

MINES AND MINERALS AMENDMENT BILL, 2015

Explanatory Memorandum

The purpose of this Bill is to amend the Mines and Minerals Act [Chapter 21:05].

The individual clauses of the Bill are explained below:

Clause 1

This clause sets out the Bill's short title.

Clause 2

This clause will amend section 2 of the Mines and Minerals Act [Chapter 21:05] by the insertion of section 2A which provides for the legal nature of prospecting, exploration title and mining rights.

Clause 3

This clause will repeal section 4(1)(ii),(iii)and (iv) of the Mines and Minerals Act [Chapter 21:05].

Clause 4

This clause will amend section 5 of the Mines and Minerals Act [Chapter 20:05] in the definitions.

Clause 5

This clause will amend section 5 of the Mines and Minerals Act by the insertion of section 5A which provides for the declaration of strategic minerals.

Clause 6

This clause will amend section 7 of the Mines and Minerals Act and establishes the Mining Affairs Board.

Clause 7

This clause will amend section 10 of the Mines and Minerals Act [Chapter 21:05] to provide for the procedure of Board.

Clause 8

This clause will repeal Part III of the Mines and Minerals Act [Chapter 21:05] and substituted by new sections to establish the Cadastre System.

Clause 9

This clause repeals Part II of the Electoral Act and substitutes it with a new Part II.

Clause 9

This clause repeals and substitutes sections 20, 21, 23, 24 and 25 of the Mines and Minerals Act to provide for the exclusive prospecting licence, its form, duration, terms and conditions.

Clause 10

This clause repeals and substitutes section 27 of the Mines and Minerals Act to provide for the rights conferred by an exclusive prospecting licence.

Clause 11

This clause repeals sections 29, 30, 31, 32, 33, 36, 38 and 54 of the Mines and Minerals Act.

Clause 12

This clause repeals and substitutes section 57 of the Mines and Minerals Act [*Chapter 21:05*] to provide prohibition against wilful pegging.

Clause 13

This clause repeals and substitutes Part V to provide for the exercise of rights granted under mining title and rights.

Clause 14

This clause repeals and substitutes Part VI of the Mines and Minerals Act [*Chapter 21:05*] to provide for the Exclusive Prospecting Reservation, its application process, form, duration, terms and conditions.

Clause 15

This clause repeals and substitutes Part VIII to provide for the Mining Leases, form, duration, terms and conditions.

Clause 16

This clause repeals sections 169, 170 and 171 of the Mines and Minerals Act [*Chapter 21:05*].

Clause 17

This clause amends section 172 to provide for mining rights other than precious metal claims.

Clause 18

This clause repeals section 173 (1), (2), (3), (4), (5), (7) and (9) of the Mines and Minerals Act [*Chapter 21:05*] and by the insertion of (1) to provide for the conversion of blocks.

Clause 19

This clause repeals section 174 of the Mines and Minerals Act [*Chapter 21:05*].

Clause 20

This clause repeals and substitutes section 177 of the Mines and Minerals Act [*Chapter 21:05*] to provide for the priority of rights.

Clause 21

This clause repeals sections 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188 and 189 of the Mines and Minerals Act [*Chapter 21:05*].

Clause 22

This clause amends section 193 of the Mines and Minerals Act to provide for the deletion of the word “private water may be taken free of charge”.

Clause 23

This clause repeals section 194 of the Mines and Minerals Act [*Chapter 21:05*].

Clause 24

This clause amends section 197 of the Mines and Minerals Act [*Chapter 21:05*] to provide for the application for an inspection certificate.

Clause 25

This clause will amend Part XI by the insertion after section 197 of section 197A providing for the definition of “work” in terms of this Part.

Clause 26

This clause will amend section 198 of the Mines and Minerals Act [*Chapter 21:05*] to provide for the application for a second inspection certificate.

Clause 27

This clause repeals section 199 of the Mines and Minerals Act [*Chapter 21:05*] to provide for the application for subsequent inspection certificates.

Clause 28

This clause amends section 201 of the Mines and Minerals Act [*Chapter 21:05*] to provide for inspection of development work.

Clause 29

This clause repeals and substitutes section 202 of the Mines and Minerals Act [*Chapter 21:05*] to provide for the issuance of an inspection certificate by the Cadastre Registrar.

Clause 30

This clause repeals section 203 of the Mines and Minerals Act [*Chapter 21:05*].

Clause 31

This clause repeals and substitutes section 205 of the Mines and Minerals Act [*Chapter 21:05*] to provide for amount of work required to obtain an inspection certificate for blocks under ordinary exclusive prospecting licence.

Clause 32

This clause repeals section 211(1) of the Mines and Minerals Act [*Chapter 21:05*].

Clause 33

This clause repeals section 212 of the Mines and Minerals Act [*Chapter 21:05*].

Clause 34

This clause amends section 221 of the Mines and Minerals Act [*Chapter 21:05*] to provide for amount and work required to obtain an inspection certificate for a mining lease.

Clause 35

This clause amends Part XI of the Mines and Minerals Act [*Chapter 21:05*] by the insertion after section 221, sections 22A and 22B to provide for protection certificates for a mining lease and appeal process respectively.

Clause 36

This clause repeals section 232 of the Mines and Minerals Act.

Clause 37

This clause amends section 244 to provide for royalties payments.

Clause 38

This clause will repeal section 245 of the Mines and Minerals Act to provide for fixing of royalties.

Clause 39

This clause repeals section 255 of the Mines and Minerals Act.

Clause 40

This clause amends Part XVA of the Mines and Minerals Act by the insertion after Part XV of Part XVA to provide for environmental protection.

Clause 41

This clause amends section 260 of the Mines and Minerals Act to provide for forfeiture upon failure to obtain an inspection certificate.

Clause 42

This clause amends section 261 of the Mines and Minerals Act [*Chapter 21:05*] to provide for forfeiture of alluvial, eluvial, rubble deposits or dump precious metal claims.

Clause 43

This clause amends section 262 of the Mines and Minerals Act [*Chapter 21:05*] to provide for forfeiture of precious stones blocks.

Clause 44

This clause repeals and substitutes sections 263 of the Mines and Minerals Act [*Chapter 21:05*] to provide for forfeiture of mining lease.

Clause 45

This clause amends section 264 of the Mines and Minerals Act to provide for the forfeiture of sites.

Clause 46

This clause provides for the insertion after section 271 of the Mines and Minerals Act [*Chapter 21:05*] section 271A to provide for an appeal after forfeiture.

Clause 47

This clause repeals section 281 of the Mines and Minerals Act [*Chapter 21:05*].

Clause 48

This clause amends section 289 to provide for the prohibition of entering into tribute agreements without the approval of the Minister.

Clause 49

This clause repeals and substitutes section 298 of the Mines and Minerals Act [Chapter 21:05] to provide for the mineral that can only be explored or mined under a special grant.

Clause 50

This clause amends section 305 of the Mines and Minerals Act to provide for the notice of cancellation from 12 months to 90 days.

Clause 51

This clause inserts Part XXA after Part XXA of the Mines and Minerals Act [Chapter 21:05] to provide for beneficiation provisions.

Clause 52

This clause repeals section 314 of the Mines and Minerals Act [Chapter 21:05].

Clause 53

This clause amends section 341 of the Mines and Minerals Act [Chapter 21:05] to provide for the administration of Ministry.

Clause 54

This clause repeals and substitutes section 343 of the Mines and Minerals Act [Chapter 21:05] to provide for the establishment of technical posts.

Clause 55

This clause repeals and substitutes section 344 of the Mines and Minerals Act [Chapter 21:05] to provide for incidentals associated with appeals.

Clause 56

This clause repeals sections 345, 346, 347, 348, 349, 351, 354, 355, 356, 357, 358, 359, 360, 361 and 362 of the Mines and Minerals Act [Chapter 21:05].

Clause 57

This clause amends the Act by the insertion after section 393 sections 393A, 393B and 393C.

Clause 58

This clause amends section 403 of the Mines and Minerals Act [Chapter 21:05] to provide for some changes to the regulations.

Clause 59

This clause amends the Mines and Minerals Act by the insertion of sections 403A, 403B and 408 after section 403 of the Mines and Minerals Act.

Clause 60

This clause amends the Act by the insertion of section 409 to provide for transitional and savings provisions.

Clause 61

This clause makes minor and consequential amendments to the sections listed in the Schedule.

BILL

An Act to provide for the amendment of the Mines and Minerals Act
5 [Chapter 21:05]; and to provide for matters connected with or
incidental to the foregoing.

ENACTED by the Parliament and the President of Zimbabwe.

1. Short title

This Act may be cited as the Mines and Minerals Amendment Act, 2015.

2. New section inserted in Cap. 21:05

10 The Mines and Minerals Act [Chapter 21:05] (hereinafter called “the principal
Act”) is amended by the insertion after section 2 of the following section—

“2A Legal nature of prospecting, exploration title and mining rights

A prospecting, exploration or mining right granted in terms of this
Act is a limited right which is subject to the provisions of this Act.”.

15 **3. Amendment of section 4 in Cap. 21:05**

Section 4 (“Savings”) of the principal Act is amended in subsection (1) by the
repeal of paragraphs (ii), (iii) and (iv).

4. Amendment of section 5 in Cap. 21:05

Section 5 (“Interpretation”) of the principal Act is amended in subsection (1)—

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- (a) in the definition of “block” by the insertion of “adjoining” after “group of”;
- (b) by the repeal of the definitions of “exclusive prospecting order” and “exclusive prospecting reservation”;
- (c) by the insertion of the following definitions—
 - ““Cadastre Registrar” means the Registrar of the Cadastre of Mining Rights and Titles referred to in section 15; 5
 - “exclusive exploration licence” means an exclusive exploration licence issued in terms of Part VI;
 - “exclusive exploration reservation” means the area in respect of which an exclusive exploration licence has been applied for; 10
 - “exclusive prospecting licence” means an exclusive prospecting licence issued in terms of section 20;”
- (d) by the repeal of the definition of “extra-lateral right;”;
- (e) by the insertion of the following definition—
 - ““global positioning system” means a satellite-based navigation system for ascertaining the location of a point on the ground”; 15
- (f) by the repeal of the definition of “mining location” and the substitution of—
 - ““mining location” means a defined area of ground over which there are mining rights, or rights in connection with mining, that have been acquired under this Act or under any previous law relating to mines”; 20
- (g) by the insertion of the following definition—
 - ““notify” means to notify in writing and “notified” shall be accrued accordingly;” 25
- (h) by the repeal of the definitions of “private water” and “prospecting licence”;
- (i) by the insertion of the following definitions—
 - ““prospector” means the holder of an exclusive prospecting licence issued in terms of section 20; 30
 - “representative”, in relation to a prospector, means an agent appointed by the prospector in the prescribed manner;”

5. New section inserted in Cap. 21:05

The principal Act is amended by the insertion after section 5 of the following section— 35

“5A Strategic minerals

(1) In this section—

“strategic mineral” means mineral, declared or designated as strategic in terms of this section on account of their importance to the economic, social, industrial and security development of the country. 40

(2) The following minerals are hereby declared as strategic minerals—

- (a) coking coal;
- (b) natural gas or coal bed methane; 45

- (c) iron ore;
- (d) uranium;
- (e) chrome;
- (f) platinum group metals;
- 5 (g) phosphate ore;
- (h) beryllium;
- (i) lithium;
- (j) tin;
- (k) tantalite;
- 10 (l) rare earths elements (Ree);
- (m) natural graphite;
- (n) magnesite;
- (o) tungsten;
- (p) antimony;
- 15 (q) manganese;
- (r) fluorspar;
- (s) caesium.

(3) Unique conditions as may be provided for under this Act shall attach to the exploration, ownership, exploitation, beneficiation, marketing and development of the minerals described in subsection (2) or (4).

(4) Where the Minister after consultation with the Board, determines that it would be in the interests of the development of the mining industry in Zimbabwe to do so, he or she with the approval of the President, shall, by order published in the *Gazette*, designate any other mineral to be a strategic mineral or declare a strategic mineral no longer to be such.”.

6 Amendment of section 7 of Cap. 21:05

Section 7 (“Constitution of Board”) of the principal Act is amended—

- (a) by the repeal of subsection (1) and the substitution of—
 - 30 “(1) The Board shall consist of—
 - (a) the Secretary, who shall be the chairperson; and
 - (b) all Principal Directors in the Ministry for which the Minister is responsible; and
 - (c) the Director of Geological Survey; and
 - 35 (d) any other two other Ministry officials as the Minister may deem expedient to be members of the Board; and
 - (e) six other members appointed by the Minister, with respect to whose appointments the Minister shall endeavour to secure gender balance, of whom—
 - 40 (i) two shall be appointed by the Minister from a panel of at least six names submitted by the Chamber of Mines of Zimbabwe; and
 - (ii) one shall be appointed by the Minister from a panel of at least three names submitted by an association

- which, in the Minister’s opinion, represents the interests of small-scale miners in Zimbabwe; and
- (iii) one shall be appointed by the Minister from a panel of at least two names submitted by an association which, in the Minister’s opinion, represents a plurality of farmers in Zimbabwe; and 5
- (iv) one shall be a member of the Institute of Chartered Accountants of Zimbabwe, incorporated by the Chartered Accountants Act [*Chapter 27:02*], who is practising in Zimbabwe as a public auditor or public accountant; and 10
- (v) one shall be appointed for his or her experience or professional qualifications in any profession or calling considered by the Minister to be of assistance to the Board.”; 15
- (b) by the repeal of subsection (2) and the substitution of—
- “(2) A member appointed in terms of subsection (1)(e) shall hold office for such a period not exceeding two years as maybe fixed by the Minister on appointment and shall be eligible for reappointment for one additional term.” 20
- (c) by the repeal of subsection (3);
- (d) in subsection (4) by the deletion of “Chief Government Mining Engineer, the Director of Metallurgy” and the substitution of “Principal Directors”;
- (e) in subsection (5) by the deletion of—
- (i) “Commercial Farmers’ Union of Zimbabwe” and the substitution of “bodies referred to in subsection (1)(e) (ii) and (iii).”; 25
- (ii) “paragraphs (a) and (b), respectively, of subsection (3)” and the substitution of “subparagraphs (ii) and (iii) as the case may be, of subsection (1)(e)”;
- (f) in subsection (6) by the deletion of “subsection (3)” and the substitution of “subsection (1)(e)”;
- (g) by the insertion of the following subsections—
- “(7) For the better exercise of its functions, the Board may establish one or more committees in which the Board may vest such of its functions as it considers appropriate: 35
- Provided that the vesting of any function in a committee shall not divest the Board of that function, and the Board may amend or rescind any decision of the committee in the exercise of that function.
- (8) On the establishment of a committee in terms of subparagraph (1), the Board— 40
- (a) shall appoint at least one member of the Board as a member of the committee, and that member or one of those members, as the case may be, shall be chairperson of the committee; and
- (b) may appoint as members of the committee, on such terms and conditions as the Board may fix, persons who are not members of the Board. 45
- (9) Meetings of a committee may be convened at any time and at any place by the chairperson of the Board or the chairperson of the committee.

(10) Subject to subparagraph (9) the procedure to be followed at any meeting of a committee and the quorum at any such meeting shall be as fixed by the Board.”.

7 Amendment of section 10 of Cap. 21:05

5 Section 10 (“Procedure of Board”) of the principal Act is amended in subsection (1) by the insertion of the following proviso—

“Provided that the Board shall meet at least once every two months.”.

8 New Part Substituted for Part III of Cap. 21:05

Part III of the principal Act is repealed and the following is substituted—

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“part iii

CadastrE of Mining Rights and
Titles

14 Interpretation in Part III

(1) In this Part—

“applicant” means an applicant for a mining right or title;

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“Cadastre System” means the system for manual or electronic management and recording of processes that create mining rights and titles;

“Cadastre Register” means the register of mining rights and titles referred to in for which the Registrar is responsible in terms

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of section 16(i);

“mining title” means—

(a) an exclusive prospecting licence; or

(b) an exclusive exploration licence; or

(c) special grant for exploration.

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“mining right” means—

(a) a certificate of registration of a block of precious metal claims; or

(b) a certificate of registration of a block of precious stones claims; or

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(c) a certificate of registration of a block of base mineral claims; or

(d) a certificate of registration of a site mentioned in section 47;

(e) Special mining lease; or

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(f) Mining lease; or

(g) Special Grants for mining.

15 Registrar of Cadastre of Mining Rights and Titles

(1) The Secretary shall be the Cadastre Registrar.

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(2) The Cadastre Registrar shall have the power to delegate any of his or her functions under this part, subject to the laws governing the Civil Service, to any one or more civil servants employed in his or her Ministry.

16 Cadastre Register of Mining Rights and Titles

(1) The Cadastre Registrar shall establish and maintain a central Mining Cadastre Office with exclusive authority and jurisdiction over the whole of the country. The Mining Cadastre Office shall have its head office at Harare and shall, according to administrative convenience, maintain an appropriate number of zonal offices throughout the country as the Cadastre Registrar may from time to time decide. 5

(2) There shall be entered in the Cadastre Register—

- (a) the name of every holder of a mining right or title or limitation of a mining right or title; and 10
- (b) a chronological record of dates and time of lodging of applications for mining rights or title; and
- (c) the contact details of every applicant including physical and postal address, telephone numbers, email address and fax number; and 15
- (d) the receipt numbers of prescribed fees paid and the amounts paid;
- (e) the nature of every application; and
- (f) the date of approval or rejection of an application; and
- (g) relevant particulars of each mining right or title or limitation of a mining right or title; and 20
- (h) particulars of any renewal, cancellation or suspension of the registration of each mining right or title or of any forfeiture, relinquishment or abandonment of a mining right or title; and 25
- (i) the location and coordinates of any mining right or title; and
- (j) such other particulars as the Cadastre Registrar may consider necessary.

(3) The Minister may, by regulations made in terms of section 403, provide for— 30

- (a) the technical and operational aspects of the Cadastre System;
- (b) the Cadastre Register to be subdivided into different sub-registers or parts in respect of different mining rights or titles or classes thereof. 35

17 Collection of prescribed fees by the Cadastre Registrar

(1) The Cadastre Registrar shall collect—

- (a) a fee for processing of applications for mineral titles or rights; and
- (b) annual service fees for administrative and management services; or 40
- (c) any other fees as prescribed in this Act or regulations.

18 Inspection of Cadastre Register

(1) Any person may, on payment of the prescribed fee, if any, inspect the Cadastre Register at any reasonable time at the head office of the Mining Cadastre Office or at such other places as the Cadastre Registrar may specify by notice in the *Gazette*. 45

(2) The Registrar shall provide a certified copy of any entry in the Register to any person who requests it and who pays the prescribed fee.

19 Application to be dealt with on first come first serve basis

(1) Where two or more competing applications are received in respect of the same area or the same overlapping areas from two or more persons on the same business day, the application which is first received on that business day shall be deemed to have priority over any other.

(2) The Cadastre Registrar shall provide a receipt to an applicant in respect of any mineral right or title applied for evidencing—

- (a) all documents and fees received from the applicant in respect of the application; and
- (b) the date and time of the application.”

9 New sections substituted for sections 20, 21, 23, 24 and 25 of Cap. 21:05

Sections 20, 21, 23, 24 and 25 of the principal Act are repealed and the following is substituted—

“20 Issue of exclusive prospecting licences

(1) Subject to this section, the Cadastre Registrar may issue to an applicant, on payment of the prescribed fee, an exclusive prospecting licence authorising the holder or his or her representative to exercise the rights conferred by section 27 within the area specified in the licence.

(2) An exclusive prospecting licence shall not be issued to—

- (a) an individual, unless he or she is of or over the age of eighteen years and permanently resident in Zimbabwe;
- (b) a company or private business corporation or syndicate, unless—
 - (i) it is incorporated under the Companies Act [*Chapter 24:03*] or the Private Business Corporations Act [*Chapter 24:11*], as the case may be; or
 - (ii) being a foreign company as defined in section two of the Companies Act [*Chapter 24:03*], it has been issued a certificate under that Act authorising it to establish a place of business in Zimbabwe; or
 - (iii) the syndicate is made up exclusively of individuals qualified under paragraph (a), or of bodies corporate qualified under this paragraph.

