

MINERALS ACT 50 OF 1991

NOTE: The whole of this Act, except for certain items in the Schedule, has been repealed by section 110 of the Mineral and Petroleum Resources Development Act 28 of 2002 which will come into operation on a date to be fixed by the President by proclamation in the *Gazette*.

[ASSENTED TO 15 MAY 1991]

[DATE OF COMMENCEMENT: 1 JANUARY 1992]

(Afrikaans text signed by the State President)

as amended by

Minerals Amendment Act 103 of 1993
Mine Health and Safety Act 29 of 1996

also amended by

General Law Fourth Amendment Act 132 of 1993
[with effect from a date to be proclaimed]

ACT

To regulate the prospecting for and the optimal exploitation, processing and utilization of minerals; to regulate the orderly utilization and the rehabilitation of the surface of land during and after prospecting and mining operations; and to provide for matters connected therewith.

[Long title substituted by s. 99 of Act 29 of 1996.]

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CHAPTER I INTRODUCTION (s 1)

1 Definitions

In this Act, unless the context otherwise indicates -

'boiler'

[Definition of 'boiler' deleted by s. 1 (a) of Act 103 of 1993.]

'certificated'

[Definition of 'certificated' deleted by s. 99 of Act 29 of 1996.]

'chair lift'

[Definition of 'chair lift' deleted by s. 1 (a) of Act 103 of 1993.]

'Chief Inspector of Mines' means the Chief Inspector of Mines appointed in terms of section 48 of the Mine Health and Safety Act, 1996;

[Definition of 'Chief Inspector of Mines' inserted by s. 99 of Act 29 of 1996.]

'Department' means the Department of Mineral and Energy Affairs;

'department' means a department referred to in section 6 of the Public Service Act, 1984 (Act 111 of 1984);

[Definition of 'department' inserted by s. 1 (b) of Act 103 of 1993.]

'Director-General' means the Director-General: Mineral and Energy Affairs;

'Director: Mineral Development' means any officer appointed in terms of section 4;

[Definition of 'Director: Mineral Development' inserted by s. 99 of Act 29 of 1996.]

'elevator'

[Definition of 'elevator' deleted by s. 1 (a) of Act 103 of 1993.]

'employee' means any person employed or working at a mine or works, including an independent contractor;

'engine'

[Definition of 'engine' deleted by s. 99 of Act 29 of 1996.]

'holder' means, in relation to-

(a) the right to a mineral in respect of land or any undivided share therein, the owner of such land: Provided that-

(i) if the right to such mineral or an undivided share therein has been severed from the ownership of the land concerned, the person in whose name such right or an undivided share therein is registered in the deeds office concerned, either by means of a separate deed or by means of a reservation in the title deed of the land concerned; or

(ii) if the right to such mineral or an undivided share therein vests in any other manner in a person, that person,

shall be the holder;

(b) the right to a mineral which occurs in or on tailings, the person who is the holder of the mining right (in respect of the land) from which such tailings have been produced: Provided that if such mining right has lapsed or did not exist or if such tailings or such mining right has been so alienated that the ownership thereof vests in different persons-

(i) the person who at common law has a claim to such tailings; or

- (ii) if no such person as referred to in subparagraph (i) exists, or if he is unknown or cannot be readily traced, the owner of the land on which the tailings dump is situated,

shall be the first-mentioned holder; and

- (c) any permit, licence, permission, certificate, authorization or any other document issued, granted or in force in terms of this Act, the person in whose name it has been issued, granted or is in force;

'investigating officer'

[Definition of 'investigating officer' deleted by s. 99 of Act 29 of 1996.]

'machinery'

[Definition of 'machinery' deleted by s. 99 of Act 29 of 1996.]

'manager'

[Definition of 'manager' deleted by s. 99 of Act 29 of 1996.]

'mine' means, when-

- (a) used as a noun-

- (i) any excavation in the earth, including the portion under the sea or under other water or in any tailings, as well as any borehole, whether being worked or not, made for the purpose of searching for or winning a mineral; or
- (ii) any other place where a mineral deposit is being exploited,

including the mining area and all buildings, structures, machinery, mine dumps, access roads or objects situated on such area and which are used or intended to be used in connection with such searching, winning or exploitation or for the processing of such mineral: Provided that if two or more such excavations, boreholes or places, or excavations, boreholes and places, are being worked in conjunction with one another, they shall be deemed to comprise one mine unless the Director: Mineral Development notifies the owner thereof in writing that such excavations, boreholes or places, or excavations, boreholes and places, comprise two or more mines; and

[Para. (a) amended by s. 99 of Act 29 of 1996.]

- (b) used as a verb, the making of any excavation or borehole referred to in paragraph (a) (i) or the exploitation of any mineral deposit in any other manner, for the purpose of winning a mineral, including any prospecting in connection with the winning of such mineral;

'mineral' means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth, in or under water or in tailings and having been formed by or subjected to a geological process, excluding water, but including sand, stone, rock, gravel and clay, as well as soil, other than topsoil;

'mine safety committee'

[Definition of 'mine safety committee' deleted by s. 99 of Act 29 of 1996.]

'mining area' means the area comprising the subject of any prospecting permit or mining authorization, including-

- (a) any adjacent surface of land;
- (b) any non-adjacent surface of land, if it is connected to such area by means of any road, railway line, power

line, pipe line, cableway or conveyor belt; and

- (c) any surface of land on which such road, railway line, power line, pipe line, cableway or conveyor belt is located,

under the control of the holder of such permit or authorization and which he is entitled to use in connection with the operations performed or to be performed under such permit or authorization;

[Definition of 'mining area' substituted by s. 1 (c) of Act 103 of 1993.]

'mining authorization' means any authorization granted under a mining permit or a mining licence;

'mining licence' means any authorization issued in terms of section 9 for any period exceeding two years;

'mining permit' means any authorization issued in terms of section 9 for a period not exceeding two years;

'mining right' means any right or any share therein acquired under any section mentioned in section 47 (1) or (5) or any right to dig or to mine acquired under a tributing agreement as defined in section 1 of the Mining Titles Registration Act, 1967 (Act 16 of 1967), or any other subgrant acquired by virtue of the first-mentioned right or any share therein;

'Minister' means the Minister of Mineral and Energy Affairs;

[Definition of 'Minister' substituted by s. 1 (d) of Act 103 of 1993.]

'nomination agreement' means a nomination agreement as defined in section 1 of the Mining Titles Registration Act, 1967 (Act 16 of 1967);

'officer' means any officer or other person in the service of the State in accordance with the Public Service Act, 1984 (Act 111 of 1984);

'offshore installation' means an offshore structure or a vessel used at sea in connection with prospecting for or mining of minerals and on which persons are normally present;

[Definition of 'offshore installation' inserted by s. 1 (e) of Act 103 of 1993.]

'owner' means, in relation to-

(a) land-

- (i) other than unsurveyed and unregistered State land, the owner as defined in section 102 of the Deeds Registries Act, 1937 (Act 47 of 1937); or
- (ii) comprising a rural area, the Minister of Local Government and Agriculture in the House of Representatives;

(b) a mine-

- (i) the holder of the prospecting permit or mining authorization concerned; or
- (ii) if such prospecting permit or mining authorization does not exist, the last person who worked the mine or his successor in title; or

(c) a works, also the lessee of any works or part thereof;

'peace officer'

[Definition of 'peace officer' deleted by s. 99 of Act 29 of 1996.]

'person' means any person as defined in section 2 of the Interpretation Act, 1957 (Act 33 of 1957), including the State and a trust;

'prescribed' means prescribed by regulation;

'process' means, in relation to any mineral, the recovering, extracting, concentrating, refining, calcining, classifying, crushing, screening, washing, reduction, smelting or gasification thereof;

'prospecting' means intentionally searching for any mineral by means which disturb the surface of the earth, including the portion under the sea or under other water or of any tailings, by means of excavation or drilling necessary for that purpose, but does not include mine as a verb;

'prospecting permit' means any authorization issued in terms of section 6;

'record' includes information contained in or on a computer printout, tape or disc or any other computer storage medium;

'regional director'

[Definition of 'regional director' deleted by s. 99 of Act 29 of 1996.]

'regional mining engineer'

[Definition of 'regional mining engineer' deleted by s. 99 of Act 29 of 1996.]

'regulation' means any regulation made under section 63 or in force in terms of section 68 (2);

'rehabilitation' means, in relation to the surface of land and the environment, the execution by the holder of a prospecting permit or mining authorization of the environmental management programme referred to in section 39 to the satisfaction of the Director: Mineral Development;

[Definition of 'rehabilitation' amended by s. 25 of Act 103 of 1993 and by s. 99 of Act 29 of 1996.]

'rural area' means any rural area as defined in section 1 of the Rural Areas Act (House of Representatives), 1987 (Act 9 of 1987);

'serious bodily harm'

[Definition of 'serious bodily harm' substituted by s. 1 (f) of Act 103 of 1993 and deleted by s. 99 of Act 29 of 1996.]

'tailings' means any waste rock, slimes or residue derived from any mining operation or processing of any mineral;

'this Act' includes the regulations and any condition to which any permit, licence, permission, consent, exemption, approval, notice, authorization, environmental management programme or directive issued, given, granted or approved or deemed to be issued, given, granted or approved in terms of this Act, is subject;

[Definition of 'this Act' substituted by s. 1 (g) of Act 103 of 1993.]

'topsoil' means that layer of soil covering the earth and which provides a suitable environment for the germination of seed, allows the penetration of water, is a source of micro-organisms, plant nutrients and in some cases seed, and of a depth of 0,5 metre or any other depth as may be determined by the Director: Mineral Development for each mining area;

[Definition of 'topsoil' inserted by s. 1 (h) of Act 103 of 1993 and amended by s. 99 of Act 29 of 1996.]

'township or urban area' means a township as defined in section 102 (1) of the Deeds Registries Act, 1937 (Act 47 of 1937);

[Definition of 'township or urban area' inserted by s. 1 (h) of Act 103 of 1993.]

'underground' means, in relation to a mine, any place in a mine under the natural surface of the earth which is solely connected to the surface by means of a shaft, incline shaft, adit, raise, winze, tunnel or decline or a combination thereof, including such shaft, incline shaft, adit, raise, winze, tunnel or decline;

'winding plant'

[Definition of 'winding plant' deleted by s. 1 (a) of Act 103 of 1993.]

'works'

[Definition of 'works' deleted by s. 99 of Act 29 of 1996.]

CHAPTER II ADMINISTRATION (ss 2-4)

2 Administration of Act

(1) This Act shall be administered under the control of the Minister in accordance with the instructions and directives of the Director-General by Directors: Mineral Development.

[Sub-s. (1) amended by s. 99 of Act 29 of 1996.]

(2)

[Sub-s. (2) deleted by s. 99 of Act 29 of 1996.]

[S. 2 substituted by s. 2 of Act 103 of 1993.]

3 Division of Republic, territorial waters and continental shelf into regions

For the purposes of this Act the Minister shall, by notice in the *Gazette*, divide the Republic, the sea as defined in section 1 of the Sea-shore Act, 1935 (Act 21 of 1935), and the continental shelf referred to in section 7 of the Territorial Waters Act, 1963 (Act 87 of 1963), into regions, and he may, from time to time, so amend the boundaries of such regions.

4 Appointment and functions of Directors: Mineral Development

The Minister shall, in respect of each region referred to in section 3, appoint an officer in the service of the Department with the necessary experience and qualifications as Director: Mineral Development to exercise the powers and perform the duties conferred upon or assigned to him by or in terms of this Act or any other law and to carry out or comply with the instructions and directives of the Director-General.

[S. 4 substituted by s. 3 of Act 103 of 1993 and amended by s. 99 of Act 29 of 1996.]

CHAPTER III AUTHORIZATION TO PROSPECT AND TO MINE (ss 5-16)

5 Right to prospect and mine for and to dispose of minerals

(1) Subject to the provisions of this Act, the holder of the right to any mineral in respect of land or tailings, as the case may be, or any person who has acquired the consent of such holder in accordance with section 6 (1) (b) or 9 (1) (b), shall have the right to enter upon such land or the land on which such tailings are situated, as the case may be, together with such persons, plant or equipment as may be required for purposes of prospecting or mining and to prospect and mine for such mineral on or in such land or tailings, as the case may be, and to dispose thereof.

(2) No person shall prospect or mine for any mineral without the necessary authorization granted to him in accordance with this Act: Provided that-

- (a) the South African Roads Board established by section 2 of the South African Roads Board Act, 1988 (Act 74 of 1988), and any provincial administration shall not require any such authorization for the searching for and the taking of sand, stone, rock, gravel, clay and soil for road-building purposes under the laws applicable to them: Provided further that the said Roads Board or provincial administration shall, in any such case for the purposes of this Act, be deemed to be the holder of or applicant for a prospecting permit or mining authorization, in respect of the mineral and land concerned; and
- (b) the occupier of land who otherwise lawfully takes sand, stone, rock, gravel, clay or soil for farming purposes or for the effecting of improvements in connection with such purposes on such land, shall not require any such authorization and the provisions of this Act shall not be applicable in any such case.

section

(3) Any person mining any mineral under a mining authorization may, while mining such mineral, also mine and dispose of any other mineral in respect of which he is not the holder of the right thereto, but which must of necessity be mined together with the first-mentioned mineral: Provided that such person shall compensate the holder of the right to such other mineral for his mineral to an amount mutually agreed upon or, if no agreement can be reached, to an amount determined by arbitration in accordance with the Arbitration Act, 1965 (Act 42 of 1965), or by any competent court if the last-mentioned person prefers the last-mentioned procedure: Provided further that in determining the last-mentioned amount, section 12 of the Expropriation Act, 1975 (Act 63 of 1975), shall *mutatis mutandis* apply as if an expropriation of property or the taking of a right has taken place in terms of the last-mentioned Act.

