.

(6) In any proceedings under this section, where the age of the child is in issue, the burden of proving that it was reasonable to believe, after investigation, that the child was not underage for the purposes shall lie on the person employing or procuring the child for employment.

231. Rights of workers

(1) Subject to the Constitution and the Employment Act, the rights of a worker include the right to—

- (a) work under satisfactory, safe and healthy conditions;
- (b) receive equal pay for equal work without discrimination of any kind;
- (c) have rest, leisure and reasonable limitation of working hours and a period of holiday with pay, as well as remuneration for public holidays;
- (d) form or join a labour union;
- (e) be trained and retrained for the development of his or her skills; and
- (f) receive information relevant to his or her work.

(2) Without prejudice to the provision of any other applicable written law, the duties of a worker in any contract of employment or collective agreement, include the duty to—

- (a) work conscientiously in the lawfully chosen occupation;
- (b) report for work regularly and punctually;
- (c) enhance productivity;
- (d) exercise due care in the execution of assigned work;
- (e) obey lawful instructions regarding the organisation and execution of his or her work;
- (f) take all reasonable care for the safety and health of fellow workers;
- (g) protect the interests of the employer; and
- (h) take proper care of the property of the employer entrusted to the worker or under the immediate control of the worker.

(3) Mines and beneficiation operators shall draw up and enforce workplace regulations in accordance with standards issued by the Minister to ensure the hygiene and safety of their workers, plants and inventories.

232. Occupational safety and health inspections

(1) An authorised officer may, at any reasonable time in the day or in the night and on the production of the appropriate identification—

- (a) enter, inspect and examine an exploration site, mine or beneficiation facility in a manner that does not unnecessarily impede or obstruct the working of the site, mine or facility;
- (b) examine and inquire into—
 - (i) the state and condition of an exploration site, mine or facility or part of the site, mine or facility and of matters and things that pertain to the site, mine or facility insofar as they relate to the safety or health of persons employed in the site, mine or facility; and
 - (ii) matters relating to this Act, to minimise any damage that may be caused to the environment by the related operations; and
- (c) enforce compliance with this Act and regulations made under this Act.

(2) For the purposes of an examination, inspection or investigation, an inspector may invite the manager of a mine, exploration site or beneficiation facility or an official not below the rank of a mine captain or its equivalent, together with any other official or employee that the inspector considers

necessary to accompany the inspector and that manager, official or employee shall comply with the request.

- (3) An authorised officer may—
 - (a) take samples of minerals and other substances from a mine, exploration site, or beneficiation facility—
 - (i) for the purpose of analysis or testing; or
 - (ii) for use in evidence in connection with an offence against this Act, and
 - (b) for the purposes of inspection—
 - (i) take extracts from or make copies of a document; or
 - (ii) take photographs of a mine, exploration site or beneficiation facility.
 - (c) An authorised officer shall give a receipt for any object or document removed or taken in the course of the performance of his or her functions under this section.
- (5) An authorised officer may, by written notice to a holder of a mineral right, licence or permit or the manager of a mine, exploration site or beneficiation facility order—
 - (a) the cessation of operations in and the withdrawal of any or all persons from the whole or part of the mine, site, or facility where the inspector considers necessary in the interest of human health or the environment; or
 - (b) the discontinuance of the use of a machinery that the authorised officer considers unsafe, until the action necessary for safety as specified in the notice is taken and completed.
 - (6) Where an authorised officer is of the opinion that a circumstance, practice or omission in the whole or part of a mine, exploration site, or beneficiation facility is so defective or dangerous as to be likely to cause bodily injury or cause damage to any property and there is no provision in this Act concerning that situation, the authorised officer shall—
 - (a) make an order which directs the holder or the manager of the mine, site or facility to remedy the situation immediately or within the time specified by the authorised officer; and
 - (b) confirm the order by notice in writing, specifying the matters considered defective or dangerous and which the holder or manager

is required to remedy immediately or within the time specified in the order.

(7) A holder of a mineral right, licence or permit, or a manager who does not comply with an order made under subsection (5) commits an offence and is liable, on conviction, to a fine not exceeding ten thousand currency points or to imprisonment for a term not exceeding two years, or both.

(8) A holder of a mineral right, licence or permit or manager may appeal to the Minister against an order made by an authorised officer under this section.

(9) A copy of an order made under this section shall be kept as part of the record required to be maintained under this Act.

(10) An authorised officer may—

- (a) obtain and record statements from witnesses, or conduct enquiries regarding mine accidents, dangerous occurrences and contraventions of this Act; and
- (b) appear at inquests and call and examine witnesses and cross-examine witnesses.

(11) An authorised officer may—

- (a) exercise any power conferred under this Act for the purpose of giving effect to this Act; and
- (b) impose administrative penalties prescribed under this Act and regulations made under this Act.

(12) An authorised officer may, in exercising the powers specified under this Act, be assisted by a person who the authorised officer believes has special or expert knowledge of the matter being inspected, tested or examined.

233. Obligation to draw up workplace regulations

(1) A holder of a mineral right, licence or permit shall, for all operations, draw up and enforce regulations in accordance with such standards to ensure the hygiene and safety of their workers, plants and inventories.

(2) The regulations referred to under subsection (1) shall be submitted to the Minister for approval.

(3) Once approved, copies of the regulations shall be posted in the most visible locations for workers within plants, operations and other work sites.

234. Insurance

(1) A holder of a mineral right, licence or permit shall show proof of insurance coverage prior to the start of operations.

- (2) At minimum, insurance coverage shall cover risks including—
- (a) damage to mining sites, exploration sites, beneficiation facilities;
 - (b) third party liability;
 - (c) occupational accidents suffered by personnel on the mining site, exploration site or beneficiation facility; and
 - (d) health insurance for all employees.

235. Changing rooms and other facilities

(1) The holder of a mineral right, licence or permit shall ensure that changing rooms are provided—

- (a) near the man riding shafts on the surface of an underground mine;
- (b) at locations near a work area of a surface mine, or beneficiation facility with separate provisions for males and females; and
- (c) proportionate in size to the number of persons employed in the mine or beneficiation facility.

(2) A changing room shall comply with the requirements of the Occupational Safety and Health Act and regulations made under this Act.

(3) An adequate supply of potable water shall be provided at a convenient and safe position close to each working area.

(4) A holder of a mineral right, licence or permit shall provide at a convenient place on the surface of the mine or beneficiation facilities for the storage and consumption of food.

(5) The manager of a mine or beneficiation facility or the holder of a mineral right, licence or permit shall ensure that the mine or facility has sufficient and suitable toilets and urinals for the use by employees in accordance with the Occupational Safety and Health Act and regulations made under this Act.