(3) An application for an exclusive prospecting licence shall be lodged with the Cadastre Registrar, specifying the area within which the applicant wishes to exercise his or her rights under the licence, and any other information as may be prescribed or as the Cadastre Registrar may require.

(4) The Cadastre Registrar may refuse to issue an exclusive prospecting licence to an applicant if—

- (a) the applicant or his or her representative has contravened any term or condition of an exclusive prospecting licence that was previously issued to the applicant; or

- (b) the applicant has been convicted of an offence under this Act; or
- (c) the applicant is not, in the Cadastre Registrar's opinion, a fit and proper person to hold an exclusive prospecting licence; or 5
- (d) issuing a licence would be detrimental to the environment of the area for which the licence is sought or would prejudice the interests of defence, public safety, public health or the general public interest:

Provided that the Cadastre Registrar shall notify the applicant of his or her decision and the reasons for it. 10

21 Form and duration of exclusive prospecting licence

(1) Every exclusive prospecting licence shall be in the prescribed form and shall contain such particulars and be subject to such terms and conditions as may be prescribed: 15

Provided that every licence shall specify the area within which the prospector's rights under the licence may be exercised.

(2) Every exclusive prospecting licence shall be valid for a period of twelve months.

22 Cancellation or suspension of exclusive prospecting licence 20

(1) The Cadastre Registrar may cancel an exclusive prospecting licence if the prospector—

- (a) has contravened any term or condition of the licence; or
- (b) is convicted of an offence in terms of this Act, or has conducted himself or herself in a manner, which in the Minister's opinion renders him or her unfit to hold the licence. 25

(2) Before cancelling a licence the Cadastre Registrar shall notify a prospector of his or her intention to cancel such licence.

(3) Within thirty days of being notified in terms of subsection (2) the prospector may make representations in the matter to the Cadastre Registrar, and the licence shall be suspended pending a final decision on its cancellation. 30

(4) Where representations have been received from a prospector, the Cadastre Registrar may, before the expiration of thirty days either cancel a licence or lift the suspension of a licence and notify the prospector of his or her decision. 35

(5) A person who is aggrieved by the cancellation of his or her licence in terms of this section may appeal to the Minister against the cancellation within thirty days of being notified of such cancellation, whereupon the licence is deemed suspended until the appeal and any further appeal under subsection (7) is determined. 40

(6) The Minister on receiving the appeal shall have the power to confirm, vary, amend or set aside the decision appealed against before the expiration of thirty days from the date the Minister receives the appeal. 45

(7) A person who is aggrieved by the Minister's determination in subsection (6) may appeal to the Administrative Court within fourteen days of being notified of the Minister's decision.

23 Prohibition against sale or transfer of exclusive prospecting licence

(1) No person shall sell, cede, assign or transfer an exclusive prospecting licence to any other person.

(2) Any sale, cession, assignment or transfer referred to in subsection (1) shall be void and the parties to it shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.”.

10 New section substituted for section 27 of Cap. 21:05

Section 27 of the principal Act is repealed and the following is substituted—

“27 Rights conferred by exclusive prospecting licence

(1) An exclusive prospecting licence shall confer upon the prospector, subject to this Act—

- (a) the exclusive right to prospect and search for minerals, on land open to prospecting; and
- (b) the right to peg up to four blocks within the area specified in the licence.

(2) An exclusive prospecting licence shall not entitle the prospector to remove or dispose of any mineral, mineral oil, nuclear energy mineral or natural gas discovered within the area specified in the licence, except for the *bona fide* purpose of having it assayed or for determining its nature and unless the Cadastre Registrar has given prior written permission for it to be removed or disposed of.

(3) No drilling or excavation work, whether at the surface or underground, shall be undertaken by the holder of a prospecting licence, save in the exercise of exclusive rights conferred on him by section 41(5) or 42(2).

(4) The holder of exclusive prospecting licence shall not, without the written permission of the Minister, which permission shall not be unreasonably withheld, and subject to such reasonable conditions as the Minister may determine, export any mineral samples from a prospecting area for the purpose of having such mineral analysed, valued or tested outside Zimbabwe. Where such permission is granted results of the analysis, valuation or testing shall be submitted in writing to the Secretary.

(5) Any person who contravenes subsection (2), (3) or (4) shall be guilty of an offence and liable to a fine not exceeding level twelve or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.”.

11 Repeal of sections 29, 30, 31, 32, 33, 36, 38 and 54 of Cap. 21:05

Sections 29, 30, 31, 32, 33, 36, 38 and 54 of the principal Act are repealed.

12 New section substituted for section 57 of Cap. 21:05

Section 57 of the principal Act is repealed and the following is substituted—

“57 Wilful over pegging

Any person who pegs or purports to peg a mining location of a larger size than he or she is entitled to peg shall be guilty of an offence and liable to a fine of level six or imprisonment for a period not exceeding six months or both such fine or such imprisonment.” 5

13 New Part substituted for Part V of Cap. 21:05

Part V of the principal Act is repealed and the following is substituted—

“PART V 10

EXERCISE OF RIGHTS GRANTED UNDER PROSPECTING AND MINING TITLE

63 Interpretation in Part V

In this Part—

“ninety-nine year lease or permit” means;

“order” means an order made under section 72; 15

“owner” in relation to State land means the Minister responsible for the administration of such land;

“reserved land” means land upon which a prospector is prohibited in terms of section 65 (1)(a)–(g) from exercising any of his or her rights under his or her exclusive prospecting licence without the consent in writing of the owner of the land, but does not include that portion of such land which lies within two hundred and twenty-five metres of the site of the principal homestead mentioned in subsection (1)(a)(i) of that section. 20 25

64 Land open to prospecting

Subject to the provisions and limitations contained in section 65, the following land is open to prospecting—

(a) all State Land whether or not held or occupied under lease or some other authority; 30

(b) all Communal Land;

(c) all private Land;

(d) all land held by any person under any enactment or agreement whereby such person is entitled to obtain from the State title thereto on the fulfilment by him or her of the conditions prescribed by such enactment or agreement. 35

65 Ground not open to prospecting

(1) Save as provided for in Part VII, no person shall be entitled to exercise any of his or her rights under any prospecting licence or any special grant to carry out prospecting operations or any exclusive prospecting order— 40

(a) upon any holding of private land except with the consent in writing of the owner or of some person duly authorised thereto by the owner or, in the case of a portion of Communal

- 5 Land, by the occupier of such portion, or upon any State land except with the consent in writing of the President or of some person duly authorised thereto by the President or upon any land held under a 99 year lease or permit except with the consent of the holder of such 99 year lease or permit—
- 10 (i) within four hundred and fifty metres of the site of the principal homestead on such holding or on such State land, whether such homestead is already erected or actually in the course of erection;
- (ii) within four hundred and fifty metres of the site of any intended principal homestead, which site has been registered with the Cadastre Registrar by the landowner:
- 15 Provided that if a principal homestead is not erected on such a site within three years after the date of such registration, such site shall thereupon become open to prospecting;
- 20 (iii) within ninety metres of any area set aside on which housing has been erected for occupation by farm employees;
- (iv) within ninety metres of any other building or permanent improvement;
- 25 (v) within ninety metres of any permanent cattle dip tank or spray race;
- (vi) upon any land under cultivation or within fifteen metres thereof;
- (vii) within nine metres of any other permanent *bona fide* farm building, except on payment to the landowner of such compensation as may be fixed by agreement or, failing agreement, by the Administrative Court to whom the matter shall be referred for decision;
- 30 (b) upon any mining location, other than one in respect of which he may have acquired the exclusive right of prospecting under such licence or special grant or exclusive prospecting order;
- 35 (c) within the surveyed limits of any city, town, township or village, or upon a belt fifty metres in width outside such limits;
- 40 (d) upon any site which is on town lands, but outside the surveyed limits of any city, town, township or village situated thereon, and has been surveyed and set aside for any specific purpose;
- (e) upon any licensed aerodrome or any emergency landing ground or aerodrome of the State;
- 45 (f) upon any rifle range of the State, any railway reserve or any cemetery;
- (g) except with the consent in writing—
- 50 (i) of the owner or of some person duly authorised thereto by the owner, upon any holding of land which does not exceed one hundred hectares in extent and which is held by such owner under one title:

Provided that if such owner has one or more holdings which are contiguous and the total area of such contiguous holdings exceeds one hundred hectares this subparagraph shall not apply to such holdings; or 5

- (ii) in the case of a portion of Communal Land which does not exceed one hundred hectares in extent, of the occupier of such portion;
- (iii) upon any Communal Land occupied as a village without the written consent of the rural district council established for the area concerned. 10

(2) If the holder of any private land or occupier of communal land of holder of a 99-year lease or permit withholds consent to the exercise of any mining right or title for the reasons specified in subsection (i)(a) (iii), (ii), such holder or occupier may not apply for a like mining right or title over the ground in respect of which such consent was withheld during the currency of any mining right or title held by the person who sought such consent. 15

(3) Where any consent in terms of this section is unreasonably withheld, the Minister may authorise any person to exercise his or her rights under any prospecting licence or any special grant to carry out, prospecting operations or any exclusive prospecting order on such land, subject to such conditions as the Minister may impose. 20

(4) Where a site intended for a principal homestead has been registered by the landowner under subsection (1)(a)(ii)— 25

- (a) the landowner shall as soon as may be, after such registration erect a peg marking the centre of the site and bearing an inscription stating the purpose of such peg, and shall maintain such peg and maintain such inscription in legible form;
- (b) the landowner shall not, if such principal homestead has not been erected within the period of three years mentioned in the proviso to that subparagraph, be entitled again to register such site or any portion thereof until a period of not less than twelve months has elapsed from the date upon which such site again became open to prospecting. 30 35

(5) If a landowner fails to comply with any provisions of paragraph (4)(a), the Cadastre Registrar may cancel the registration of the site to which such failure relates.

66 Registration of conditions governing mining rights on reserved ground. 40

(1) In giving written consent in terms of section 65(1)(a) the President or other person giving such consent may impose terms prescribing the conditions under which mining rights on any mining location that may be pegged and registered in terms of such consent may be exercised. 45

(2) If the President or other person has given a written consent referred to in subsection (1), the Cadastre Registrar shall upon the registration of any mining location pegged under such consent—

- (a) register the terms of such consent in a register to be kept by him; and 50

- (b) retain the original written consent; and
- (c) inscribe on the certificate of registration the fact of such consent having been registered.

5 (3) The terms of any written consent registered under this section shall be binding upon the holder of the registered mining location and upon any person who acquires the ownership of such mining location or any interest therein.

10 (4) Upon application by the holder of the mining location or of the person who gave such written consent, the Cadastre Registrar shall supply a certified copy of the written consent filed in his or her office to such person.

15 (5) On the contravention of this section the holder and any lessee or tributor or manager of the mining location in respect of which such terms were imposed shall be liable to prosecution and conviction for such contravention.

(6) If any person is guilty of any breach of the terms imposed in any written consent registered in terms of this section, he or she shall be guilty of an offence and liable to a fine not exceeding level fourteen.

20 (7) After a conviction for a contravention of subsection (5) or (6) the Cadastre Registrar shall, upon application by the person who owns the land upon which such mining location is situated, declare the mining location in question to be forfeited.

25 (8) In any prosecution for a contravention of subsection (5) or (6) a copy of any written consent certified as correct by the Cadastre Registrar shall be received in evidence upon its production by the prosecutor.

67 Notice of intention to prospect

(1) This section shall apply to—

- 30 (a) urban land;
- (b) private land, the boundaries of which are fenced or clearly marked by beacons and cut lines or consist of rivers, roads or railway lines;
- (c) any area of land declared under the Forest Act [*Chapter 19:05*] to be demarcated forest or protected private forest;
- (d) Communal Land.

35 (2) Every person, before exercising any of his or her rights under an exclusive prospecting licence, special grant to carry out prospecting operations issued under section 291(1) or exclusive exploration licence on any land to which this section applies, shall give notice of his or her intention to do so in whichever one or more of the following forms applicable to the case—

- 40 (a) if the land is a portion of town lands, he or she shall give notice in writing by registered letter addressed to the local authority concerned; or
- 45 (b) if the land is occupied private land, he or she shall give notice in writing to the occupier of the land in person or by registered letter addressed to the occupier at his or her ordinary postal address; or

- (c) if the land is unoccupied private land, he or she shall give notice in writing by registered letter addressed to the owner at his ordinary postal address; or
- (d) if the land has been declared a demarcated forest, he or she shall give notice in writing to the chief executive officer of the Forestry Commission established under the Forest Act [Chapter 19:05]; or 5
- (e) if the land has been declared a protected private forest, he or she shall give notice in writing to the owner of such land in person or by registered letter addressed to the owner at his ordinary postal address or, if such land is unoccupied, to the Cadastre Registrar; or 10
- (f) if the land is in Communal Land, he or she shall give notice in writing to any rural district council established for the area concerned; and shall state in such notice his or her permanent postal address. 15

(3) In every notice given in terms of subsection (2) there shall, in addition, be stated the name and address of the person who will be in charge of prospecting operations on the land concerned.

(4) A notice which has been duly given in terms of this section by the holder of a prospecting licence shall be valid for a period of one hundred and twenty days from the date on which it was delivered or posted, as the case may be, and, if such holder has not pegged and registered a block on the land concerned within that period, he or she shall give fresh notice in terms of this section before continuing to exercise his or her rights under the prospecting licence. 20 25

(5) A notice which has been duly given in terms of this section by the holder of an exclusive prospecting order or a special grant to carry out prospecting operations shall be valid for the period of validity of that order or special grant. 30

(6) Notwithstanding subsections (4) and (5), in the event of any change in the particulars notified in terms of subsection (3), the holder shall forthwith give notice of that change and subsection (2) shall apply, *mutatis mutandis*, to the giving of that notice.

(7) Where a mining location has been pegged by a person who has failed to give any notice required by this section, the pegging of the mining location shall not be deemed to be invalid by virtue only of the failure to give such notice. 35

(8) Any person who fails to give any notice required in terms of this section, whether or not a mining location has been pegged, shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment. 40

68 Surface rights of holder of exclusive prospecting licence

- (1) In this section— 45
“location” means the area covered by the relevant prospecting notice and, where a discovery notice has also been posted, the area as extended by that discovery notice.

(2) The holder of an exclusive prospecting licence, hereinafter in this section called the prospector, shall, when *bona fide* employed in the pursuit of any of the rights conferred by section 27, the onus of proof whereof shall lie on him or her, be entitled to the following rights—

- 5 (a) the right to use for primary purposes any water from land not closed to prospecting in terms of section 71 or 35 but only in so far as such use does not interfere with the use of such water for primary purposes by the owner or occupier of the land;
- 10 (b) after having posted his or her prospecting notice—
- 15 (i) subject to the Forest Act [*Chapter 19:05*] and to such conditions as may be prescribed, and on payment to the occupier or, where there is no occupier, the owner of the land in advance of such tariff rate as may be prescribed, the right to take and use for firewood within the limits of his or her location any dead indigenous wood or timber found within those limits on land which is neither Communal Land nor land in regard to which a reservation has been made under section
- 20 76; and
- (ii) subject to this section, the right to erect within the limits of his or her location any temporary accommodation for himself or herself and his or her employees and any temporary buildings or machinery for the purposes of
- 25 his or her work:
- Provided that this subparagraph shall not be deemed to confer any right, title or interest in the land upon which such accommodation, buildings or machinery may have been erected;
- 30 (c) the right to remove, within ten days or such longer period as may be determined by the Cadastre Registrar after the expiration of his or her prospecting notice, any accommodation, buildings or machinery which may have been erected under paragraph (b)(ii).

35 (3) A prospector who, after the expiry of the period of seven days from the posting of his prospecting notice, accommodates employees on occupied private land situated within his or her location shall forthwith give to the occupier of the land written notice of that fact describing the site of the accommodation.

40 (4) If an occupier of private land to whom notice has been given in terms of subsection (3) objects to the site chosen for such accommodation by the prospector and agreement between the occupier and the prospector on any such objection is not reached, the occupier may, within seven days of receipt of the notice or such longer period as may be determined by the

45 Cadastre Registrar, refer the matter to the Cadastre Registrar to decide where the employees of the prospector should be accommodated and the decision of the Cadastre Registrar shall be final.

69 Surface rights of miners

- (1) For the purposes of subsection (2)(e)—
- 50 “property” means two or more blocks of claims, whether contiguous or otherwise, owned by one person, from which

the ore is being treated at the same milling or reduction plant or which are under the control of one registered mine manager.

(2) Every miner of a registered mining location shall have and possess the following respective surface rights— 5

(a) the right, subject to any existing rights, to the use of any surface within the boundaries thereof for all necessary mining purposes of his or her location; and as against the holder of an exclusive prospecting licence or of any other mining location the right, except as in section 357 provided, to the use of all surface within such boundaries; 10

(b) the right to use, free of charge, soil, waste rock or indigenous grass situated within his or her location for all necessary mining purposes of such location;

(c) the right to sell or otherwise dispose of waste rock recovered by him or her from his or her location in the course of *bona fide* mining operations: 15

Provided that—

(i) nothing in this paragraph contained shall be construed so as to derogate from the right conferred upon the Minister under section 402 or any person duly authorised by him or her under that section; 20

(ii) as from the date on which the rights of the miner to carry on the work of mining on the location cease, the rights of the miner to sell or otherwise dispose of such waste rock shall cease and any agreement for the sale or other disposition of such waste rock shall be of no further force or effect; 25 30

(d) the same right of using water for primary purposes as is possessed by the holder of an exclusive prospecting licence;

(e) subject to this section and of the Forest Act [*Chapter 19:05*] and to such conditions as may be prescribed and on payment to the occupier or, where there is no occupier, the owner of the land in advance of such tariff rate as may be prescribed, the right to take and use for firewood or for the purposes of his or her mining location any indigenous wood or timber from land open to prospecting which is neither Communal Land nor land in regard to which a reservation has been made under section 76: 35 40

Provided that nothing in this paragraph shall be construed so as to permit a miner to use any wood or timber taken by him or her for firewood elsewhere than on his or her location or, where his or her location is a block forming part of a property, on that property. 45

(3) A miner who desires to take indigenous wood or timber from land referred to in subsection (2)(e) which is private land shall give notice of such desire—

(a) if the land is occupied, to the occupier of the land in person, or by registered letter addressed to the occupier at his or her ordinary postal address; or 50

5 (b) if the land is unoccupied, by registered letter addressed to the owner at his or her ordinary postal address; and thereafter the miner and the occupier or owner may agree as to the area and period within which such wood or timber may be taken, the quantity and kinds of such wood or timber to be taken, the price to be paid for such wood or timber and any other conditions relating to such wood or timber.

10 (4) If, within the period of seven days from the date of the giving of notice in terms of subsection (3), no agreement has been concluded in accordance with that subsection, the miner shall have the rights conferred upon him or her by subsection (2)(e) in respect of the land concerned.

(5) Section 104 shall apply, *mutatis mutandis*, in relation to a miner in respect of indigenous wood or timber required by him or her in connection with his or her mining operations.

15 70 Saving of rights of landowner or occupier over mining location

Subject to section 180(12), the owner or the occupier of land on which a registered mining location is situated shall retain the right to graze stock upon or cultivate the surface of such location in so far as such grazing or cultivation does not interfere with the proper working of the location for mining purposes.

20 71 Meaning of “land under cultivation” and “permanent improvements”

For the purposes of section 65—

“land under cultivation” means—

- 25 (a) land which has been *bona fide* cleared or ploughed or prepared for the growing of farm crops;
- (b) ploughed land on which farm crops are growing;
- 30 (c) ploughed land from which farm crops have been reaped, for a period of three years from the date of completion of such reaping;
- (d) land which has been *bona fide* prepared for the planting of such permanent crops as orchards or tree plantations, and land on which such crops have been planted and are being maintained;
- 35 (e) ploughed land on which grass has been planted and maintained for harvesting, rotation of crops or stock feeding, for a period of six years from the date of planting;

40 Provided that if any land such as is described in paragraphs (a) and (d) is not utilised for the growing of farm crops or of such permanent crops as orchards or tree plantations within two years of its having been *bona fide* cleared or ploughed or prepared for such crops, such land shall forthwith become open to prospecting;

45 “permanent improvements” does not include fences of any description, aqueducts, pipelines, wells, boreholes, dams or reservoirs.