6 Issuing of prospecting permit

(1) The Director: Mineral Development shall, subject to the provisions of this Act, upon application in the prescribed form and on payment of the prescribed application fee, issue a prospecting permit in the prescribed form authorizing the applicant to prospect for a mineral in respect of which he-

- (a) is the holder of the right thereto; or
- (b) has acquired the written consent to prospect on his own account, from such holder,

in respect of the land or tailings, as the case may be, comprising the subject of the application.

(2) Any application for a prospecting permit shall be lodged with the Director: Mineral Development concerned and shall, in addition to the other information and documents which he may require, be accompanied by-

- (a) proof of the right to the mineral in respect of the land or tailings, as the case may be, comprising the subject of the application;
- (b) particulars about the manner in which the applicant intends to prospect and rehabilitate disturbances of the surface which may be caused by his intended prospecting operations; and
- (c) particulars about the applicant's ability to make the necessary provision to rehabilitate disturbances of the surface which may be caused by his intended prospecting operations,

[Para. (c) added by s. 4 (c) of Act 103 of 1993.]

acceptable to the Director: Mineral Development.

(3) If the State is the holder of the right to any mineral, the consent referred to in subsection (1) (b) may, upon written application, be granted by the Minister, subject to such terms and conditions as may be determined by him.

(4) Any prospecting permit shall be issued for a period of 12 months or such longer period as the Director: Mineral Development may determine and the holder thereof may, from time to time, at least one month prior to the expiration of the period for which such permit has been issued or renewed, on written application to the Director: Mineral Development concerned and on payment of the prescribed application fee, obtain a renewal of such permit for a period of 12 months or such longer period as the Director: Mineral Development may determine, if the Director: Mineral Development is satisfied with the manner in which such holder rehabilitates surface disturbances caused by his prospecting operations on the land

concerned.

[Sub-s. (4) substituted by s. 4 (d) of Act 103 of 1993.]
[S. 6 amended by s. 99 of Act 29 of 1996.]

7 Prohibition or restriction on prospecting on certain land

(1) Subject to section 20 of the National Parks Act, 1976 (Act 57 of 1976), no person shall prospect in or on land which-

- (a) comprises a township or urban area;
- (b) comprises a public road, a railway or a cemetery;
- (c) has been reserved or is being used under this Act or any other law for government or public purposes; or
- (d) may be defined and so determined by the Minister by notice in the *Gazette*,

except with the written consent of the Minister and in accordance with such conditions as may be determined by him.

(2) The Director: Mineral Development concerned shall have power to determine or cause to be determined and point out or cause to be pointed out the boundaries of the places referred to in subsection (1).

[Sub-s. (2) amended by s. 99 of Act 29 of 1996.]

8 Prohibition on removal and disposal of minerals found during prospecting operations

(1) No holder of any prospecting permit shall remove any mineral found by the holder in or on land or in tailings in the course of prospecting operations, from such land or the land on which such tailings are situated or dispose of any such mineral, excluding samples of any such mineral removed for tests thereon or identification or analysis thereof, except with the written consent of the holder of the right to such mineral in respect of such land or tailings, and with written permission granted by the Director: Mineral Development concerned, subject to such conditions in respect of optimal utilization or rehabilitation as may be specified therein.

[Sub-s. (1) substituted by s. 99 of Act 29 of 1996.]

(2) If the State is the holder of the right to any mineral, the consent referred to in subsection (1) may, upon written application, be granted by the Minister, subject to such terms and conditions as may be determined by him.

(3) Any application for a permission referred to in subsection (1) shall be submitted in writing to the Director: Mineral Development concerned and shall be accompanied by the prescribed application fee.

[Sub-s. (3) amended by s. 99 of Act 29 of 1996.]

(4) Any permission for the removal of a mineral granted in terms of subsection (1), shall lapse upon the lapsing of the prospecting permit to which such permission relates.

9 Issuing of mining authorization

(1) The Director: Mineral Development shall, subject to the provisions of this Act, upon application in the prescribed form and on payment of the prescribed application fee, issue a mining authorization in the prescribed form for a period determined by him authorizing the applicant to mine for and dispose of a mineral in respect of which he-

- (a) is the holder of the right thereto; or
- (b) has acquired the written consent of such holder to mine therefor on his own account and dispose thereof,

in respect of the land or tailings, as the case may be, comprising the subject of the application.

(2) If the State is the holder of the right to any mineral, the consent referred to in subsection (1) (b) may, upon written application, be granted by the Minister, subject to such terms and conditions as may be determined by him.

(3) No mining authorization shall be issued in terms of subsection (1), unless the Director: Mineral Development is satisfied-

- (a) with the manner in which and scale on which the applicant intends to mine the mineral concerned optimally under such mining authorization;

[Para. (a) substituted by s. 99 of Act 29 of 1996.]

- (b) with the manner in which such applicant intends to rehabilitate disturbances of the surface which may be caused by his mining operations;

- (c) that such applicant has the ability and can make the necessary provision to mine such mineral optimally and to rehabilitate such disturbances of the surface; and

[Para. (c) substituted by s. 99 of Act 29 of 1996.]

- (d) that the mineral concerned in respect of which a mining permit is to be issued-

- (i) occurs in limited quantities in or on the land or in tailings, as the case may be, comprising the subject of the application; or

- (ii) will be mined on a limited scale; and

- (iii) will be mined on a temporary basis; or

- (e) that there are reasonable grounds to believe that the mineral concerned in respect of which a mining licence is to be issued-

- (i) occurs in more than limited quantities in or on the land or in tailings, as the case may be, comprising the subject of the application; or

- (ii) will be mined on a larger than limited scale; and

- (iii) will be mined for a longer period than two years.

(4) Section 7 shall apply *mutatis mutandis* in relation to the performance of mining operations under a mining authorization.

(5) Any application for a mining authorization shall be lodged with the Director: Mineral Development concerned and shall, in addition to the other information and documents which may be required by him, be accompanied by-

- (a) proof of the right to the mineral in respect of the land or tailings, as the case may be, comprising the subject of the application;

- (b) a sketch plan indicating the location of the intended mining area, the land comprising the subject of the application, the lay-out of the intended mining operations and the location of surface structures connected therewith;

- (c) particulars about the manner in which and scale on which the applicant intends to mine such mineral under such mining authorization optimally and to rehabilitate disturbances of the surface which may be caused by the intended mining operations;

[Para. (c) substituted by s. 99 of Act 29 of 1996.]

- (d) particulars about the mineralization of the land or tailings, as the case may be, comprising the subject of the application;
- (e) particulars about the applicant's ability to make the necessary provision to mine such mineral optimally and to rehabilitate such disturbances of the surface; and

[Para. (e) substituted by s. 99 of Act 29 of 1996.]

- (f) particulars about the applicant's ability to mine in a healthy and safe manner,

[Para. (f) added by s. 99 of Act 29 of 1996.]

acceptable to the Director: Mineral Development.

(6) The Director: Mineral Development may exempt any applicant for a mining authorization from one or more of the provisions of subsection (5) (b), subject to such conditions as may be determined by him.

(7) The Director: Mineral Development shall consult as to the issuing of a mining authorisation with the Chief Inspector of Mines, and no mining authorisation may be issued unless the Chief Inspector of Mines is satisfied that the applicant has the ability and can make the necessary provision to mine in a healthy and safe manner.

[Sub-s. (7) added by s. 99 of Act 29 of 1996.]

(8) Subsection (7) shall apply *mutatis mutandis* in relation to the issuing of a prospecting permit in terms of section 6 or a permission in terms of section 8.

[Sub-s. (8) added by s. 99 of Act 29 of 1996.]

[S. 9 amended by s. 99 of Act 29 of 1996.]

10 Temporary authorization to continue with prospecting or mining operations

The Director: Mineral Development may, pending any application for a prospecting permit or a mining authorization, issue a temporary permit or authorization authorizing the continuation of prospecting or mining operations on the land comprising the subject of such application and which had been authorized under a prospecting permit or mining authorization which has lapsed in terms of section 16.

[S. 10 amended by s. 99 of Act 29 of 1996.]

11 Duration and termination of prospecting permit or mining authorization

(1) Any prospecting permit or mining authorization shall remain valid for the period determined therein, unless it is previously suspended, cancelled or abandoned or lapses in terms of this Act.

(2) The holder of any prospecting permit or mining authorization may, at any time, by notice in writing to the Director: Mineral Development concerned, abandon it or any portion of the land comprising the subject thereof, and thereupon it shall be deemed to have lapsed as from the date of such notice to the extent indicated therein.

(3) If any portion of the land is abandoned under subsection (2), the notice referred to in that subsection shall be accompanied by a sketch plan acceptable to the Director: Mineral Development, indicating the portion so abandoned.

[S. 11 amended by s. 99 of Act 29 of 1996.]

12 Continuation of liability until certificate is issued

(1) If any prospecting permit or mining authorization is suspended, cancelled or abandoned or if it lapses in terms of this Act, or if any portion of the land comprising the subject of such permit or authorization is abandoned under section 11 (2) or the operations at a works cease, the person who was the holder of such permit or authorization immediately prior to such suspension, cancellation, abandonment or lapsing or the holder of such permit or mining authorization or the owner

of such works, as the case may be, shall remain liable for complying with the relevant provisions of this Act until the Director: Mineral Development concerned issues a certificate to the effect that the said provisions have been complied with.

[Sub-s. (1) amended by s. 99 of Act 29 of 1996.]

(2) Before issuing a certificate referred to in subsection (1), the Director: Mineral Development shall consult with the Chief Inspector of Mines in that regard, and no such certificate shall be issued if the Chief Inspector of Mines is of opinion that the provisions of the Mine Health and Safety Act, 1996, have not been complied with by the holder referred to in subsection (1).

[Sub-s. (2) added by s. 99 of Act 29 of 1996.]

13 Prospecting permit or mining authorization not to be transferred or encumbered

A prospecting permit or mining authorization shall not be alienated, transferred, ceded or encumbered by mortgage.

14 Suspension or cancellation of prospecting permit, permission or mining authorization

(1) Subject to subsection (2), the Minister may suspend or cancel any prospecting permit, permission referred to in section 8 (1) or mining authorization if the holder thereof contravenes or fails to comply with any relevant provision of this Act: Provided that if such holder contravenes or fails to comply with any provision of section 38, the Minister shall suspend or cancel the permit, permission or authorization concerned, as the case may be.

(2) Before any permit, permission or authorization referred to in subsection (1) is so suspended or cancelled, and subject to subsection (4), the Director: Mineral Development concerned shall serve a written notice on the holder thereof ordering him to comply with the relevant provisions or take such rectifying steps as the Minister may require, within a period specified in the notice.

[Sub-s. (2) substituted by s. 5 (a) of Act 103 of 1993 and amended by s. 99 of Act 29 of 1996.]

(3) Any prospecting permit, permission referred to in section 8 (1) or mining authorization may be cancelled by the Minister or the issuing or granting thereof shall, notwithstanding anything to the contrary contained in this Act, on instruction by the Minister, be refused if, in his opinion, the security of the State may be jeopardized by the continued existence or issuing or granting thereof.

(4) If a Director: Mineral Development is of the opinion that a contravention or failure referred to in the proviso to subsection (1) has occurred or is occurring, he may order that the operations being conducted under the permit, permission or authorization concerned be suspended until such rectifying steps have been taken as may be required by him or until the Minister has suspended or cancelled such permit, permission or authorization in terms of the proviso to subsection (1).

[Sub-s. (4) added by s. 5 (b) of Act 103 of 1993 and amended by s. 99 of Act 29 of 1996.]

15 Restriction on issuing of more than one prospecting permit or mining authorization in respect of same mineral and land

No prospecting permit or mining authorization shall be issued in respect of any mineral in respect of land or tailings, as the case may be, if a prospecting permit or mining authorization has already been issued in respect of such mineral and land or tailings, as the case may be, unless the Director: Mineral Development is satisfied that such first-mentioned issuing will not detrimentally affect the object of this Act in relation to optimal exploitation of minerals or rehabilitation.

[S. 15 substituted by s. 99 of Act 29 of 1996.]

16 Lapsing of prospecting permit or mining authorization

Any prospecting permit or mining authorization shall lapse whenever-

- (a) the period, if any, for which such permit or mining authorization has been issued, expires;
- (b) the holder of such permit or authorization who is also the holder of the right to the mineral concerned in respect of the land or tailings, as the case may be, comprising the subject of such permit or authorization, ceases to be the last-mentioned holder; or
- (c) the consent referred to in section 6 (1) (b) or 9 (1) (b) lapses.

CHAPTER IV
OPTIMAL EXPLOITATION AND UTILIZATION OF MINERALS (ss 17-25)

17 Power of Minister if consent to prospect or to mine cannot be acquired

(1) If the right to any mineral is fully or partly severed from the ownership of land and is fully registered in the name of one holder or in the names of more than one holder in undivided shares, and any person intending to prospect or to mine for such mineral on such land satisfies the Minister that the right so to prospect or to mine cannot readily be acquired by reason of the fact that-

- (a) such holder or holders cannot be readily traced; or
- (b) any person entitled to such right to a mineral or undivided share therein by virtue of intestate succession or any testamentary disposition has not obtained cession thereof and a period of not less than two years has expired from the date on which he became so entitled,

the Minister may, on application in writing of any such intending person and on payment of the prescribed application fee, notwithstanding anything to the contrary contained in any law-

- (i) grant the consent to-

(aa) prospect required by section 6 (1) (b) in respect of such mineral and land to such applicant; and

(bb) remove any such mineral found in the course of prospecting operations in or on such land and to dispose thereof required by section 8 (1), to such applicant subject to such terms and conditions, including compensation, as may be agreed upon between such applicant and the Director-General; or

[Para. (i) substituted by s. 6 (a) of Act 103 of 1993.]

