

MINING ACT PL1 [1989]

LAWS OF GUYANA

Mining Act

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ACT NO. 20 OF 1989

MINING ACT

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SCHEDULE

AN ACT to make provisions with respect to prospecting for and mining of metals, minerals and precious stones, for regulating their conveyance and for matters connected therewith.

20 of 1989

Enacted by the Parliament of Guyana:-

PART I

PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Mining Act

19889 and shall come into operation on such date as the Minister may, by order, appoint.

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2. (1) In this Act—

Interpretation.

- (a) “body corporate” means a company or a corporation;
- (b) “claim” means the area of State land (including any river bed, sea-bed or other area beneath water) in respect of which a claim licence is granted, and includes any claim located pursuant to a prospecting permit, whether a claim licence has been issued in respect thereof or not;
- (c) “Commission” means the Guyana Geology and Mines Commission established by section 3 of the Guyana Geology and Mines Commission Act 1979; No. 9 of 1979
- (d) “company” has the same meaning as in section 2(1) of the Companies Act;
- (e) “condition” includes any term, prohibition, limitation and stipulation; Cap 89:01
- (f) “corporation” means a corporate body incorporated in or outside Guyana, but does not include a company;
- (g) “discovery parcel”, in relation to any mineral, means a parcel in a prospecting area comprising the geological feature, as outlined by the relevant geological or geophysical data, in which the discovery of the mineral is located;
- (h) “exploration for any mineral” means exploration for the purpose of discovering and evaluating the mineral and includes geological, geophysical and geochemical surveys;
- (i) “gold” means gold in the raw state and includes unrefined gold amalgam, slimes and scrapings containing gold, and smelted gold which is not manufactured into any article of commerce;

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- (j) “holder”, in relation to a licence, means the person to whom the licence is granted and, where a licence is granted to a person jointly with others, means every one of the persons to whom the licence is jointly granted, and includes every person to whom the licence or an interest therein is lawfully transferred;
- (k) “in default” means in breach of any provision of this Act or of any condition of a licence, any provision of a mining agreement or any direction given by the Minister;
- (l) “land” includes land beneath water and the river-bed or sea-bed, and the subsoil of such land and river-bed or the sea-bed;
- (m) “metal” includes ore or compound of a metal;
- (n) “ mineral” includes ore or compound of any mineral, any metal and precious stone and includes any radio-active mineral , but does not include water or petroleum;
- (o) “mineral agreement” means an agreement in respect of any of the matters referred to in section 19;
- (p) “mines officer”, for the purposes of any provision of this Act, means a person designated as such under section 5 for the purposes of that provision; and includes a district mines officer;
- (q) “mining area” means an area of land in relation to which a mining licence has been granted;
- (r) “mining district” means any portion of Guyana constituted as a mining district under section 4;
- (s) “mining operations” means operations carried out for, or in connection with, the mining for minerals;
- (t) “parcel” means a parcel of land constituted by the Minister by Order and includes a part of a parcel so constituted;

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- (u) “petroleum” has the same meaning as in section 2 of the Petroleum (Exploration and Production) Act; No 9 of 1979
- (v) “precious stones” means rough or uncut precious stones only;
- (w) “prescrib
- (x) “prospecting area” means an area of land in relation to which a prospecting licence has been granted under this Act;
- (y) “prospecting operation” means operations carried out for, or in connection with, exploration for any mineral;
- (z) “the Regulations” means regulations made by the Minister under provision of this Act;
- (2) In this Act, a reference to—
- (a) cancellation of a licence, in relation to any mining area or parcel or parcels, shall include a reference to a direction that a licence shall cease to have effect in respect of that mining area or parcel or parcels, but shall not be deemed to include a reference to the cancellation of a mining licence in relation to any mining area or parcel or parcels under section 52(7);
- (b) “Guyana” shall include a reference to the territorial sea, the continental shelf, and the exclusive economic zone, of Guyana as lawfully determined from time to time;
- (c) “payment” shall, where royalty in relation to the mining of any mineral is to be paid by the holder of a mining licence, mining permit, claim licence, special mining permit or quarry licence in kind, be construed as a reference to delivery of the mineral by way of royalty, and cognate expressions shall be construed accordingly;
- (d) “quarriable material” shall be deemed to be a reference to—
- (i) rock, laterite, sand or gravel, or kaolin or other clays; or

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(ii) any other mineral specified by notification in the Gazette by the Commission, with the approval of the Minister, as a quarriable mineral.

Schedule.