236. Other instruments

A holder of a mineral right, licence or permit shall, before undertaking an activity or operation under a mineral right, licence or permit, obtain the necessary approvals and permits required from the relevant Ministry, department or agency of Government for the protection of natural resources, public health and the environment.

237. Requirements of Act not subject to exemption by agreement

A person shall not be precluded or exempted by any agreement from doing any acts that may be necessary for complying with the provisions of this Part, nor shall any person be exempted by or under any agreement from liability to any damages, penalty or forfeiture for not doing any such acts.

238. Report of accidents and occupational illnesses

(1) Where an accident occurs during the course of any prospecting, exploration, mining, processing, smelting or refining operations and the accident—

- (a) results or is likely to result in loss of life or injury to any person; or
- (b) results or is likely to result in any person's incapacity to work for a period of five days or more,

the person in charge of such operations shall, notwithstanding the provisions of any other applicable written law, without delay make a report in writing of the accident and all the circumstances relating to the accident to the Minister or an authorised officer.

(2) A holder of a mineral right, licence or permit shall ensure that when an accident occurs in connection with operations, the condition of the premises, facility or mine where the accident occurred is preserved without alteration until an inspector and authorised officers have completed their investigations, or authorisation to alter the condition of the accident scene or objects therein is obtained from the authorised officer.

(3) Subsection (2) shall apply to the extent necessary to permit operations for the preservation of human life and property.

(4) Where an accident of a type referred to in subsection (1) occurs, the Minister shall hold an inquiry into the cause of the accident and shall record his or her findings in a manner prescribed by regulations.

(5) In cases of emergency, where the holder of a mineral right, licence or permit fails to take appropriate hygiene and safety measures, the Minister or an authorised officer shall, in collaboration with the relevant Ministry, department or agency of Government take whatever relief or preventive measures are necessary to remove or mitigate the danger to save human life and property.

(6) When part of the work in a mine, site or facility is awarded to any contractor or subcontractor, the employees of the contractor or subcontractor shall in all respects be obliged to respect the provisions of this Part.

(7) A person holding an inquiry under subsection (4) shall, for the purpose of such inquiry, have powers to summon witnesses, to call for production of books and documents and to interview witnesses and the parties concerned.

(8) A person who is summoned to attend or to produce books or documents in pursuance of subsection (4) and who refuses or neglects to do so, or refuses to answer any question put to him or her by or with the concurrence of the officer holding the inquiry commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding two years, or both.

239. Compliance with labour laws

A mineral rights holder, licensee, permit holder or any other person involved in prospecting, exploration, mining or beneficiation operations under this Act shall comply with the Employment Act, the Workers Compensation Act, the Occupational Safety and Health Act and any other applicable written law.

PART XVIII—INSPECTION, MONITORING AND ENFORCEMENT

240. Powers of Minister or authorised officer to inspect

The Minister, an authorised officer or any other person empowered to do so under this Act or any other applicable written law, may at all reasonable times—

- (a) enter, inspect, and examine any land on which prospecting, exploration, mining, or mineral processing, smelting or refining operations are being conducted or land which is the subject of any mineral right, licence or permit;
- (b) enter any area, structure, plant, vehicle, vessel, aircraft or building that, in his or her opinion, has been or is to be used for or in connection with prospecting, exploration, mining or mineral processing, smelting, refining or trade operations;
- (c) examine and inquire into the condition and ventilation of any mine or any building used in or connected with prospecting, exploration, mining or mineral processing, smelting or refining operations and all matters relating to safety, welfare and health of persons employed in any such mine, processing, smelting or refining facility or any building;
- (d) inspect and test any machinery, plant or equipment that, in his or her opinion, has been, is being or is to be used in connection with prospecting, exploration, mining or mineral processing, smelting or refining operations; or
- (e) inspect the storage of explosives that, in his or her opinion, have been, are being or are to be used in connection with exploration or mining operations; and
- (f) exercise all powers necessary for enforcing the provisions of this Act, the Occupational Safety and Health Act, and any other applicable written law.

241. Power to order remedy of dangerous or defective operations

(1) Where the Minister or authorised officer finds any mine, machine, plant, thing or practice used in or connected with prospecting, exploration, mining, or beneficiation operations to be dangerous or defective so as to threaten or cause injury or harm to any person, the Minister or an authorised officer shall give notice in writing to the holder of the mineral right, licence or permit concerned, or the agent of the holder of the mineral right, licence or permit in charge, stating in the notice the particulars in respect of which the mine, machine, plant, thing or practice is considered to be dangerous or defective, and may order work to be suspended until the danger or defect is remedied or removed to the satisfaction of the Minister or an authorised officer.

(2) On receipt of the notice referred to in subsection (1), the holder of a mineral right, licence or permit concerned or the agent of the holder shall

comply with the requirements of the notice or where the holder of a mineral right, licence or permit objects to the notice, the holder shall within seventy-two hours state the objection in writing to the Minister who shall make a determination on the objection.

(3) Where a notice is given by an authorised officer and the holder of the mineral right, licence or permit concerned or the agent of the holder of the mineral right, licence or permit objects to the Minister under subsection (2), the holder of the mineral right, licence or permit or agent of the holder shall nevertheless cease to operate the mine or use of the machine, plant, thing or operation to which the notice relates, and withdraw all workers from the danger indicated by the authorised officer until such time as the objection has been determined by the Minister.

(4) Notwithstanding subsection (3), where in the opinion of the authorised officer, there is no immediate danger, the authorised officer may allow work to proceed during the time that the objection is being determined, subject to such restrictions and upon such conditions to ensure safety as the authorised officer shall specify in writing.

242. Powers of authorised medical and public officer to make inspections

(1) An authorised medical officer or authorised public officer may inspect, examine and inquire into the health and welfare of persons employed in or connected with prospecting, exploration, mining, or beneficiation operations, and may exercise any of the powers prescribed for that purpose under this Act, the Occupational Safety and Health Act and any other applicable written law.

(2) Where in any respect, an authorised medical officer or authorised public officer referred to in subsection (1) finds any matter, thing, practice or operation in or connected with prospecting, exploration, mining, or beneficiation operations to be detrimental to the health or welfare of persons referred to in subsection (1), the authorised medical officer or authorised public officer shall give notice to the holder of the mineral right, licence or permit concerned or to the agent of the holder of the mineral right, licence or permit in charge of the operations under the mineral right, licence or permit; and shall state in the notice the matter, thing, operation or practice which the authorised medical officer or authorised public officer considers detrimental, and shall require the matter, thing, operation or practice to be remedied within such time as the authorised medical officer or authorised public officer may specify.