- (ii) subject to such terms and conditions as may be agreed upon between such applicant and the Director-General, and after payment to the latter of the amount, if any, that may be so agreed upon, issue to such applicant a certificate authorizing the registrar of deeds concerned to register a cession in favour of such applicant of the right to such mineral or such undivided share therein in respect of such land.

(2) If the Minister issues a certificate under subsection (1) (ii), the right to the mineral concerned or undivided share therein, as defined in such certificate, shall, for the purposes of section 32 of the Deeds Registries Act, 1937 (Act 47 of 1937), be deemed to be expropriated by the State and to vest in the cessionary whose name is mentioned in such certificate, and any cession of any such right or undivided share therein authorized by such certificate may, notwithstanding the provisions of section 14 of the said Act, be directly registered in favour of such cessionary in accordance with the said section 32.

(3) Upon the receipt of the compensation, if any, referred to in subsection (1) (i) (bb) or after the registration of any cession as contemplated in subsection (2), the Director-General shall dispose of that compensation or the amount, if any, referred to in subsection (1) (ii), if the right concerned or share therein-

- (a) is subject to a registered mortgage bond, by paying the amount of the outstanding mortgage debt to the mortgagee, and by paying the balance of that compensation or the first-mentioned amount, if any; or
- (b) is not subject to a registered mortgage bond, by paying that compensation or such amount,

to the Master of the Supreme Court within whose area of jurisdiction the land concerned is situated.

[Sub-s. (3) substituted by s. 6 (b) of Act 103 of 1993.]

(4) Section 21 (2) and (3) of the Expropriation Act, 1975 (Act 63 of 1975), shall apply *mutatis mutandis* to moneys received by a Master of the Supreme Court in terms of subsection (3).

(5) The costs in connection with any cession contemplated in subsection (1) (ii) shall be paid by the cessionary concerned, and the Transfer Duty Act, 1949 (Act 40 of 1949), shall apply thereto.

(6) (a) If any person intending to prospect or to mine on land comprising the subject of a mining right, upon the expiration of the period referred to in section 47 (1) (c), satisfies the Minister that the right so to prospect or to mine cannot readily be acquired by reason of the fact that-

- (i) the holder of the mining right concerned cannot be readily traced; or
- (ii) any person entitled to such mining right or any undivided share therein by virtue of intestate succession or any testamentary disposition has not obtained cession thereof and a period of not less than two years has expired from the date on which he became so entitled,

the Minister may, on application in writing of any such intending person and on payment of the prescribed application fee, notwithstanding anything to the contrary contained in any law-

- (aa) grant the consent to prospect required by section 6 (1) (b), in respect of such mineral and land to such applicant; or
- (bb) subject to such terms and conditions as may be agreed upon between such applicant and the Director-General, and after payment to the latter of the amount, if any, that may be so agreed upon, issue to such applicant a certificate to the effect that the mining right concerned has been transferred to him, and direct the Director-General to make the necessary endorsements in that regard in the documents concerned.

(b) The costs in connection with any transfer contemplated in paragraph (a) (bb), if any, shall be paid by the applicant concerned.

(7) Upon the issuing of the certificate referred to in subsection (6) (a) (bb), the Director-General shall dispose of the amount, if any, referred to in that subsection *mutatis mutandis* in accordance with subsection (3), and section 21 (2) and (3) of the Expropriation Act, 1975, shall apply *mutatis mutandis* to any moneys so received by a Master of the Supreme Court.

18 Special investigation regarding presence, nature and extent of minerals or geological formations in or on land

(1) Notwithstanding anything to the contrary contained in this Act in relation to the issuing of a prospecting permit, the Minister may, if in his opinion it is necessary in the national interest, cause any investigation to be conducted on any land to establish if any mineral or geological formation occurs in or on such land, and if so, to establish the nature and extent thereof.

(2) Compensation as may be agreed upon by the parties concerned or, in the absence of such agreement, determined by arbitration in accordance with the Arbitration Act, 1965 (Act 42 of 1965), or by any competent court if the person concerned prefers the last-mentioned procedure, shall be payable by the Minister in respect of any proven damage to any person as a result of any investigation contemplated in subsection (1).

(3) (a) No investigation shall take place under this section prior to the expiration of a period of 30 days after publication in the *Gazette* of a notice of the intention to conduct such investigation.

(b) No entering upon land shall take place under this section before reasonable steps have been taken to notify the owner or occupier or person in control of such land of the intention so to enter upon such land.

(c) No investigation involving prospecting shall take place under this section before reasonable steps have been taken to notify the holder of the right to the mineral concerned of the intention to conduct such investigation.

[S. 18 substituted by s. 7 of Act 103 of 1993.]

19 Information in respect of prospecting to be furnished to Director: Mineral Development

(1) Subject to subsection (4), the holder of any prospecting permit or mining authorization shall, within one year after completing the digging of any excavation or drilling of any borehole, for the purpose of prospecting, from the surface of any land, supply complete and correct information to the Director: Mineral Development concerned regarding-

- (a) the exact location of the excavation or borehole;
- (b) the date of completion thereof;
- (c) the depth thereof;
- (d) the lithology and depth of the geological formations excavated or drilled through;
- (e) the results of any tests or analyses done on the minerals obtained from the excavation or borehole; and
- (f) all other information gathered by the prospector in relation to the minerals, excavation or borehole.

(2) Save as is otherwise provided in subsection (3) and subject to section 10 of the Coal Act, 1983 (Act 32 of 1983), section 53 of the Atomic Energy Act, 1982 (Act 92 of 1982), and section 12A (1) of the Energy Act, 1987 (Act 42 of 1987), no information supplied in terms of subsection (1) or a corresponding provision of a prior law shall be published or shown to any person other than an officer or employee in the service of the Department, unless the holder of the prospecting permit or mining authorization referred to in subsection (1) has agreed thereto in writing.

(3) (a) The Director-General may, after a period of 15 years has expired since the completion of any excavation or borehole in respect of which information has been submitted in terms of subsection (1) or a corresponding provision of a prior law, by notice in the *Gazette* make known his intention to publish or to disclose to the public any of such information, and any such notice shall contain a list indicating, in so far as it is known-

- (i) the number of the excavation or borehole;
- (ii) the name of the person on whose behalf it was excavated or drilled;
- (iii) the location of the land on which it was excavated or drilled; and
- (iv) the date of completion thereof.

(b) Any person who has any direct or indirect pecuniary interest in any excavation or borehole referred to in paragraph (a) and who wishes to object to the publication or the disclosure so referred to of the information concerned, shall lodge such objection and the grounds upon which it is based with the Director-General in writing within six months from the date of publication of the notice referred to in that paragraph.

(c) The Director-General may uphold an objection lodged with him in accordance with paragraph (b), or he may reject it if he is satisfied that the publication or disclosure of the information concerned will not prejudice any direct or indirect pecuniary interest of the objector, and shall, as soon as practicable, notify the objector in writing of his decision.

(d) Subject to section 68 (1) (a) (vi) of the Atomic Energy Act, 1982, any decision given under paragraph (c) and the outcome of any appeal lodged against such decision under section 57 (2), the Director-General may, upon the expiration of the period of six months referred to in paragraph (b), publish or disclose to the public in any manner which he may deem fit, any of the information concerned.

(4) The Director: Mineral Development may, subject to such conditions as may be determined by him, exempt the holder of any prospecting permit or mining authorization from one or more of the provisions of subsection (1).

[S. 19 amended by s. 99 of Act 29 of 1996.]

20 Restriction on dividing of rights to minerals

(1) Notwithstanding anything to the contrary contained in any law, but subject to sections 71 (2) (a) and 73bis of the Deeds Registries Act, 1937 (Act 47 of 1937), no deed which, if it would be registered, would give effect to-

- (a) the division of any right to any mineral or minerals in respect of land among two or more persons into undivided shares; or
- (b) an increase in the number of holders of undivided shares in any right to any mineral or minerals in respect of land,

and if such right has been severed from the ownership of the land concerned or is about to be so severed upon the registration of such deed, shall be registered by the registrar of deeds concerned, unless the Director-General has under subsection (3) in writing approved such division or increase.

[Sub-s. (1) amended by s. 8 of Act 103 of 1993.]

(2) Any person who desires the approval of the Director-General for any division or increase referred to in subsection (1), shall lodge with the Director: Mineral Development an application in writing together with the prescribed application fee, as well as any such documents and any other information as may be necessary to enable the Director-General to come to a proper decision.

[Sub-s. (2) amended by s. 99 of Act 29 of 1996.]

(3) The Director-General may, after consideration of any application referred to in subsection (2), approve the division or increase comprising the subject of such application in writing, or refuse so to approve it if he is satisfied that such division or increase may detrimentally affect any of the objects of this Act.

21 Restriction on acquisition of rights to minerals by succession

If compliance with any testamentary disposition or the law regarding intestate succession will result in a division or increase as referred to in section 20 (1) and the Director-General has under section 20 (3) refused to approve such division or increase and the heirs or beneficiaries concerned are unable to come to an agreement which will not result in any such division or increase, the executor of the estate concerned shall, notwithstanding anything to the contrary contained in any law or testamentary provisions, realize the right to a mineral concerned or any undivided share therein and dispose of the net proceeds thereof in accordance with such testamentary disposition or the law regarding intestate succession, as the case may be.

22 Power of Minister in case of conducting mining operations contrary to object of optimal exploitation of minerals

(1) If the holder of any mining authorization conducts his mining operations in a manner and on a scale which, in the opinion of the Minister, may detrimentally affect the object of this Act in relation to the optimal exploitation of any mineral, the Minister may-

- (a) cause an investigation to be held into the matter; and
- (b) after consideration of the comment contemplated in subsection (2), if any, and the result of the investigation contemplated in paragraph (a), issue a direction ordering such holder to take such rectifying steps within a period specified in the direction as may be required by the Minister.

(2) Before any direction referred to in subsection (1) (b) is issued, the Director: Mineral Development shall serve a written notice on the holder referred to in that subsection, whereby he is notified of the steps being contemplated by the Minister and whereby he is given the opportunity to comment on the intention of the Minister regarding such steps within a period specified in the notice, which shall not be less than 30 days.

[Sub-s. (2) amended by s. 99 of Act 29 of 1996.]

23 Power of Minister in case of exercising of surface rights contrary to object of optimal exploitation of minerals

(1) If any person in any manner uses or causes to be used or intends to use or to cause to be used the surface of any land or includes or causes it to be included or intends to include or to cause it to be included into any town planning scheme which may, in the opinion of the Minister, detrimentally affect the object of this Act in relation to the optimal exploitation of any mineral which occurs or may occur in economically exploitable quantities in or on such land or in tailings on such land, the Minister may-

- (a) cause an investigation to be held into the matter; and
- (b) after consideration of the comment contemplated in subsection (2), if any, and the result of the investigation contemplated in paragraph (a), issue a direction ordering such person to take such rectifying steps within a period specified in the direction as may be required by the Minister.

(2) Before any direction referred to in subsection (1) (b) is issued, the Director: Mineral Development shall serve a written notice on the person referred to in that subsection, whereby he is notified of the steps being contemplated by the Minister and whereby he is given the opportunity to comment on the intention of the Minister regarding such steps within a period specified in the notice, which shall not be less than 30 days.

[Sub-s. (2) amended by s. 99 of Act 29 of 1996.]

24 Power of Minister to expropriate surface or mineral rights

(1) If the Minister at any time deems it necessary in the public interest to expropriate any right (including ownership) or share therein-

- (a) in respect of land, the surface or any portion under the surface of land; or
- (b) to a mineral in respect of land,

section

he may expropriate any such right or share therein: Provided that the person at whose request such right or share therein is expropriated, if any, shall compensate the person whose right thereto or share therein has been expropriated for such right or share therein to an amount mutually agreed upon or, if no agreement can be reached, to an amount determined by arbitration in accordance with the Arbitration Act, 1965 (Act 42 of 1965), or by any competent court if the last-mentioned person prefers the last-mentioned procedure: Provided further that in determining the last-mentioned amount, section 12 of the Expropriation Act, 1975 (Act 63 of 1975), shall *mutatis mutandis* apply as if an expropriation of property or the taking of a right has taken place in terms of the last-mentioned Act.

(2) The right to any land or mineral or any share therein expropriated under subsection (1), shall vest in the person at whose request it has been expropriated.

25 Power of Minister to impose prohibition on possession of mineral, and power of manager to search person

(1) The Minister may, if he is satisfied that special measures are required against theft of a specific mineral or minerals in general, subject to such conditions as may be determined by him, by notice in the *Gazette* impose a prohibition on the possession of any such mineral or minerals.

(2) The Manager of a mine may search or cause to be searched any person employed at such mine for possession of any mineral in respect of which the possession has been prohibited under subsection (1).

[Sub-s. (2) substituted by s. 99 of Act 29 of 1996.]

26

[S. 26 amended by s. 9 of Act 103 of 1993 and repealed by s. 99 of Act 29 of 1996.]

27

[S. 27 amended by s. 10 of Act 103 of 1993 and repealed by s. 99 of Act 29 of 1996.]

28

[S. 28 amended by s. 11 of Act 103 of 1993 and repealed by s. 99 of Act 29 of 1996.]

29 and 30

[Ss. 29 and 30 repealed by s. 99 of Act 29 of 1996.]

31

[S. 31 amended by a. 12 of Act 103 of 1993 and repealed by s. 99 of Act 29 of 1996.]

32

[S. 32 amended by s. 36 of Act 132 of 1993 and repealed by s. 99 of Act 29 of 1996.]

33

[S. 33 substituted by s. 13 of Act 103 of 1993 and repealed by s 99 of Act 29 of 1996.]