(e) “radio-active mineral” shall be deemed to be a reference to any substance specified in the Schedule;

(f) surrender of a licence, in relation to the whole or part of any parcel or parcels, shall be deemed, as the context requires, to be a reference to the relinquishment, by the holder of a prospecting licence, of the whole or part of the parcel or parcels under section 37, exclusion of the parcel or parcels from a prospecting area under section 38, or cancellation of a mining licence in relation to the parcel or parcels, on the application of the holder of the licence, under section 52(7);

(g) “this Act” shall include a reference to subsidiary legislation made under this Act;

(h) “valuable mineral” shall be deemed to be a reference to any mineral containing—

- (i) gold, silver, or platinum; or
- (ii) any of the rarer metals, specified by notification in the Gazette, by the Commission with the approval of the Minister,

or any combination of the above metals, together with some other base metal or mineral matter in such proportion that the gold, silver, platinum, or rarer metal, or a combination of them, is or was of greater value than the other metal or mineral matter in which it is or was contained;

(i) a year of the term of a licence shall be deemed to be a reference to a period of three hundred and sixty-five days commencing on and including the date from which the licence has effect or any anniversary of that date.

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3. The Guyana Geology and Mines Commission Act shall be read as part of this Act:

Guyana Geology and Mines Commission Act to be read as part of this Act. No.9 of 1979

Provided that if there is any inconsistency between any provision of this Act and any provision of the Guyana Geology and Mines Commission Act, the provision of this Act shall prevail.

4. (1) The Minister may, by notice published in the *Gazette* and in at least one newspaper having circulation in Guyana, constitute any portion of Guyana as a mining district.

Mining districts.

(2) In declaring any portion of Guyana as a mining district the Minister shall, as far as possible, ensure that the whole of one parcel or one claim shall be in one mining district.

5. (1) The Minister may by notice published in the *Gazette*, designate, for the purposes of this Act or any provision thereof, a public officer or any other person employed by the Government or any employee of the Commission as a mines officer and any such notice shall specify the area for which, and for the purposes of which provisions of this Act, the mines officer is appointed.

Mines officers and district mines officers.

(2) The Minister may by notice published in the *Gazette* designate, for the purposes of this Act, a public officer or any other person employed by the Government or an employee of the Commission as a district mines officer and specify the mining district for which he is so appointed:

Provided that the same person may be appointed as district mines officer for more than one mining district.

(3) A district mines officer shall have, unless the Minister otherwise directs by notice published in the *Gazette*, all the functions conferred by this Act on a mines officer and a district mines officer within the mining district or mining districts for which he is so designated.

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(4) There shall be such other officers as may be considered necessary for the purposes of this Act, who shall respectively have and exercise the functions assigned to them by or under this Act or by the Commission or the Minister.

(5) The Commissioner of Geological Surveys and Mines shall, by virtue of his office, be a mines officer and shall have throughout Guyana all the functions conferred by this Act on a mines officer and a district mines officer.

PART II

RIGHT TO AND GUARDIANSHIP OF MINERALS

Right of State to minerals. **6.** Subject to the other provisions of this Part, all minerals within the lands of Guyana shall vest in the State.

Licence or permit to mine on private lands and on State and Government lands. **7.** (1) The Commission may, with the approval of the Minister and subject to section 8, grant a licence or permit under this Act authorising the holder of the licence to enter on private lands and there search or mine for, take and appropriate, any minerals.

(2) The Commission may, with the approval of the Minister, grant a licence or permit under this Act authorising the holder of the licence to enter on Government lands and there search or mine for, take and appropriate, any minerals.

(3) A licence or permit under this Act to enter on State lands and there search or mine for, take and appropriate, minerals may be granted by the Commission.

Right to base metals on private lands. **8.** (1) The owner of any private lands, granted before the passing of the Mining Ordinance, 1903, shall hold and enjoy all metals other than gold and silver therein or thereon, and may after obtaining a licence or permit under this Act search or mine for them in accordance with this Act and the licence and, when found, take and appropriate them to his own use.

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(2) The owner of private lands, granted before the passing of the Mining Ordinance 1903, shall also be entitled to take and appropriate to his own use any metal, other than gold or silver, contained in any valuable mineral in or on his lands and which has been separated from the gold or silver by the holder of a licence or permit entitling him to mine for the gold or silver, unless the holder of such licence or permit purchases the metal from the owner of the land at an agreed price, or, if no agreement is reached, at a price stated in writing by the Commission to be the net value of the metal after paying the cost of winning it, no deduction from such cost being made on account of gold or silver or both having been obtained together with the metal.