(3) Where the holder of the mineral right, licence or permit or the agent of the holder objects to the matter, thing, operation or practice complained of in the notice referred to in subsection (2) to be detrimental to the health or welfare of any person, the holder of the mineral right, licence or permit shall, immediately after the receipt of the notice, state any objection in writing to the Minister and the objection shall be determined by the Minister in consultation with the relevant authorised officer of the relevant Ministry, department or agency of Government.

(4) Nothing in this section shall affect or detract from the provisions of any other written law relating to public health or the employment of labour.

(5) In this section, “authorised medical officer or authorised public officer” means a medical officer or a public officer authorised by the Minister to carry out any function under this Act.

243. Authorised officers

(1) For the purposes of this Act, officers employed in the Directorate are designated as authorised officers.

(2) Notwithstanding subsection (1), the Minister may, by statutory instrument, designate other public officers as authorised officers.

244. Identification of authorised officers

In the exercise of any powers conferred by this Part, an authorised officer shall—

- (a) on demand, produce official identification; and
- (b) provide a written acknowledgement for any minerals or substances seized by that officer under this Act.

Powers of Authorised Officers

245. Power to demand name and address of offender or to arrest offender

Where any person is seen or found committing an offence or is reasonably suspected of having committed an offence under this Act, an authorised officer may demand the name and address; and where the person so required refuses to give that information or fails to give the information to the satisfaction of the

authorised officer, or where the latter has reasonable grounds for believing that unless arrested, the offender may escape or cause an unreasonable amount of delay, trouble or expense in being made answerable to justice, the authorised officer may arrest that person immediately.

246. Powers of inspection

An authorised officer shall have powers of inspection, which shall include the power to—

- (a) require persons to produce a licence or permit;
- (b) inspect exploration sites, mining sites, beneficiation facilities, operations and any other sites;
- (c) collaborate with the local governments in the monitoring and inspection of mining operations within their jurisdiction, where required;
- (d) require persons to provide names and addresses and identification;
- (e) stop any vehicle, aircraft, vessel or other means of conveyance and enter, inspect and require production of manifests and similar documents, and answers to questions relating to cargo;
- (f) immobilise a seized vehicle or vessel to prevent it from being moved;
- (g) search baggage;
- (h) require persons to produce records for inspection and copying;
- (i) seize gear, equipment and other things suspected of being used in the commission of an offence;
- (j) seize mineral products suspected of having been or attempted to have been mined, processed, exported or imported illegally or possessed in contravention of this Act;
- (k) demolish any construction, barrier or infrastructure that appears to have been erected or constructed illegally, or take possession of the building on behalf of Government; and
- (l) if he or she has reasonable ground to believe that any person is committing, has committed or has been involved in the commission of an offence under this Act, arrest, without a warrant, any person suspected of committing or having committed an offence under this Act.

247. Power to enter and search

- (1) Where an authorised officer suspects that any person has committed an offence under this Act, the authorised officer may—
- (a) enter, search or authorise any person subordinate to him or her to enter and search any baggage, package, vehicle, vessel, tent, premises or property belonging to or occupied by that person or to anyone in the employment of that person, and where there is found as a consequence of the search any mineral or mineral product appearing to have been obtained or to be possessed in contravention of this Act, the mineral or mineral product may be seized and detained and shall be dealt with in accordance with this Act and regulations made under this Act;
 - (b) enter onto or into any land, buildings, camp, tent, vehicle, aircraft, vessel or other conveyances; or
 - (c) arrest, without a warrant, any person suspected of committing or having committed an offence under this Act.
- (2) An authorised officer may seize anything under the powers conferred on him or her by this section, whether or not the owner can be found and the officer may—
- (a) break open and seal any hold, container or compartment;
 - (b) use any data processing system found on the premises; and
 - (c) reproduce and take any record in the form of a printout.
- (3) An authorised officer shall exercise the power of arrest in accordance with the Criminal Procedure Code Act.

248. Search warrant

An authorised officer shall not exercise the powers of entry under section 247 in respect of a dwelling house without a warrant obtained from a competent court, after satisfying the court that it is necessary to make a search.

249. Use of force

An authorised officer may use reasonable force to carry out searches and seizures and erect, after notifying the local authorities, temporary barriers on roads for the purpose of making searches of vehicles and persons.

**PART XIX—OFFENCES, PENALTIES AND ADMINISTRATIVE
PENALTIES**

250. General offences

A person who—

- (a) contravenes any of the terms or conditions of a mineral right, licence or permit; or
- (b) fails to comply with the order of an authorised person, commits an offence and is liable, on conviction, to a fine not exceeding three thousand currency points or to imprisonment for a term not exceeding two years, or both.

251. Offences relating to mineral rights, licences or permits

- (1) A person who—
 - (a) conducts prospecting, mining or exploration operations without a valid mineral right, licence or permit;
 - (b) carries out refining, smelting, processing, trading, storage or any other activity without a valid mineral right, licence or permit; or
 - (c) within the meaning of the provisions of the Penal Code Act, aids or assists illegal prospectors or operators,commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand currency points or to imprisonment for a term not exceeding seven years, or both.
- (2) A person who intentionally or negligently transgresses the boundaries of the prospecting area, exploration area, retention area or mining area while carrying on prospecting, mining or exploration operations; or who causes the boundaries to be transgressed, commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding two years, or both.
- (3) A court convicting a person under subsection (1) may, in addition to any penalty imposed, order that the mineral substances which were extracted illegally and any items and instruments used in the commission of the offence be seized by and forfeited to the Government.

252. Extraction of geothermal resources for direct use without licence

(1) A person who drills a well, extracts, takes, uses or applies geothermal resources for direct use in contravention of this Act commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand currency points or to imprisonment for a term not exceeding seven years, or both.

(2) A person who removes, damages, destroys or otherwise interferes with any valve, instrument, plant or machinery being used in geothermal operations or with any well, or hot water ways, commits an offence and is liable, on conviction, to a fine not exceeding two hundred fifty currency points or to imprisonment for a term not exceeding one year, or both.

(3) A person who continues to commit an offence under this section is liable to pay an additional penalty—

- (a) in the case of an individual, to a fine not exceeding fifty thousand currency points or to imprisonment for a term not exceeding ten years, or both; or
- (b) in the case of a body corporate, to a fine not exceeding one hundred thousand currency points.

253. Prohibition of use of explosives without authorisation

(1) A person commits an offence who—

- (a) unlawfully purchases, acquires, possesses or uses explosives in exploration or mining operations; or
- (b) aids or abets a person in unlawful purchase, acquisition, possession or usage of explosives in exploration or mining operations.

(2) A person who commits an offence under subsection (1) is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.

254. Prohibition of use of hazardous chemicals without authorisation

(1) The use of mercury in mining operations is prohibited.

(2) The use of cyanide in mining operations without authorisation is prohibited.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.