34 to 37 inclusive

[Ss. 34 to 37 inclusive repealed by s. 99 of Act 29 of 1996.]

CHAPTER VI REHABILITATION OF SURFACE (ss 38-42)

38 Rehabilitation of surface of land

(1) The rehabilitation of the surface of land concerned in any prospecting or mining shall be carried out by the holder of the prospecting permit or mining authorization concerned-

- (a) in accordance with the environmental management programme approved in terms of section 39, if any;

[Para. (a) amended by s. 25 of Act 103 of 1993.]

- (b) as an integral part of the prospecting or mining operations concerned;

- (c) simultaneously with such operations, unless determined otherwise in writing by the Director: Mineral Development; and

- (d) to the satisfaction of the Director: Mineral Development concerned.

(2) (a) If the Director: Mineral Development is of the opinion that having regard to the known and disclosed mineral reserves of any mine, that mine is likely to cease mining operations within a period of five years, he shall in writing give notice accordingly to the owner of that mine and such owner shall not dispose of any of his assets in relation to that mine without a certificate furnished by the Director: Mineral Development to the effect that the necessary steps have been taken or adequate provision has been made for the rehabilitation of the mining area concerned.

- (b) Any certificate contemplated in paragraph (a) may be furnished in general terms or in respect of specified

assets and may be made subject to such conditions as the Director: Mineral Development may determine.

[Sub-s. (2) added by s. 14 of Act 103 of 1993.]

[S. 38 amended by s. 99 of Act 29 of 1996.]

39 Environmental management programme

(1) An environmental management programme in respect of the surface of land concerned in any prospecting or mining operations or such intended operations, shall be submitted by the holder of the prospecting permit or mining authorization concerned to the Director: Mineral Development concerned for his approval and, subject to subsection (4), no such operations shall be commenced with before obtaining any such approval.

(2) The Director: Mineral Development may-

- (a) on application in writing and subject to such conditions as may be determined by him, exempt the holder of any prospecting permit or mining authorization from one or more of the provisions of subsection (1) or grant an extension of time within which to comply with any such provision;
- (b) approve an amended environmental management programme on such conditions as may be determined by him; or
- (c) without application being made therefor, but after consultation with such holder, amend any approved environmental management programme.

(3) Before the Director: Mineral Development-

- (a) approves any environmental management programme referred to in subsection (1) or any amended environmental management programme referred to in subsection (2) (b); or
- (b) grants any exemption or extension of time under subsection (2) (a) or any temporary authorization under subsection (4); or
- (c) effects an amendment under subsection (2) (c),

he or she shall consult as to that with the Chief Inspector of Mines and each department charged with the administration of any law which relates to any matter affecting the environment.

[Sub-s. (3) amended by s. 99 of Act 29 of 1996.]

(4) The Director: Mineral Development may, pending the approval of the environmental management programme referred to in subsection (1), grant temporary authorization that the prospecting or mining operations concerned may be commenced with, subject to such conditions as may be determined by him.

(5) (a) The Director-General may, pending the approval of an environmental management programme referred to in subsection (1), require that an environmental impact assessment be carried out in respect of the intended prospecting or mining operations by a professional body designated by the Director-General.

(b) Any costs in respect of an environmental impact assessment referred to in paragraph (a) shall be borne by the holder of the prospecting permit or mining authorization referred to in subsection (1).

[S. 39 substituted by s. 15 of Act 103 of 1993 and amended by s. 99 of Act 29 of 1996.]

40 Removal of buildings, structures and objects

Whenever a prospecting permit or mining authorization which is held is suspended, cancelled or terminated or lapses, and the prospecting for or exploitation of any mineral which was authorized under such permit or authorization finally ceases, the person who was the holder of such permit or authorization immediately prior to such suspension, cancellation, termination or lapsing, as the case may be, shall demolish all buildings, structures or any other thing which

was erected or constructed in connection with prospecting or mining operations on the surface of the land concerned and shall remove all debris as well as any other object which the Director: Mineral Development concerned may require and, as far as is practicable, restore any such surface to its natural state to the satisfaction of and within a period determined by such Director: Mineral Development: Provided that such demolition or removal shall not be applicable in respect of buildings, structures or objects -

- (a) which shall, in terms of any other law, not be demolished or removed;
- (b) as may be determined by such Director: Mineral Development, or in respect of which he has granted exemption subject to such conditions as may be determined by him; or
- (c) which the owner of the land wishes to retain and which has been agreed upon accordingly in writing with such former holder of such permit or authorization.

[S. 40 amended by s. 99 of Act 29 of 1996.]

41 Restrictions in relation to use of surface of land

(1) The Director: Mineral Development may issue directives and determine conditions in relation to the use of the surface of land comprising the subject of any prospecting permit or mining authorization in order to limit any damage to or the disturbance of the surface, vegetation, environment or water sources to the minimum which is necessary for any prospecting or mining operations or processing of any mineral: Provided that such directives and conditions shall not be construed as placing the holder of any such prospecting permit or mining authorization, in a better position *vis-à-vis* the owner of such land in relation to the use of the surface thereof.

[Sub-s. (1) substituted by s. 99 of Act 29 of 1996.]

(2) No person shall contravene or fail to comply with any directive or condition referred to in subsection (1).

42 Acquisition or purchase of certain land and payment of compensation under certain circumstances

(1) (a) If the Minister, after representations in writing have been made to him by the owner of any land, other than land held under any

reservation, permission or right referred to in section 48 (1) (a) during the subsistence of such reservation, permission or right, or by any person who is entitled to mine on such land and who mines or intends to mine on such land for any mineral, and after such investigations as the Minister may deem necessary, and after consultation with the Minister of Agriculture, is satisfied-

- (i) that the use or intended use of such land, or any portion thereof, by such person for the mining of minerals or purposes in connection therewith, prevents or hinders or is likely to prevent or hinder the proper use of such land or such portion for farming purposes; or
- (ii) that any portion of such land which is not being used or is not likely to be used by such person for mining purposes or purposes in connection therewith, is or is likely to become an uneconomic farming unit,

he shall in writing notify such owner and such person accordingly, and thereupon there shall be vested, subject to paragraph (d), in the State a right, to the exclusion of any other person, to acquire such land, or such portion thereof as the Minister may determine.

(b) If the Minister is not satisfied as contemplated in paragraph (a) (i) or (ii), he shall in writing notify the owner and person so referred to accordingly.

(c) A copy of any representations made in terms of paragraph (a) shall, if such representations are made by the owner of the land concerned, be served by such owner on the person so entitled to mine on such land or, if such representations are made by such person, be served by such person on such owner.

(d) Notwithstanding the provisions of paragraph (a), no right to acquire any land shall be vested in the State by

virtue of any notification under that paragraph if the Minister or the Director-General within three months after the date of such notification has been notified in writing-

- (i) by the owner of such land that he desires to retain the ownership of such land irrespective of the way in which such land is or is likely to be disturbed or damaged or be used for mining purposes or purposes in connection therewith by the person referred to in paragraph (a); or
- (ii) by such owner and such person that they have entered into an agreement with each other for the payment of compensation for damage caused or likely to be caused as a result of mining operations or operations in connection therewith on such land.

(e) If the Minister is satisfied, after considering any written representations submitted to him by the owner referred to in paragraph (d) (i), and after such investigations as the Minister may deem necessary -

- (i) that such owner has suffered or is likely to suffer damage as a result of-

(aa) disturbance or subsidence of land caused by mining operations or operations in connection therewith; or

(bb) any obstruction established on land by any person entitled to mine on such land and who mines or intends to mine thereon for any mineral; and

- (ii) that the owner has made all reasonable efforts to negotiate a settlement with the other person for the payment of compensation for the damage referred to in subparagraph (i),

he shall, subject to paragraph (f), in writing direct such other person to negotiate a settlement with such owner for the payment of compensation for such damage.

(f) The owner of the land concerned shall not be entitled to recover any further compensation under paragraph (e)-

- (i) in respect of any damage suffered or likely to be suffered as a result of disturbance or subsidence of land contemplated in paragraph (e) (i) (aa), if compensation for such disturbance or subsidence has already been paid to the owner or his predecessor in title: Provided that this prohibition shall not preclude the owner of such land from recovering compensation in respect of any further disturbances or subsidences; or

- (ii) in respect of any damage suffered as a result of any obstruction contemplated in paragraph (e) (i) (bb) if-

(aa) the right to establish such obstruction was acquired by means of a reservation of rights at the time when the mineral rights were severed from the ownership of the land; or

(bb) the right to establish such obstruction was acquired by the person entitled to mine on such land by servitude or otherwise.

(g) The Minister shall in writing notify the person referred to in paragraph (a) of any notification under paragraph (d) received by the Minister or the Director-General from the owner concerned.

(h) If the owner of the land concerned has notified the Minister or the Director-General as contemplated in paragraph (d), or if a settlement resulting from a direction as contemplated in paragraph (e) has been negotiated, or if compensation has been determined by arbitration or by any competent court under subsection (3), neither such owner nor any subsequent owner of such land, nor any person who has or may acquire any interest in such land, shall, while the person referred to in paragraph (a) or (e) or his successor in title is entitled to mine on such land for the mineral concerned, be entitled to apply to any court for an order prohibiting anything permitted in terms of an agreement contemplated in paragraph (d) (ii), a settlement in terms of paragraph (e) or an arbitration award or order of court under subsection (3) and thereby preventing the last-mentioned person or his nominee from commencing or continuing on such land with the mining of such mineral or operations in connection therewith.

- (i) An owner-

- (i) who has notified the Minister or the Director-General as contemplated in paragraph (d) (i); or
- (ii) who has entered into an agreement or negotiated a settlement referred to in paragraph (d) (ii) or (e), respectively; or
- (iii) in whose favour compensation has been granted by arbitration or by any competent court under subsection (3),

shall, within a period of one month from the date of such notification, agreement or settlement or granting of compensation, as the case may be, submit his title deed in respect of the land concerned to the Director-General for transmission to the registrar of deeds concerned, who shall make such endorsement thereon and such entries in the appropriate registers as he may deem necessary in order to reflect the effect of paragraph (h) or (j), as the case may be, in respect of such land, and if such owner fails to submit the said title deed within such period, the registrar concerned shall nevertheless make such entries at the written request of the Director-General and make such endorsement if the title deed is at any time lodged with him for any reason.

[Para. (i) amended by s. 16 (a) of Act 103 of 1993.]

(j) If the owner of any land being land contemplated in paragraph (a) and any person who is entitled to mine on such land and who mines or intends to mine on such land for any mineral have entered into an agreement with each other for the payment of compensation for damage caused or likely to be caused as a result of mining operations or operations in connection therewith on such land then, notwithstanding that such agreement has been entered into without any representations having been made to the Minister as contemplated in paragraph (a), such agreement shall be deemed for the purposes of paragraph (i) to be an agreement referred to in paragraph (d) (ii).

[Para. (j) added by s. 16 (b) of Act 103 of 1993.]

(2) If the Minister of Agriculture is of the opinion that any land in respect of which a right has been vested in the State in terms of subsection (1) (a)-

(a) should be acquired by the State, such land shall be deemed to be required for public purposes, and thereupon the Expropriation Act, 1975 (Act 63 of 1975), shall apply *mutatis mutandis* in connection with such acquisition; or

(b) should not be acquired by the State, such right shall lapse, and thereupon the Minister shall cause to be served upon the person referred to in subsection (1) (a) a notice directing him to purchase and take transfer of such land.

(3) If any person upon whom a notice referred to in subsection (2) (b) has been served and the owner of the land concerned are unable to agree on the purchase price of such land, or if such person and such owner, after a direction from the Minister, are unable to negotiate a settlement for compensation as contemplated in subsection (1) (e), such purchase price or such compensation shall be determined by arbitration in accordance with the Arbitration Act, 1965 (Act 42 of 1965), or by any competent court if such owner prefers the last-mentioned procedure: Provided that-

(a) in determining such purchase price or such compensation, as the case may be, by arbitration or such court, the provisions of section 12 of the Expropriation Act, 1975, shall *mutatis mutandis* apply as if an expropriation of property or the taking of a right, respectively, has taken place, and in any such application any reference in that section to 'date of notice' shall be construed as a reference to the date of the notification by the Minister in terms of subsection (1) (a); and

(b) in determining such compensation due consideration shall be given to-

- (i) any rehabilitation that has been or will be undertaken on such land; and
- (ii) any compensation which such person or his predecessor in title has paid to or undertaken to pay to such owner or his predecessor in title.

(4) (a) If any person upon whom a direction referred to in subsection (1) (e) or upon whom a notice referred to in subsection (2) (b) has been served, fails to enter into an agreement in writing with the owner of the land concerned for the payment of compensation or for the purchase of such land, within a period of three months-

- (i) from the date of such direction or such notice; or
- (ii) if a dispute as to the compensation for the damages concerned or as to the purchase price of such land has been referred to arbitration or to any competent court, from the date on which the compensation or the purchase price of such land was determined by arbitration or by such court,

the Minister may, if he is satisfied that such failure is due to default on the part of such person, prohibit him in writing from commencing or continuing with mining operations on such land until such time as the Minister may determine otherwise.

(b) The Minister may extend the period of three months referred to in paragraph (a) if he is satisfied that an extension is justified.

(5) No person shall contravene any prohibition imposed upon him under subsection (4).

(6) (a) Notwithstanding anything to the contrary contained in any law, but without any derogation from subsection (1) (h), no person shall, in respect of land in connection with which representations referred to in subsection (1) have been made, be entitled during the period of nine months following upon the date on which such representations have been made, to apply to any court for an order prohibiting any person entitled to mine on such land for the mineral concerned from commencing or continuing on such land with the mining of such mineral or operations in connection therewith, unless the Minister has before the expiration of such period notified the owner and the person referred to in subsection (1) in accordance with paragraph (b) of that subsection or notified such person in accordance with paragraph (g) of that subsection.