(3) The owner of private lands, granted before the passing of the Mining Ordinance 1903, may, after obtaining a licence or permit under this Act, search and mine for and, when found, take and appropriate, any mineral therein or thereon containing gold or silver, or both, together with some other mineral in such proportion that the gold or silver or both combined, obtainable from the mineral is or are not of greater value than the cost of obtaining it or them alone therefrom:

No.3 of 1986

Provided that in that case the owner shall, if any gold or silver, or both, is or are extracted from the mineral, comply with any written law for the time being in force as to keeping a record of gold or silver obtained and as to the removal thereof and the payment of the royalty thereon.

(4) No licence or permit shall be granted under this Act for searching or mining for any mineral in any private land granted before the passing of the Mining Ordinance 1903 in a manner that will prejudice the rights of the owner of the land under this section.

(5) Nothing in this section shall give the owner of private lands any right to any precious stones therein or thereon.

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Grant of State lands after commencement of Mining Ordinance 1903 not to confer on grantee right to minerals.

9. No grant of State lands made after the passing of the Mining Ordinance, 1903, shall be deemed to have conferred, or to confer, upon the grantee any right to any mineral whatsoever therein, and all those minerals shall remain the absolute property of the State.

Reservation of prospecting or mining operations in certain cases to Government, etc.

10. The Minister may by order direct that prospecting or mining for any mineral specified therein shall be carried out throughout Guyana, or in any area specified in the order, only by the Government, by a public corporation, or by a corporate body in which the controlling interest vests in the State or in any agency on behalf of the State.

Right to take minerals in certain cases.

11. (1) Subject to this section and the Regulations, nothing in this Act shall operate to prevent—

(a) any person taking from land, in respect of which he is the lawful occupier, mineral substances or rocks, not being or containing any valuable mineral, for the purpose of construction of buildings;

(b) the exercise under any written law of a right to take mineral substances or rocks, not being or containing any valuable mineral, for the purpose of building roads or for any other public purpose; or

Cap 89:02

(c) the exercise of any power under section 2 of the Geological Survey Act.

(2) Nothing in subsection (1) shall be deemed to authorise any person to take any mineral from a mining area without the written consent of the holder of the mining licence for the mining area.

Exemptions.

12. (1) The provisions of this Act shall not apply to the prospecting for or production of petroleum, and matters connected therewith, in respect of which provisions have been made by the Petroleum (Exploration and Production) Act 1986.

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(2) The provisions of this Act, other than this Part and Parts I, X and XV, shall not apply to the quarrying of any quarriable mineral:

Provided that the Minister may by order direct that any provision of this Act specified therein shall apply to quarrying any quarriable mineral subject to any exceptions, adaptations, modifications, qualifications or restrictions that may be specified therein.

13. Subject to the provisions of this Act, the Commission shall have the charge of, and act as guardian over, all minerals in the lands of Guyana. Guardianship of minerals.

14. (1) On and after the commencement of this Act—

(a) no person shall search or mine for any mineral in any land in Guyana except—

Regulation of searching or mining for minerals.

(i) under and in accordance with a licence or permit granted by the Commission under this Act; or

(ii) under and in accordance with a licence, permission to explore, concession, or any other prospecting or mining right granted under the Mining Act before the commencement of this Act and subsisting on such commencement; and

Cap. 65:01

(b) no person shall quarry any quarriable mineral in any land in Guyana except—

(i) under and in accordance with a quarry permit granted under this Act; or

(ii) under and in accordance with a licence issued under the State Lands Act before the commencement of this Act and subsisting on such commencement:

Cap.. 62:01

Provided that a person may search or mine for minerals, or quarry any quarriable mineral in any land in Guyana, as an agent for the Commission acting in discharge of its functions under section 4 of the Guyana Geology and Mines Commission Act, without any licence or permit referred to above. No.9 of 1979

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PART III

PROSPECTING AND MINING ON LARGE SCALE

CHAPTER 1

GENERAL

Application of
Part and
definition of
“licence”.

15. (1) This Part shall apply to prospecting or mining for gold, precious stones or any other mineral on a large scale.

(2) In this Part and Part IX “licence” means a prospecting licence or mining licence or both, as the context requires granted under this Part and the expression “licensee” shall be construed accordingly.

Parcels.

16. (1) The Commission may, with the approval of the Minister, constitute by notification in the *Gazette* any part of Guyana as a parcel for the purposes of this Part.

(2) The area of a parcel shall not be less than such area as may be prescribed.