255. Counterfeiting and similar offences

Any person who—

- (a) counterfeits or issues without due authority, any mineral right, licence or permit;
- (b) is found in possession of a mineral right, licence or permit which is fraudulently issued;
- (c) submits false information in an application for a mineral right, licence or permit;
- (d) counterfeits, alters, obliterates or defaces any stamp, mark, sign, mineral right, licence or permit; or
- (e) knowingly receives or keeps or has in possession any mineral or mineral product acquired in contravention of this Act,

commits an offence and is liable, on conviction, to a fine not exceeding ten thousand currency points or to imprisonment for a term not exceeding five years, or both.

256. Falsification of certificate of origin and other documents

(1) A person who knowingly falsifies a certificate of origin or any material information on a certificate of origin of minerals or mineral products, commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.

(2) A person who—

- (a) in any application under this Act knowingly makes any statement which is false or misleading in a material way;
- (b) in any report or return submitted in pursuance of any provision of this Act, knowingly includes or permits to be included any information which is false or misleading in a material manner;
- (c) places or deposits, or is an accessory to the placing or depositing of, any material in any place with the intention of misleading any other person as to the nature of minerals or mineral products in that place;
- (d) represents falsely to be a person to whom a licence or permit has been issued under this Act;

- (e) mingles or causes to be mingled with any sample of nonmineral substance, any substance which will enhance the value or in any way or change the nature of the nonmineral substance with the intention to cheat, deceive or defraud, commits an offence and is liable, on conviction,—
- (i) in the case of an individual, a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both; and
 - (ii) in the case of a body corporate, to a fine not exceeding fifty thousand currency points.
- (3) A person who willfully—
- (a) makes or causes to be made or concurs in making a false entry in the register; or
 - (b) produces or tenders in evidence a document falsely purporting to be a copy of, or an extract from, an entry in the register or of or from an instrument lodged with the Minister under this Act, commits an offence and is liable, on conviction, to a fine not exceeding two hundred fifty currency points or to imprisonment for a term not exceeding two years, or both.
- (4) In any proceedings, the fact that a licence or permit has been issued to a person shall be evidence that the person, for the purpose of obtaining a mineral right, licence or permit, made a declaration that that person was not disqualified from holding or obtaining the mineral right, licence or permit.
- (5) Where an offence which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or of any person who was purporting to act in any such capacity, that individual as well as the body corporate, commits an offence and shall be punished accordingly.

257. Offences relating to mineral exploitation and transportation

- (1) A person commits an offence who—

 - (a) employs children below the minimum working age as defined under the Employment Act in the mining operations;
 - (b) exploits minerals without complying with standards for environmental protection and health and safety;

- (c) directly or indirectly supports non-state armed groups through the extraction, transport, trade, handling, or export of minerals;
- (d) directly or indirectly supports public or private security forces who illegally control mine sites, transportation routes and upstream actors in the supply chain;
- (e) directly or indirectly illegally taxes or extorts money or minerals at points of access to mine sites, along transportation routes or at points where minerals are traded, or illegally taxes or extorts intermediaries, export companies or international traders;
- (f) directly or indirectly offers, promises, gives, demands or receives bribes to conceal or disguise the origin of minerals, or to misrepresent taxes, fees and royalties;
- (g) fails to pay taxes and fees on minerals' trade and export and royalties on minerals extracted; or
- (h) carries out any activity in contravention of this Act.

(2) A person who commits an offence under subsection (1) is liable, on conviction, to a fine not exceeding twenty thousand currency points or to imprisonment for a term not exceeding four years, or both.

- (3) For the purposes of this section—
 - (a) “direct or indirect support” to non-state armed groups through the extraction, transportation, trade, handling or export of minerals includes procuring minerals from, making payments to, or otherwise providing logistical assistance or equipment to, non-state armed groups or their affiliates who—
 - (i) illegally control mine sites or otherwise control transportation routes or points where minerals are traded and upstream actors in the supply chain;
 - (ii) illegally tax or extort money or minerals at points of access to mine sites, along transportation routes or at points where minerals are traded; or
 - (iii) illegally tax or extort intermediaries, export companies or international traders; and
 - (b) “direct or indirect support” to public or private security forces includes, but is not limited to, procuring minerals, making payments to, or providing logistical assistance or equipment to, such forces, excluding legally required forms of support.

258. Laundering of proceeds of illegally exploited minerals

- (1) A person commits an offence who—
 - (a) carries out acts aimed at laundering the proceeds of the illegal exploitation of minerals including conversion or transfer of property, knowing that it is the product of illegal exploitation of minerals, for the purpose of concealing or disguising the illegal origin of such minerals;
 - (b) assists a person who is involved in the illegal exploitation of minerals to escape the legal consequences of the actions of that person;
 - (c) conceals or disguises the true nature, origin, location, disposition, movement or ownership of property which the person knows to be the product of the illegal exploitation of minerals; or
 - (d) acquires or possesses property, with the knowledge that it is the product of illegal exploitation of mineral resources.
- (2) A person who commits an offence under subsection (1) is liable, on conviction, to a fine not exceeding fifty thousand currency points or to imprisonment for a term not exceeding ten years, or both.

259. Offences relating to refining, smelting, processing, trading, dealing and transportation of minerals

- (1) A person who sells minerals and who fails to comply with the requirement to furnish the purchaser of the minerals with a valid mineral right, licence or permit or a valid certificate of origin of the minerals, or sells the minerals as uncertified with respect to origin commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.
- (2) A holder of a refining, smelting, processing, mineral dealers or goldsmith's licence who fails to record the information concerning all of the transactions in minerals as required under this Act commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.
- (3) A holder of a mineral processing, smelting, refining, mineral dealer's or goldsmith's licence who knowingly engages in the processing, trading or sale of minerals other than the minerals for which the licence of the

holder was issued or other authorisation to deal in such other minerals commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.

(4) A holder of a processing, smelting, refining, mineral dealer's or goldsmith's licence who fails to report pricing data or to submit an annual report summarising the aggregate information on transactions recorded in a manner prescribed by regulations commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.

(5) A holder of a processing, smelting or refining licence, mineral dealer or goldsmith's licence who fails to comply with the requirements to hire and train Ugandan citizens in accordance with this Act or regulations made under this Act commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.

(6) A holder of a processing, smelting or refining licence who fails to timely submit or to implement a local procurement plan in accordance with this Act commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.

(7) A holder of a processing, smelting, refining, mineral dealer or goldsmith's licence who sells minerals or mineral products outside of the territory within which such sales are authorised by the licence commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.

(8) A holder of a mineral dealer or goldsmith's licence who fails to comply with applicable regulations on fair trade practices commits an offence and is liable, on conviction, to a fine not exceeding three thousand currency points or to imprisonment for a term not exceeding one year, or both.