(b) No order referred to in paragraph (a) shall be granted by any court in respect of the land so referred to if the person entitled to mine on such land for the mineral concerned has given security, to the satisfaction of the registrar of the court, to cover any loss or damage that the person applying for the order will suffer or is likely to suffer as a result of the mining of such mineral, or operations in connection therewith, on such land by any such entitled person or his nominee.

(7) The costs in connection with the transfer of any land in respect of which a notice referred to in subsection (2) (b) has been served, shall be paid by the person upon whom such notice was served.

(8) In this section-

(a) 'land' does not include any right to minerals; and

(b) 'obstruction' means any immovable property established on land for mining operations or operations in connection therewith by the person entitled to mine on such land, and includes any dam, or dump of slimes, rock or any other residue produced in the course of such mining operations on such land.

(9) Notwithstanding the repeal of the Mineral Laws Supplementary Act, 1975 (Act 10 of 1975), by section 68 (1), any representations in writing made in accordance with section 6 of the said Act and received prior to the commencement of this Act, shall be dealt with as if this Act had not been passed.

CHAPTER VII TRANSITIONAL PROVISIONS (ss 43-50)

43 Certain persons deemed to be holders of mineral rights, and payment of compensation by Minister

(1) Any person, including his successor in title or assign, who could lay claim to the exclusive right, in terms of section 5 of the Precious Stones Act, 1964 (Act 73 of 1964), or section 12 of the Mining Rights Act, 1967 (Act 20 of 1967), respectively, immediately prior to the commencement of this Act, to prospect for a mineral to which the right in respect of the land concerned had been reserved to the State, shall, for the purposes of the issuing of a prospecting permit, be deemed to be the sole holder of the right to such mineral in respect of such land for a period of five years^{1*} or such longer period as may be approved by the Minister on application in writing: Provided that if any nomination agreement in respect of such

mineral and land exists, the person nominated in such nomination agreement, including his successor in title or assign, shall, for the purposes of the issuing of a prospecting permit, be deemed to be the sole holder of the right to such mineral in respect of such land for the duration of such nomination agreement which falls within such period of five years^{2*} or such approved longer period.

(2) (a) No right to any mineral in respect of land which has been reserved to the State as referred to in subsection (1) shall, for a period of five years^{3*} or such longer period as approved by the Minister under subsection (1), be alienated or no consent referred to in section 8 (2) or 9 (2) in respect of such mineral shall for the said period be granted, other than to the person, or his nominee, who is, in accordance with subsection (1), deemed to be the sole holder of the right to such mineral in respect of such land.

(b) If the Minister after expiration of a period of five years^{4*} or such longer period as approved by him under subsection (1)-

- (i) under section 64 (1) alienates the right to a mineral referred to in paragraph (a); or
- (ii) grants consent referred to in section 8 (2) or 9 (2) in respect of the mineral concerned,

to someone other than the person referred to in paragraph (a), the Minister shall pay compensation to the person referred to in that paragraph for proven loss or damage suffered by him as a result of such alienation or granting of consent, and which could not reasonably have been prevented by him and which would not have been suffered by him if this Act had not been passed.

(c) If no agreement can be reached as to the extent of the loss or damage or the compensation payable in terms of paragraph (b), it shall be determined by arbitration in accordance with the Arbitration Act, 1965 (Act 42 of 1965), or by any competent court if the person concerned prefers the last-mentioned procedure.

(3) Any notarial deed whereby the person who in accordance with subsection (1) is deemed to be the sole holder of the right to the mineral concerned in respect of the land concerned, or his nominee, nominates someone under subsection (2) (a) to whom the right to such mineral may be alienated or to whom consent referred to in section 8 (2) or 9 (2) in respect of such mineral may be granted, shall, for the duration of such nomination which falls within the period of five years^{5*} or the approved longer period referred to in subsection (1), for the purposes of this Act and the Mining Titles Registration Act, 1967 (Act 16 of 1967), be deemed to be a nomination agreement and shall upon registration thereof in terms of the Mining Titles Registration Act, 1967, be binding upon the successor in title of such person.

44 Continuation of prospecting rights

(1) (a) Any prospecting lease, prospecting permit or prospecting permission granted or issued in terms of-

- (i) section 4 or 6 of the Precious Stones Act, 1964 (Act 73 of 1964);
- (ii) section 7 (2) (a), (b) or (c), 13, 14 or 16 of the Mining Rights Act, 1967 (Act 20 of 1967);
- (iii) section 4 of the Mineral Laws Supplementary Act, 1975 (Act 10 of 1975); or
- (iv) section 47 of the Nuclear Energy Act, 1982 (Act 92 of 1982),

as the case may be, and which was in force immediately prior to the commencement of this Act, shall, subject to paragraph (c), be deemed to be a prospecting permit issued in terms of section 6 in respect of the mineral and land concerned, and shall, notwithstanding the repeal of the said Acts by section 68 (1), remain in force subject to the terms and conditions under which it was granted or issued or deemed to have been granted or issued until it lapses in accordance with paragraph (b), and all laws regarding the payment of surface rental applicable thereto and in force immediately prior to such commencement shall, notwithstanding such repeal, likewise remain in force.

(b) The expiration date in respect of any prospecting lease, first-mentioned prospecting permit or prospecting permission referred to in paragraph (a) shall remain in force or, if no expiration date was determined in respect thereof, it shall remain in force for a period not exceeding two years.

(c) Paragraph (a) shall only be applicable in respect of any prospecting permit issued in terms of section 7 (2) (b) or (c) of the Mining Rights Act, 1967, if a prospecting area was pegged and reported prior to the commencement of this Act by virtue of such prospecting permit and in accordance with section 8 of the said Mining Rights Act, 1967.

(2) No right to any mineral in respect of land of which the State is the holder and in respect of which a prospecting lease, prospecting permit or prospecting permission referred to in subsection (1) is being held, shall be alienated, or no consent referred to in section 8 (2) or 9 (2) in respect of such mineral shall be granted for the duration of any such lease, permit or permission, other than to the holder thereof.

(3) (a) Any prospecting permit issued in terms of section 5 of the Precious Stones Act, 1964, and in force immediately prior to the commencement of this Act, shall be deemed to be a prospecting permit issued in terms of section 6 in respect of the mineral and land concerned, and shall, notwithstanding the repeal of the first-mentioned Act by section 68 (1), remain in force subject to the conditions under which it was issued for the period specified therein.

(b) Any prospecting licence issued or deemed to have been issued in terms of section 12 of the Mining Rights Act, 1967, and in force immediately prior to the commencement of this Act, shall be deemed to be a prospecting permit issued in terms of section 6 to the person deemed in accordance with section 43 to be the sole holder of the right to the mineral concerned in respect of the land concerned, and shall, notwithstanding the repeal of the said Act by section 68 (1), remain in force for a period not exceeding two years, subject to the conditions under which it was issued.

(4) Any person who had the right to prospect for a mineral by virtue of a certificate referred to in section 3 of the Precious Stones Act, 1964, or under section 2 (1) (b) of the Mining Rights Act, 1967, immediately prior to the commencement of this Act, or any person who acquired such right from any such person and who had it immediately prior to such commencement, shall be deemed to be the holder of a prospecting permit issued in terms of section 6 in respect of the mineral and land concerned for a period not exceeding one year.

(5) Any permission to remove any mineral and to dispose thereof, granted or acquired or deemed to have been granted or acquired under section 9 (5) of the Precious Stones Act, 1964, or section 21 of the Mining Rights Act, 1967, and in force immediately prior to the commencement of this Act, shall be deemed to be a permission granted in terms of section 8 (1), and shall, notwithstanding the repeal of the said Acts by section 68 (1), remain in force subject to the terms and conditions under which it was granted or acquired or deemed to have been granted or acquired.

(6) Upon the expiration of the periods referred to in subsections (1) (b), (3) and (4), the prospector concerned shall, in order to be able to continue prospecting, obtain a prospecting permit in accordance with section 6 from the Director: Mineral Development concerned.

[Sub-s. (6) amended by s. 99 of Act 29 of 1996.]

(7) Section 14 shall for the period referred to in subsection (1) (b), (3) (a) or (b) or (4), not be applicable to any prospecting permit which in accordance with subsection (1) (a), (3) (a) or (b) or (4), respectively, is deemed to have been issued in terms of section 6.

(8) (a) The provisions of the Mining Rights Act, 1967, in relation to the granting of a mining lease for natural oil in terms of section 25 (1) (g) of the said Act and any other matter in connection therewith shall, notwithstanding the repeal of the said Act by section 68 (1), remain in force until the last existing prospecting lease granted in terms of section 14 mentioned in subsection (1) (a) (ii) has lapsed in accordance with subsection (1) (b).

(b) Any mining right granted or acquired by virtue of paragraph (a) or any share in such right shall, notwithstanding the repeal of the Mining Rights Act, 1967, by section 68 (1), remain in force subject to the terms and conditions under which it was granted or acquired or deemed to have been granted or acquired and which are contained in the document or documents concerned.

(c) The provisions of section 47 (1) (f) and (2) shall apply *mutatis mutandis* to a mining right referred to in paragraph (b).

(d) Notwithstanding anything to the contrary contained in any law, agreement, authorization or approval, no mining right referred to in paragraph (b) shall be ceded, transferred, let, sublet, tributed, subdivided, amended or mortgaged, either wholly or as to a part or parts, without the approval of the Minister granted in terms of this paragraph.

(e) For the purposes of this Act the holder of any mining right referred to in paragraph (b) or his successor in title shall, in relation to such mining right, be deemed to be the holder of-

- (i) the right to the mineral concerned in respect of the land concerned; and
- (ii) a mining authorization.

[Sub-s. (8) added by s. 17 of Act 103 of 1993.]

45 Deproclamation of land and continuation of certain laws in connection with alluvial diggings and proclaimed land

(1) Subject to subsections (2), (3) and (4), all alluvial diggings as defined in section 1 of the Precious Stones Act, 1964 (Act 73 of 1964), and all proclaimed land as defined in section 1 of the Mining Rights Act, 1967 (Act 20 of 1967), as they existed immediately prior to the commencement of this Act, are hereby deproclaimed.

(2) (a) The provisions of the Precious Stones Act, 1964, and the Mining Rights Act, 1967, in relation to the issuing and renewal of claim licences, the pegging and transfer of claims on alluvial diggings and proclaimed land referred to in subsection (1) and any other matter in connection therewith shall, notwithstanding the repeal of the said Acts by section 68 (1), remain in force for a period of two years.

(b) Section 47 (1), (2), (3), (5) (b) and (c) and subparagraphs (ii) and (iii) of the proviso to section 47 (5) shall apply *mutatis mutandis* to a right to dig or to mine granted or acquired by virtue of paragraph (a).

(3) For the purposes of subsection (2) all alluvial diggings and proclaimed land referred to in subsection (1) as they existed immediately prior to the commencement of this Act, shall be deemed so to exist for the period of two years referred to in subsection (2).

(4) The provisions of the Precious Stones Act, 1964, and the Mining Rights Act, 1967, in relation to the collection and payment by the Mining Commissioner of moneys to the owner of land comprising an alluvial digging or proclaimed land referred to in subsection (1), as well as to the owner of such land which was deproclaimed prior to the commencement of this Act, or any other person to whom it may accrue, and the settlement of disputes, shall, notwithstanding the repeal of the said Acts by section 68 (1), for the purposes of this section and sections 47 and 48, remain in force for a period of two years.

[Sub-s. (4) substituted by s. 18 (1) of Act 103 of 1993.]

46 Right to certain diamonds and use of certain surface deemed to vest in State

(1) For the purposes of this Act the right to diamonds in respect of land which comprised alluvial diggings as defined in section 1 of the Precious Stones Act, 1964, immediately prior to the commencement of this Act, including the right to use the surface of the said land as may be necessary for purposes in connection with the mining and processing of diamonds, shall, upon the expiration of the period of two years referred to in section 45 (2) (a), be deemed to vest in the State.

(2) The Minister may from time to time, by notice in the *Gazette*, abolish the provisions of subsection (1) in respect of the land or any portion thereof referred to in that subsection.

(3) Any compensation which may be determined by the Minister in respect of any consent granted under section 6 (3) or 9 (2) for the prospecting or mining of diamonds on land referred to in subsection (1), shall be paid by the holder of such consent to the owner of such land.

47 Continuation of mining rights

(1) (a) Any right to dig or to mine granted or acquired or deemed to have been granted or acquired or which continues to exist or is in force-

- (i) in terms of section 4 of Law 1 of 1883 of the Transvaal, or a corresponding provision of a prior law;
- (ii) by virtue of a certificate referred to in section 3 (1) (a) or a mine referred to in section 3 (1) (b) of the Precious Stones Act, 1964 (Act 73 of 1964);
- (iii) in terms of section 13, 13A, 17, 21, 52, 68, 74, 89 or 126 (2) of the said Precious Stones Act, 1964, excluding any right referred to in subsection (5) (a) and (b) of this section;

[Sub-para. (iii) substituted by s. 19 (a) of Act 103 of 1993.]

- (iv) in terms of section 25 or 42 of the Mining Rights Act, 1967 (Act 20 of 1967);
- (v) by virtue of a certificate issued in terms of section 57 and permission granted under section 58 read with section 56 of the said Mining Rights Act, 1967;
- (vi) in terms of section 59, 68, 75, 83, 88, 93 (4) (as far as it relates to a right to dig or to mine granted or acquired under section 75 of the Precious and Base Metals Act, 1908 (Act 35 of 1908), of the Transvaal), 144 (1) (e), 160, 161 or 188 (2) of the said Mining Rights Act, 1967, excluding any right referred to in subsection (5) (c) of this section;

[Sub-para. (vi) substituted by s. 19 (b) of Act 103 of 1993.]