(3) Any parcel shall be constituted in such a way that the whole of it falls in one mining district.

Restrictions on
persons to
whom licence
may be
granted.

17. (1) No licence shall be granted to an individual, unless he is a citizen of Guyana and an adult.

(2) No prospecting licence shall be granted to a body of persons unless it is—

Cap. 89:01

(a) a company within the meaning of the Companies Act;

(b) a public corporation;

Cap. 88:01

(c) a co-operative society registered under the Co-operative Societies Act;

(d) any other corporate body incorporated in or outside Guyana, including a company established outside Guyana; or

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(e) any organization established by the Government or by or under any written law in operation in Guyana and authorized to carry on mining operations.

(3) No mining licence shall be granted to a body of persons unless it is—

- (a) a company within the meaning of the Companies Act; Cap.89:01
- (b) a public corporation;
- (c) a co-operative society registered under the Co-operative Societies Act; Cap.88:01
- (d) any other corporate body incorporated in Guyana; or
- (e) any organisation established by the Government or by or under any written law in operation in Guyana and authorised to carry on mining operations.

(4) Any licence may be granted to two or more persons associated together in any form of joint arrangement, if each one of them is not disqualified to hold that licence under any provision of this section.

(5) Where at any time a licensee is constituted of two or more persons, the obligations to be observed and performed by the licensee under this Act shall be joint and several obligations, but without prejudice to any right of contribution which may exist between all or any of them.

18. (1) A body corporate which is the holder of a mining licence shall not, without the prior consent in writing of the Minister— Control of body corporate not to be given without consent of Minister.

- (a) register the transfer of any equity share or shares in the body corporate to any particular person or his nominee; or
- (b) enter into any agreement, arrangement, or understanding, (whether or not having legal or equitable force) with any particular person,

if the effect of doing so would be to give, in the case mentioned in paragraph (a), to the particular person or, in the case mentioned in paragraph (b), to the particular person or any other person, control of the body corporate.

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- (2) On application duly made to the Minister in writing for his consent under this section, the Minister shall give his consent if he considers that the public interest would not be prejudiced by the change of control of the body corporate, but shall otherwise refuse to give his consent; and for the purpose of considering any such application the Minister may call for and obtain such information as he considers necessary to make a decision on the application.
- (3) For the purposes of this section—
- (a) a person shall be deemed to have control of a body corporate—
- (i) if the person or his nominee holds, or the person and his nominee hold, a total of twenty per cent or more of the issued equity shares in the body corporate;
 - (ii) if the person is entitled to appoint, or prevent the appointment of, half or more than half of the directors of the body corporate; or
 - (iii) if the person is entitled to exercise, or control the exercise of, the right to cast votes in respect of not less than two-fifths of the total number of votes in respect of the issued equity shares in the body corporate;
- (b) “equity share”, in relation to a body corporate, means a share in the body corporate carrying voting rights in all circumstances at any general meeting of the body corporate, and includes a preference share, other than a preference shares which does not have such voting rights;
- (c) “preference share”, in relation to a body corporate, means a share which carries the right to payment of a dividend of a fixed amount, or not exceeding a fixed amount, in priority to payment of a dividend on any other class or classes of shares, whether with or without other rights; and
- (d) the reference in paragraph (a)(iii) to the entitlement to control the exercise of the right to cast votes shall include an entitlement to control the exercise of that right directly or indirectly, and includes control that is exercisable as a result of, or by means of, trusts.

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19. The Commission may, with the approval of the Minister, enter into a mineral agreement (not inconsistent with this Act) with any person with respect to all or any of the following matters, namely—

Mineral agreement.

- (a) the grant to that person or to any other person (including anybody corporate to be formed), identified in the agreement, of a licence;
- (b) the conditions to be included in the licence as granted or renewed;
- (c) the procedure to be followed by the Commission while exercising any discretion conferred upon it by or under this Act and the manner in which the discretion shall be exercised;
- (d) any matter incidental to or connected with the foregoing.

20. An application under this Act for the grant or renewal of a licence—

Form of application for grant or renewal of licence, etc.

- (a) shall be made in accordance with the Regulations;
- (b) shall be made in such form and shall state such particulars as may be prescribed;
- (c) shall be made to the Commission;
- (d) may be withdrawn, before the licence is granted, by the applicant by giving notice of withdrawal to the Commission; and
- (e) shall be accompanied by such fees as may be prescribed.

21. The Commission may, by notice served on an applicant for the grant or renewal of a licence, require the applicant to do either or both of the following—

Publication of application for licence.