(9) The Minister may direct a holder of a mineral right, licence or permit under this Act to take any corrective action that the Minister deems reasonably necessary in order to comply with the provisions of this Part.

(10) The Minister may suspend or revoke a licence of a person who commits an offence under this section.

260. Obstruction of Minister or authorised officer

Any person who hinders or obstructs the Minister, an authorised officer or other person from carrying out any of the duties or functions of the Minister, an authorised officer or other person under this Act commits an offence and is liable, on conviction, to a fine not exceeding one thousand currency points or to imprisonment for a term not exceeding one year, or both.

261. Failure to comply with orders of authorised officers

A person who—

- (a) fails to comply with a lawful order issued by an authorised officer in accordance with this Act;
- (b) refuses an authorised officer entry upon land, water, premises, facility, vehicle or vessel, which he or she is empowered to enter by this Act;
- (c) obstructs, intimidates, molests, hinders or willfully delays an authorised officer in the exercise of the authorised officer's powers and functions under this Act;
- (d) refuses an authorised officer access to records, including electronic records, kept in accordance with this Act;
- (e) fails or refuses without a lawful reason to answer a question asked by an authorised officer;
- (f) knowingly or negligently misleads or gives wrongful or false information to an authorised officer under this Act;
- (g) knowingly makes a statement or produces a document that is false or misleading in a material particular to an authorised officer engaged in carrying out his or her duties and functions under this Act;
- (h) fails to answer questions or produce anything required to be produced under the Act;
- (i) refuses or resists a lawful search or inspection or
- (j) fails to state or wrongly states the name or address of that person to an authorised officer in the course of his or her duties under this Act,

commits an offence and is liable, on conviction, to a fine not exceeding three thousand currency points or to imprisonment for a term not exceeding two years, or both.

262. Impersonation of authorised officers

A person, not being an authorised officer, who takes or assumes the name, designation, character or appearance of an authorised officer for the purpose of—

- (a) obtaining admission to any premises;
- (b) doing or causing to be done any act which he or she is not authorised to do; or
- (c) doing any unlawful act,

commits an offence and is liable, on conviction, to a fine not exceeding three thousand currency points or to imprisonment for a term not exceeding two years, or both.

263. Unlawful seizure

A person who—

- (a) takes, causes or permits to be taken, anything seized under this Act otherwise than in accordance with this Act;
- (b) fails or neglects to deliver to the Directorate anything subject to seizure;
- (c) breaks, destroys or throws overboard from any facility, aircraft, vessel or vehicle, anything for the purpose of preventing its seizure or for the purpose of preventing it from being secured after it has been seized; or
- (d) destroys or damages anything that is seized under this Act otherwise than in circumstances provided for in this Act or regulations made under this Act,

commits an offence and is liable, on conviction, to a fine not exceeding three thousand currency points or to imprisonment for a term not exceeding two years, or both.

264. Removing or defacing seal of Directorate

A person who—

- (a) removes a seal of the Directorate from any premises, facility or package without the authority of the Minister; or

(b) willfully alters, defaces, obliterates or imitates, any mark placed by an inspector or an authorised officer on any premises, facility or package, commits an offence and is liable, on conviction, to a fine not exceeding two thousand currency points or to imprisonment for a term not exceeding three years, or both.

265. Indemnity of officials

The Minister, an inspector of mines or an authorised officer performing functions under this Act shall not incur any personal liability in respect of the performance in good faith without negligence of his or her functions under this Act.

266. Prohibition of public officers from acquiring interest

(1) A public officer shall not directly or indirectly acquire any right or interest in any mineral right, licence or permit and any document or transaction purporting to confer any such right or interest in any officer shall be void and of no legal effect.

(2) A public officer shall not acquire or retain any share in a company carrying on prospecting, mining, exploration, beneficiation, or mineral trading operations in Uganda.

(3) Any public officer who contravenes subsections (1) and (2) commits an offence and is liable, on conviction, to a fine not exceeding ten thousand currency points or to imprisonment for a term not exceeding five years, or both.

(4) In addition to any penalty prescribed in subsection (3), the court which convicts a public officer of an offence under this section shall also order that any shares or other interest involved in or connected with the commission of the offence shall be forfeited and shall be disposed of in a manner prescribed by regulations.

267. Miscellaneous offences

(1) A person who—

(a) places or deposits or is an accessory to the placing or depositing of any mineral in any spot or place for the purpose of misleading any

- person as to the nature, quality or quantity of the mineral naturally occurring at such spot or place; or
- (b) mingles or causes to be mingled with any sample of metal, mineral or any substance which will increase or decrease the value or in any way change the nature of such metal, mineral, with intent to defraud any person,

commits an offence and is liable, on conviction, to a fine not exceeding two hundred fifty currency points or to imprisonment for a term not exceeding five years, or both.

- (2) Any person who without lawful authority—
- (a) breaks, defaces or removes, or in any way interferes with any boundary mark, beacon, pillar, peg or post erected for any of the purposes of this Act or regulations made under this Act; or
- (b) removes or alters a mark, beacon, pillar, peg or post after it has been delineated on a plan or survey,

commits an offence and is liable, on conviction, to a fine not exceeding two hundred fifty currency points or to imprisonment for a term not exceeding one year, or both.

- (3) Any person who—
- (a) interferes with any prospecting, mining, exploration, beneficiation, or mineral trading operations authorised under this Act;
- (b) obstructs a holder of a mineral right, licence or permit in the exercise of any right conferred by or under this Act; or
- (c) interferes with any machinery, plant, works or property established on, in, under or over any land in exercise of a right conferred by or under this Act,

commits an offence and is liable, on conviction, to a fine not exceeding two hundred fifty currency points or to imprisonment for a term not exceeding one year, or both.

(4) Where any person is convicted of an offence under this section and the time limited for appeal has elapsed or the appeal has been denied, the Minister shall cancel any mineral right, licence or permit which has been granted to any such person under this Act.

268. Alerting offender

A person who, with intent to obstruct the Minister, an inspector, or an authorised person in the execution of his or her duty, alerts or does any act for the purpose of alerting any person engaged in the commission of an offence under this Act, whether or not that person is in a position to take advantage of such alert or act, commits an offence and is liable, on conviction, to a fine not exceeding one thousand currency points or to imprisonment for a term not exceeding one year, or both.

269. Conspiracy to commit an offence

A person who conspires with another person to contravene a provision of this Act commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding five years, or both.

270. Continuing or subsequent offences

(1) A person convicted of an offence under this Act who continues to contravene a provision of this Act commits an offence and is liable to an additional penalty—

- (a) in the case of an individual, to a fine not exceeding ten thousand currency points or to imprisonment for a term not exceeding seven years, or both; or
- (b) in the case of a body corporate, to a fine not exceeding fifty thousand currency points.