- (vii) in terms of section 3 of the Tiger's-Eye Control Act, 1977 (Act 77 of 1977); or
- (viii) in terms of section 47 or 83 (9) of the Nuclear Energy Act, 1982 (Act 92 of 1982),

as the case may be, or any share in such right, and which was in force immediately prior to the commencement of this Act, shall, notwithstanding the repeal of the said Acts, remain in force subject to the terms and conditions under which it was granted or acquired or deemed to have been granted or acquired and which are contained in the document or documents concerned and in force immediately prior to such commencement, save as is otherwise provided in this Act.

(b) Any mining right which could be ceded, transferred, let, sublet, tributed, subdivided, amended or mortgaged wholly or as to a part or parts immediately prior to the commencement of this Act, may be so dealt with, and such dealing shall be registered in the Mining Titles Office if it could be so registered immediately prior to the commencement of this Act.

[Para. (b) substituted by s. 19 (c) of Act 103 of 1993.]

(c) Upon the expiration of a period of two years from the commencement of this Act, the holder of any mining right or share therein shall pay to the owner of the land concerned or any other person to whom it may accrue, compensation which shall be the same amount which had accrued periodically to such owner or other person by virtue of any such mining right or share therein immediately prior to the expiration of such period of two years, unless otherwise agreed upon by the parties concerned.

(d) Upon the expiration of the period of two years referred to in paragraph (c), any share of profits or royalties payable to the State in respect of any mining right in respect of which the State is not the holder of the right to the mineral concerned, shall no longer be payable.

(e) For the purposes of this Act the holder of any mining right or share therein or his successor in title shall, for the period of two years referred to in paragraph (c), be deemed to be the holder of a mining authorization, and in order to be able to continue mining upon the expiration of such period, a mining authorization shall be obtained in accordance with section 9 from the Director: Mineral Development concerned, and such first-mentioned holder or his successor in title shall for the purposes of this Act be deemed to be the holder of the right to the mineral concerned in respect of the land or tailings concerned.

(f) The holder of any mining right may abandon it wholly or as to a part or parts at any time by written notice to the Director: Mineral Development concerned, and thereupon such mining right or the part or parts concerned shall be deemed to have lapsed with effect from the date of such notice.

(g) Any mining right acquired by virtue of a claim licence referred to in section 35 of the Precious Stones Act, 1964, or section 48 of the Mining Rights Act, 1967, and any other mining right referred to in paragraph (a) which was renewable by the payment of periodic moneys to the mining commissioner in terms of any act repealed by section 68 (1), and which is in force immediately prior to the expiration of the period referred to in paragraph (c) shall, subject to paragraph (f), subsection (5) (b) and (c) and subparagraphs (ii) and (iii) of the proviso to subsection (5), be deemed to have been acquired for an indefinite period.

(h) Any exemption from the payment of transfer duty or stamp duty in respect of any mining right or in respect of a cession thereof contained in any condition on which such mining right was granted or acquired or deemed to have been granted or acquired, shall lapse upon the expiration of the period referred to in paragraph (c).

[Para. (h) substituted by s. 19 (d) of Act 103 of 1993.]

(2) The holder of any mining right or his successor in title shall have the same rights in respect of the use of the surface of the land to which such right relates as that which the holder of a right to a mineral has in terms of the common law in respect of such use.

(3) If the address of the owner of the land concerned or other person referred to in subsection (1) (c) is not known to the holder of the mining right concerned and as a result thereof such holder cannot pay the compensation or part thereof which accrued to such owner or other person in terms of that subsection, it may not be alleged on the ground of such default of payment that a condition to which the mining right concerned is subject, has not been complied with.

(4) (a) Any person who immediately prior to the commencement of this Act had the right to mine any mineral under section 2 (1) (b) of the Mining Rights Act, 1967, or anyone who acquired such right from such person and had it immediately prior to such commencement, shall be deemed to be the holder of a mining authorization granted in terms of this Act, for a period not exceeding one year.

(b) Upon the expiration of the period of one year referred to in paragraph (a), the person so referred to shall, in order to be able to continue mining, obtain a mining authorization in accordance with section 9 from the Director: Mineral Development concerned.

(5) Subsection (1) shall apply *mutatis mutandis* to any right to dig or to mine granted or acquired in terms of-

- (a) section 20 of the Precious Stones Act, 1964, or a corresponding provision of a prior law;
- (b) section 35 of the Precious Stones Act, 1964, or a corresponding provision of a prior law; or
- (c) section 48 read with section 56 of the Mining Rights Act, 1967, or a corresponding provision of a prior law,

and which was in force immediately prior to the commencement of this Act: Provided that such right granted or acquired in terms of a provision referred to in-

- (i) paragraph (a) in respect of which the State is the holder of the right to the mineral concerned or an undivided share therein;
- (ii) paragraph (b) in respect of which a locality sketch plan to the satisfaction of the Director: Mineral Development concerned has not been lodged with him; or
- (iii) paragraph (c) in respect of which a diagram or sketch plan referred to in the Mining Rights Act, 1967, has not been registered in terms of the Mining Titles Registration Act, 1967 (Act 16 of 1967),

shall remain in force for a period of two years or until it lapses in accordance with the conditions under which it was granted or acquired, whichever period is the shorter, and for the purposes of this Act the holder of such right shall be deemed to be the holder of a mining authorization granted in terms of this Act for such period of two years or such shorter period, as the case may be: Provided further that the locality sketch plan referred to in subparagraph (ii) or the diagram or sketch plan referred to in subparagraph (iii) may be lodged or registered within such period of two years or such shorter

period, as the case may be.

[Sub-s. (5) amended by s. 19 (e) of Act 103 of 1993.]
[S. 47 amended by s. 99 of Act 29 of 1996.]

48 Continuation of reservations, permissions and certain rights

(1) (a) Any reservation or permission for or right to the use of water or the surface of land granted or acquired or deemed to have been granted or acquired or which continues to exist or is in force-

- (i) in terms of section 75 of the Precious and Base Metals Act, 1908 (Act 35 of 1908), of the Transvaal;
- (ii) in terms of section 24, 56, 57, 58, 60, 64 or 126 (2) of the Precious Stones Act, 1964 (Act 73 of 1964);
- (iii) in terms of section 18, 47, 90, 91, 92, 93 (4) or (7), 95, 100, 102, 103, 111, 113 or 116 of the Mining Rights Act, 1967 (Act 20 of 1967);
- (iv) in terms of sections 127, 128 and 129 read with section 130 of the said Mining Rights Act, 1967;
- (v) in terms of section 131 or 132 of the said Mining Rights Act, 1967;
- (vi) by virtue of a reservation under section 158 of the said Mining Rights Act, 1967; or
- (vii) in terms of section 179 or 188 (2) of the said Mining Rights Act, 1967,

as the case may be, and in force immediately prior to the commencement of this Act, shall, notwithstanding the repeal of the said Acts, remain in force subject to the terms and conditions under which it was granted or acquired or deemed to have been granted or acquired and contained in the document or documents concerned and in force immediately prior to such commencement, save as is otherwise provided in this Act.

(b) Section 47 (1) (b) shall apply *mutatis mutandis* to any reservation, permission or right referred to in paragraph (a).

(2) (a) Upon the expiration of a period of two years from the commencement of this Act the holder, user or acquirer of any reservation, permission or right referred to in subsection (1) (a) shall pay to the owner of the land concerned or any other person to whom it may accrue, compensation which shall be the same amount which accrued periodically to such owner or other person by virtue of any such reservation, permission or right immediately prior to the expiration of such period, unless otherwise agreed upon by the parties concerned.

(b) If the address of the owner of the land concerned or other person referred to in paragraph (a) is not known to the holder, user or acquirer of a reservation, permission or right referred to in subsection (1) (a) and as a result thereof such holder, user or acquirer cannot pay the compensation or part thereof which accrued to such owner or other person in terms of that paragraph, it may not be alleged, on the grounds of such default of payment, that a condition to which such reservation, permission or right is subject, has not been complied with.

(3) (a) The holder, user or acquirer of any reservation, permission or right referred to in subsection (1) (a) may abandon it wholly or as to a part or parts at any time by written notice to the Director: Mineral Development concerned, and thereupon it or the part or parts concerned shall be deemed to have lapsed with effect from the date of such notice.

[Para. (a) amended by s. 99 of Act 29 of 1996.]

(b) (i) If any owner of land comprising the subject of any reservation, permission or right referred to in subsection (1) (a) or any holder of a mining right or of a right to any mineral in respect of such land satisfies the Minister that the circumstances referred to in section 17 (6) (a) (i) or (ii) in relation to a mining right, exist *mutatis mutandis* in relation to such reservation, permission or right, the Minister may, on written application by such owner or holder and on payment of the prescribed application fee, notwithstanding anything to the contrary contained in any law, subject to such terms and conditions as may be agreed upon between such applicant and the Director-General, and after payment to the latter of the amount, if any, that may be so agreed upon, direct the Director-General to cancel such reservation, permission or right, and

to make the necessary endorsements in that regard in the documents concerned.

(ii) Any costs in connection with any cancellation referred to in subparagraph (i) shall be paid by the applicant concerned.

(c) Upon the issuing of the direction referred to in paragraph (b) (i), the Director-General shall dispose of the amount, if any, referred to in that paragraph *mutatis mutandis* in accordance with section 17 (3), and section 21 (2) and (3) of the Expropriation Act, 1975 (Act 63 of 1975), shall apply *mutatis mutandis*.

(4) Any right to the use of water granted under section 60 of the Precious Stones Act, 1964, or section 18 or 95 of the Mining Rights Act, 1967, shall, notwithstanding the repeal of the said Acts by section 68 (1), remain in force for a period not exceeding five years or such shorter period for which it was granted or renewed.

(5) (a) Notwithstanding the repeal of the Precious Stones Act, 1964, and the Mining Rights Act, 1967, by section 68 (1), any application for any permission for or right to the use of water or the surface of land made in accordance with section 56, 57, 58, 60 or 64 of the first-mentioned Act or section 18 or Chapters X and XI of the last-mentioned Act and received prior to the commencement of this Act, shall be dealt with as if this Act had not been passed.

(b) Subsections (1), (2), (3) and (4) shall apply *mutatis mutandis* to any permission or right granted by virtue of paragraph (a): Provided that for the purposes of subsection (2) (a) the compensation, if any, shall be paid as from the date of the granting of such permission or right.

49 Certain functions of Mining Commissioner performed by Director: Mineral Development

For the purposes of sections 44, 45, 47 and 48 the Director: Mineral Development concerned shall, where applicable, perform the functions which in terms of the prior laws referred to in the said sections, would have been performed by a Mining Commissioner if this Act had not been passed.

[S. 49 amended by s. 99 of Act 29 of 1996.]

50 Reference to Government Mining Engineer, Registrar of Mining Titles and Mining Commissioner in documents or other laws

Any reference in-

- (a) any nomination agreement;
- (b) any prospecting lease, prospecting permit or prospecting permission granted or issued in terms of a section mentioned in section 44 (1) (a);
- (c) the document or documents concerned referred to in section 47 (1) (a) or 48 (1) (a); or
- (d) any other law,

to-

- (i) Government Mining Engineer or Registrar of Mining Titles, shall be construed as a reference to Director-General: Mineral and Energy Affairs; and
- (ii) Mining Commissioner, shall be construed as a reference to the Regional Director: Mineral and Energy Affairs concerned.

CHAPTER VIII GENERAL AND MISCELLANEOUS PROVISIONS (ss 51-70)

51 Power of entering upon land or place and to perform other acts

(1) In order to enable a person to exercise any power or perform any duty conferred or imposed by or under this

Act or any other law on such person or to perform any function in the application of any provision of this Act, the Director-General may authorize such person in writing to enter without any warrant, at any time, without prior notice, upon any land or place, including any offshore installation, vehicle, vessel or aircraft, which may be necessary for the proper exercising of such power or the performance of such duty or function.

[Sub-s. (1) substituted by s. 20 (a) of Act 103 of 1993.]

(2) Any authorized person referred to in subsection (1) acting under that subsection is empowered to-

- (a) take with him such persons, vehicles, appliances, instruments and material as he may deem necessary;
- (b) question any person and take a statement from such person, in which case section 53C (4) shall be applicable *mutatis mutandis*;

[Para. (b) substituted by s. 99 of Act 29 of 1996.]

- (c) examine and deal in any manner as he may deem fit with any portion of the land, place, offshore installation, vehicle, vessel or aircraft so referred to or any mineral, machinery, book, record, document, object, article, plan or drawing kept, displayed or used on such land or at or in such place, offshore installation, vehicle, vessel or aircraft; and

[Para. (c) substituted by s. 20 (b) of Act 103 of 1993.]

- (d)

[Para. (d) substituted by s. 20 (b) of Act 103 of 1993 and deleted by s. 99 of Act 29 of 1996.]

(3) Any person requested thereto by any authorized person referred to in subsection (1), shall accompany him and provide him with the necessary assistance in order to enable him to exercise his powers or to perform his duties or functions conferred or imposed on him by or under this Act or any other law.

[Sub-s. (3) substituted by s. 20 (c) of Act 103 of 1993.]

52 Producing of documents at request of Director: Mineral Development or authorized person

Any person who in accordance with this Act is the holder or should be in possession of any permit, licence, permission, certificate, authorization or any other document shall produce such permit, licence, permission, certificate, authorization or document at the request of the Director: Mineral Development or any authorized person referred to in section 51 (1).

[S. 52 amended by s. 99 of Act 29 of 1996.]