- (a) publish details of his application at the time or times, and in the manner, specified in the notice; and
- (b) give details of his application to the persons, and in the manner, specified in the notice.

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Bond by
applicant for
licence.

22. The Commission may require an applicant for the grant or renewal of a licence to execute a bond, satisfactory to the Commission, for the performance and the observance by the applicant of the conditions of the licence, upon grant or renewal thereof, or to make arrangements, satisfactory to the Commission, for the execution of such a bond.

Notice of
decision on
application.

23. (1) The Commission shall cause an applicant for the grant or renewal of a licence to be notified of the decision on the application giving, where it is proposed to grant or renew the licence, details of the conditions subject to which the licence shall be granted or renewed.

(2) Where an applicant for the grant or renewal of a licence—

- (a) Notifies the Commission, in writing, within a period of sixty days of the date of the notification under subsection (1), or within such further period as the Commission, with the approval of the Minister, may allow, that he accepts the condition of the grant or renewal of the licence, the Commission shall cause the licence to be issued or renewed on those conditions; or
- (b) fails to notify to the Commission within aforesaid period, or further period as the Commission may allow with the approval of the Minister, the application shall lapse

Power of
Commission to
obtain
information from
applicant for
licence.

24. (1) The Commission may, by notice served on an applicant for the grant or renewal of a licence, require the applicant to furnish to the Commission in writing, within such reasonable time as is specified in the notice—

- (a) such further information relevant to the application as may be specified in the notice; and
- (b) if the applicant, or any of the applicants, is a body corporate, such information as may be specified in the notice to enable the Commission to ascertain to what extent the controlling power (whether directly or indirectly) in the direction of the affairs of the body corporate is vested in a corporation, or an individual or individuals, resident outside Guyana.

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(2) Where an applicant for the grant or renewal of a licence fails to comply with the requirements of a notice served on him under subsection (1), within the time specified therein for that purpose, the application shall lapse.

(3) To enable it to make a decision on an application for the grant or renewal of a licence, the Commission may—

(a) carry out, or cause to be carried out, such investigations, negotiations or consultations, as the Commission considers necessary; and

(b) by notice served on the applicant require the applicant to furnish to the Commission, within such reasonable time as is specified in the notice, with such proposals, by way of alteration, as the Commission specifies in the notice.

25. (1) A licence shall be in accordance with such form as may be prescribed.

Form of licence and publication of grant of licence.

(2) The Commission shall, as soon as may be practicable after a licence has been granted or renewed, cause notice of that fact to be published in the *Gazette* stating the name of the licensee and the location and description of the parcel in respect of which the licence has been granted.

26. (1) Any parcel in respect of which a licence with respect to any mineral is granted shall not include any area which is subject to—

Restrictions on grant of licence.

(a) a prospecting permit, claim licence, mining permit or special mining permit; or

(b) a quarry licence, unless the Commission is satisfied that the exercise of rights under the licence proposed to be granted would not substantially prejudice the carrying out of operations under the quarry licence.

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(2) A licence with respect to any mineral shall not be granted to an applicant in respect of any parcel which is subject to another licence with respect to the same mineral, but licences with respect to different minerals may be given to different persons in relation to the whole or part of the same parcel:

Provided that the holder of the licence in respect of a different mineral shall not interfere with the workings in actual use of the licensee already in occupation, and shall not be entitled to acquire any mining tenement in or upon the land held by the prior licensee except at a distance beyond five hundred metres or such distance as may be specified by the Commission from those workings or from the crushing, smelting or other works, being the property of the prior licensee.

Restriction on
exercise of rights
by licensees.

27. Nothing in this Act shall be construed—

- (a) where the doing of any act is prohibited by any other written law, as authorising a licensee to do that act; or
- (b) where the doing of the act is regulated by any other written law, as authorising a licensee to do that act—
 - (i) without first obtaining any authority (however described) required under that written law for the doing of the act; and
 - (ii) otherwise than in accordance with that written law and any authority referred to in subparagraph (i).

Purchase by
licensee of rights
of holder of
prospecting
permit, claim
licence, mining
permit, or special
mining permit, in
respect of gold.

28. (1) Where any area which is subject to a prospecting permit, claim licence, mining permit, or special mining permit, in respect of gold is contiguous to, or is surrounded by, any parcel which is subject to a licence with respect to gold, the licensee may with the permission of the Commission buy the rights of the person holding the prospecting permit, claim licence, mining permit or special mining permit on such terms as may be agreed to between the purchaser and the seller.