72 Compulsory acquisition of land by holder of an authority

(1) Where an authority has been granted, the owner of such land may, subject to this section, apply to the High Court for an order compelling the holder of such authority or order, as the case may be, to acquire by purchase, exchange or otherwise the whole or a portion of the holding of which such land forms a part. 5

(2) At least thirty days before making such application, the owner of the land shall by registered post give notice in writing to the holder of the authority or order, as the case may be, of his or her intention to make such application. 10

(3) Notwithstanding section 73, the holder of an authority or order, as the case may be, to whom notice has been given under subsection (2), may not after the expiry of a period of twenty-one days from the date of the receipt by him or her of such notice and until the High Court has disposed of the application or the application has been withdrawn, relinquish his or her rights under such authority or order, as the case may be. 15

(4) On an application made under this section, the High Court may refuse the order applied for or may grant it if the Court is satisfied that—

- (a) the holder of the authority or order, as the case may be, is not precluded by the provisions of the Constitution or any enactment from owning such land; and 20
- (b) the exercise by the holder of the authority or order, as the case may be, of the rights granted thereunder has resulted or is likely to result in such interference with the rights of the owner or occupier of the land as will render such land or the holding of which such land forms a part unsuitable, as far as such owner or occupier is concerned, for the purpose for which it was being used or was *bona fide* intended to be used immediately before the date of the making of the application to that Court and where such application is for an order compelling the acquisition of the whole of the holding or a portion thereof by an exchange of land, or partly by an exchange of land and partly by some other means, and the land required to be given in exchange for such holding or portion thereof is State land, the Court may make its order conditional upon such land being made available by the President for the purposes of such exchange. 25 30 35

(5) In deciding whether to grant or refuse the order applied for, the Court shall have regard to the stage which the prospecting operations of the holder of the authority or order, as the case may be, have reached at the time of the application and the extent to which minerals are present on the land and the economic possibilities of such minerals. 40

(6) If the High Court grants the order it shall determine the price to be paid or other consideration to be given for the land, having regard to the matters set out in section 73. 45

(7) The costs of both parties to an application under this section shall be borne by the holder of the authority or order, as the case may be:

Provided that the High Court may make such order as to costs as it sees just if the Court is of the opinion— 50

- (a) that the applicant has unreasonably refused a fair offer for the acquisition of the holding concerned or portion thereof by such holder; or
- (b) that the application is vexatious or frivolous.

5 (8) Where the owner of the land and the holder of the authority or order, as the case may be, have agreed in writing, the application mentioned in subsection (1) may be made to the Administrative Court, and in that event subsections (2) to (7) shall apply, *mutatis mutandis*, to and in respect of any such application.

10 (9) Any person who is aggrieved by the decision of the Administrative Court on an application made to it under subsection (8) may appeal against that decision to the Supreme Court.

73 Relinquishment of rights under an authority or order

15 (1) Save as otherwise provided in section 72, the holder of an authority or order granted under this Part may at any time give notice in writing to the owner or occupier of the land to which such authority or order, as the case may be, relates of his or her intention to relinquish his or her rights under such authority or order, as the case may be, and shall lodge a copy of such notice with the Board.

20 (2) The rights of such holder under the authority or order, as the case may be, shall cease with effect from the time and date of the lodging of such notice with the Board.

25 (3) Nothing in this section contained shall affect the right of the owner or the occupier, if any, of the land to claim compensation from the holder of the authority or order, as the case may be, in respect of damage arising from anything done by the holder before the date of such relinquishment.

74 Factors to be considered in fixing price

30 (1) Where a Court grants an order under section 72 it shall, in determining the price to be paid or other consideration to be given for the land by the holder of the authority or licence, as the case may be, make due allowance for—

- (a) the value of any improvements on and development of the land;
- 35 (b) the possible loss of profits over the period of three years next succeeding the date of the application for such licence;
- (c) the depreciation, if any, in the value of that portion of the holding which is not the subject of such licence;
- (d) the expense or loss, other than loss of profits, caused to the owner by the grant of the authority or licence;
- 40 (e) any other loss directly or indirectly caused by the grant of the authority or licence or the exercise of any right granted thereunder; but no account shall be taken of any minerals which have been or may be discovered on such land.

45 (2) Where a Court grants an order under section 72 concerning land in the possession of a 99 year lease holder or a permit holder, in

determining the price to be paid or other consideration to be given as compensation by the holder of the authority or licence, as the case may be make due allowance only for—

- (a) value of any improvements made on the land; and
- (b) prospective economic loss to the farmer which will be based on previous performance. 5

75. Special payments to landowners.

(1) As soon as possible after receipt of a levy referred to in section 222(4) the Cadastre Registrar shall, if any of the land in respect of which the levy has been paid is— 10

- (a) communal land, pay to the District Development Fund referred to in section 3 of the District Development Fund Act [*Chapter 29:06*]; or
- (b) private land, pay to the owner thereof; the amount of the levy. 15

(2) Where the land in respect of which a levy has been paid does not consist solely of Communal Land or of land held by one owner, the manner of allocation of the amount of the levy shall be as prescribed.

(3) All moneys payable in terms of this section shall be defrayed from moneys appropriated for the purpose by Act of Parliament. 20

(4) Section 188(8), (9), (10), (11) and (12) shall apply, *mutatis mutandis*, in respect of the payments referred to in this section.

(5) An order prescribing the manner of and conditions governing the working of an alluvial or eluvial deposit which is in force immediately before the 1st January, 1974, shall, unless it relates to the working of a deposit in relation to which it is not competent to issue an order in terms of this Part, continue in force and be deemed to have been issued in terms of section 225. 25

76 Miners to make certain payments to local authorities

(1) The Minister, acting with the approval of the Minister responsible for finance and after consultation with the Minister responsible for local government and any organisation which the Minister considers represents mining interests, may by statutory instrument, require any miner of a registered mining location, or any class of such miners, to pay a specified sum at specified intervals to any local authority within whose area the registered mining location is situated. 30 35

(2) The Minister may specify a sum for the purposes of subsection (1) as a lump sum or as a percentage of the value of the output of the mining location concerned, or in such other manner as the Minister may think appropriate. 40

(3) Every miner to whom a notice in terms of subsection (1) applies shall make the payments required by the notice, and in the event of his default any sums unpaid shall be a debt due to the local authority concerned, and may be recovered by the local authority from the miner by proceedings in a competent court. 45

77 Registration of arable land

5 (1) Every owner of a holding of private land, or any person who has acquired the right to obtain title to private land under an agreement of sale which has been notarially executed, may apply to the Cadastre Registrar for the registration of the arable portion or portions of such land, in the case of—

- 10 (a) land exceeding two hundred hectares, he or she may register arable land not exceeding in all two hundred hectares in extent;
- (b) where the land is less than two hundred hectares but more than five hectares, he or she may register half the portion of his or her arable land or five hectares, whichever is greater.

15 (2) Any arable land which, at the date of the application mentioned in subsection (1), is not open to prospecting and pegging by virtue of section 65(1)(a) shall be deducted from the area which may be registered in terms of this section.

20 (3) Every applicant shall submit with his or her application, made in terms of subsection (1), a plan of the holding showing the area or areas which he or she wishes to be registered, together with a certificate from such person as may be approved by the Cadastre Registrar confirming the situation and extent of such area or areas and of any other arable land and land under cultivation within such private land.

25 (4) Upon receipt of the plan and such certificate, referred to in subsection (3), the Cadastre Registrar shall, if he or she is satisfied as to the title of the applicant and that the plan is satisfactory, register such land.

(5) Upon the registration of any land by the Cadastre Registrar under this section, the land so registered shall, during the period of registration, be deemed to be land under cultivation for the purposes of section 65.

30 (6) The person in whose favour registration has been granted under this section shall beacon the area or areas so registered in such manner as the Cadastre Registrar may direct, and shall maintain the beacons in proper order and condition.

35 (7) If the person in whose favour registration has been granted under this section fails to beacon such area or areas or to maintain the beacons in proper order and condition, the Cadastre Registrar may cancel the registration.

40 (8) The period of registration mentioned in subsection (5) shall terminate on the 31st August next succeeding the second anniversary of the date upon which the person upon whose application the registration was granted became the owner of the land so registered, or upon which such notarial agreement was executed, as the case may be:

Provided that the Cadastre Registrar may on application extend the period of such registration for any period not exceeding three years.

45 (9) Any person who is aggrieved by the refusal of the Cadastre Registrar to grant an extension of the period of registration may appeal against that decision to the Minister.

78 Reservation of timber on application by landowner

(1) Every owner or occupier of a holding of private land may apply for and shall be granted by the Cadastre Registrar a reservation against the cutting or taking by prospectors or miners of fifty *per centum* of such indigenous wood or timber as is existing on his or her land at the time of his or her application for the reservation. 5

(2) A reservation of indigenous wood or timber made under subsection (1) shall not restrict prospecting or pegging or the working of mining locations on any such area.

(3) Any indigenous wood or timber within any area described in section 65(1)(a) shall be part of and be included in any timber reservation granted to such owner. 10

(4) The owner or occupier shall beacon and demarcate the area in which the wood or timber is reserved in such manner and within such time as the Cadastre Registrar may direct. 15

(5) Where a reservation of timber has been granted under this section—

- (a) the owner or occupier shall be entitled—
 - (i) to cut such wood or timber, and no more, outside the area of the reservation as may be necessary for the *bona fide* purposes of clearing or for the improvement of pastures; 20
 - (ii) to use the wood or timber so cut for his or her own purposes or to sell it to a prospector, a miner or to any other person; 25
- (b) a prospector or miner shall be entitled in the exercise of prospecting or mining rights in the area of the reservation—
 - (i) to cut such indigenous wood or timber, and no more, as interferes with prospecting or mining operations, development work or the erection of buildings for mining purposes: 30
 - Provided that he or she shall stack or pile all wood or timber cut; and
 - (ii) with the consent of the owner, to use for his or her own purposes indigenous wood or timber cut in terms of subparagraph (i). 35

(6) Where a reservation of timber has been granted under this section and it appears to the Cadastre Registrar that a redistribution of the indigenous wood or timber on the land is necessary or desirable because the holding has been subdivided or for any other reason, he or she may cancel such reservation and grant a fresh reservation, and subsections (2), (3), (4) and (5) shall apply, *mutatis mutandis*. 40

(7) If any dispute arises as to the equal division of wood or timber under this section, the matter shall be referred to the Administrative Court for decision. 45

79 Rights of concession holders

(1) Save as provided in section 106, within a reservation, no person, other than the concession holder, may in terms of this Act prospect

or peg and register any mining location or be issued with a special grant in respect of coal, mineral oils or natural gases:

5 Provided that the Minister may, on the recommendation of the Board, and with the consent of the concession holder, which consent shall not be unreasonably withheld, authorise within such period as he or she may specify, any person to peg and register a mining location within a reservation for a mineral other than a mineral for which the concession holder is authorised to prospect.

10 (2) No person shall peg and register more than five mining locations under an authority issued in terms of subsection (1).

 (3) No base mineral mining location pegged and registered under an authority issued in terms of subsection (1) shall exceed twenty-five claims.

15 (4) The concession holder shall retain his or her right to prospect over any mining location pegged and registered under an authority issued in terms of subsection (1).

 (5) Subject to any provision in his or her order limiting the minerals for which he or she may prospect or peg and register mining locations, a concession holder shall, in terms of this Act, have the right of prospecting and pegging and registering mining locations in his or her reservation or may within his or her reservation be issued with a special grant in respect of coal, mineral oils or natural gases:

25 Provided that a concession holder need not take out an exclusive prospecting licence or post a prospecting or discovery or registration notice in terms of this Act.

 (6) Within his or her reservation a concession holder shall, when *bona fide* employed in the exercise of any of the rights conferred by his or her order, the onus of proof whereof shall lie upon him or her, be entitled to the following rights—

30 (a) the right to take free of charge for primary purposes any public water or private water from land not closed to prospecting in terms of section 65, but only in so far as such taking does not interfere with the use of such water for primary purposes by the owner or occupier of the land;

35 (b) subject to this section and of the Forest Act [*Chapter 19:05*] and to such conditions as may be prescribed and on payment to the occupier or, where there is no occupier, the owner of the land in advance of such tariff rate as may be prescribed, the right to take and use for firewood or for any purposes connected with his or her prospecting operations any indigenous wood or timber from land open to prospecting which is neither Communal Land nor land in regard to which a reservation has been made under section 76;

40 (c) subject to this section, the right to erect on land open to prospecting any temporary accommodation for himself and his employees and any temporary buildings or machinery for the purposes of his work:

45 Provided that this paragraph shall not be deemed to confer any right, title or interest in any land upon which

such accommodation, buildings or machinery may have been erected;

- (d) the right to remove, within three months or such longer period as may be determined by the mining commissioner after the expiration or revocation of his order, any accommodation, buildings or machinery which may have been erected under paragraph (c). 5

(7) A concession holder who desires to take indigenous wood or timber from land referred to in subsection (7)(b) which is private land shall give notice of such desire— 10

- (a) if the land is occupied, to the occupier of the land in person or by registered letter addressed to the occupier at his or her ordinary postal address; or
- (b) if the land is unoccupied, by registered letter addressed to the owner at his or her ordinary postal address; 15

and thereafter the concession holder and the occupier or owner may agree as to the area and period within which such wood or timber may be taken, the quantity and kinds of such wood or timber to be taken, the price to be paid for such wood or timber and any other conditions relating to such wood or timber. 20

(8) If, within a period of seven days from the date of the giving of notice in terms of subsection (7), no agreement has been concluded in accordance with that subsection, the concession holder shall have the rights conferred upon him or her by subsection (7)(b) in respect of the land concerned. 25

(9) A concession holder who accommodates employees on occupied private land situated within his or her reservation for longer than seven days shall forthwith give to the occupier of the land written notice of that fact describing the site of the accommodation.

(10) If an occupier of private land to whom notice has been given in terms of subsection (9) objects to the site chosen for such accommodation by the concession holder and agreement between the occupier and the concession holder on any such objection is not reached, the occupier may, within seven days of receipt of the notice or such longer period as may be determined by the Cadastre Registrar, refer the matter to the Cadastre Registrar to decide where the employees of the concession holder should be accommodated and the decision of the Cadastre Registrar shall be final and without appeal. 30 35

80 Cutting and transporting of timber

(1) If, in regard to any indigenous wood or timber required in connection with his or her prospecting operations, any concession holder does not carry out by his or her own labour or by the labour of his or her employees or with his or her own transport all or any of the following operations— 40

- (a) the cutting of such wood or timber; 45
- (b) the transporting of such wood or timber;
- (c) the burning therefrom of any charcoal;

then the occupier of the land on which such wood or timber is situated shall have the first option of carrying out such cutting or transporting or burning or all such operations, as the case may be, on such terms and conditions as may be mutually agreed upon.

5 (2) If no mutual agreement is reached, the matter shall be referred to the Cadastre Registrar to decide on what terms and conditions and within what time the occupier of the land may exercise his or her option.

81 Approval of scheme to cultivate surface of mining location

10 (1) For the purposes of this section and sections 82 and 83 —
“landholding parties” means—

- (a) in relation to land, other than Communal Land, to which an approved cultivation scheme or proposed scheme relates—
 - 15 (i) the owner; and
 - (ii) where the occupier of the land is not the owner thereof, the occupier of that land;
- (b) in relation to Communal Land to which an approved cultivation scheme or proposed scheme relates, any rural district council within the area of which that Communal Land is situated;

20 “mining parties” means—

- (a) the holder; and
- (b) where the miner of the registered mining location is not the holder thereof, the miner of; and
- 25 (c) the holder of a hypothecation or option registered under this Act over the registered mining location to which an approved cultivation scheme or proposed scheme relates.

(2) Subject to subsection (3)—

- 30 (a) the occupier of any land on which a registered mining location is situated may lodge with the Cadastre Registrar, for examination by him or her and approval by the Board, a written scheme, together with three copies thereof, in regard to the cultivation by such occupier of the whole or any part of the surface of such location:

Provided that—

- 40 (i) no such scheme shall provide for the cultivation of land for the purpose of planting or establishing orchards, tree plantations or other like permanent crops;
 - (ii) where the occupier is not the owner of the land, no such scheme shall be lodged with the Cadastre Registrar unless the owner has agreed to the scheme and his or her agreement has been endorsed on the scheme and signed by him or her;
 - 45 (b) a rural district council may lodge with the Cadastre Registrar, for examination by him and approval by the Board, a written scheme, together with three copies thereof, in regard to the cultivation, by persons entitled to reside in such Communal
- 50

Land, of the surface of any registered mining location situated on Communal Land within the area of such rural district council:

Provided that no such scheme shall provide for the cultivation of land for the purpose of planting or establishing orchards, tree plantations or other permanent crops. 5

(3) Not later than thirty days before lodging a scheme under subsection (2), the occupier or rural district council, as the case may be, shall give notice of his or her or its desire to lodge the scheme, together with a copy of the scheme, to— 10

- (a) each of the mining parties affected thereby; and
- (b) where notice is being given by the occupier and he or she is not the owner of the land, the owner of the land; in person or by posting a registered letter addressed to the ordinary postal address of the person concerned: 15

Provided that, if a scheme has been agreed to by all the landholding and mining parties and the agreement of each such party has been endorsed on the scheme and signed by him or her, this subsection shall not apply and the scheme may forthwith be lodged under subsection (2).

(4) On receipt of a scheme under subsection (2) and if satisfied that subsection (3) has been complied with or does not apply, the Cadastre Registrar shall forthwith by registered letter— 20

- (a) notify each of the mining parties affected thereby of the receipt of the scheme and require the holder of the registered mining location to lodge with him or her, within twenty-one days of the date of such notification, his or her certificate of registration or his or her copy of the mining lease or special grant to carry out mining operations, as the case may be; and 25
- (b) if the scheme has not been agreed to by a mining party affected thereby and his or her agreement endorsed on the scheme and signed by him or her, send to that party a copy of the scheme and require him or her to inform the Cadastre Registrar in writing, within twenty-one days of the date of such notification, whether he or she agrees to the scheme or objects to it and, if he or she objects, to set out his or her objections. 30 35

(5) After complying with subsection (4), the Cadastre Registrar shall submit to the Board any scheme lodged with him or her under subsection (2), together with any objections thereto lodged under subsection (4) and his own report on the scheme and the objections. 40

(6) If, upon examination of the documents submitted to it under subsection (5) and after consulting the Minister responsible for agriculture, the Board is satisfied that—

- (a) the period of the scheme is clearly stated in the scheme and that the scheme is to terminate on a date specified therein; and 45
- (b) the registered mining location concerned is being held for *bona fide* mining purposes; and

- 5
- (c) the scheme specifies the basis on which the compensation shall be calculated in the event of termination of the scheme under section 80; and
 - (d) the scheme is satisfactory in all respects and is not designed or likely to hinder or prevent the future exploitation of the mineral resources of the mining location;

the Board may approve the scheme.

10 (7) If the Board is not satisfied as to any of the matters referred to in subsection (6), it shall refuse to approve the scheme and may submit to the landholding and mining parties affected by the scheme such amendments to the scheme as it may deem fit and require them to state within a period to be specified by the Board—

- 15
- (a) in the case of a landholding party, whether or not he or she agrees to the amendments;
 - (b) in the case of a mining party, any objections he or she may have to the amendments.

20 (8) If the landholding parties agree to the amendments submitted to them by the Board under subsection (7), the Board may, after considering any objections to the amendments stated by the mining parties, amend the scheme accordingly and approve the scheme as amended.