(2) A person who commits a second or subsequent offence is liable to pay an additional penalty—

- (a) in the case of an individual, to a fine not exceeding fifty thousand currency points or to imprisonment for a term not exceeding ten years, or both; or
- (b) in the case of a body corporate, to a fine not exceeding one hundred thousand currency points.

271. General penalty

Any person who contravenes a provision of this Act for which no penalty is specifically provided, commits an offence and is liable, on conviction—

- (a) in the case of an individual, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding seven years, or both; or
- (b) in the case of a body corporate, to a fine not exceeding fifty thousand currency points.

272. Power of court to confiscate and order forfeiture

- (1) The court by which a person is convicted of an offence under this Act may order the forfeiture of—
 - (a) any mineral or mineral product in respect of which the offence was committed or which was found in that person's possession; or
 - (b) any vehicle or other conveyance, machinery goods or equipment, gear, implement, appliance, material, container, weapon or other thing which was used to commit the offence or which was capable of being used to take minerals or mineral products found in the possession of that person and used in respect of the commission of the offence.
- (2) A mineral or mineral product forfeited under subsection (1) shall, unless otherwise ordered by the court, be sold or otherwise disposed of as the court may determine.

273. Power of court to order compensation

A person convicted of an offence under this Act may be held liable for any loss or damage caused by the offence and may be ordered by the court to pay—

- (a) to the Government, in addition to any penalty imposed by the court for the offence, an amount of compensation for that loss or damage up to five times the value of the mineral or mineral products; or
- (b) up to ten times the amount of any fees or other payments which, had the act constituting the offence been authorised, would have been payable in respect of the authorised act.

274. Offences committed by body corporate

- (1) Where an offence committed by a body corporate under this Act is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act

in any such capacity, the director, manager, secretary or other similar officer of the body corporate or any other person, as well as the body corporate, commits that offence.

(2) A person who commits an offence under subsection (1) is liable, on conviction, to a fine or imprisonment prescribed by the relevant section.

275. Deprivation of monetary benefits

Notwithstanding any provision of this Act, a court convicting a person of an offence under this Act may summarily and without pleadings, inquire into the money benefit acquired or saved by the person as a result of the commission of the offence and may, in addition to any other penalty imposed, impose a fine equal to the court's estimation of that monetary benefit.

276. Cancellation of licences and permits by order of court

The court may, on convicting a person granted a mineral right, licence or permit of an offence under this Act—

- (a) order that the mineral right, licence or permit be cancelled; or
- (b) disqualify that person from obtaining a licence or permit for a period as the court thinks fit.

277. Further powers of court

A court, on convicting a person of an offence under this Act, may order that person, within a time specified in the order, to do any act that the person had failed, refused or neglected to do.

278. Administrative fines

(1) Where an authorised officer or an inspector has reasonable grounds to believe that a person has contravened the provisions of this Act, an authorised officer may impose an administrative fine and serve a notice on that person.

(2) An authorised officer may require the person served with a notice under subsection (1) to pay the administrative fine within a time prescribed in the notice.

- (3) The notice issued under this section shall—

- (a) specify the date and nature of the alleged contravention;
- (b) contain a summary of the facts which the inspector or authorised officer alleges;
- (c) be endorsed with a statement setting out the provisions of the law contravened;
- (d) specify the penalty payable; and
- (e) state the bank details of the bank account into which the payment is to be made.

(4) The person on whom a notice has been served under subsection (1) shall pay the fine specified in the notice in the time prescribed in the notice.

(5) A person on whom an administrative penalty notice has been served under subsection (1) may, within thirty days, admit the offence in writing, by notice addressed to the authorised officer, and immediately pay to the bank account referred to in subsection (3)(e), a fixed penalty in accordance with regulations made under this Act.

(6) A person on whom an administrative penalty notice has been served who denies, by notice in writing to the authorised officer, that an offence has been committed or who fails to respond to the administrative penalty notice within thirty days, is liable, in the discretion of the Directorate of Public Prosecution, to prosecution in respect of the alleged offence.

(7) An administrative penalty notice shall not be issued under this section until such time as regulations have been issued by the Minister specifying the offences in respect of which fixed administrative notices may be served and the amount of any penalty payable in respect of such offences.

(8) An administrative penalty notice shall not be served in respect of the offence of obstructing, assaulting or threatening an authorised officer with violence in any event.

(9) A person who admits to having committed an offence described in an administrative penalty notice but fails to pay the fixed penalty within forty-five days after the date of the administrative penalty notice is liable to punishment by the court up to the maximum punishment applicable for that offence.

(10) The Minister may issue guidelines setting out the criteria for issuing and payment of administrative fines.

279. Coercive fines

(1) The Minister may impose a coercive fine on any person who contravenes this Act or decision made under this Act.

(2) A coercive fine imposed under subsection (1) shall become effective when the person responsible fails to meet the deadline set by the Minister for remedying the matter.

(3) The Minister may determine whether the coercive fine is a one-off payment or is continuous for as long as the non-compliance persists.

(4) Where the non-compliance occurs on the part of a body corporate, an association or other entity, the coercive fine shall be imposed on that body corporate or entity.

PART XX—MISCELLANEOUS

280. Cooperation in minerals management

(1) The Minister shall create mechanisms for close collaboration with the regional and international community to contribute towards a sustainable, peaceful and better global minerals management for the present and future generations.

(2) The Minister may, subject to the Constitution, collaborate with the Minister responsible for foreign affairs, sector ministries and agencies, to initiate, coordinate and implement transboundary mining and minerals management programmes with other countries.

(3) Without prejudice to subsection (2), the Minister may, on the recommendation of the Directorate establish a national focal point for the coordinated implementation of multilateral mining agreements to enable effective preparation for negotiations, reporting, feedback and national implementation.

281. Radioactive minerals and materials

(1) A mineral rights holder shall ensure that the mining of any radioactive mineral is conducted in accordance with this Act and the Atomic Energy Act.

(2) The licensee shall, in accordance with this Act and a permit or licence obtained from the Atomic Energy Council, control the use of radioactive materials, to prevent exposure or contamination and accumulation of radioactive material and to provide for safe disposal of the waste.

(3) Where any radioactive mineral or material is discovered in the course of exercising any right under this Act or any authority under any other applicable written law, the holder of the mineral right, licence or permit or such other authority shall immediately notify the Minister and the Atomic Energy Council, not later than seven days after the discovery of the radioactive mineral.

(4) Where any radioactive mineral or material is discovered on any land other than land subject to a mineral right, licence or permit, the registered owner, customary owner, lawful occupant or *bona fide* occupant of the land shall, soon after becoming aware of such discovery, notify the Minister and the Atomic Energy Council.