53 Proof of certain facts

(1) In legal proceedings in terms of this Act any statement, entry, record or information in or on any book, document, plan, drawing or computer storage medium shall be admissible in evidence as an admission of the facts in or on such statement, entry, record or information by the person who made, entered, recorded or stored it, unless it is proved that such statement, entry, record or information was not made, entered, recorded or stored by such person within the scope of his functions.

(2) Whenever in legal proceedings in terms of this Act, it is proved that any false statement, entry, record or information appears in or on any book, document, plan, drawing or computer storage medium kept by any person, he shall be presumed, until the contrary is proved, intentionally to have forged such statement, entry, record or information.

53A Orders, suspensions and instructions

(1) If an officer authorised by the Director-General is of the opinion that any contravention or suspected contravention of or any failure to comply with any provision of this Act or any condition to which any authorization,

exemption, environmental management programme or permission granted or approved in terms of this Act, is subject, occurs at any mine or place presumed to be a mine, such officer may-

- (a) order the owner, manager or any official, employee or agent of such mine or place to take immediate rectifying steps; or
- (b) order that the operations at such mine or place or part thereof be suspended,

and give such instructions in connection therewith as he or she may deem desirable.

(2) Any order referred to in subsection (1) (b) shall be confirmed or set aside by the Director: Mineral Development, who shall notify the owner or manager of the mine or presumptive mine concerned in writing of his or her decision as soon as practicable.

(3) Any order given under subsection (1) (b) shall take effect from the time fixed by the officer concerned and shall remain in force until set aside by the Director: Mining Development or until the instructions of the officer have been complied with.

[S. 53A inserted by s. 99 of Act 29 of 1996.]

53B Inquiries

(1) If any contravention or suspected contravention of or any failure or suspected failure to comply with any provision of this Act occurs at any mine or place presumed to be a mine, an inquiry may be held into any such matter by an officer designated by the Director-General.

(2) The Director-General may, either before the commencement or at any stage of an inquiry held in terms of subsection (1) or (4) designate one or more other officers to assist in the holding of such inquiry and may designate an officer to preside at such inquiry.

(3) Any investigating officer holding an inquiry into any matter in terms of this section shall, if necessary with the assistance of an interpreter, take down or record by mechanical means the evidence given thereat and submit a written copy thereof with a report thereon to the Director: Mineral Development, who shall transmit it to the Director-General, unless otherwise directed by the latter.

(4) Upon consideration of the evidence and report referred to in subsection (3) the Director-General may require that the matter concerned be inquired into further.

[S. 53B inserted by s. 99 of Act 29 of 1996.]

53C Attendance and examination of witnesses at inquiry

(1) An investigating officer holding an inquiry in terms of section 53B (1) or (4) into any matter or who is to preside or is presiding at such inquiry may, for the purposes of such inquiry-

- (a) direct or summon any person to appear before him or her at such time and place as may be determined by him or her; or
- (b) order any person present at the place where such inquiry is being held-
 - (i) to give evidence thereat;
 - (ii) to produce any document or thing which he or she may deem necessary for the proper disposal of such inquiry; or
 - (iii) to perform any other act in relation to this Act which he or she may direct.

(2) (a) If any person has reason to believe that he or she may be held liable for any matter which shall or may be

inquired into in terms of section 53B (1) or (4), he or she shall have the right, but is, subject to subsection (1), not compelled, to be present at any such inquiry and to be assisted or represented by another person.

(b) If at any inquiry held in terms of section 53B (1) or (4) evidence has been or is being given from which any person may reasonably infer that he or she may be charged with contravening any provision of this Act or failing to comply therewith or may be held responsible in any manner for the matter comprising the subject of such inquiry, he or she shall have the right, but is not compelled, to give evidence and, either personally or through a representative-

- (i) to be heard;
- (ii) to call any witness or to request the investigating officer to direct or summon any witness on his or her behalf, either to give evidence thereat or to produce any document or thing;
- (iii) to cross-examine anybody giving evidence at such inquiry; and
- (iv) to peruse any document which has been presented as evidence.

(3) Any person who satisfies an investigating officer that he or she has a material interest in any inquiry held in terms of section 53B (1) or (4) may, either personally or through a representative, put such questions as the investigating officer may consider relevant to such inquiry, to a witness giving evidence thereat.

(4) (a) Any investigating officer may, at any inquiry held in terms of section 53B (1) or (4), administer an oath which is normally administered to a witness in a court of law, to any witness before giving evidence or, if objecting to taking such oath, he or she may make an affirmation, and such affirmation shall have the same legal force and effect as such oath.

(b) No person called as a witness at any inquiry held in terms of section 53B (1) or (4) shall, when he or she is requested thereto, refuse or fail to take an oath or, if he or she objects thereto, to make an affirmation.

(c) No person to whom an oath referred to in paragraph (a) has been administered or who has made an affirmation so referred to, shall give evidence knowing it to be false or make a statement under oath or affirmation which is contrary to any statement which that person made under oath or affirmation on a previous occasion.

(5) Any witness at any inquiry held in terms of section 53B (1) or (4) shall have the same privileges in relation to the answering of questions or the production of documents or things as such witness would have had under the same circumstances if the witness had been summoned as such before a court of law.

(6) (a) Any inquiry or any part thereof held in terms of section 53B (1) or (4) shall, in so far as it is in the opinion of the investigating officer practically possible or desirable, be held in public.

(b) The investigating officer may decide whether any witness who has to give evidence or has given evidence at any inquiry referred to in paragraph (a), shall be present whilst other witnesses are giving their evidence thereat.

[S. 53C inserted by s. 99 of Act 29 of 1996.]

53D Obstruction of inquiry or investigating officer or failure to render assistance

No person shall, in relation to any inquiry held in terms of section 53B (1) or (4)-

- (a) without reasonable justification fail to comply with any direction, summons or order issued or given under section 53C (1) or by virtue of a request under section 53C (2) (b) (ii);
- (b) refuse or fail to answer to the best of his or her knowledge any question lawfully put to him or her by or with the concurrence of the investigating officer: Provided that no person shall be obliged to answer any question whereby that person may incriminate himself or herself;
- (c) in any manner whatsoever advise, encourage, incite, order or persuade any person who has been directed, summoned or ordered under section 53C (1) or by virtue of a request under section 53C (2) (b) (ii), not to

comply with such direction, summons or order or in any manner prevent him or her from doing so;

- (d) refuse or fail, when required thereto by the investigating officer, to furnish him or her with the means or to render him or her the necessary assistance for holding such inquiry;
- (e) refuse or fail, when required thereto by the investigating officer, to attend an inquiry; or
- (f) intentionally insult an investigating officer or intentionally interrupt the proceedings thereat.

[S. 53D inserted by s. 99 of Act 29 of 1996.]

54 Notice of commencement or cessation of prospecting or mining operations or works

(1) The holder of or applicant for any prospecting permit or mining authorization shall, at least 14 days before he or she commences with any operations under any such a permit or authorization or intends to cease such operations temporarily or permanently, notify the Director: Mineral Development concerned and the Chief Inspector in writing of any such intended commencement or cessation, and provide particulars in connection with the location, nature and extent of such operations.

[Sub-s. (1) substituted by s. 99 of Act 29 of 1996.]

(2) The holder or applicant referred to in subsection (1) shall, at least 14 days prior to commencing any operations under any prospecting permit or mining authorization so referred to, notify the occupier of the land comprising the subject of such permit or authorization in writing of his intention to commence such operations.

55 State not liable for claims

Save as is otherwise provided in this Act the State shall not be liable for any claim resulting from any injury, death, loss or damage of whatever nature which may arise from the application of any provision of this Act or the exercising of any power or the performance of any duty or function conferred or imposed by this Act if such application, exercising or performance happened without negligence and in good faith.

56 Serving of documents and validity

(1) Save as is otherwise provided in this Act, any notice, order or any other document which is required in terms of this Act to be served on or given to any person, shall be deemed to have been duly served or given if it is delivered to any such person personally or sent by registered post to his last known address or published in the Gazette.

(2) Any notice, order or any other document issued in good faith in terms of this Act, shall be valid according to the terms thereof, notwithstanding any want of form or lack of power on the part of any person to issue or authenticate it, provided such power is subsequently conferred upon such person.

57 Right of appeal

(1) Any person who feels aggrieved at any action or decision that a Director: Mineral Development has taken or made in terms of this Act, may, within one month from the date on which such action or decision was made known by the latter, lodge an appeal in writing with the Director-General against any such action or decision, and thereupon the Director-General may confirm, set aside or amend any such action or decision.

[Sub-s. (1) amended by s. 99 of Act 29 of 1996.]

(2) Any person who feels aggrieved at any action or decision that the Director-General has taken or made in terms of this Act, may, within one month from the date on which such action or decision was made known by the latter, lodge an appeal in writing with the Minister against any such action or decision, and thereupon the Minister may confirm, set aside or amend any such action or decision.

58 Prohibition on victimization

No person shall take any action or permit any action to be taken against any employee in any way which may be to his detriment, or shall alter his position or allow his position to be altered to his disadvantage relative to other employees, by reason of the fact, or because such person suspects or believes, whether or not such suspicion or belief is justified or correct, that such employee has given information to the Minister or any other person charged with the execution of this Act in respect of anything which is required to be done or omitted in terms of this Act or which relates thereto, or because he has complied with a lawful prohibition, order, request or instruction of a regional mining engineer, or has given evidence before any court of law or during an inquiry, or has done anything which he may or is required to do in terms of this Act or has refused to do anything which he is prohibited to do in terms of this Act.

59 Prohibition on obstruction of officer or person

No person shall hinder, oppose or obstruct any officer or any other person in the exercise of his powers or the performance of his duties conferred or imposed on him by this Act.

60 Offences

- (1) Any person who contravenes or fails to comply with-
- (a) any provision of-
 - (i) section 5 (2), 8 (1), 38 (1), 39 (1), 40, 41 (2), 42 (5), 52 or 54;
 - (ii) section 7 (1);
 - (iii) section 19 (1) or (2), 38 (2) (a), 53C (4) (b), 53D (b), (c), (d), (e) or (f) or 59;
 - (iv) to (vi)
 - (vii) 53C (4) (c); or
 - (viii) 53D (a); or
 - (b) any provision of-
 - (i) any direction, notice, suspension, order, instruction or condition issued, given or determined under section 22 (1), 23 (1), 38 (2) (b) or 53A (1);
 - (ii) any request referred to in section 51 (3); or
 - (iii) any notice issued under section 25 (1),

shall be guilty of an offence.

[Sub-s. (1) amended by s. 21 of Act 103 of 1993 and substituted by s. 99 of Act 29 of 1996.]

(2) Any person who contravenes or fails to comply with a provision of this Act, a regulation or any condition, notice, order, instruction, prohibition, authorization, permission, consent, exemption, certificate or document determined, given, issued, promulgated or granted by or under this Act by the Director-General, a Director: Mineral Development or any other officer in the service of the Department duly authorized thereto *ex officio* or by the Director-General shall, if any such contravention or failure is not declared an offence elsewhere, be guilty of an offence.

[Sub-s. (2) added by s. 21 (d) of Act 103 of 1993 and substituted by s. 99 of Act 29 of 1996.]

61 Penalties

- (1) Any person convicted of any offence in terms of this Act, is liable -
- (a) in the case of an offence referred to in section 60 (1) (a) (i) or (b) (i) or (ii), to a fine or to imprisonment

for a period not exceeding one year or to both a fine and such imprisonment, and to a further fine not exceeding R1 000 or to further imprisonment not exceeding five days per day for every day upon which he so contravened the provision concerned or failed to comply therewith: Provided that the period of such further imprisonment shall not exceed six months;

[Para. (a) substituted by s. 22 of Act 103 of 1993.]

- (b) in the case of an offence referred to in section 60 (1) (a) (ii), to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment, and to a further fine not exceeding R2 000 or to further imprisonment not exceeding 10 days per day for every day upon which he so contravened the provision concerned or failed to comply therewith: Provided that the period of such further imprisonment shall not exceed one year;

[Para. (b) substituted by s. 22 of Act 103 of 1993.]

- (c) in the case of an offence referred to in section 60 (1) (a) (iii), to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment;

[Para. (c) substituted by s. 22 of Act 103 of 1993.]

- (d) to (f)

[Paras. (d) to (f) substituted by s. 22 of Act 103 of 1993 and deleted by s. 99 of Act 29 of 1996.]

- (g) in the case of an offence referred to in section 60 (1) (a) (vii), to the penalty that may be imposed in law for perjury;

[Para. (g) substituted by s. 22 of Act 103 of 1993.]

- (h) in the case of an offence referred to in section 60 (1) (a) (viii), to the penalty applicable to a similar offence in a magistrate's court;

[Para. (h) substituted by s. 22 of Act 103 of 1993.]

- (i) in the case of an offence referred to in section 60 (1) (b) (iii), to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment; or

[Para. (i) substituted by s. 22 of Act 103 of 1993.]

- (j) in the case of any conviction of an offence in terms of any provision of this Act for which no penalty is expressly determined, to a fine or to imprisonment for a period not exceeding six months or to both a fine and such imprisonment.

[Para. (j) substituted by s. 22 of Act 103 of 1993.]

(2) Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall have jurisdiction to impose any penalty provided for in this Act.

62 Delegation of powers

(1) The Minister may delegate any power conferred upon him by this Act, excluding the power to make regulations under section 63, to the Director-General or any other officer in the service of the Department, or, with due consideration of the objects for which a statutory institution under the control of the Minister has been established, to the executive head of such institution.

(2) The Director-General may delegate any power conferred upon him by this Act to a Director: Mineral Development or any other officer in the service of the Department.

(3) Any Director: Mineral Development may delegate a power conferred upon him by this Act to any officer in the service of the Department.

(4) Any delegation under subsection (1), (2) or (3) shall not prevent the Minister, Director-General or any Director: Mineral Development from exercising the power concerned personally.