- 25
- (9) Where the Board has approved a scheme it shall—
- (a) endorse its approval on the scheme and on the copies thereof; and
 - (b) retain the original copy of the scheme; and
 - (c) send a copy of the scheme to each of the parties to the scheme and to the Cadastre Registrar who shall forthwith endorse on the certificate of registration or copy of the mining lease or special grant, as the case may be, the fact that the registered mining location is subject to a scheme and the period of the scheme.
- 30

(10) The Board shall keep a record of schemes which have been approved by it under this section.

- 35
- (11) Upon approval of a scheme by the Board under this section—
- (a) in the case of land other than Communal Land, the occupier shall be entitled, subject to the provisions of the scheme, to exercise the rights conferred on him or her by the scheme; and
 - (b) in the case of Communal Land, persons entitled in terms of the Communal Land Act [*Chapter 20:04*] to cultivate the land concerned shall be entitled, subject to the provisions of the scheme, to exercise the rights conferred on them by the scheme; and
 - (c) the scheme shall be binding on the holder of the registered mining location concerned and on the miner, if any, thereof.
- 40

45 (12) Where a scheme has been approved by the Board under this section, any rights of cultivation conferred by section 70(1) in respect of the land to which the scheme relates shall be suspended for the duration of the scheme.

(13) Upon the approval of a scheme by the Board under this section the Cadastre Registrar shall forthwith, without obtaining the authority of the Minister, reserve the ground covered by the scheme against prospecting and pegging under section 35 for the period of the scheme.

(14) Upon the termination of a scheme, whether by effluxion of time or otherwise, the Cadastre Registrar shall by notice posted at his or her office withdraw the reservation. 5

82 Termination of scheme by miner

(1) Subject to this section, the miner of the registered mining location concerned or, if the location is not being mined, the holder thereof may at any time during the currency of an approved cultivation scheme terminate the scheme by giving written notice of termination to each of the landholding parties, either in person or by posting a registered letter to the ordinary postal address of the party concerned: 10

Provided that, if the miner is not the holder of the registered mining location, no notice of termination may be given unless the holder has agreed thereto and his or her agreement has been endorsed thereon and signed by him or her. 15

(2) A notice of termination of a scheme under subsection (1) shall specify the date on which the termination is to take effect which shall be a date not less than two months from the date of the giving of the notice of termination to the landholding parties: 20

Provided that, if notice has to be given to two or more landholding parties and is not given to them on the same day, the date so specified shall be not less than two months from the date of the last giving of such notice. 25

(3) Where notice of termination of a scheme has been given under this section—

(a) the miner, or if there is no miner, the holder of the registered mining location shall on or before resumption of the land concerned pay to— 30

(i) in the case of land other than Communal Land, the occupier or, if there is no occupier, the owner of the land;

(ii) in the case of Communal Land, any rural district council established for the area concerned, for distribution to the persons entitled in terms of the Communal Land Act [*Chapter 20:04*] to cultivate the land; 35

such compensation as may be mutually agreed upon or, failing agreement, as may be determined, on the basis specified in the scheme, by the Board or by the Administrative Court on appeal from the determination of the Board under subsection (5); 40

(b) the scheme shall cease to be of effect and the miner or holder, as the case may be, may resume possession of the land to which the scheme related— 45

(i) on the date specified for that purpose in the notice of termination; or

(ii) where the compensation referred to in paragraph (a) has not been paid before the date referred to in

subparagraph (i), as soon as that compensation has been paid.

(4) Notwithstanding subsection (3), no person shall be disturbed in his or her cultivation of land under a scheme terminated under this section until he or she has had time to reap at the proper season any annual crops sown before the date of receipt of the notice of termination by—

- (a) in the case of land other than Communal Land, the occupier of the land;
- (b) in the case of Communal Land, the rural district council, if any, established for the area concerned.

(5) If either party is dissatisfied with the determination of compensation by the Board for the purposes of subsection (3), he or she may appeal against that determination to the Administrative Court.

83 Termination of scheme by consent

(1) An approved cultivation scheme may at any time be terminated, either as to the whole or a part of the area covered thereby, by the mutual consent of the landholding and mining parties affected by the scheme.

(2) Where a scheme is terminated under subsection (1) the parties involved in such termination shall forthwith inform the Cadastre Registrar of the termination and the Cadastre Registrar shall notify the Board.

(3) Any person who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

84 Board may cancel scheme

(1) Where the owner or occupier of any land, other than Communal Land, to which an approved cultivation scheme relates has in the opinion of the Board failed adequately to exercise his or her rights under the scheme, the Board may call upon him or her to show cause why the scheme should not be cancelled and, if the owner or occupier fails to show such cause to the satisfaction of the Board, the Board may, after consultation with the Minister responsible for agriculture, cancel the scheme.

(2) Where the persons entitled in terms of the Communal Land Act [*Chapter 20:04*] to cultivate Communal Land to which an approved cultivation scheme relates have in the opinion of the Board failed adequately to exercise their rights under the scheme, the Board may call upon any rural district council established for the area concerned to show cause why the scheme should not be cancelled, and, if the rural district council fails to show such cause to the satisfaction of the Board, the Board may cancel the scheme.

85 Cadastre Registrar may authorise certain works

(1) Any holder of any mining location may apply to the Cadastre Registrar for an order authorising the applicant to sink such boreholes for water on any land or any other mining location or to construct or erect upon or over any land or any other mining location such aqueducts, roads,

railways, tramways, wires, electric power lines, fencing or other works as may be necessary for the more advantageous working of the mining location held by the applicant, or authorising the applicant to sink tunnels or boreholes on such land or other mining location for the purpose of ascertaining or prosecuting any extra-lateral rights to which the applicant may be entitled under the provisions of this Act. 5

(2) In like manner, the owner or the occupier of any land may apply to the Cadastre Registrar for an order authorising the applicant to sink such boreholes for water on any mining location or to construct or erect upon or over any mining location such aqueducts, dams, roads, fencing or other works as may be necessary for the better working of his or her land. 10

(3) In like manner, any local authority may apply to the Cadastre Registrar for an order authorising it to construct or erect upon or over any mining location such works as may be necessary for the institution or maintenance of any public services which such local authority may lawfully institute and maintain. 15

(4) In like manner, the holder of any mining location may apply to the Cadastre Registrar for an order authorising the applicant to use any existing private road for any lawful purpose in connection with such location. 20

(5) On receipt of any such application the Cadastre Registrar shall forthwith give notice to the holder, owner and occupier, if any, of the land or mining location on which the borehole for water is to be sunk or upon or over which such works are to be constructed or erected or on which the tunnels or boreholes are to be sunk or over which the road mentioned in subsection (4) passes, as the case may be, calling upon him or her to appear before the Cadastre Registrar upon a fixed day, not being a day within thirty days of such notice, and to show cause why the order applied for should not be granted: 25 30

Provided that if both the applicant and the respondent consent the period of notice may be less than thirty days.

(6) On the day appointed, or on any other day to which the hearing of the matter may be adjourned, the Cadastre Registrar may grant an order authorising the applicant to do all or any of the acts or things applied for, in, upon or in respect of such land or mining location: 35

Provided that, before making any order authorising the applicant to construct a road, the Cadastre Registrar shall consult—

- (a) where any land concerned is Communal Land, any rural district council established for the area concerned; 40
- (b) in the case of land which is not Communal Land, the conservation and extension officer for the area concerned.

(7) No such order shall be granted unless the Cadastre Registrar is satisfied that the use and working of any land or mining location belonging to any person other than the applicant will not be materially impeded, interfered with or obstructed by any act or thing done pursuant to such order. 45

5 (8) The Cadastre Registrar granting any such order may limit such order by such terms, conditions and restrictions as appear to him or her to be required for the protection of the owner, occupier or holder of such last mentioned land or mining location, and shall include a condition requiring the holder of the mining location to maintain or contribute towards the cost of maintaining any road mentioned in subsection (4), and may at any time on due cause shown amend or cancel such order.

10 (9) No such order shall be deemed in any way to affect or bind any owner, occupier or holder to whom no such notice as aforesaid has been given.

15 (10) Nothing in this section contained shall be deemed in any way to prejudice the right of any person thereafter to recover from the applicant or any other person acting under any such order damages for any injury which he or she may prove to have been sustained by him in consequence of any act or thing done by the applicant pursuant to any such order by any Cadastre Registrar.

20 (11) Any person who is aggrieved by any order made by the Cadastre Registrar under this section or by the refusal of the Cadastre Registrar to make such an order may, within ten days thereof, appeal against such order or such refusal, as the case may be, to the Administrative Court.

85A Miner to fence mining location adjacent to pasture land

25 (1) Where the owner or occupier of any land has fenced off a portion of such land for the purpose of depasturing stock, the Cadastre Registrar may, on application by such owner or occupier, direct any miner who is carrying on mining operations within the area so fenced off, to fence off in the manner prescribed the whole or any portion of his or her mining location within such period as the Cadastre Registrar may specify.

30 (2) If the miner fails to comply with such direction within the period specified, the owner or occupier may himself fence off the whole of the mining location and may recover the cost thereof from the miner.

85B Compensation

35 Any owner or occupier of ground who is injuriously affected by the exercise of any rights under any mining rights or title granted under this Act shall be entitled to recover compensation from the person to whom the mining rights or title was granted or in whose favour the mining rights or title was made in such amount as may be agreed upon or, failing such agreement, as shall be determined by the Administrative Court.

40 Provided that such compensation shall be limited to direct and proven loss.

85C Disputes between landowners and prospectors

45 If any dispute arises between the holder of a prospecting licence or a special grant to prospect or an exclusive prospecting order and a landowner or occupier of land as to whether land is open to prospecting or not, the matter shall be referred to the Administrative Court for decision.”

14 New Part substituted for Part VI of Cap. 21:05

Part VI (“Exclusive Prospecting Reservations”) of the principal Act is repealed and the following is substituted—

“PART VI

EXCLUSIVE EXPLORATION LICENCE 5

86 Interpretation in Part VI

In this Part—

“application” means an application made under section 87(1) for an exclusive exploration licence, and “applicant” shall be construed accordingly; 10

“concession holder” means a person in whose favour an order has been made;

“licensee” means the person in whose favour an exclusive exploration licence has been issued;

“programme” means the programme of operations mentioned in section 96; 15

“reservation” means the area embraced by an exclusive exploration licence.

87 Application for exclusive exploration licence

(1) Any person may apply to the Board, in writing, for an exclusive exploration licence over a defined area in Zimbabwe, including an area reserved under section 35. 20

(2) An applicant shall—

(a) pay the prescribed application fee to the Cadastre Registrar; and 25

(b) furnish the Board with such information as to—
 (i) his or her financial status; and
 (ii) the minerals which he or she wishes to explore; and
 (iii) the nature and extent of the exploration operations he or she intends to carry out within the exclusive exploration reservation; and 30
 (iv) any other information as may be prescribed.

(3) On receipt of an application the Board shall—

(a) publish, at the applicant’s expense, a notice in the *Gazette* and in a newspaper circulating in the area concerned, giving details of the application and inviting objections to it to be lodged within 21 days from date of such publication; and 35

(b) if in any application authorisation is sought to explore on any registered block within the proposed exclusive exploration reservation, give written notice to every registered holder of the block. 40

(4) The Board shall without delay inform the applicant of the essence of any objections lodged in response to a notice published in terms of subsection (3)(a).

(5) The Board upon receipt of an application, shall direct the Cadastre Registrar to reserve the ground against prospecting and pegging in terms of section 35. 45

Provided that Cadastre Registrar, shall forthwith reserve the area accordingly, without obtaining the authority of the Minister.

88 Hearing of application by Board

On a date, at a time and place notified in writing to—

- 5
- (a) the applicant; and
 - (b) any person who lodged objections in response to the notice published in terms of section 87(3);

the Board shall hear such evidence and arguments as those persons may wish to lay before it regarding the grant or refusal of the application:

10 Provided that if no such objections have been lodged, the Board shall consider the merits of the application before making recommendations.

89 Board's recommendation regarding application

15 (1) If, after considering an application, the Board is satisfied that—

- (a) the applicant is a fit and proper person and has the resources to undertake operations under an exclusive exploration licence; and
- 20 (b) it would not be against the national interests to issue the applicant with the exclusive exploration licence sought;

the Board may, subject to this Part, recommend to the Minister the issue of an exclusive exploration licence to the applicant over such area and subject to such terms and conditions as the Board may recommend.

25 (2) Terms and conditions recommended by the Board under subsection (1) may include conditions requiring the applicant—

- (a) to furnish guarantees to the Minister's satisfaction that his or her obligations under the licence will be discharged;
- (b) to abandon a portion of the exclusive exploration reservation within such period as may be specified in the licence.

30 (3) If the Board is not satisfied that an applicant meets the requirements of subsection (1), it shall reject the application and shall notify the applicant accordingly.

35 (4) Where the Board has rejected the application of an exclusive exploration licence, any reservation made in terms of section 87(5) shall be deemed to have been withdrawn by the Cadastre Registrar with effect from the date of rejection.

90 Issue of exclusive exploration licence

40 (1) Where the Board recommends the issue of an exclusive exploration licence, the Board shall submit the application to the Minister without delay, together with all relevant supporting documents and the Board's written report and recommendation.

45 (2) On receipt of documents and other material in terms of subsection (1), the Minister shall submit them together with his or her own, to the President, who may decline the application or authorise the issue of an exclusive exploration licence in terms of the Board's recommendation or on such amended terms and conditions as the President may consider appropriate.

- (3) Where the President has authorised the issue of an exclusive exploration licence, the Minister shall—
- (a) on receipt of proof of payment of the prescribed issuance fee; and
 - (b) on being notified by the Board that it has received the copy of an environmental impact assessment report by the Environmental Management Agency: 5

without delay, issue the licence.

- (4) Where the Minister issues a licence in terms of subsection (3) the Cadastre Registrar shall enter the relevant information pertaining to such licence in the Cadastre Register. 10

91 President may approve or decline to issue an exclusive exploration licence.

For the avoidance of doubt, the President, shall have the discretion to approve or decline the applications for exclusive exploration licences received by him or her from the Minister or he or she may cause to be amended such terms and conditions as attached by the Board and the Minister. 15

92 Form and duration of exclusive exploration licence

- (1) An exclusive exploration licence shall specify— 20
- (a) the area of the exclusive exploration reservation; and
 - (b) the minerals for which the licensee may prospect; and
 - (c) the period of validity of the licence; and
 - (d) the conditions under which the licence is issued.

(2) An exclusive exploration licence shall not be issued for more than three years, but the President, may extend it for one further period not exceeding three years. 25

(3) An application for renewal of an exclusive exploration licence should be made six months before it is due to expire, any application made after this period shall not be considered as a renewal application but shall be considered as an original application. 30

(4) Sections 87 to 90 shall apply, with any necessary changes, to an application for the extension of an exclusive exploration licence.

93 Publication of exclusive exploration licence

The Minister shall ensure that, as soon as practicable after he or she has issued an exclusive exploration licence— 35

- (a) the licence is published in the *Gazette* at the expense of the licensee; and
- (b) a copy of the licence is sent to the licensee, the Board and the Cadastre Registrar. 40

94 Limitation of area of reservation

- (1) Subject to subsection (5), no reservation shall exceed—
- (a) in the case of an exclusive exploration licence made solely in respect of coal, mineral oils or natural gases, one hundred and thirty thousand hectares; 45

(b) in the case of an exclusive exploration licence which includes precious stones, other than diamonds, two thousand six hundred hectares;

5

(c) in the case of any other exclusive exploration licence, sixty-five thousand hectares;

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(2) Notwithstanding subsection (1), no exclusive exploration licence shall be granted in respect of an area which is less than two thousand six hundred hectares, except in the case of an exclusive exploration licence granted solely in respect of precious metals or precious stones.

(3) A reservation may exceed the maximum area specified in paragraph (a), (b) or (c), as the case may be, of subsection (1) if the Board, having due regard to—

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(a) the particular suitability of the applicant and his or her financial and operational capacity to fulfill the obligations under and within the period of the exclusive exploration licence recommended by the Board in relation to the minerals specified therein; and

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(b) the geographical situation of the area and the nature and extent of previous and current prospecting and mining activity therein; and

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(c) the absence of and the need for geological mapping, geophysical and geochemical investigations and other relative geological detail in respect of the area;

recommends that the reservation should exceed the said maximum area.

(4) An exclusive exploration licence may require a concession holder—

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(a) to furnish guarantees to the Minister to his or her satisfaction that the obligations of the holder under the exclusive exploration licence will be discharged;

(b) to abandon a portion or portions of the reservation within such period or periods as are specified in the exclusive exploration licence.

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(5) Subject to such terms and conditions as may be prescribed in the exclusive exploration licence, an exclusive exploration licence may authorise the concession holder to prospect on all registered base mineral blocks or specified registered base mineral blocks in his reservation which are not being worked or developed on the date of the lodging of the application for the licence:

40

Provided that a block shall be regarded as being worked or developed upon obtaining a current inspection certificate for such block.

(6) Nothing contained in this section shall be deemed to prohibit the fixing of additional terms and conditions under an exclusive exploration licence.

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95 Demarcation of exclusive exploration reservation

The Cadastre Registrar, on payment of a prescribed fee by the licensee, shall demarcate the exclusive exploration reservation by means of pegs or notices and the licensee shall keep any such pegs or notices in good condition in their proper position for the duration of the licence.

96 Rights of licensee regarding exploration and pegging

(1) Subject to this section and to the terms and conditions of his or her exclusive exploration licence, a licensee—

- (a) shall have the exclusive right of exploration and pegging; and 5
- (b) may be issued with a mining lease, special mining lease or special grant for mining in respect of coal, mineral oils, nuclear energy sources or natural gases within the exclusive exploration reservation upon application as prescribed by this Act and no other person may prospect, peg or register a mining location therein, or be issued with such a special grant except as provided for under subsection (4): 10

Provided that this license does not give license holder the right to engage in mining without a prior application and approval of such over the defined area. 15

(2) License holder can take samples but cannot exceed the extraction levels beyond permissible amounts as provided for in the regulations and any breach of this provision will result in the revocation of the licence.

(3) Whereunder an exclusive prospecting licence issued before the date of commencement of an exclusive exploration licence, a prospector is entitled to prospect and peg within an area situated in the exclusive exploration reservation, the licensee shall not explore or peg within that area except with the prospector's consent, which consent shall not be unreasonably withheld. 20 25

(4) The Minister, on the recommendation of the Board and with the consent of the licensee, which consent shall not be unreasonably withheld, may authorise any person to peg and register a mining location within an exclusive exploration reservation for a mineral other than a mineral for which the licensee is authorised to explore: 30

Provided that—

- (a) no person shall peg and register more than three mining locations under such an authority;
- (b) the licensee shall retain his or her right to explore over any mining location pegged and registered under such an authority. 35

(5) An exclusive exploration licence may authorise the licensee to explore on registered blocks within the reservation which were not being worked or developed for two years or more when the licensee applied for the licence. 40

(6) Except as otherwise provided in this Act, the issue of an exclusive exploration licence shall not affect the rights of the holder of a mining location within the exclusive exploration reservation.

(7) Any—

- (a) holder of a registered mining location who, except in the *bona fide* exercise of the rights referred to in subsection (5), hinders or obstructs a licensee in the exercise of any rights to explore the mining location; 45

- (b) licensee who unlawfully hinders or obstructs the holder of a registered mining location in the exercise of the rights referred to in subsection (5);

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

97 Right of licensee to take water

Subject to this Act and the Water Act [Chapter 20:24] and to the terms and conditions of the licence, a licensee shall, when *bona fide* exercising any of the rights conferred by his or her exclusive exploration licence, have the right to take for primary purposes, any water from land in the exclusive exploration reservation which is not closed to prospecting in terms of section 31 or 35, but only in so far as such taking does not interfere with the use of the water for primary purposes by the owner or occupier of the land.