(5) The holder of a mineral right, licence or permit in respect of a radioactive mineral or material shall within the first week of every month, furnish the Minister with a report, in writing, of the exploration and mining operations conducted in the preceding month.

(6) A person shall not explore for, mine, treat, possess, transport, store, export, import or otherwise dispose of any radioactive mineral or material except under and in accordance with this Act and the terms and conditions of a permit granted by the Atomic Energy Council under the Atomic Energy Act.

(7) For the avoidance of doubt, a mineral right, licence or permit holder shall be liable for any exposure of persons to minerals or waste containing radioactive material.

282. Transparency and accountability

(1) A company applying or bidding for a mineral right, licence or permit shall provide accurate information on the beneficial ownership as part of the application or bid documents and, throughout the duration of a mineral right or licence, shall inform the Minister of any changes to this information, within one month of the change occurring.

(2) The Minister shall promptly publish and maintain all beneficial ownership information of mineral rights, licence or permit holders in a publicly accessible format on its website.

(3) Failure to provide the information required in subsection (1), in good faith and in conformity with this Act shall invalidate a licence application and be grounds for revocation where a licence has been granted.

(4) For the purposes of this section, “beneficial ownership” means the control, possession, custody or enjoyment by a natural person, directly or indirectly, of a reasonably significant economic interest in a given legal entity or receives significant economic benefit from such a legal entity, even if formal ownership or title may be in the name of another person or entity.

(5) In addition to any other qualifying criteria, a person is automatically considered to be a beneficial owner where such person owns five percent or more of the legal entity in question.

(6) Subject to this Act, information and contracts required, submitted or signed under this Act shall be considered non-confidential.

(7) Subject to the Constitution and Access to Information Act, confidentiality clauses or other clauses in a mining contract that prevent disclosure of information shall be void.

(8) The information shall be made available to the public in a timely, widely accessible and accurate manner, including on a public website or newspaper of wide circulation.

283. Anti-corruption

- (1) It is a prosecutable offence for any company which is active in the mineral subsector or has any interest in it, including any director, shareholder, employee, representative or subcontractor of such a company to make an offer or promises or offer donations, gifts or benefits of any kind whatsover to government official or an elected representative so as to influence a decision or an action taken as part of the carrying out of their public functions, including those which relate to the mineral subsector; or
- (b) any other individual, association, company, natural person or legal entity so as to use their imputed or actual influence over any action or decision by any government official or an elected representative as part of the carrying out of their public function, including those which relate to the mineral subsector.

(2) Where a holder of mineral right, licence or permit or one of the officials, directors, employees, representatives, subcontractors or shareholders, duly acting in the name of the holder of mineral right, licence or permit, contravenes the provisions of this Act relating to the prohibition of corrupt activities, the holder of a mineral right, licence or permit may be liable to an administrative penalty in accordance with this Act.

(3) The administrative penalty referred to under subsection (2) shall be applied after an investigation has been undertaken into—

- (a) the severity of the offence;
- (b) the time which has lapsed since the offence was committed;
- (c) the actions implemented by the holder of a mineral right, licence or permit in order to report the offence and inform the Government; and
- (d) the level of investment which the holder of a mineral right, licence or permit has expended to develop the project.

(4) A public officer who solicits, accepts, offers, promises, donations, gifts or benefits of any kind whatsoever, to perform, refrain from performing, or to abuse their influence in the carrying out of their functions, in particular in the context of applications, processing, grant, management, and regulation of mineral rights, licences and permits, commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.

(5) Where an officer is at the assumption of the functions of his or her office, the holder of shares in such company referred to in subsection (2), the officer shall divest himself or herself from such right or interest or dispose of the shares within ninety calendar days after assumption of office.

(6) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or to imprisonment for a term not exceeding three years, or both.

(7) For the purposes of this section, “officer” means a public officer.

284. Duties of holder of mineral right, licence or permit regarding security

(1) The holder of a mineral right, licence or permit under this Act shall—

- (a) keep under constant surveillance all zones under the control of the holder and monitor the movement of people and assets;
- (b) prevent unauthorised residence, movement, exercise of economic activities and access by people within the operation areas;
- (c) prevent the performance of unauthorised mineral prospecting, search, mining, exploration or beneficiation operations;
- (d) ensure the protection of deposits and events;
- (e) ensure the security of people, facilities, assets and services associated with the exercise of mining or beneficiation operations;
- (f) identify and perform routine searches of the workers and, in a general manner, all people that enter or exit the restricted areas or circulate or are present in further areas under their control, as well as the objects and goods which they carry or are under their responsibility;
- (g) demand the presentation of access permits, credentials or goods or assets waybills, whenever access to the area legally requires those authorisations; and
- (h) preventively hold the perpetrators of crimes in accordance with applicable written law, whenever caught committing an offence, and immediately deliver them to the nearest police station and apprehend the crime instruments carried by them.

(2) For the purposes of subsection (1)(c), any means of transport, weapons and materials and camping accessories found in the possession of the perpetrators are deemed to constitute crime instruments.

(3) Any person held and any goods seized shall be immediately delivered to the nearest police station.

(4) The holder of a mineral right, licence or permit shall publish internal regulations regarding surveillance, security and control, applicable to the restricted zones, aimed at his or her workers and the persons authorised by law to enter those zones.

(5) For the avoidance of doubt, nothing in this section shall be construed to prejudice the exercise of the duties which, regarding surveillance, security, and control of persons and assets, are assigned to the public security bodies and private security specialist companies in the restricted zones and protection zones under any applicable written law.

285. Area secured for mining operations

(1) The Minister may, by notice in the *Gazette* and in a newspaper of national circulation, establish a controlled area of any reasonable perimeter which is subject to mining operations.

(2) The Minister may, by notice in the *Gazette* and in a newspaper of national circulation, amend or cancel any area declared to be a controlled area.

(3) The Minister shall define the terms of movement of people, goods and security forces within a controlled area.