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(2) The Commission shall not give the approval referred to in subsection (1) unless it is satisfied that the terms of purchase agreed to by the licensee and the holder of the prospecting permit, claim licence, mining permit or special mining permit are fair and just so far as the latter is concerned.

CHAPTER 2

PROSPECTING LICENCES

29. (1) Subject to this Act, any person may make an application for the grant of a prospecting licence in respect of any parcel or parcels. Application for prospecting licence.

(2) Without prejudice to the provisions of subsection (1), the Commission may, by notice published in the *Gazette*, and in at least one newspaper having circulation in Guyana—

- (a) invite applications for the grant of a prospecting licence in respect of any parcel or parcels specified in the notice;
- (b) specify the period within which the application may be made; and
- (c) specify the conditions subject to which the application may be made.

30. (1) Subject to this Act, on application duly made, the Commission may, with the approval of the Minister, grant on such conditions as it determines, or refuse to grant, a prospecting licence in respect of any parcel or parcels. Grant of prospecting licence.

(2) No prospecting licence with respect to any mineral shall be granted to an applicant unless the Commission is satisfied that—

- (a) the applicant has adequate financial resources, technical competence and experience to carry on effective prospecting operations with respect to that mineral;
- (b) his programme of prospecting operations is adequate; and

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(c) his proposals for the employment and training of citizens of Guyana are satisfactory, or, if the Commission is not so satisfied, in the opinion of the Commission there are special circumstances which justify the granting of the prospecting licence and the Minister approves of the grant thereof to the applicant.

Contents of
prospecting
licence.

31. (1) A prospecting licence—

(a) shall

- (i) state the date of the grant of the licence;
- (ii) identify the parcel or parcels to which the licence relates;
- (iii) identify the mineral to which the licence relates; and
- (iv) state the conditions subject to which the licence is granted, including conditions necessary to give effect to any mineral agreement entered into by the applicant for the licence; and

(b) may contain such other matters as the Commission may, with the approval of the Minister, determine for the purposes of subsection (2) or (3) or for any other purpose of this Act.

(2) There may be included in a prospecting licence provision with respect to the exercise by the State, or any agency of the State identified in the licence, of an option to acquire on stipulated terms, or on terms to be agreed, an interest in any venture for the mining of minerals which may be carried on in any parcel or parcels to which the licence relates.

(3) The Commission may specify in a prospecting licence an initial period not exceeding six months as the preparation period to enable the licensee to make the necessary preparation to carry on prospecting operations.

(4) In this section “agency of the State” includes any public corporation or any other corporate body owned or controlled by the State or established by or under any written law.

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32. (1) A prospecting licence, while it remains in force, confers on the licensee, subject to this Act and to the conditions specified in the licence or to which the licence is otherwise subject, the exclusive right to explore for any mineral in respect of which the licence is granted, and the right to carry on such operations and execute such works as are necessary for that purpose, in the prospecting area to which the licence relates.

Rights conferred by prospecting licence.

(2) Where in the course of the exercise, by the holder of a prospecting licence in respect of any mineral, of his rights under the licence he discovers evidence indicating the existence of any other mineral in the prospecting area to which the aforesaid licence relates, and—

- (a) the prospecting licence does not relate to such other mineral; and
- (b) no prospecting licence, covering the whole or part of the same area for prospecting or mining for the other mineral has been granted to any other person,

then, the holder of the aforesaid prospecting licence may apply to the Commission for the inclusion in his prospecting licence of the other mineral.

(3) The Commission, upon application made to it pursuant to subsection (2), and with the approval of the Minister, may approve in writing the application, and with effect from the date of such approval, the licence shall be deemed to include the other mineral referred to in subsection (2).

(4) The Commission shall not approve any application under subsection (2) unless the applicant makes such alterations to his programme of prospecting operations as are reasonably necessary to cover adequately the prospecting for the other mineral.

33. (1) Subject to this Act, a person who holds a prospecting licence may apply, in accordance with the Regulations, for the renewal of the licence, but such application shall be made not more than twice.

Application for renewal of prospecting licence.

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(2) Subject to a mineral agreement, the number of parcels, in respect of which an application for the renewal of a prospecting licence may be made shall not exceed the number which is one-half in total of the number of parcels in respect of which—

- (a) the prospecting licence was granted, where the application is for the first renewal of the licence; or
- (b) the prospecting licence was first renewed, where the application is for the second renewal of the licence.

(3) In determining, for the purposes of this section, the number of parcels in respect of which a prospecting licence was granted or first renewed, there shall not be taken into account any discovery parcel excluded from the prospecting area pursuant to section 40(3) or 41(1) and any discovery parcel subsisting in the prospecting area at the date on which the application for the renewal is made.