98 Right of licensee to erect and remove temporary buildings and structures

(1) Subject to this section and to the terms and conditions of the licence, a licensee shall, when *bona fide* exercising the rights conferred by his or her exclusive exploration licence, have the right—

- (a) to erect, on land in the exclusive exploration reservation which is open to prospecting, temporary accommodation for himself or herself and for his or her employees, and temporary buildings or machinery for the purposes of their work:

Provided that this paragraph shall not confer any right, title or interest in the land upon which any such accommodation, buildings or machinery have been erected;

- (b) to remove, within three months or such longer period as may be determined by the Cadastre Registrar after the expiration or revocation of the licence, any accommodation, buildings or machinery which have been erected under paragraph (a).

(2) A licensee who accommodates employees on occupied private land situated within his or her exclusive exploration reservation for longer than seven days shall forthwith give the occupier of the land written notice of that fact, describing the site of the accommodation.

(3) If—

- (a) an occupier of private land to whom notice has been given in terms of subsection (2) objects to the site chosen to accommodate the licensee's employees; and
- (b) the occupier and the licensee are unable to reach agreement on any such objection;

the occupier may, within seven days after receiving the notice or after such longer period as the Cadastre Registrar may allow, refer the matter to the Cadastre Registrar to decide where the licensee's employees should be accommodated, and the Cadastre Registrar may make such decision in the matter as he considers just.

(4) Any person aggrieved by the decision of Cadastre Registrar in terms of subsection (3) may appeal to the Minister against the decision and further to the Administrative Court.

99 Right of licensee to take wood and timber

Subject to this section and the Forestry Act [*Chapter 19:05*] and to the terms and conditions of the licence, a licensee shall, when *bona fide* exercising the rights conferred by his or her exclusive exploration licence, have the right to take and use, for firewood or for any purposes connected with exploration operations, any indigenous wood or timber from land in the exclusive exploration reservation which is open to prospecting and which is neither Communal Land nor land in regard to which a reservation has been made in terms of section 37 or 78.

100 Prohibition against sale, transfer, cession and assignment of exclusive exploration licence.

(1) The rights and obligations granted under an exclusive exploration licence shall be personal to the licensee, who may not, except with the Minister's written permission given in terms of subsection (2), sell, cede, assign or transfer any of those rights to any other person.

(2) The Minister may, on the recommendation of the Board and on such terms and conditions as the Board may recommend, which conditions the Minister may vary, permit a licensee to sell, cede, assign or transfer any of his or her rights and obligations to another person subject to payment of a prescribed fee.

(3) Any person who sells, transfers, cedes or assigns an exclusive exploration licence without getting prior permission from the Minister shall be guilty of an offense and liable to a fine equivalent to the total value of such transaction and the Minister shall revoke such licence.

(4) Where a person sells, transfers, cedes or assigns an exclusive exploration licence without getting prior permission from the Minister such transaction shall be considered to be null and void.

101 Programmes of work to be submitted by licensee

(1) At least once every six months from the commencement of an exclusive exploration licence, the licensee shall submit to the Board for its approval a programme of the exploration operations which will be carried out in the exclusive exploration reservation during the next six months.

(2) Programmes submitted in terms of subsection (1) shall contain particulars of the licensee's exploration operations during the period in question, and the estimated cost of those operations.

(3) The Board shall without delay consider every programme submitted to it in terms of subsection (1), and—

(a) if satisfied that the programme makes provision for the proper exploration of the reservation and that the estimated expenditure is consistent with the programme, the Board shall approve it;

(b) if not so satisfied, the Board shall reject the programme.

5 (4) If a licensee fails to submit a programme in terms of subsection (1), or if a programme submitted does not satisfy the Board it shall by written notice require the licensee to submit a programme or an amended programme, as the case may be, within such period, being not more than thirty days, as the Board shall specify in the notice.

(5) If at the end of the period specified in the notice in terms of subsection (4), the licensee has not submitted a programme satisfactory to the Board, the Board shall inform the Minister and the Minister must—

- 10 (a) suspend the licence until payment of a prescribed fine; or
(b) may revoke the licence.

(6) Where a licence has been suspended or revoked in terms of subsection (5) the Cadastre Registrar shall indicate such suspension or revocation into the Register.

15 **102 Licensee to carry out work in accordance with programme,
and to report thereon**

(1) A licensee shall carry out every programme of exploration operations approved by the Board under section 101 within the period covered by the programme, and within thirty days after the expiry of the period shall submit for the approval of the Board a written report on the work that was carried out during that period, including particulars of the expenditure incurred in the carrying out of the work.

25 (2) In addition to the reports referred to in subsection (1), a licensee shall submit to the Board such further reports as the Board may reasonably require in order to satisfy itself that the terms and conditions of the exclusive exploration licence are being complied with.

30 (3) If a licensee fails to submit a report in terms of subsection (1) or (2), or submits a report for the purpose of either of those subsections that is inadequate or incomplete the Board shall notify him or her, in writing, that no report has been received or that the report is incomplete or inadequate, as the case may be, and that the licensee is liable to be revoked or suspended.

35 (4) If a licensee fails to satisfy the Board after twenty-one days of notification in terms of subsection (3) that he or she has carried out a programme in accordance with subsection (1), the Board must recommend to the Minister—

- (a) be suspended until all requirements for the programme have been completed and payment of a penalty fine; or
(b) that the exclusive exploration licence be revoked.

40 (5) Where the Board has recommended in terms of subsection (4) that a licence be suspended or revoked, the Minister must either—

- (a) suspend the licensee and the licensee pay a prescribed penalty fee not exceeding level 12 where suspension is recommended; or
45 (b) revoke the licence where revocation is recommended;

(6) If a licensee is found knowingly to have given false or misleading information in a report submitted in terms of this section, the

Board may recommend to the Minister that the exclusive exploration licence should be revoked, and the Minister shall forthwith revoke it.

103 Fees payable by licensee

(1) For each year or part thereof during which an exclusive exploration licence subsists, the licensee shall pay the Cadastre Registrar a fee, calculated in the prescribed manner by reference to the area of the exclusive exploration reservation, the minerals for which the licensee may explore and the duration of the licence. 5

(2) The fee referred to in subsection (1) shall be paid at such times as may be prescribed. 10

104 Failure to comply conditions attaching to licence

If, after due investigation, the Board is satisfied that a licensee has failed to comply with a material term or condition of his or her exclusive exploration licence—

(a) the Board shall notify the licensee of that fact, in writing, and call upon the licensee to remedy the failure within a reasonable period specified by the Board in the notification; and 15

(b) if the Board is not satisfied that the failure has been adequately remedied within the period specified in terms of paragraph (a), the Board shall inform the Minister, and the Minister shall forthwith revoke the licence: 20

Provided that before making such a recommendation, the Board shall afford the licensee an adequate opportunity to make representations in the matter within thirty-days of such notification. 25

105 Amendment of exclusive exploration licence

(1) A licensee may—

(a) apply to the President through the Board for the amendment of the area in his or her exclusive exploration reservation; 30

(b) at any time apply to the Board for the inclusion of an additional mineral in his or her exclusive exploration licence.

(2) The application referred to in subsection 1 (a) shall only be made by a licensee who has carried out demonstrable exploration work within period of six months from date of approval of the licensee's programmes of works referred to in section 101. 35

(3) In making an application in terms of subsection (1), the licensee shall state why the amendment of area or additional mineral should be included in the exclusive exploration licence, and if it is as a result of a discovery of the mineral, he or she shall furnish full particulars of the nature of the mineral so discovered and the circumstances of its discovery. 40

(4) Sections 87, 88, 89 and 90 shall apply, with any necessary changes, to an application in terms of subsection (1).

(5) Where an exclusive exploration licence is amended in terms of this section, the licensee shall— 45

- (a) pay the Cadastre Registrar a prescribed amendment fee; and
- (b) submit, within such period as the Board may specify, an amended programme of operations to be carried out in the exclusive exploration reservation as so amended, and thereafter sections 101 and 102 shall apply with any necessary changes.

106 Abandonment of exclusive exploration reservation

(1) At any time before the Board has approved the second programme mentioned in section 101, the licensee may, subject to subsection (2), by written notice to the Board abandon the whole or a portion of his or her exclusive exploration reservation.

(2) A licensee shall not be entitled—

- (a) to give more than one notice in terms of subsection (1); or
- (b) to give notice in terms of subsection (1) in respect of such portions of the exclusive exploration reservation as would result in the area of the reservation to be retained by him or her being divided into separate portions or being less than the minimum area specified in the regulations.

(3) On receipt of a notice given under subsection (1), the Board shall inform the Minister thereof, and he or she shall—

- (a) in the case of the abandonment of the whole reservation, revoke the licence; or
- (b) in the case of the abandonment of a portion of the reservation, amend the order accordingly if the Board so recommends.

(4) At any time after the Board has approved the second programme mentioned in section 101, the licensee may make a written application to the Board to abandon the whole or a portion of his or her exclusive exploration reservation.

(5) If, on an application made under subsection (4), the licensee satisfies the Board that—

- (a) he or she has carefully explored the area authorised in his or her exclusive exploration licence or that portion which he or she desires to abandon, as the case may be; and
- (b) an economic deposit of any mineral for which he or she is authorised to explore under the licence is unlikely to be discovered in the area authorised in his or her exclusive exploration licence or that portion which he or she desires to abandon, as the case may be; and
- (c) he or she has complied with all the terms and conditions of his or her licence; and
- (d) he or she has duly carried out the programme last approved by the Board under section 101;

the Board may recommend to the Minister that the licence be revoked or amended, as the case may be, and the Minister may revoke or amend the licence accordingly.

(6) If on an application under subsection (4), the Board is not satisfied as to any matter mentioned in subsection (5), it shall refuse the application, and such refusal shall be final.

(7) Where an order is revoked or amended by the Minister under this Part, the Board shall publish notice thereof in the *Gazette* and the ground shall become open to prospecting and pegging in terms of this Act on the day following the date of such publication.

107 Plans and reports to be lodged by licensee following expiry or revocation of exclusive exploration licence 5

(1) Not later than three months after the expiry or revocation of an exclusive exploration licence, the person who was the licensee shall lodge with the Board in triplicate a final report, including plans and other relevant information, with respect to— 10

- (a) exploration work carried out by the licensee on any mining location within the area authorised in his or her exclusive exploration licence during the currency of the licence; and
- (b) exploration work carried out by the licensee in any area within the area authorised in his or her exclusive exploration licence which has not been registered as a mining location. 15

(2) All such information referred to in (a) and (b) shall on submission become the property of the Government of Zimbabwe. 20

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

108 Protection of dangerous workings 25

Section 269 shall apply, with any necessary changes, to a licensee or former licensee in respect of shafts, open surface workings and excavations made by him or her in the area authorised in his or her exclusive exploration licence, and for this purpose the date on which the licence expired or was revoked shall be regarded as the date of abandonment of the said authorised area. 30

109 Notification of amendment or revocation of exclusive exploration licence

The Minister shall ensure that notification of any amendment or revocation of an exclusive exploration licence is published without delay in the *Gazette* in the manner prescribed. 35

110 Challenge to validity of exclusive exploration licence, when barred

After twelve months have elapsed since the date of publication in the *Gazette* of a licence, or an amendment of a licence, it shall not be competent for any person to allege that any of the provisions of this Act were not complied with in regard to the issue of the licence or the effecting of the amendment, as the case may be. 40

111 Exemptions

(1) If a licensee satisfies the Board that his or her operations have been or are likely to be restricted or curtailed by abnormal circumstances 45

beyond his control, the Minister may, on the recommendation of the Board, give such directions as he or she considers appropriate for the relief of the licensee from the provisions of this Part.

- 5 (2) Directions given in terms of subsection (1) may include provision for—
- (a) where the whole or a portion of the area authorised in the licensee's exclusive exploration licence is abandoned, reserving the area so abandoned against prospecting and pegging pending a return to circumstances permitting normal operations, and granting the licensee a first option in respect of the ground so reserved in respect of any fresh application in terms of this Part on the return of such circumstances;
- 10
- (b) the suspension for an appropriate period of the licensee's obligations under this Part and the extension of the exclusive exploration licence for a similar period.
- 15
- (3) To the extent that any direction given in terms of subsection (1) is inconsistent with any other provision of this Act, the direction shall prevail.
- 20
- (4) The Minister, on the recommendation of the Board, may at any time amend or revoke a direction given in terms of subsection (1).
- (5) Where a direction given in terms of subsection (1) affects the period of the licence, the Minister shall publish notice of it in the *Gazette*.”.

25 **15 New Part substituted for Part VIII of Cap. 21:05**

Part VIII (“Mining Leases”) of the principal Act is repealed and the following is substituted—

“PART VIII

Mining Leases

30 **135 Interpretation in Part VIII**

In this Part—

“application” means—

- (a) an application under section 136 (1) or (2) for a mining lease; or
- 35 (b) an application that is deemed by section 136 (2) to be an application for a mining lease;
- and “applicant” shall be construed accordingly;
- “lessee” means the holder of a mining lease.

136 Application for mining lease

40 (1) The holder of four or more contiguous blocks before the prescribed date shall lodge free of charge an application with the Cadastre Registrar for a mining lease in respect of that location or of a defined area within which the location is situated.

(2) An applicant who seeks the registration of—

- (a) four or more continuous blocks; or
- (b) one or more blocks which, if registered, would result in a person being the holder of four or more contiguous blocks;

shall be deemed to be applying for a mining lease in respect of the area covered by those blocks to the Board. 5

(3) An applicant in terms of subsection (2) shall pay the prescribed fee and furnish the Cadastre Registrar with the prescribed information.

137 Reservation of ground against prospecting and pegging, and termination of reservation.

(1) Where an application is made for a mining lease over land which is open to pegging and prospecting the Cadastre Registrar shall without delay reserve the area. 10

(2) Where the Cadastre Registrar has reserved ground under subsection (1) and the application is withdrawn or is deemed to have been withdrawn, or has been refused, the Cadastre Registrar shall forthwith withdraw the reservation. 15

138 Publication of application and determination of objections thereto

(1) On receipt of an application and after complying, where necessary, with section 137, the Cadastre Registrar shall submit the application to the Board together with his or her report on the application. 20

(2) The Board, after its consideration, may direct the Cadastre Registrar to—

- (a) at the applicant's expense, publish a notice in the *Gazette* and in a newspaper circulating in the area concerned, giving details of the application, including particulars of the mining locations to which the application relates, and inviting the lodging of objections to the application within thirty days from the date of such publication; 25
30
- (b) serve written notice on the owner and the occupier, if any, of land within the proposed mining lease, giving details of the application and inviting them to lodge objections to it within a period of thirty days from the date of publication of the notice in terms of paragraph (a). 35

(3) An objection lodged with the Cadastre Registrar in response to a notice under subsection (2), shall be determined by the Board.

139 Consideration of application by Board and notification of Board's decision

(1) On receipt of any objections mentioned in section 138, the Board shall consider the application and the objections, and may— 40

- (a) reject the application; or
- (b) approve the application.

(2) The Board shall approve an application hereunder if it is satisfied that— 45

- 5
- (a) the applicant shall make proper provision, as required by this Act and the Environmental Management Act [*Chapter 20:27*], to meet any liabilities in regard to quittance work and environmental protection; and
 - (b) adequate and appropriate mining operations are likely to be conducted for an adequate period within the area applied for; and
 - (c) no registered claim or mining location which is held by a person other than the applicant is included in the area applied for.

10 (3) The Board may approve an application in respect of the whole or part of the area applied for, having regard to the dispersal of the mineral deposits within the area and to any other factors which the Board may consider to be relevant.

15 (4) The Board shall cause the applicant and any objector to be notified without delay of its decision on every application, including—

- (a) any terms and conditions which the Board will require to be included in the mining lease; and
 - (b) details of the area of the lease, where the Board has approved the application in relation to a portion of the area applied for.
- 20

(5) Within thirty days after the notification in terms of subsection (4) the applicant may, by written notice to the Board and to the owner and occupier, if any, of the land concerned, withdraw the application.

140 Issue of mining lease

25 (1) Where the Board has approved an application and it has not been subsequently withdrawn under section 139 (5), the Cadastre Registrar shall as soon as practicable after the expiry of the period for its withdrawal under that section—

- (a) issue a mining lease in favour of the applicant in respect of the area approved and in accordance with any terms and conditions fixed by the Board under section 139; and
 - (b) give written notice of the issue of the lease to the owner and the occupier, if any, of the land concerned and to any objector; and
 - (c) cause a copy to be kept in the Cadastre Register.
- 30
- 35

(2) A mining lease will not exceed twenty-five years and will be subject to renewal.

141 Limitation on second or subsequent applications following refusal or withdrawal of application

40 Where under this Part an application has been refused or has been withdrawn or is deemed to have been withdrawn, the applicant may not make a second or subsequent application in respect of the same area until twelve months have elapsed from the date of the refusal or withdrawal or the date on which the application is deemed to have been withdrawn, as the case may be.

45

142 Demarcation of mining lease

The Ministry shall inspect and approve the lessee's mining lease demarcations in such a manner as may be prescribed or as the Cadastre

Registrar may direct, and the lessee shall keep any such demarcations in good condition in their proper position for the duration of the lease.

143 Mining rights of lessee

Every lessee shall have the exclusive right of mining, within the vertical limits of the mining lease— 5

- (a) any ore or deposit of a mineral which he or she is authorised to mine by the terms and conditions of the lease; and
- (b) any ore or deposit of any other mineral, except energy minerals, precious stones and declared strategic minerals, which may be discovered within the mining lease, after he or she has notified the Cadastre Registrar of the discovery. 10

144 Cancellation of certificates of registration

Upon the issue of a mining lease the certificates of registration in respect of all mining locations situated within the area covered by the lease shall be deemed to have been cancelled: 15

Provided that any site attached to any such mining location shall be deemed to be attached to the lease.

145 Programmes to be submitted by lessees

- (1) In this section—
 - “development” includes mining activity, mineral production, expenditure and any other work or activity undertaken in or in regard to a mining lease; 20
 - “development programme” means a programme submitted in terms of subsection (2).

(2) Thirty days before the end of every year, calculated from the date on which his or her mining lease was issued, a lessee shall submit to the Board a written programme showing, with such particulars and annual fee as may be prescribed, the development which he or she intends to undertake in regard to the mining lease during the next twelve-month period. 30

146 Increase of area of mining lease

(1) A lessee may lodge an application to the Board for the inclusion of an additional contiguous area of ground which is open to pegging in his or her mining lease.

(2) Sections 136, 137, 138, 139, 140, 141, 145 and 147 shall apply, with any necessary changes, in respect of an application under subsection (1). 35

(3) Where the Board has approved an application under subsection (1), the Board shall, unless the application has been withdrawn or is deemed to have been withdrawn, amend the original and the copies of the mining lease accordingly, and shall return the amended original and a copy of the lease to the lessee and the Cadastre Registrar respectively, and send a copy of the plan to each of them and shall retain one copy of the lease and of the plan. 40

147 Abandonment of portion of mining lease

(1) A lessee may lodge an application with the Board, through the Cadastre Registrar, for the abandonment of a portion of his or her mining lease:

- 5 Provided that it shall not be competent for a lessee to apply if—
- (a) the mining lease is the subject of a hypothecation or option registered under Part XVII; or
 - (b) the abandonment would result in the area of the lease being divided into separate portions.

10 (2) An applicant under subsection (1) shall submit with the application, three copies of a plan showing, in the prescribed manner, the area which he or she wishes to abandon.

15 (3) Where the Board has approved an application made under this section, the Board shall amend the original and the copies of the mining lease accordingly and shall retain one copy of the plan and send a copy each to the lessee and the Cadastre Registrar.

(4) Upon the amendment of a mining lease under this section, the Cadastre Registrar shall demarcate the new area of the lease in the manner prescribed.

20 148 Total abandonment of mining lease

(1) A lessee may apply in writing to the Board, through the Cadastre Registrar, for the cancellation of his or her mining lease:

25 Provided that it shall not be competent for a lessee so to apply if the mining lease is the subject of a hypothecation or option registered under Part XVII.

(2) An applicant under subsection (1) shall lodge with the Cadastre Registrar together with the application, his or her copy of the mining lease.