286. Regulations

(1) The Minister may make regulations for the conservation and development of mines and minerals in new areas or areas already published in the *Gazette* as such and otherwise for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may include provisions for or with respect to—

- (a) the manner in which applications under this Act shall be made;
- (b) the form of documents required and information to be supplied by an applicant;
- (c) the shape of the area over which a mineral right or licence may be granted and the manner in which areas and boundaries shall be

- marked, beaconed and surveyed and the fees payable in respect of such surveys;
- (d) the rejection of an application for a mineral right and the renewal, transfer, assignment or surrender of a mineral right, licence or permit;
- (e) the returns to be rendered and the nature of the accounts, books and plans to be kept by the holder of a mineral right, licence or permit;
- (f) the valuation, sampling, weighing and testing of minerals or mineral products;
- (g) the method of calculation of the amount of royalties and the manner of payment of such royalties;
- (h) fees, levies and charges for the extraction of geothermal for direct use;
- (i) the fees to be paid in respect of any service rendered or matter or thing done under this Act;
- (j) the restriction or prohibition of prospecting, exploration, mining or beneficiation operations for environmental reasons;
- (k) the safety of the public and welfare of persons employed in mines and the carrying on of prospecting, exploration, mining, or beneficiation operations in a safe, proper and effective manner;
- (l) the notices and other safety measures necessary to protect the registered owner, customary owner, lawful occupant or *bona fide* occupant of any land who exercises his or her right to graze livestock upon or cultivate the surface of such land under section 169 of this Act;
- (m) the inspection of mines by authorised officers;
- (n) the proper and efficient working of exploration, mining, or beneficiation areas, facilities and mines, as well as the avoidance of wasteful mining or beneficiation practices or wasteful metallurgical practices;
- (o) the conservation and management of the environment at or in the vicinity of any mine, facilities or works, and the impact of any mining and beneficiation operations;
- (p) the rehabilitation of disturbances of the surface of land where such disturbances are connected to prospecting, exploration, mining or beneficiation operations;
- (q) procedures in respect of dispute resolution and appeals lodged under this Act;
- (r) fees payable under this Act;
- (s) fees, levies and charges payable for export of minerals;

- (t) categories of minerals excluded from small scale operations;
 - (u) the form of any application which may or has to be done in terms of this Act and of any consent or document required to be submitted with such application, and the information or details which must accompany any such application;
 - (v) the form, conditions, issuing, renewal, abandonment, suspension or cancellation of any environmental management programme, permit, licence, certificate, permission, receipt or other document which may or has to be issued, granted, approved, required or renewed under this Act;
 - (w) the form of any register, record, notice, sketch plan or information which may or shall be kept, given, published or submitted in terms of or for the purposes of this Act;
 - (x) the disposal of any mineral or mineral product or the use of for any specified purpose or in any specified manner or for any other purpose or in any other manner than a specified purpose or manner;
 - (y) the restriction or regulation in respect of the disposal or use of any mineral or mineral product in general;
 - (z) artisanal mining;
 - (aa) the exploration and direct use of geothermal resources;
 - (ab) the exploitation of radioactive minerals; and
 - (ac) any matter which may or must be prescribed for under this Act.
- (3) Regulations made under subsection (1) may, in respect of a contravention—
- (a) provide for the use of administrative measures;
 - (b) provide for the forfeiture of anything used in the commission of an offence;
 - (c) prescribe a penalty of a fine not exceeding ten thousand currency points or imprisonment for a term not exceeding seven years, or both;
 - (d) in the case of a continuing contravention, prescribe an additional penalty not exceeding one thousand currency points in respect of each day on which the offence continues; or
 - (e) prescribe a higher penalty not exceeding twenty thousand currency points or imprisonment for a term not exceeding ten years, or both.

287. Power to amend Schedules

(1) The Minister may, by statutory instrument, with the approval of Cabinet, amend Schedule 1 to this Act.

(2) The Minister may, by statutory instrument, amend Schedules 2 and 3 to this Act.

(3) The Minister shall lay before Parliament any statutory instrument to amend Schedule 2, and the statutory instrument shall not be effective unless approved by Parliament.

288. Repeal of Mining Act, 2003

- (1) The Mining Act, 2003 is repealed.
- (2) Notwithstanding the repeal referred to in subsection (1)—
 - (a) any public officer or other employee holding office or employment under the repealed Act on the date of commencement of this Act shall continue to hold such office or employment as if he or she were appointed or employed under this Act; and
 - (b) any regulations made under the repealed Act shall, insofar as they are consistent with the provisions of this Act, continue in force as if they were made under this Act.

289. Existing licences, permits and agreements

- (1) A mineral right, licence or permit issued under the Mining Act, 2003 repealed by section 288, and which is in force immediately before the commencement of this Act—
 - (a) shall have effect from the commencement of this Act as if it was granted under this Act; and
 - (b) in the case of mineral right, licence or permit for a specified period, shall remain in force, subject to this Act, for so much of that period as falls after the commencement of this Act.

- (2) An agreement or similar arrangement made under the Mining Act, 2003 repealed by section 288 shall continue in force until terminated in accordance with the terms and conditions of the agreement or arrangement.

SCHEDULE*Schedule 1*

Sections 3, 287(1)

Currency Point

A currency point is equivalent to twenty thousand shillings.

*Schedule 2*Sections 3, 58, 71, 83,
287(2), (3)**Threshold for Mining Licences**

Item	Licence	Capital Investment in Currency Points
1.	Large scale mining licence	Exceeding nineteen million, four hundred ten thousand (19,410,000) currency points
2.	Medium scale mining licence	Fifty-eight thousand, two hundred thirty (58,230) currency points to nineteen million, four hundred ten thousand (19,410,000) currency points
3.	Small scale mining licence	Exceeding nineteen thousand four hundred ten (19,410) currency points to nine hundred seventy thousand five hundred (970,500) currency points
4.	Artisanal mining licence	Not exceeding nineteen thousand, four hundred ten (19,410) currency points

Schedule 3

Sections 179(4), 287(2)

Sharing of Royalty

Royalty from minerals shall be shared as follows—

Government	70%
Local Governments	15%
Subcounty or Town Council	10%
Owners, lawful occupants or <i>bona fide</i> occupants of land subject to mineral rights	5%

History: Act 25/2022

Cross References

Constitution
Access to Information Act, Cap. 95
Atomic Energy Act, Cap. 154
Business Names Registration Act, Cap. 105
Companies Act, Cap. 106
Cooperative Societies Act, Cap. 107
Criminal Procedure Code Act, Cap. 122
Electricity Act, Cap. 157
Employment Act, Cap. 226
Explosives Act, Cap. 319
Income Tax (Transfer Pricing) Regulations, S.I. 338–6
Income Tax Act, Cap. 338
International Conference on the Great Lakes Region (Implementation of the
Pact on Security, Stability and Development in the Great Lakes Region)
Act, Cap. 188
Interpretation Act, Cap. 2
Land Acquisition Act, Cap. 235
National Environment Act, Cap. 181
Occupational Safety and Health Act, Cap. 231
Partnerships Act, Cap. 110
Penal Code Act, Cap. 128
Petroleum (Exploration, Development and Production) Act, Cap. 161
Public Finance Management Act, Cap. 171
Public Private Partnerships Act, Cap. 111
Trustees Incorporation Act, Cap. 271
Water Act, Cap. 164
Workers Compensation Act, Cap. 233