(4) The parcels in respect of which an application for the renewal of a prospecting licence is made under subsection (1) shall, subject to a mineral agreement, be such as to ensure that they constitute a contiguous area.

Renewal of
prospecting
licence.

34. (1) Subject to subsection (2), on application duly made under section 33 for the renewal of a prospecting licence, the Commission shall grant a renewal of the licence on such conditions as are necessary to give effect to the application and the requirements of this Act, for such period, not exceeding one year on each occasion, as may be specified by the Commission:

Provided that, subject to a mineral agreement, a prospecting licence shall not be renewed—

- (a) in respect of such number of parcels as is in excess of the number in respect of which an application for renewal of a prospecting licence may be made under section 33(2); or
- (b) in respect of parcels which do not constitute a contiguous area.

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(2) Subject to subsection (3), the Commission shall refuse to grant a renewal of a prospecting licence if the licensee is in default unless the Commission, with the approval of the Minister, considers that special circumstances exist which justify the granting of the renewal notwithstanding the default.

(3) The Commission shall not refuse, under subsection (2), to grant the renewal of a prospecting licence on application being duly made therefor under section 33—

- (a) without giving to the applicant a notice of its intention to do so—
 - (i) stating the particulars of the ground for the intended refusal; and
 - (ii) specifying a reasonable time within which the applicant may take appropriate action for remedying the default or make representations in relation to the default; or
- (b) if the applicant, within the time specified therefor in the notice, has remedied the default or, where the default cannot be remedied, paid to the Commission, in respect thereof, adequate compensation, or has made representation in relation to the default and the Commission is satisfied either that there is no default or that there are adequate reasons for the failure on the part of the applicant to remedy the default.

35. (1) Subject to the other provisions of this section, a prospecting licence, unless sooner determined by surrender or cancellation under this Act, shall by virtue of this subsection continue in force—

Term of prospecting licence.

- (a) for any preparation period specified in the licence pursuant to section 31(3);
- (b) for the period stipulated in the licence, not exceeding three years next after the date of the grant of the licence or, if there is a preparation period, next after the expiry of that period;

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(c) for any period, not exceeding one year on each occasion, for which the licence is renewed pursuant to section 34; and
 (d) for any period added pursuant to section 53(3) to the term of the licence.

(2) Where a prospecting licence would otherwise cease to be in force, then, by virtue of this subsection, the licence shall, unless sooner determined by surrender or cancellation under this Act, continue in force in respect of any parcel to which the licence relates, if an application has been duly made for the grant of—

- (a) a renewal of the prospecting licence in relation to that parcel; or
- (b) a mining licence in relation to that parcel,

until the application is finally dealt with by the renewal of, or refusal to renew, the prospecting licence, or, as the case may be, by the grant of, or refusal to grant, the mining licence, or until the application lapses.

(3) Where a prospecting licence would otherwise cease to be in force in respect of any parcel or parcels, to which the licence relates and wherein any mineral has been discovered, then, by virtue of this subsection, the licence shall, unless sooner determined by surrender or cancellation under this Act, continue in force in respect of the said parcel or parcels until a notice is served pursuant to section 40(1), or until the expiry of the period of thirty days referred to in that section, whichever first occurs.

(4) Where a notice given under section 40(1) states that a discovery of minerals in any parcel or parcels in a prospecting area is, in the opinion of the licensee, of potential commercial interest and the prospecting licence relating to the said parcel or parcels would otherwise cease to be in force, then, by virtue of this subsection, the licence shall unless sooner determined by surrender or cancellation under this Act, continue in force in respect of the aforesaid parcel or parcels until the expiry of—

- (a) the period of one year specified in section 40(2); and

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(b) any further period allowed by the Commission under the proviso to section 40(2).

36. (1) Subject to subsections (3) and (4), the holder of a prospecting licence shall, in or in relation to the prospecting area, meet the requirements, with respect to work and expenditure—

Duties of prospecting licence.

- (a) stipulated in the licence; and
- (b) of each programme submitted pursuant to subsection (2).

(2) The applicant for a prospecting licence, shall prior to the grant of the licence to him, submit to the Commission in detail an adequate programme with respect to work and expenditure to be carried out or incurred in the first year of the term of the prospecting licence and where such applicant fails to do so, the application for the prospecting licence shall be deemed to have lapsed.