30 (3) On receipt of an application under subsection (1), the Board shall cancel the mining lease and without delay shall inform the Cadastre Registrar and the applicant of the cancellation.

(4) The Cadastre Registrar shall ensure that the cancellation of a mining lease is updated in the Cadastre Register.

149 Failure to comply with terms and conditions of mining lease

35 (1) If the Board, after due investigation, is satisfied that a lessee has failed to comply with any terms or conditions of his or her mining lease—

- (a) the Board shall notify the lessee of that fact, in writing, and call upon the lessee to remedy the failure within a reasonable period specified by the Board in the notification; and
 - (b) if the Board is not satisfied that the failure has been adequately remedied within the period specified in terms of paragraph (a), the Board may cancel the mining lease or recommend to the Minister that there be recovered from the lessee a prescribed penalty fee.
- 40

(2) Where the Board has recommended the recovery of a penalty under subsection 1(b), the Minister may suspend the mining lease for a prescribed period until such penalty fee has been paid, of which failure to pay within the period will result in the cancellation of the lease.

(3) Where a lease is cancelled under this section, the Board shall inform the Cadastre Registrar and the lessee, and ensure that the cancellation is noted in the register mentioned in section 16. 5

150 Impeachment of title to mining lease

After twelve months have elapsed since the issue of a mining lease, it shall not be competent for any person to dispute the title of the lessee to the area covered by the lease on the following grounds— 10

- (a) that the pegging of any mining location included in the area, or the pegging of any secondary reef registered in respect of any such location, was invalid or illegal or that provisions of this Act or of any other enactment were not complied with prior to the issue of the mining lease; 15
- (b) that any ground not open to prospecting was included in the area covered by the lease.

151 Appeals under Part VIII

Any— 20

- (a) applicant who is aggrieved by the Board's refusal to issue a mining lease to him or her or by any term or condition which the Board has attached to the issue of a mining lease; or
- (b) objector who is aggrieved by the Board's rejection or disregard of an objection which he or she has lodged to the issue or amendment of a mining lease; or 25
- (c) lessee or former lessee who is aggrieved by the amendment or revocation of his or her mining lease in terms of this Part, or by the Board's refusal to amend his or her mining lease in terms of this Part; may appeal, within fourteen days of the decision to the Minister, then to the Administrative Court within thirty days of the Minister's decision. 30

152 Application of other provisions of this Act to mining leases

Unless the context otherwise indicates, the provisions of this Act relating to— 35

- (a) the rights and obligations of holders of mining locations and blocks of claims; and
- (b) the siting of works on mining locations; and
- (c) the payment of fees, charges and royalty by holders of mining locations; and 40
- (d) the transfer and hypothecation of rights in mining locations; and
- (e) tribute agreements in relation to mining locations;

shall apply, with any necessary changes, in respect of mining leases. 45

153 Approval of transfer of mining lease

(1) A mining lease may not be transferred except to a person approved of by the Board, after consultation with the owner of the ground covered by the lease.

5 (2) The Board shall not approve the transfer of a mining lease to any person unless the Board is satisfied that his or her financial status is such that he or she will be able to meet any payment which may become due from him or her under section 72 and 73.

10 (3) Before approving of the transfer of a mining lease to any person the Board may, and if so required by the landowner, shall, require that person to furnish a guarantee satisfactory to the Board for the payment mentioned in subsection (2).

(4) The Board shall on approval of the transfer of a mining lease require the transferor to pay transfer fees as prescribed.”.

15 **16 Repeal of subsections 169, 170 and 171 of Cap. 21:05**

Sections 169, 170 and 171 are repealed.

17 Amendment of section 172 of Cap. 21:05

Section 172 (“Mining rights: other than precious metal claims”) of the principal Act is amended by the—

- 20 (a) deletion in the chapeaux of “any prior right possessed by the holder of any mining location under section 171 and this Act, every holder of a registered block of claims other than precious metal reef claims” and the substitution of “this Act, every holder of a registered block of claims”;
- 25 (b) insertion in paragraph (b) after “subject to this Act” of “register such discovery”.

18 Amendment of section 173 of Cap. 21:05

Section 173 (“Conversion of blocks”) of the principal Act is amended by the repeal of subsections (1), (2), (3), (4), (5), (7) and (9) and the following is substituted—

30 “(1) The holder of a registered block of claims may apply for the conversion of the whole or any portion of such block into a site. Such holder shall apply to the Cadastre Registrar for such a site and if the Cadastre Registrar is satisfied that the area pegged is not in excess of the holder’s requirements of a site, issue a certificate of registration. If the whole block is not registered as a site, the holder shall abandon that portion of the block which is not so registered:

35 Provided that where any conversion is effected under this section the holder shall pay to the Cadastre Registrar, in respect of any new certificate of registration, the prescribed fee.”.

19 Repeal of section 174 of Cap. 21:05

Section 174 of the principal Act is hereby repealed.

40 **20 New section substituted for 177 of Cap. 21:05**

Section 177 (“Priority of mining rights”) of the principal Act is repealed and the following is substituted—

“(1) Priority of rights shall be to the person who is registered first.”.

21 Amendment of sections 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188 and 189 of Cap. 21:05

Sections 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188 and 189 of the principal Act is repealed.

22 Amendment of section 193 of Cap. 21:05

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Section 193 (“Right of miner to private water on state land”) of the principal Act is amended by the—

- (a) by the deletion in the heading of “private”; and
- (b) by the deletion of “Private water may be taken free of charge” and the substitution of “Subject to the Water Act [*Chapter 20:24*], water may be taken”. 10

23 Repeal of section 194 of Cap. 21:05

Section 194 of the principal Act is repealed.

24 Amendment of section 197 of Cap. 21:05

Section 197 (“First Inspection Certificate”) of the principal Act is amended— 15

- (a) in subsection (1) by the deletion of “any block of base mineral claims or of any block of reef or placer deposit claims registered for precious metals” and the substitution of “claims”;
- (b) by the insertion after subsection (1) of the following subsections—
 - “(1a) An application for a first inspection certificate under subsection (1) shall— 20
 - (a) be made in writing; and
 - (b) contain the prescribed information or declaration concerning work that has been done in connection with the block or mining lease concerned; and 25
 - (c) be accompanied by the prescribed fee.
 - (1b) Together with an application under subsection (1a) the applicant shall submit written information on—
 - (a) the extent of any quittance work or other work that will be required in terms of section 269 upon the cessation of mining operations in the block or mining lease concerned; and 30
 - (b) any provision which the applicant has made for meeting the cost of the work referred to in paragraph (a), and for meeting the cost of any other work required to protect or restore the environment; and 35
 - (c) such other matters concerning the present or future environmental impact of the applicant’s mining operations as may be prescribed or as the Cadastre Registrar may reasonably require. 40
 - (1c) An inspection certificate shall only be issued where inspection has been carried out by an Inspector of Mines.
 - (1d) A licence shall only be valid if it is accompanied by a valid inspection certificate.

25 New section inserted in Part XI of Cap. 21:05

Part XI (“Preservation of Mineral Rights”) of the principal Act is amended by the insertion after section 197 of the following—

“197A Interpretation in Part XI

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In this Part—

“development work” has the meaning given to it by section 208;

“protection certificate” means a certificate granted in terms of section 221B;

“work” includes—

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(a) development work;

(b) the production of minerals;

(c) capital expenditure, other than—

(i) expenditure incurred in acquiring a mining location; or

15

(ii) expenditure incurred in the exercise of rights under an exclusive exploration licence;

(d) any other work, expenditure or development in connection with a mining location or mining lease that may be prescribed for the purpose of this definition.”.

20 **26 Amendment of section 198 of Cap. 21:05**

Section 198 (“Second Inspection certificate”) of the principal Act is amended by—

(a) the deletion of subsection (2) and the substitution of the following—

25

“(2) An application for a second inspection certificate under subsection (1) shall be made in writing and shall—

(a) contain the prescribed information or declaration concerning work that has been done in connection with the block or mining lease concerned; and

(b) be accompanied by—

30

(i) information referred to in section 197(1b); and

(ii) the prescribed fee.”;

(b) by the insertion of the following subsections—

35

“(3) A certificate issued in terms of subsection (1) shall protect the block or mining lease from forfeiture for a period of twelve months from the date of expiry of the first inspection certificate.

(4) An inspection certificate shall only be issued where inspection has been carried out by an Inspector of Mines

(5) A licence shall only be valid if it is accompanied by a valid inspection certificate.”.

40 **27 Amendment of section 199 of Cap. 21:05**

Section 199 (“Subsequent inspection certificates etc.”) of the principal Act is amended by—

(a) by the insertion after subsection (1) of the following subsections—

- “(1a) An application for an inspection certificate under subsection (1) shall be made in writing and shall—
- (a) contain the prescribed information or declaration concerning work that has been done and will be done in connection with the block or mining lease concerned; and
 - (b) be accompanied by the prescribed fee.
- (1b) Without derogation from subsection (1)(a), regulations made in terms of section 403 may require an application under subsection (1) to contain updated information on—
- (a) the extent of any quittance work or other work that will be required in terms of section 269 upon the cessation of mining operations in the block or mining lease concerned; and
 - (b) any provision which the applicant has made for meeting the cost of the work referred to in paragraph (a), and for meeting the cost of any other work required to protect or restore the environment; and
 - (c) other matters concerning the present or future environmental impact of the applicant’s mining operations.”;
- (1c) An inspection certificate shall only be issued where inspection has been carried out by an Inspector of Mines.
- (1d) A licence shall only be valid if it is accompanied by a valid inspection certificate.”;
- (b) by the repeal of subsections (6), (7) and (8).

28 Amendment of section 201 of Cap. 21:05 25

Section 201 (“Mining Commissioner may order inspection of development work”) of the principal Act is amended by—

- (a) the deletion from subsection (1) of “development work” and the substitution of “any work”; and
- (b) by deletion of “mining commissioner may” and the substitution of “the Cadastre Registrar shall”.

29 New section substituted for section 202 of Cap. 21:05

Section 202 of the principal Act is repealed and the following is substituted—

“202 Issue of inspection certificate

On receipt of an application in terms of section 197, 198 or 199 and the prescribed fee, and after any inspection in terms of section 201, the Cadastre Registrar shall issue an inspection certificate to the applicant:

Provided that the Cadastre Registrar may refuse to issue an inspection certificate if he is not satisfied that any work mentioned in the application has been executed *bona fide* for the purpose of developing minerals or locating the reef in the block or mining lease concerned.”.

30 Repeal of section 203 of Cap. 21:05

Section 203 of the principal Act is repealed.

31 New section substituted for section 205 of Cap. 21:05

Section 205 (“Amount of work required to obtain inspection certificate for blocks under ordinary prospecting licence”) of the principal Act is repealed and the following is substituted—

- 5 “205 Amount of work required to obtain inspection certificate
for blocks pegged under exclusive prospecting licence
- (1) The amount of work required to obtain an inspection certificate for a block of claims pegged under an exclusive prospecting licence shall be—
- 10 (a) in the case of any work on a block of claims, as prescribed;
(b) in the case of the production of minerals, such quantity or value as may be prescribed in respect of the mineral for which the block is registered;
(c) in the case of capital expenditure on a block of claims, such
15 amount as may be prescribed;
(d) in the case of any other work prescribed under paragraph (d) of the definition of “work” in section 197A, such work, expenditure or activity as may be prescribed;
- for every five claims or portion of five claims registered for the block:
- 20 Provided that the amount of work required for obtaining a first or second inspection certificate shall be at least sixty five *per centum* of the work prescribed in paragraph (a), (b) or (c).
- (2) Different quantities, values, work, expenditure or activities may be prescribed in terms of subsection (1)(c) or (d) in respect of different
25 minerals.”.

32 Amendment of section 211 of Cap. 21:05

Section 211 (“Conditions for inspection by capital expenditure”) of the principal Act is amended by the repeal of subsection (1).

33 Repeal of section 212 of Cap. 21:05

30 Section 212 of the principal Act is repealed.

34 Amendment of section 221 of Cap. 21:05

Section 221 (“Amount of work required and fees payable to obtain inspection certificates for mining leases”) of the principal Act is amended by—

- 35 (a) the repeal of subsection (1) and the substitution of the following subsection—
- “(1) The amount of work required to obtain an inspection certificate for a mining lease for every five hectares or portion of five hectares in the mining lease shall be—
- 40 (a) in the case of development work, as prescribed;
(b) in the case of the production of minerals, such quantity or value as may be prescribed in respect of the principal mineral being mined or to be mined in the mining lease;
(c) in the case of capital expenditure, such amount as may be prescribed;

- (d) in the case of any other work prescribed under paragraph (d) of the definition of “work” in section 197A, such work as may be prescribed:

Provided that the amount of work required for obtaining a first or second inspection certificate shall be sixty five *per centum* of the work prescribed in paragraph (a), (b) or (c). 5

- (b) by the insertion after subsection (1) of the following subsection—

“(1a) Different quantities, values, work, expenditure or activities may be prescribed in terms of subsection (1)(c) or (d) in respect of different minerals.”; 10

- (c) in subsection (2), by the deletion of “section 203” and the substitution of “the definition of “work” in section 197A”;

- (d) by the repeal of subsection (3) and the substitution of—

“(3) For the purpose of obtaining any particular inspection certificate for a mining lease, the lessee may declare work of one or more of the kinds of work specified in the definition of “work” in section 197A.”. 15

35 New sections inserted in Part XI of Cap. 21:05

Part XI of the principal Act is amended by the insertion after section 221 of the following sections—

“221A Protection certificates 20

(1) Subject to this section, the Minister may issue a protection certificate to the holder of any block or to any lessee of a mining lease, granting protection against forfeiture of the block or lease, as the case may be, for a period specified in the certificate.

(2) A holder of a mining lease may apply to the Board, through the Cadastre Registrar for a protection certificate under subsection (1), and if the Board is satisfied that— 25

- (a) because of exceptional circumstances the holder or lessee has been unable to obtain an inspection certificate; and
 (b) the holder or lessee is likely to be able to obtain an inspection certificate at some time in the foreseeable future; 30

the Board may recommend to the Minister, in writing, that he or she should issue a protection certificate to the holder or lessee, and may recommend the period for which the certificate should be issued and any terms and conditions that should attach to it. 35

(3) Upon receipt of a recommendation from the Board under subsection (2), the Minister may issue a protection certificate to the holder or lessee concerned for the period and subject to the conditions recommended by the Board:

Provided that, if the Minister refuses to issue a certificate, or issues one for a different period or subject to different terms and conditions from those recommended by the Board, he or she shall inform the Board, in writing, of his or her reasons for doing so and the Board shall inform the holder or licensee accordingly. 40

(4) A protection certificate issued under this section shall specify the period for which and the terms and conditions subject to which it is issued. 45

5 (5) The Minister shall ensure that copies of every protection certificate issued under this section are sent to the Board and the Cadastre Registrar, who shall without delay enter it into the Cadastre Register and those copies shall be open to inspection by members of the public, as prescribed in section 16 free of charge, at all reasonable times during normal business hours.

221B Appeals

Any person who is aggrieved by the Cadastre Registrar's—

- 10 (a) refusal to issue an inspection certificate; or
(b) assessment of work done for the purposes of this Part;

may appeal to the Minister against the refusal or assessment, and the Minister, after making such investigation into the matter as he or she considers necessary, may confirm, vary or set aside the Cadastre Registrar decision.”.

15 **36 Amendment of section 232 of Cap. 21:05**

Section 232 of the principal Act is repealed.

37 Amendment of section 244 of Cap. 21:05

Section 244 (“Royalty”) of the principal Act is amended—

- 20 (a) in subsection (1) by the deletion of “per unit of mass”;
(b) in subsection (3)—
(i) in paragraph (a) by the deletion of “two hundred United States dollars” and the substitution of “such amount as may be prescribed”;
(ii) by the repeal of paragraph (b) and the substitution of—
25 “(b) exceeds such amount as may be prescribed, the royalty payable shall be increased by such proportion as may be prescribed.”.

38 Amendment of section 245 of Cap. 21:05

Section 245 (“Fixing of Royalty”) of the principal Act is amended—

- (a) by the repeal of subsections (1), (2) and (3) and the substitution of—
30 “(1) The rate of royalty payable in terms of section 244 shall be as fixed in the Schedule to Chapter VII of the Finance Act [*Chapter 23:04*].”;
(b) in subsection (4)—
35 (i) by the deletion of “Notwithstanding subsections (1) and (2), where production commences in Zimbabwe of a mineral or mineral bearing product in respect of which no rate or royalty has been fixed or, if the Minister considers it desirable in the national interest , where production of such a mineral or mineral bearing product has previously commenced and been carried on, the Minister—” and
40 the substitution of “Where production commences in Zimbabwe of a mineral or mineral bearing product in respect of which no rate or royalty has been fixed, the Minister—””;

- (ii) by the deletion of “or, if the Minister considers it desirable in the national interest, where production of such a mineral or mineral-bearing product has previously commenced and been carried on”;

39 Repeal of section 247 of Cap. 21:05

Section 247 of the principal Act is repealed. 5

40 Amendment of section 255 of Cap. 21:05

Section 255 of the principal Act is repealed.

41 New Part inserted in of Cap. 21:05

The principal Act is amended by the insertion after Part XV of the following—

“PART XVA 10

EnvironMEntal protEctiOn

257A Interpretation in Part XVA

(1) In this Part—

“environment” has the meaning given to it in section 2 of the Environmental Management Act [*Chapter 20:27*]; 15

“Safety, Health and Rehabilitation Fund” means a fund established in terms of section 257E;

“large-scale miner” means—

- (a) the lessee of a mining lease; or
- (b) the holder of a mining location whose output in any period of twelve months exceeds or is likely to exceed such amount as may be prescribed; 20

“small-scale miner” means a holder of a mining location who is not a large-scale miner.

(2) When prescribing an amount for the purpose of the definition of “large-scale miner” in subsection (1), the Minister may prescribe— 25

- (a) the manner in which a mining location’s output is to be calculated; and
- (b) the date from which the output is to be taken into account for the purposes of the definition; 30

and may make different provision in respect of different minerals.

257B Jurisdiction on mining titles, rights and mining methodologies

(1) The Minister shall retain exclusive and original jurisdiction on mining in Zimbabwe. 35

(2) The Minister through his or her mining experts, shall determine—

- (a) the best methods of mining to be conducted in any area including rivers, on surface and underground; and
- (b) the tools and machinery to be used; and 40
- (c) the level and extent of such mining activities throughout Zimbabwe:

5 Provided that any other body established in terms of the Environmental Management Act [*Chapter 20:27*] shall in consultation and agreement with the relevant officials from the Ministry responsible for mines, monitor that such recommended mining methods are being adhered to.

257C Protection of natural resources and the environment.

10 (1) In deciding whether or not to grant a mineral right or title, the Cadastre Registrar shall take into account the need to conserve the natural resources in or on the land over which the mineral right or title is sought, or in or on neighbouring land.

 (2) The Cadastre Registrar shall require environmental impact assessment to be carried out and submitted before any mining right or title provided for in this Act, is issued.

257D Conditions for the protection of the environment

15 (1) The Cadastre Registrar shall include in a mining right or title conditions with respect to—

- (a) the prevention, limitation or treatment of pollution;
- (b) the minimisation of the effects of mining on adjoining or neighbouring areas and their inhabitants.

20 (2) Every holder of a prospecting, exploration or mining title or right must manage all environmental impacts—

- (a) in accordance with his or her environmental management plan and or approved environmental management programme, where appropriate; and
- 25 (b) as an integral part of the prospecting or mining operation; and
- 30 (c) being responsible for any environmental damage, pollution or ecological degradation as a result of his or her prospecting or mining operations and which may occur inside and outside the boundaries of the area to which such right, permit or permission relates.

35 (3) Notwithstanding the provisions of the Companies Act [*Chapter 24.03*], the directors of a company or members of a close corporation or syndicate are jointly and severally liable for any unacceptable negative impact on the environment, including damage, degradation or pollution advertently or inadvertently caused by the company or close corporation or syndicate which they represent or are represented.