(5) Subject to subsection (1), a Minister who may or shall exercise any power conferred upon him by this Act, may delegate such power to an officer in the service of the department for which that Minister is responsible.

[Sub-s. (5) added by s. 23 of Act 103 of 1993.]
[S. 62 amended by s. 66 of Act 29 of 1996.]

63 Regulations

(1) The Minister may, by notice in the *Gazette*, make regulations regarding-

(a) and (b)

[Paras. (a) and (b) substituted by s. 24 (a) of Act 103 of 1993 and deleted by s. 99 of Act 29 of 1996.]

(bA) the conditions on which equipment, structures, surface of land and water sources may be undermined, the prohibition on or restriction of the erection of equipment and structures and the use of the surface of land and water sources in the vicinity of the working places of a mine;

[Para. (bA) inserted by s. 24 (a) of Act 103 of 1993.]

(c) the protection of equipment, structures, the surface of land and water sources and the making safe of undermined ground and of dangerous excavations, tailings, waste dumps, ash dumps and structures, of whatever nature, made in the course of prospecting or mining operations or which are connected therewith, the imposition of monetary and other obligations in connection with such safe-making on persons who are or were responsible for the undermining of such ground or the making of such excavations, tailings, waste dumps, ash dumps or structures or for the dangerous condition thereof, or who will benefit from such safe-making, and the assumption by the State of responsibility or co-responsibility for such safe-making in particular cases;

- (d) (i) the conservation of the environment at or in the vicinity of any mine or works;
- (ii) the management of the impact of any mining operations on the environment at or in the vicinity of any mine or works;
- (iii) the rehabilitation of disturbances of the surface of land where such disturbances are connected to prospecting or mining operations;
- (iv) the prevention, control and combating of pollution of the air, land, sea or other water, including ground water, where such pollution is connected to prospecting or mining operations;
- (v) pecuniary provision by the holder of a prospecting permit or mining authorization for the carrying out of an environmental management programme;
- (vi) the establishment of accounts in connection with the carrying out of an environmental management programme and the control of such accounts by the Department;
- (vii) the assumption by the State of responsibility or co-responsibility for obligations originating from regulations made under subparagraphs (i), (ii), (iii) and (iv) of this paragraph; and
- (viii) the monitoring and auditing of environmental management programmes;

[Para. (d) substituted by s. 24 (b) of Act 103 of 1993.]

- (e) the exploitation, processing, utilization or use of or the disposal of any mineral;
- (f) qualifications for employment in occupations determined by the Minister, conditions for acceptance as a candidate for examinations, the issuing of certificates of competency in respect of such occupations, and the powers, duties, functions and responsibilities of persons employed at mines and works and of the owners thereof;

[Para. (f) substituted by s. 24 (c) of Act 103 of 1993.]

- (g) procedures in respect of appeals lodged under this Act;
- (h) application fees payable in relation to-
 - (i) prospecting permits;
 - (ii) mining permits;
 - (iii) mining licences;
- (iv) and (v)

[Sub-paras. (iv) and (v) deleted by s. 99 of Act 29 of 1996.]

- (vi) appeals;
- (vii) searching for information and supplying of copies of documents;
- (viii) division of mineral rights;
- (ix) any permission referred to in section 8 (1);
- (x) any consent or certificate referred to in section 17 (1) (i) or (ii) or (6) (a) (aa) or (bb); or
- (xi) any cancellation referred to in section 48 (3) (b) (i);
- (i) to (k)

[Paras. (i) to (k) deleted by s. 99 of Act 29 of 1996.]

- (l)

[Para. (l) substituted by s. 24 (d) of Act 103 of 1993 and deleted by s. 99 of Act 29 of 1996.]

- (m) the manner in which the presence of witnesses at inquiries held in terms of section 53B (1) or (4) shall be obtained and procedures to be followed at such inquiries;

[Para. (m) substituted by s. 99 of Act 29 of 1996.]

- (n)

[Para. (n) deleted by s. 99 of Act 29 of 1996.]

- (o) the form of any application which may or shall be made in terms of this Act and of any consent or document required to be submitted with such application, and the information or details which shall accompany any such application;
- (p) the form, conditions, issuing, renewal, abandonment, suspension or cancellation of any environmental

management programme, permit, licence, certificate, permission, receipt, authorization or other document which may or shall be issued, granted, approved, required or renewed in terms of this Act;

[Para. (p) substituted by s. 24 (e) of Act 103 of 1993.]

- (q) the form of any register, record, notice, sketch plan or information which may or shall be kept, given, published or submitted in terms of or for the purposes of this Act;

[Para. (q) substituted by s. 24 (e) of Act 103 of 1993.]

- (r) exemption from a provision of any regulation;
- (s) the prohibition on the disposal of any mineral or the use thereof for any specified purpose or in any specified manner or for any other purpose or in any other manner than a specified purpose or manner;
- (t) the restriction or regulation in respect of the disposal or use of any mineral in general;
- (u)

[Para. (u) substituted by s. 24 (f) of Act 103 of 1993 and deleted by s. 99 of Act 29 of 1996.]

- (v)

[Para. (v) substituted by s. 24 (f) of Act 103 of 1993 and deleted by s. 99 of Act 29 of 1996.]

- (vA) (i) the establishment, constitution, powers, duties and functions of one or more committees to advise the Minister, the Director-General or any other officer referred to in this Act, and the matters about which they shall so advise the Minister, Director-General or the said officer;
- (ii) the remuneration and allowances which may be paid to members of such a committee who are not in the full-time service of the State;
- (iii) the qualifications for appointment as, the terms of office of, and the vacation of their offices by, members or temporary members of such a committee, and the filling of casual vacancies in such a committee;
- (iv) the appointment of a chairman or an acting chairman of such a committee;
- (v) the convening of, the procedure at and the quorum for meetings of such a committee, and the manner in which decisions shall be taken by such a committee;
- (vi) the designation of persons in the service of the Department to perform the work connected to the performance of the functions of such a committee;

[Para. (vA) inserted by s. 24 (f) of Act 103 of 1993.]

- (w) and (x)

[Paras. (w) and (x) deleted by s. 99 of Act 29 of 1996.]

- (y) any matter which may or shall be prescribed in terms of this Act; or
- (z) any other matter the regulation of which, in the opinion of the Minister, may be necessary or desirable in order to achieve the objects of this Act.

(2) No regulation relating to State revenue or expenditure shall be made by the Minister except with the concurrence of the Minister of Finance.

[Sub-s. (2) substituted by s. 24 (g) of Act 103 of 1993 and by s. 99 of Act 29 of 1996.]

(3)

[Sub-s. (3) deleted by s. 99 of Act 29 of 1996.]

(4)

[Sub-s. (4) deleted by s. 24 (h) of Act 103 of 1993.]

(5) Any regulation made under subsection (1) may determine that any person who contravenes or fails to comply with any provision thereof, shall be guilty of an offence.

64 Alienation of State-owned mineral rights

(1) The Minister may, with the approval of the Cabinet and subject to sections 43 (2) and 44 (2), alienate any right to a mineral of which the State is the holder, subject to such terms and conditions as may be determined by him.

(2) Subsection (1) shall not apply in respect of any right to diamonds referred to in section 46 (1) in so far as the provisions of that section have not been abolished under section 46 (2).

65 Act binds State

The provisions of this Act shall bind the State, save in so far as criminal liability is concerned or in so far as may be otherwise determined by the Minister by notice in the Gazette.

66 Amendment of Mining Titles Registration Act, 1967

The Mining Titles Registration Act, 1967 (Act 16 of 1967), is hereby amended by the substitution for the expression 'Registrar of Mining Titles' of the expression 'Director-General: Mineral and Energy Affairs', wherever it occurs in the said Act.

67 Machinery and Occupational Safety Act, 1983, not applicable

The Machinery and Occupational Safety Act, 1983 (Act 6 of 1983), shall not be applicable to any matter in respect of which any provision of this Act is applicable.

68 Repeal of laws, and savings

(1) Subject to subsections (2) and (3), the laws specified in the Schedule are hereby amended or repealed to the extent indicated in the third column thereof.

(2) Any regulation made under the Mines and Works Act, 1956 (Act 27 of 1956), and in force immediately prior to the commencement of this Act, shall, notwithstanding the repeal of the first-mentioned Act by subsection (1), remain in force until amended or repealed under section 63, and any rule, notice, order, instruction, prohibition, authorization, permission, consent, exemption, certificate or document promulgated, issued, given or granted and any other steps taken in terms of any such regulation prior to the commencement of this Act, shall likewise remain in force.

(3) Any permission granted in terms of section 8 of the Mines and Works Act, 1956, and in force immediately prior to the commencement of this Act, shall, notwithstanding the repeal of the first-mentioned Act by subsection (1), remain in force.

(4) Any approval or certificate granted or issued in terms of section 2 or 5 of the Mineral Laws Supplementary Act, 1975 (Act 10 of 1975), respectively, and in force immediately prior to the commencement of this Act, shall be deemed to have been granted or issued under section 20 or 17 (1) (ii), respectively.

(5) The provisions of this Act shall, save as is otherwise provided in Chapter VII, not be affected by any term or condition of any agreement, whether such agreement was entered into before or after the commencement of this Act.

69 Agreements with self-governing territories

If the Government of the Republic and the government of a self-governing territory as defined in section 38 of the Self-governing Territories Constitution Act, 1971 (Act 21 of 1971), agree thereto, an officer in the service of the Department may perform any function in such self-governing territory which has been assigned to any officer in the service of such self-governing territory by or in terms of any law of such self-governing territory in connection with mineral matters, and any such function shall be performed by the first-mentioned officer on the conditions agreed to between the said governments.

70 Short title and commencement

(1) This Act shall be called the Minerals Act, 1991, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be fixed in terms of subsection (1) in respect of different provisions of this Act.

Schedule LAWS AMENDED OR REPEALED

(Section 68)

[Schedule amended by s. 36 (1) of Act 108 of 1993.]

No and year of Law	Short title	Extent of repeal
Act 15 of 1919	Precious Stones (Alluvial) Amendment Act, 1919	The whole.
Act 26 of 1932 [Item repealed by s. 36 (1) of Act 108 of 1993.]	
Act 27 of 1946	Deep Level Mining Research Institute Act, 1946	The whole.
Act 27 of 1956	Mines and Works Act, 1956	The whole, except the definitions of 'Minister' and 'Sunday', 'Christmas Day', 'Day of the Covenant', 'Good Friday' and 'Republic Day' in section 1, and section 9.
Act 51 of 1959	Mines and Works Amendment Act, 1959	The whole.
Act 46 of 1964	Mines and Works and Explosives Amendment Act, 1964	Sections 1 up to and including 11.
Act 73 of 1964	Precious Stones Act, 1964	The whole.
Act 88 of 1964	Strategic Mineral Resources Development Act, 1964	The whole.
Act 91 of 1965	Mines and Works Amendment Act, 1965	The whole.
Act 20 of 1967	Mining Rights Act, 1967	The whole, except the definitions of 'precious metals' and 'unwrought precious metal' in section 1, and Chapter XVI.

Act 42 of 1968	Mines and Works Amendment Act, 1968	The whole.
Act 48 of 1969	Precious Stones Amendment Act, 1969	The whole.
Act 40 of 1971	Mines and Works Amendment Act, 1971	The whole.
Act 80 of 1971	General Law Amendment Act, 1971	Sections 18 and 19.
Act 62 of 1973	General Law Amendment Act, 1973	Sections 11 and 12.
Act 14 of 1974	Strategic Mineral Resources Development Amendment Act, 1974	The whole.
Act 10 of 1975	Mineral Laws Supplementary Act, 1975	The whole.
Act 16 of 1975	Precious Stones Amendment Act, 1975	The whole.
Act 47 of 1976	Mining Rights Amendment Act, 1976	The whole.
Act 77 of 1977	Tiger's-Eye Control Act, 1977	The whole.
Act 83 of 1977	Mines and Works Amendment Act, 1977	The whole.
Act 44 of 1978	Mining Rights Amendment Act, 1978	The whole.
Act 48 of 1979	Tiger's-Eye Control Amendment Act, 1979	The whole.
Act 61 of 1980	Precious Stones Amendment Act, 1980	The whole.
Act 8 of 1981	Tiger's-Eye Control Amendment Act, 1981	The whole.
Act 23 of 1981	Mineral Laws Supplementary Act Amendment Act, 1981	The whole.
Act 41 of 1981	Precious Stones Amendment Act, 1981	The whole.
Act 86 of 1981	Mining Rights Amendment Act, 1981	The whole.
Act 15 of 1982	Precious Stones Amendment Act, 1982	The whole.
Act 92 of 1982	Nuclear Energy Act, 1982	Section 47.
Act 50 of 1983	Mining Rights Amendment Act, 1983	The whole.
Act 62 of 1986	Precious Stones Amendment Act, 1986	The whole.
Act 38 of 1987	Mines and Works Amendment Act, 1987	The whole.
Act 73 of 1988	Mining Rights Amendment Act, 1988	The whole.
Act 77 of 1988	Mineral Laws Supplementary Act Amendment Act, 1988	The whole.

¹Expiry of five year period: 30 April 2000 - General Notice 1270 in *Government Gazette* 20994 of 24 March 2000

²Expiry of five year period: 30 April 2000 - General Notice 1270 in *Government Gazette* 20994 of 24 March 2000

³Expiry of five year period: 30 April 2000 - General Notice 1270 in *Government Gazette* 20994 of 24 March 2000

⁴Expiry of five year period: 30 April 2000 - General Notice 1270 in *Government Gazette* 20994 of 24 March 2000

⁵Expiry of five year period: 30 April 2000 - General Notice 1270 in *Government Gazette* 20994 of 24 March 2000