40 (4) Any person who contravenes this section shall be guilty of an offense and liable to a fine not exceeding level fourteen or imprisonment for a period not exceeding twenty years or to both such fine and such imprisonment.

257E Safety, Health and Rehabilitation Fund

45 (1) There is hereby established a Fund to be known as the Safety, Health and Rehabilitation Fund.

 (2) The Safety, Health and Rehabilitation Fund shall be used for rehabilitation of the environment with regard to environmental degradation associated with mining such as but not limited to—

- (a) mine fires and explosions;
- (b) entrapments and inundations;
- (c) ground subsidence;
- (d) tailing and waste dump breaches and contamination;
- (e) chemical spillage or acid mine drainage; and 5
- (f) closed mine risks (chemical leaks, water contamination and collapse).

(3) Every miner shall make an annual contribution to the Safety Health and Rehabilitation Fund at the rate prescribed by the Minister from time to time. In prescribing the said fees the Minister shall differentiate the applicable fees for small scale miners and large scale miners: 10

Provided that any failure to pay the said fee will result in the cancellation of title or right. Such cancellation shall not waive the miner's obligation to pay the amount due.

257F Miners' obligations to prevent environmental damage not affected by this Part 15

Compliance with the provisions of this Part shall not relieve a miner of any obligation—

- (a) to carry out quittance work or other work to rehabilitate the environment during mining operations and upon the cessation of his or her mining operations; or 20
- (b) to minimise environmental damage;

whether the obligation is imposed by this Act or any other law.”.

42 Amendment of section 260 of Cap. 21:05

Section 260 (“Forfeiture for failure to obtain inspection certificate for block”) of the principal Act is amended by the deletion of “render liable to forfeiture the block in respect of which such failure has taken place” and the substitution of “shall constitute a contravention of the conditions pertaining to his certificate of registration and his or her rights under the said certificate shall forthwith expire upon failure and the block in respect of which such failure has taken place shall be deemed to be forfeited: 25 30

Provided that the Cadastre Registrar shall publish within six months of such forfeiture in the *Gazette* a list of all certificates of registration or leases deemed to have been forfeited”.

43 New section substituted for section 261 of Cap. 21:05

Section 261 (“Forfeiture of alluvial, eluvial, rubble deposit or dump precious metal claims”) of the principal Act is amended by the deletion of “the blocks shall be liable to forfeiture” and the substitution of “shall constitute a contravention of the conditions pertaining to his certificate of registration and his or her rights under the said certificate shall forthwith expire upon failure and the claims in respect of which such failure has taken place shall be deemed to be forfeited: 35 40

Provided that the Cadastre Registrar shall publish within six months of such forfeiture in the *Gazette* a list of all certificates of registration deemed to have been forfeited”.

44 Amendment of section 262 of Cap. 21:05

Section 262 (“Forfeiture of precious stones blocks”) of the principal Act is amended by the deletion of “the block shall be liable to forfeiture” and the substitution 45

of “shall constitute a contravention of the conditions pertaining to his certificate of registration and his or her rights under the said certificate shall forthwith expire upon failure and the block in respect of which such failure has taken place shall be deemed to be forfeited:

5 Provided that the Cadastre Registrar shall publish within six months of such forfeiture in the *Gazette* a list of all certificates of registration deemed to have been forfeited”.

45 New section substituted for section 263 of Cap. 21:05

10 Section 263 (“Forfeiture of mining leases”) of the principal Act is repealed and substituted as follows—

 “(1) If at anytime a holder of a mining lease fails to obtain and pay for an inspection certificate and it has become due and unpaid for three months the rights held under the lease shall cease forthwith and such lease shall be deemed forfeited:

15 Provided that the Cadastre Registrar shall publish within six months of such forfeiture in the *Gazette* a list of all leases deemed to have been forfeited.”.

46 Amendment of section 264 of Cap. 21:05

 Section 264 (“Forfeiture of sites”) of the principal Act is amended—

20 (a) by the deletion of “such site shall be liable to forfeiture” and the substitution of “the rights of the lease holder shall cease forthwith and the site shall be deemed to be forfeited;”;

 (b) by the repeal of the proviso and substitution of—

 “Provided that the Cadastre Registrar shall publish within six months of such forfeiture in the *Gazette* a list of all leases deemed to have been forfeited.”.

25 **47 New section inserted in Cap. 21:05**

 The principal Act is amended by the insertion after section 271 of the following section—

 “271A Appeals

30 (1) Any person who is aggrieved by a declaration or an order in terms of this Part may appeal to the Minister and if not satisfied to the Administrative Court against the declaration or order, as the case may be.

35 (2) An appeal against an order of forfeiture in terms of this section shall be filed not later than thirty days after the holder of the mining location concerned was notified in writing of the order.”.

48 Repeal of section 281 of Cap. 21:05

 Section 281 of the principal Act is repealed.

49 Amendment of section 289 of Cap. 21:05

40 Section 289 (“Penalty for acting under unapproved agreement”) of the principal Act is amended by the addition after subsection (2) of the following subsection—

“(3) Any such tribute agreement made in contravention of subsection (1) shall be null and void and the Minister shall revoke any licence issued to a party to such tribute agreement.”.

50 New section substituted for section 298 of Cap. 21:05

The principal Act is amended by the repeal of section 298 and the substitution of— 5

“298 Rights to explore and mine coal, mineral oils or natural gases may only be acquired under special grant

(1) Subject to section 307, no right to explore and mine coal, mineral oils or natural gases or nuclear energy source material may be acquired except under and in accordance with a special grant issued under this Part. 10

(2) A special grant shall be in two phases namely—

(a) the exploration stage; and

(b) the mining stage. 15

(3) The exploration phase shall not be for more than three years and if the grantee makes a find prior to the expiration of the exploration phase he or she may apply for the mining phase.

(4) Ninety days prior to the expiry of the exploration phase an application to commence the mining phase shall be made on such terms and accompanied by such information or documents as prescribed. 20

(5) The mining phase issued under this part shall be subject to new terms and conditions.

(6) If the grantee does not comply with subsection (4) then the special grant shall be deemed to have been abandoned and no mining rights shall accrue to the grantee.”. 25

51 Amendment of section 305 of Cap. 21:05

Section 305 (“Cancellation of special grants”) of the principal Act is amended in subsection (2) by the deletion of “twelve months” and the substitution of “ninety days”. 30

52 New Part inserted in Cap. 21:05

The Principal act is amended by the insertion of the following Part after Part XX—

“PART XXA

bEnEficiAtion 35

307A Beneficiation

(1) In this section—

“beneficiation” means the use of various mineral processing methods to separate ore into concentrate (valuable mineral) and gangue (tailing or waste material) where the enriched 40

concentrate can be further processed or used directly as a final product;

5 “raw minerals” means the mineral in its as-mined state or unbeneficiated state. It is the basic mineral from which mineral products or intermediates are manufactured or made;

“extent of beneficiation” means the state of a mineral product as beneficiated and differs from mineral to mineral as prescribed by regulations;

10 “beneficiation plant” means any plant or unit that is used for the purpose of processing of minerals to get rid of gangue, or to obtain a final product e.g. custom milling plant, cyanidation plant, elution plant, blast furnace, agglomeration plant, smelter, refinery, concentrator or any other place as provided for in section 247;

15 “run-of-mine” or “R.O.M” means ore from source prior to processing.

(2) No mineral (including industrial scrap) derived from minerals in Zimbabwe shall be exported raw or unprocessed except with the written consent of the Minister to the exporter:

20 Provided that the Minister shall in regulations made under section 403 prescribe exemptions and applicable taxes thereof.

(3) Any person who intends to beneficiate any mineral mined in Zimbabwe outside Zimbabwe shall only do so upon written authorisation from the Minister.

(4) If the Minister finds that a particular mineral can be beneficiated economically in Zimbabwe, the Minister may promote such beneficiation subject to such terms and conditions as the Minister may determine.

30 (5) The Minister shall initiate or prescribe incentives to promote the beneficiation of minerals in Zimbabwe.

(6) The Minister shall make regulations prescribing export permit fees payable by exporters for the export of unbeneficiated minerals.

(7) Minerals and metals which require refining such as gold and silver shall be sold in their refined form:

35 Provided that exception is given to refractory gold concentrates resulting from beneficiation of other minerals such as copper ore.

(8) Beneficiation Plants are to be inspected in a manner to be prescribed by way of regulations.

40 307B Beneficiation plant

(1) The Minister may, upon the application by the owner thereof, by statutory instrument, declare any bank assay department, factory, refinery, smelter or treatment plant which is situated in Zimbabwe to be an approved beneficiation plant in relation to a mineral or mineral-bearing product to be specified in the notice.

45 (2) In a declaration made in terms of subsection (1) the Minister shall specify the rate of rebate of royalty which shall apply in respect of

any specified mineral or mineral-bearing product treated at the approved beneficiation plant referred to in the declaration.

(3) A person making an application referred to in subsection (1) shall specify the degree of beneficiation which it is proposed to carry out at the bank assay department, factory, refinery, smelter or treatment plant, as the case may be. 5

(4) The Minister may, by statutory instrument, withdraw a declaration made in terms of subsection (1) in respect of any approved beneficiation plant—

- (a) where the approved beneficiation plant is not operated as such for any period which exceeds, or aggregate of periods which exceed, three months in any one year; or 10
- (b) where the degree of beneficiation carried out at the approved beneficiation plant is reduced below that specified in the application made in terms of subsection (1) relating to that plant. 15

(5) The owner of an approved beneficiation plant shall, not later than the tenth day of each month, render a return in the form prescribed of all minerals and mineral-bearing products disposed of to or received for treatment by the beneficiation plant in the preceding month to the mining commissioner within whose mining district the registered mining location from which the minerals or mineral-bearing products were won is situated. 20

53 Repeal of section 314 of Cap. 21:05

Section 314 of the principal Act is repealed.

54 Amendment of section 341 of Cap. 21:05

Section 341 (“Administration of Ministry”) of the principal Act is amended—

- (a) in subsection (1) by the deletion of ‘mining commissioners or’;
- (b) by the repeal of subsection (2).

55 Amendment of section 343 of Cap. 21:05

Section 343 (“Appointment of Officers”) of the principal Act is repealed and the following is substituted— 30

“343 Appointment of Officers

- (1) For the purposes of this Act, there shall be—
 - (i) a Cadastre Registrar; and
 - (ii) a Director of Geological Survey; and 35
 - (iii) a Director of Metallurgy; and
 - (iv) a Chief Government Mining Engineer; and
 - (v) a Chief Government Mine Surveyor; and
 - (vi) a Director Beneficiation and Value Addition; and
 - (vii) such inspectors of mines and other mining officers as may be necessary for the efficient administration of this Act. 40

(2) The Cadastre Registrar shall have full powers of delegation and may, subject to the laws governing the Civil Service, as provided by

the Civil Service Commission designate one or more civil servants who must perform the functions delegated or assigned to him or her in terms of this Act.”.

56 New section substituted of section 344 of Cap. 21:05

5 Section 344 (“Mining commissioners powers to take oaths”) of the principal Act is repealed and the following is substituted—

“344 Appeals

(1) The Cadastre Registrar shall order parties to stop mining activities immediately upon lodging of an appeal by either party to a dispute to the Ministry and to the court”.

(2) Where a party has filed an appeal to the Minister, before the Minister will consider the appeal, the appellant shall furnish the Minister with satisfactory proof of service of the appeal upon all interested parties, which proof of service may take the form of proof of service as is prescribed by the High Court rules of Zimbabwe. The appellant shall pay any fees as may be prescribed.

(3) Any administrative process conducted or decision taken in terms of this Act must be conducted or taken as the case maybe, within a reasonable time and in accordance with the principles of lawfulness, reasonableness and procedural fairness.

(4) Any person who is aggrieved by any decision made by any authority under this Act shall first exhaust all internal remedies as provided for in this Act before approaching the courts.”.

57 Repeal of sections 345, 346, 347, 348, 349, 351, 354, 355, 356, 357, 358, 359, 360, 361 and 362 in Cap. 21:05

25 Sections 345, 346, 347, 348, 349, 351, 354, 355, 356, 357, 358, 359, 360, 361 and 362 of the principal Act are repealed.

58 New sections inserted in Cap. 21:05

The principal Act is amended by the insertion after section 391 of the following—

30 “391A Prohibition of riverbed mining

(1) Subject to subsections (3) and (4) no person shall undertake any mining operations on any riverbed except where such persons are part of a joint venture partnership with Government to do so.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable—

(a) if there are no special circumstances in the particular case, and the case involves strategic minerals, to imprisonment for a period of not less than five years or more than ten years; or

(b) if the person convicted of the offence satisfies the court that there are special circumstances in the particular case why the penalty provided under paragraph (a) should not be imposed, which circumstances shall be recorded by the court, or the case involves non-strategic minerals, to imprisonment for a period not exceeding five years; or

(c) a fine not exceeding level fourteen or twice the value of the minerals as valuated by a qualified assayer through a certificate, that are the subject-matter of the offence, whichever is the greater, or to both such fine and such imprisonment. 5

(3) The Government of Zimbabwe through the Ministry responsible for mines and minerals shall reserve the right to carry out mining operations on riverbeds.

(4) For the better exercise of its right to mine along the riverbed the Ministry responsible for mines and minerals may enter into joint ventures with relevant companies and organisations. 10

(5) The Government may also create special purpose vehicles for the efficient carrying out of its operations.

(6) Where Government undertakes mining operations on riverbeds, it shall ensure the protection of the environment by undertaking such mining operations in accordance with prescribed environmental impact assessment guidelines referred to in the Second Schedule. 15

(7) The Environmental Management Agency shall ensure that all riverbed mining operations are done in accordance with the preferred standards outlined in Second Schedule and no damage or pollution is caused. 20

(8) A court sentencing a person under subsection (6)(a) shall not order that the operation of the whole or any part of the sentence be suspended.

391B Application for confiscation orders 25

(1) Where a person has been charged with an offence under section 391A, the Attorney-General may apply to the court for a confiscation against property that is identified as proceeds from the commission of an offence under section 391A.

(2) Except with the leave of the court, the Attorney-General must make an application under subsection (1) from the time a person is charged with an offence to within six months of the date upon which a person was convicted of the offence. 30

(3) A court shall grant leave under subsection (2) only if it is satisfied that it is in the interest of justice to do so. 35

(4) The Attorney-General may amend an application for a confiscation order at any time prior to the final determination of the application by the court, provided that reasonable notice of the amendment is given to affected persons.

(5) Where an application under this section has been finally determined, the Attorney-General may not make a further application for a confiscation order in respect of the same offence without the leave of the court. 40

(6) A court shall grant leave under subsection (5) only if it is satisfied that— 45

- (a) the property to which the new application relates was identified after determination of the previous application; or
- (b) necessary evidence became available after the previous application was determined; and
- (c) it is otherwise in the interest of justice to do so.

(7) A further application under this section may not be made later than six years after the date of the final determination of the previous application under this section.

391C Service of application for confiscation order and appearances

(1) Where the Attorney-General makes an application for a confiscation order against property under section 391A—

- (a) he or she shall serve a copy of the application on the person accused or convicted and on any other person whom the Attorney-General has reason to believe may have an interest in the property; and
- (b) the person accused or convicted and any other person claiming an interest in the property may appear and adduce evidence at the hearing of the application; and
- (c) at any time before its final determination of the application, the court may direct the Attorney-General to provide such notice as the court deems appropriate to any person who, in the court's opinion, appears to have an interest in the property.

(2) The absence of the person accused or convicted, or of any person to whom notice has been given, does not prevent the court from making a confiscation order in their absence.

(3) The court may waive the requirements under subsection (1) to give notice if—

- (a) the person convicted or accused is before the court; and
- (b) the court is satisfied either that any other person who has an interest in the property is present before the court or that it is fair to waive the requirement despite any such person not being present.

391D Procedure on application for confiscation order

(1) Where an application is made for a confiscation order in respect of a person's conviction of an offence, the court may, in determining the application, have regard to any evidence received in the course of the proceedings against the person convicted.

(2) Where an application for a confiscation order is before the court before which the defendant was convicted, the court, if satisfied it is reasonable to do so, may defer imposing sentence until it has determined the application.

(3) Any court with jurisdiction to hear an application for a confiscation order under this Chapter may make such an order by the consent of the relevant parties or persons.

(4) No applicant for a confiscation order, prosecutor or member of a law enforcement agency shall enter into an agreement to settle any matter in respect of which a confiscation order could be made under this Chapter which involves the payment of money or the transfer of property to the State, except— 5

- (a) by way of a consent order under subsection (3); or
- (b) as restitution for stolen property; or
- (c) as compensation for loss or destruction of or damage to property; or
- (d) with the approval of the court before which the person was convicted and before which an application for a confiscation order might be made. 10

391E Confiscation order on conviction

(1) A confiscation order is an order *in rem*, to forfeit to the State property that is tainted property or terrorist property in relation to that offence. 15

(2) The court may make an order under this section if the Attorney-General has applied to the court for an order under section 391A or, in the absence of an application, if the court believes it is appropriate to make an order.

(3) Where the court is satisfied, on a balance of probabilities, that property is the proceeds from the commission of an offence the court shall order that it be confiscated. 20

(4) In considering whether to issue a confiscation order, the court may have regard to—

- (a) the rights and interests of third parties in the property; and 25
- (b) the gravity of the offence concerned; and
- (c) any extraordinary hardship, beyond that which might ordinarily be expected to flow from the operation of this section, that may reasonably be expected to be caused to any person by the operation of the order; and 30
- (d) the use that is ordinarily made of the property, or the use to which the property was intended to be put.

(5) In determining whether property is proceeds of such an offence, unless satisfied to the contrary, the court may infer that the property was derived, obtained or realised as a result of or in connection with the commission of the offence, if it was acquired or possessed by the defendant, during or within a reasonable time after the period of the commission of the offence. 35

(6) Where the court orders the confiscation of property other than money, the court shall specify in the order the amount that it considers to be the value of the property at the time of its order. 40

(7) Where the court makes a confiscation order, the court may give such directions as are necessary or convenient for giving effect to the order.

391F Effect of confiscation order and recording of order against title to certain properties

5 (1) Subject to subsection (2), where the court makes a confiscation order against any property, the property vests absolutely in the State by virtue of the order.

(2) Where a confiscation order applies to any property the title to which is evidenced and transferred by registration in accordance with any of the following—

- 10 (a) the Deeds Registries Act [*Chapter 20:05*]; or
- (b) the Mines and Minerals Act [*Chapter 21:05*]; or
- (c) the Patents Act [*Chapter 26:03*]; or
- (d) the Trade Marks Act [*Chapter 26:04*]; or
- (e) the Industrial Designs Act [*Chapter 26:02*]; or
- (f) the Copyright and Neighbouring Rights Act [*Chapter 26:05*];

15 or in accordance with any other law providing for the evidencing or transfer of title to a particular kind of property by registration or similar formality, the authority responsible for administering those provisions shall, on application by the Attorney-General, register the State as owner of the property, and the Attorney-General shall do or authorise to be done
20 anything necessary or convenient to obtain the registration of the State as owner, including the execution of any instrument required to be executed by a person transferring an interest in property of that kind.

(3) All rights to property of the kind referred to in subsection (2) shall lie with the State until the registration is effected.

25 (4) Where the court makes a confiscation order against property, the property shall not, except with the leave of the court and in accordance with any directions of the court, be disposed of, or otherwise dealt with before the relevant appeal date.

391G Exclusion of property from a confiscation order

30 (1) A person who is not the defendant and who has an interest in property that is subject to a confiscation order may apply to the court to exclude his or her interest from the order.

(2) The court shall grant the application under subsection (1) if it is satisfied that—

- 35 (a) the property is not the proceeds of crime; or
- (b) the applicant was not in any way involved in the commission of the offence in relation to which the confiscation order was made;

40 (3) An application under this section may be made whether or not the interest in property that is the subject of the application is or was the subject of an interdict.

(4) An application under this section shall be made within six months of the day on which the confiscation order is made.

45 (5) The following persons may not, without the leave of the court, make an application under this section, namely any person who, having been served with the application for a confiscation order under

section 391C and made an appearance at the hearing of the application for a confiscation order, seeks to make an application under this section after the confiscation order is made.

(6) The Committee was of the view that a new section 391(H) should be inserted to address issues of auctioning of mining rights. Accordingly the committee instructed the insertion of the following subsection: 5

391H Auctioning of mining rights

(1) The Ministry of Mines and Mining Development may put to auction, the right to mine certain minerals whenever there is need and it is in the interests of the nation. 10

(2) The process of auctioning shall be as prescribed by regulations.”.

59 New sections inserted in Cap. 21:05

The principal Act is amended by the insertion after section 393 of the following— 15

“393A Localisation of shareholding of corporate holders of mining right or title

(1) No mining right or title shall be granted or issued to a public company unless the majority of its shares are listed on a securities exchange in Zimbabwe. 20

(2) Any company that requires a mining right or title which is listed on foreign exchange outside Zimbabwe shall be obliged to notify the Minister of such listing, and eighty-five *per centum* of funds raised from such listing shall be used solely for the development of the mining rights and title in Zimbabwe. 25

(3) The Minister shall be entitled to cancel any mining right or title once it is proven that any person has falsified information required in subsection (2).

(4) Any person who fails to comply with subsection (2) shall be guilty of an offense and liable to a fine equivalent to one hundred *per centum* of cash raised at the foreign listing or to imprisonment for a period not exceeding ten years or both such fine and such imprisonment. 30

393B Holders of mining right or title to utilise Zimbabwean financial institutions 35

(1) Every holder of a mining right or title shall, when conducting financial transactions relating to its mining activities, utilise financial institutions registered to practise as such in Zimbabwe in terms of the Banking Act [*Chapter 24:20*] or any related legislation.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding twenty years or to both such fine and such imprisonment. 40

393C Change of shareholding

(1) Any company holding a mining title or right shall notify the Minister in writing, of any change in its shareholding within fourteen days of such change in shareholding.

5 (2) Subject to any other law, no shareholder of a company holding a mining right or title shall sell dispose of or transfer a Zimbabwe registered security to a non-indigenous person without the written approval of the Minister, any such sale, disposal or transfer done without the Ministers approval shall be void.”.

10 **60 Amendment of section 401 of Cap. 21:05**

Section 401 (“cancellation of mining rights in certain circumstances”) of the principal Act is amended by the deletion of subsection (1) and substitution of—

- (1) If the Minister has reason to believe that a miner—
- 15 (a) has failed, within a reasonable period to commence mining operations; or
 - (b) has failed, within a reasonable period after commencing mining operations, to declare any output from his mining location, whether in terms of this Act or any other enactment; or
 - 20 (c) has knowingly rendered a false return or declaration regarding the output from his mining location, whether in terms of this Act or any other enactment; or
 - (d) has, in relation to his mining location or the output thereof, contravened—
 - 25 (i) section 5 or 6 of the Gold Trade Act [*Chapter 21:03*]; or
 - (ii) section 5, 6 or 14 of the Precious Stones Trade Act [*Chapter 21:06*]; or
 - (iii) section 42 or 50 of the Minerals Marketing Corporation of Zimbabwe Act [*Chapter 21:04*];
 whether or not he has been convicted thereof by a court;
- the Minister may do either or both of the following—
- 30 A. by written notice served on the miner concerned, notify the miner concerned of his or her intention to cancel his or her rights in relation to the mining location concerned, and call on the miner to show cause, within such reasonable period as may be specified in the notice, why such rights should not be cancelled;
 - 35 B. direct any person employed in his or her Ministry to conduct an investigation into the nature and extent of any mining operations that have been conducted on the mining location concerned.

61 Amendment of section 403 of Cap. 21:05

Section 403 (“Regulations”) of the principal Act is amended—

- 40 (a) in subsection (2)—
 - (i) by the insertion after paragraph (a) of the following paragraphs—
 - “(a1) the times during which notices may be posted and pegging may take place;
 - (a2) the alteration or adjustment of pegs;
 - 45 (a3) the determination of the number of claims in a block;

- (a4) the registration of blocks;”
 - (ii) by the insertion after paragraph (b) of the following paragraph—
 - “(b1) the provision by holders of mining titles of information concerning their mining operations, output and activities;”
 - (iii) by the insertion after paragraph (x) of the following paragraph— 5
 - “(x1) services, facilities and other benefits which holders of mining titles should provide for members of local communities by way of corporate social responsibility;”;
 - (b) in subsection (3) by the deletion of—
 - (i) “103” and the substitution of “99”; 10
 - (ii) “the Commercial Farmers’ Union of Zimbabwe” and the substitution of “one or more associations which, in the Minister’s opinion, represent the majority of farmers in Zimbabwe”;
 - (c) by the insertion after subsection (3) of the following subsection— 15
 - “(3a) Without derogation from section 21(2) of the Interpretation Act [*Chapter 1:01*], in prescribing fees, charges, levies, sums, amounts or payments for the purposes of this Act, the Minister may differentiate between large-scale, medium-scale and small-scale miners.”.
- 62 New sections inserted in Cap. 21:05** 20
- The principal Act is amended by the insertion—
- (a) after section 403 of the following sections—
 - “403A Evidence and presumptions
 - (1) A document purported to be a copy of a map prepared in terms of section 20, or of a part of such a map, and purported to be certified as such by a Cadastre Registrar shall be admissible in any 25 legal proceedings on its production by any person as *prima facie* proof of the boundaries of the area and any claims depicted thereon.
 - (2) Where a question arises as to the boundaries of any claim, block, location or other pegged area and there is a conflict between the position of a peg in or on the ground and the position of the peg 30 as indicated on a map or plan kept by the Cadastre Registrar, then for the purposes of any legal proceedings where the position of the peg was determined by means of a global positioning system, the position as indicated on the map or plan shall be regarded as correct unless the contrary is shown. 35
 - 403B Prohibition against Child Labour
 - In terms of this Act—
 - (a) the Minister shall reserve the right to revoke, cancel, or withdraw any mining right or title once he or she contravenes the provisions of the Labour Act [*Chapter 28:01*] 40 in relation to child labour;
 - (b) any miner whose license has been revoked, cancelled or withdrawn in terms of paragraph (a) shall be rendered ineligible to hold a mining title or right under this Act for a period of five years from the date of such revocation, 45 cancellation or withdrawal.

(b) after section 407 of the following sections—

“408 Exposure to radiation

5 In circumstances where persons are exposed to radiation in mining related operations including examinations using radiation emitting equipment used for security purposes the holder of the mining title or right shall ensure that such exposures are handled in a manner which complies with the provisions of the Radiation Protection Act [*Chapter 15:15*].

409 Transitional provisions and savings

10 In this section—

(1) Any word or expression to which a meaning has been assigned in the principal Act shall bear the same meaning when used in this section.

15 (2) Every person who, immediately before the date of publication of this Act as amended, was a member of the Board, having been appointed in terms of section 7 of the principal Act, shall continue to hold office until the expiry of the period of six months after promulgation of this Act as amended.

20 (3) Every prospecting licence which was valid immediately before the date of commencement of this Act shall remain valid for the period for which they were issued.

(4) The Secretary shall take all necessary steps to establish the Cadastre System to ensure the registration of all mining titles and rights that were in existence immediately before the date of commencement of this Act.

25 (5) The Minister shall make regulations in terms of section 403 of the principal Act requiring holders of such titles to notify the Registrar of the particulars of their titles.

30 (6) Any block, location or other area that was duly pegged in terms of the principal Act before the date of commencement of this Act shall be regarded, on and after that date, as being duly pegged as if the pegging had been carried out in terms of the principal Act as amended by this Act:

35 Provided that if the boundaries of any such block or location have not been established by a survey conducted by a mine surveyor, the holder shall, within the prescribed period after the date of commencement of this Act, provide the Cadastre Registrar with a plan showing the position of all the pegs demarcating the boundaries of the block or location, established by means of a prescribed global positioning system.

40 (7) The holder of four or more contiguous blocks that were registered before the date of commencement of this Act in terms of the principal Act may apply to the Cadastre Registrar for the conversion of the blocks into a mining lease, and Part VIII of the principal Act shall apply, with any necessary changes, to the application.

45 (8) Until the promulgation of regulations providing for the matters referred to in section 39 of this Act, the provisions of the

principal Act relating to pegging shall continue to apply during the transitional period.

(9) Every application for an exclusive prospecting order which was pending immediately before the date of commencement of this Act shall be deemed to be an application for an exclusive exploration licence in respect of the same area, and shall be considered by the Board and the Minister accordingly. 5

(10) Every exclusive prospecting order which was in force immediately before the date of commencement of this Act shall be deemed, for the remainder of the period for which it was issued or renewed, as the case may be, to be an exclusive exploration licence issued in respect of the same reservation.”. 10

63 New Schedule inserted in Cap. 21:05

The principal Act is amended by the insertion of the following Schedule—

“SECOND SCHEDULE

Standards for Riverbed Mining

- A. It should apply for an exploration prospectus highlighting the possible impacts to the environment with EMA.
- B. A sequential exploration program should be compiled, wherein the whole territory is systematically reconnoitered followed by a detailed evaluation of interesting areas. Reconnaissance exploration include remote sensing, geomorphological mapping to select sites for detailed exploration.
- C. Six monthly reports should be submitted to the Cadastre Registrar, Geological Survey and Mining Engineering Department including values and declaration if any bullion is won.
- D. If the company intends to divert a portion of a river in order to mine a block an application for such diversion should be made to the relevant water authority.
- E. Submit a siting of works plan indicating mining/ extraction, excavation/stripping schedule; processing methods, equipment to be used and construction to be made for approval.
- F. The company shall strip and stockpile the topsoil separately for use during future rehabilitation.

- G. Wash plant site to have water impoundment and settlement ponds, water quality analysis points.
- H. Bund river banks to ensure no loose soils are washed into the river.
- I. The flowchart of the ore processing must be submitted to the Regional Government Metallurgist for approval.
- J. A processing plant has to be set up migrating along the river valley moving close to mining sites to minimise distance of ore trucking.
- K. No chemicals should be used within the river for gold processing; only gravity processing should be used to avoid water pollution.
- L. The processing plant should use clean underground water, which is recycled through the water reticulation ponds from the processing plant.
- M. No heavy mechanization which causes irreparable environment damage is allowed.
- N. Restoration of river bank must be done to the satisfaction of the EMA before the next rain season.”.

SchEDuLE (Section 54)

Minor aMEndMEnts

<i>Provision</i>	<i>Extent of Amendment</i>
Section 4(1)	By— (a) the deletion of “prospecting licence,”; (b) the repeal of proviso (i).
Sections 25(1), 368(2) & (3), 371(1) and 372(1) & (3),	
Section 28	By the deletion of “prospecting licences” and the substitution of “exclusive prospecting licences”.
Section 29(2)	By the deletion of “The holder of a prospecting licence, hereinafter in this section called the prospector,” and the substitution of “A prospector”.
Section 29(2)(a)	By the deletion of “public water or private”.
Section 31(1)	By the deletion of “prospecting licence or any special grant to carry out prospecting operations or any exclusive prospecting order” wherever it occurs and the substitution of “mining title to carry out prospecting operations”.

<i>Provision</i>	<i>Extent of Amendment</i>
Section 32	By the deletion of “a prospecting licence or a special grant to prospect or an exclusive prospecting order” and the substitution of “any mining title”.
Section 34(2)	By the deletion of “a prospecting licence or of a special grant or of an exclusive prospecting order or of a mining lease” and the substitution of “any mining title”.
Section 34(11)	By the deletion of “a prospecting licence or of a mining location” and the substitution of “any mining title”.
Section 35(1)	By the deletion of “prospecting licence or exclusive prospecting order” and the substitution of “mining title”.
Section 37(1)	By the deletion of “any holder of a prospecting licence or special grant or upon any holder of a mining location” and the substitution of “the holder of any mining title”.
Section 38(1) and (2)	By the deletion of “any of his rights under a prospecting licence, special grant to carry out prospecting operations issued under subsection (1) of section <i>two hundred and ninety-one</i> or exclusive prospecting order” and the substitution of “any right under a mining title to prospect for minerals”.
Section 38(4)	By the deletion of— (a) “a prospecting licence” and the substitution of “an exclusive prospecting licence”; (b) “the prospecting licence” and the substitution of “the exclusive prospecting licence”.
Sections 54(1), (in the definition of “reserved ground”) and 269(5b)	By the deletion of “prospecting licence” and the substitution of “exclusive prospecting licence”.
Section 57	By the deletion of “, <i>fifty-four, fifty-five</i> and <i>fifty-six</i> ” and the substitution of “and <i>fifty-four</i> ”.
Sections 67(2)(a), 223(3)(a), 224(2)(a), 226(1)(b) and 229(1)(d)	By the deletion of “Natural Resources Board” and the substitution of “Environmental Management Agency established by the Environmental Management Act [<i>Chapter 20:27</i>]”.
Sections 120 (in the definition of “reserved ground”), 370(5) and 383(2)	By the deletion of “prospecting licence” and the substitution of “exclusive prospecting licence”.

<i>Provision</i>	<i>Extent of Amendment</i>
Section 126	By the repeal of the proviso.
Section 132(3)	By the deletion of, “but shall not post a DP peg or secondary reef registration notice or Q and R pegs”.
Section 134(1)	By the deletion of “beacon the block in terms of this Act and, if such block has been pegged in irregular form, to erect pegs marked Q and R in terms of paragraph (e) of subsection (3) of section <i>forty-three</i> , and, if a secondary reef has been registered, to erect pegs marked Q and R in terms of paragraph (c) of subsection (1) of section <i>one hundred and seventy</i> ” and the substitution of “peg the block”.
Section 159(1)(a)	By the deletion of “one hundred million United States dollars in value” and the substitution of “such amount as may be prescribed”.
Section 173(7)	By the deletion of “section <i>forty-eight</i> ” and the substitution of “that section”.
Sections 177(7), 356	By the deletion of “injunction” wherever it occurs and the substitution of “interdict”.
Section 178(2)(a)	By the deletion of “the holder of a prospecting licence or of any other mining location” and the substitution of “a prospector or the holder of any other mining title”.
Sections 178(2)(d) and 204(a), proviso (i)	By the deletion of “the holder of a prospecting licence” and the substitution of “a prospector”.
Section 178(5)	By the deletion of “section <i>one hundred and four</i> ” and the substitution of “subsection (3) of section <i>ninety-eight</i> ”.
Section 191	By the deletion of— (a) “The use” and the substitution of “Subject to the Water Act [<i>Chapter 20:24</i>], the use”; (b) “private water” wherever it occurs and the substitution of “water”.
Section 192	By the deletion of “private water” and the substitution of “water”.
Section 195(1)	By the repeal of the definition of “storm-water” and the substitution of— “ “ storm-water” means all flow of water directly due to rainfall before such water joins a public stream.”.

<i>Provision</i>	<i>Extent of Amendment</i>
Section 207(1)	By the deletion of “precious metal” where it occurs for the first time.
Section 207(1)(a)	By the deletion of “precious metal” and the substitution of “mineral”.
Section 207(2)	By the deletion of “precious metal”.
Section 209(1)	By the deletion of— <ul style="list-style-type: none"> (a) “two thousand dollars” where it occurs for the first time and the substitution of “the prescribed amount”; (b) “said value of two thousand dollars” and the substitution of “prescribed amount”; (c) “for each additional amount of one thousand dollars expended in excess of two thousand dollars, one certificate of extra work” and the substitution of “certificates of extra work for such further expenditure as may be prescribed”.
Section 222(4)(a)	By the deletion of “ordinary prospecting licence” and the substitution of “exclusive prospecting licence”.
Sections 222(4)(b) and 223(2) (proviso)	By the deletion of “special prospecting licence,”.
Section 229(1)(d)	By the deletion of “Natural Resources Board” and the substitution of “Environmental Management Agency”.
Section 259(3)	By the deletion of “re-beacon the remainder of such block or site according to section <i>fifty-one</i> ” and the substitution of “re-demarcate the remainder of the block or site in accordance with this Act”.
Section 260	By the deletion of “ <i>two hundred and seventeen</i> ” and the substitution of “ <i>two hundred and twenty-one B</i> ”.
Section 271(1)	By the deletion of “section <i>two hundred and sixty-three</i> ” and the substitution of “sections <i>two hundred and sixty-three</i> and <i>two hundred and seventy-one A</i> ”.
Sections 294(2)(b), 296(1) (proviso), 372(7) and (8) and 383(3)	By the deletion of “a prospecting licence” and the substitution of “an exclusive prospecting licence”.
Section 297	By the deletion of the definition of “special grant”.

<i>Provision</i>	<i>Extent of Amendment</i>
Section 311	By the deletion of “holder of a prospecting licence or” and the substitution of “prospector or holder”.
Section 354(8)	By the deletion of “injunctions” and the substitution of “interdicts”.
Sections 368(1) and 374(1)	By the deletion of “a prospecting licence, exclusive prospecting order” and the substitution of “an exclusive prospecting licence, exclusive exploration licence”.
Section 368 (2)	By the deletion an ‘approved’ and the substitution of “a”
Section 368 (3)	By the deletion of “approved”
Section 369(1)	By the deletion of “approved prospector, his prospecting licence” and the substitution of “approved staking agent, his or her exclusive prospecting licence”.

<i>Provision</i>	<i>Extent of Amendment</i>
Section 370(2)	By the deletion of “prospecting licence, exclusive prospecting order” and the substitution of “exclusive prospecting licence, exclusive exploration licence”.
Section 371 (1)	By the deletion after “Whenever”, “an approved” and the substitution of “a”
Section 372 (1c)	By the deletion after “he is”, “an approved” and the substitution of “a”
Section 372(3b)	By the deletion after “he is”, “an approved” and the substitution of “a”
Section 209 (1)	By deletion of “two thousand dollars” wherever it appears and the substitution of “the prescribed amount”; deletion of “of one thousand dollars” wherever it appears and the substitution of “as prescribed”;
Section 320 (1)	By deletion of “of four hundred dollars” and the substitution of “as prescribed.”;
Wherever it appears	By the repeal of “mining commissioner” and the substitution of “Cadastre Registrar”;
Wherever it appears	by the repeal of “land surveyor” and the substitution of “Mining surveyor” ;
31(1)	by the repeal of “five thousand dollars” and substitution of “prescribed amount”.
31(1)	by the repeal of five hundred dollars and substitution of “prescribed amount”.
87(2)	by the repeal of one hundred dollars and substitution of “prescribed amount”.
97(1)	by the repeal of “ninety thousand dollars” and substitution of “prescribed amount”.
99 (3)	by the repeal of “one hundred dollars” and substitution of “prescribed amount”.
100(3), 113 (1)	by the repeal of “one hundred united states dollars” and substitution of “prescribed amount”.
159(1)	by the repeal of “one hundred million united states dollars and substitution of “prescribed amount”.
175(2)	by the repeal of “two thousand dollars and substitution of “prescribed amount”.

<i>Provision</i>	<i>Extent of Amendment</i>
206(1)(c)(i)	by the repeal of “four hundred dollars and substitution of “prescribed amount”.
206(1)(c)(ii)	by the repeal of “two hundred dollars and substitution of “prescribed amount”.
209(1)	by the repeal of “two thousand dollars and substitution of “prescribed amount”.
221(1)(c)(i)	by the repeal of “four hundred dollars” and substitution of “prescribed amount”.
221(1)(c)(ii), 229(3)	by the repeal of “one thousand dollars” and substitution of “prescribed amount”.
244(3)	by the repeal of two hundred united states dollars and substitution of “prescribed amount”.
244 (3)	by the repeal of three hundred dollars and substitution of “prescribed amount”.
320(1)	by the repeal of “four hundred dollars” and substitution of “prescribed amount”.
398(6)	by the repeal of “five thousand dollars” and substitution of “prescribed amount”.
400(6)	by the repeal of “five thousand dollars” and substitution of “prescribed amount”.