(3) The holder of a prospecting licence shall not later than two months before the anniversary in any year of the date of the grant of the licence, submit to the Commission in detail an adequate programme with respect to work and expenditure to be carried out or incurred in the year of the term of the said licence immediately following the anniversary concerned.

(4) The Commission may, with the approval of the Minister and on application made to it in writing by the holder of a prospecting licence, by instrument in writing amend or suspend any obligation arising under subsection (1), either conditionally or unconditionally.

(5) The holder of a prospecting licence may, for good cause, amend the details of any programme of work and expenditure which he is required under subsection (1)(b) to carry out or incur:

Provided that—

- (a) the licensee shall forthwith give notice in writing to the Commission of any such amendment, giving in the notice the details of, and the reason for, the amendment; and

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(b) no such amendment shall have effect so as to reduce the minimum requirements of the overall programme of work and expenditure to be carried out or incurred during the term of the prospecting licence.

(6) Where the holder of a prospecting licence fails to carry out any part of the requirement with respect to work and expenditure stipulated in the prospecting licence, or each programme submitted by him pursuant to subsection (2) or (3), then, without prejudice to any other right which may be invoked by the Commission in respect of that failure, the relevant provision of the licence (if any) shall apply for the purpose of determining the liquidated damages payable to the State by the licensee on account of such failure.

(7) The requirement in subsection (2) or (3) with respect to an adequate programme with respect to work and expenditure shall be deemed to have been met in any case where the programme submitted pursuant to either of those subsections is consistent with the requirements (if any) with respect to work and expenditure contained in a mineral agreement.

(8) For the purposes of subsection (3), where any preparation period is specified in a prospecting licence pursuant to section 31(3), the date of the grant of the licence shall be deemed to be the date immediately following the expiration of that period.

Relinquish-
ment of
prospecting
area.

37. (1) Subject to subsection (2), the holder of a prospecting licence may at any time when the licence is in force, by giving to the Commission not less than three months previous notice of his intention to do so, relinquish the whole or part of any parcel in the prospecting area identified in the notice.

(2) The area subject to a prospecting licence relinquished under subsection (1) shall not in the aggregate be less than ten per cent of the prospecting area covered by the licence in the first year, twenty per cent of that area in the second year, and fifty per cent of that area in the remaining period, of the term of the licence, so however that the area after such relinquishment shall in no case be less than five hundred hectares or such other area as may be prescribed.

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(3) In computing the term of a licence for the purposes of subsection (2), any preparation period specified in a prospecting licence pursuant to section 31(3), of the grant shall be excluded.

(4) Any relinquishment pursuant to subsection (1) shall be without prejudice to any obligation incurred by the holder of the prospecting licence in respect of the area relinquished, prior to the date of the relinquishment.

(5) Subject to a mineral agreement, any area relinquished under subsection (1) shall, unless the Commission, with the approval of the Minister, otherwise directs, be such as to ensure that the remaining prospecting area constitutes a single area or not more than three discrete areas.

(6) Where under this section any area is relinquished, then, the prospecting licence concerned shall cease to have effect from the date of the relinquishment with respect to that area.

38. Where a mining licence is granted, in respect of any parcel or parcels or part thereof in a prospecting area, to the holder of a prospecting licence in relation to that area, the aforesaid parcel or parcels or part thereof shall cease to be part of the prospecting area covered by that prospecting licence. Exclusion of prospecting area.

CHAPTER 3

STEPS AFTER DISCOVERY OF MINERAL

39. (1) Where a discovery of any mineral of an anomalous occurrence is made in a prospecting area, the licensee in relation to that area— Discovery of mineral of anomalous occurrence to be notified to Commission.

(a) shall—

- (i) forthwith inform the Commission of the discovery;
- (ii) within a period of thirty days from the date of the discovery, furnish to the Commission particulars in writing of the discovery; and

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(iii) where the mineral discovered is one to which his licence relates, promptly commence a detailed programme of evaluation in respect of the discovery and as soon as the evaluation is completed forthwith submit to the Commission a comprehensive report of the findings; and

(b) shall, subject to subsection (3), promptly take all steps that are reasonable in the circumstances relating to the discovery to ascertain the quantity of the mineral to which the discovery relates.

(2) Where an anomalous occurrence of a mineral, to which a prospecting licence relates, has been discovered in the prospecting area covered by that licence, the Commission may, from time to time, by notice in writing served on the licensee, direct the licensee to furnish to it, within the period specified in the notice particulars in writing of—

- (a) the character of the mineralisation;
- (b) the stratigraphic position and depth of the discovery; and
- (c) any other matters relating to the discovery that are specified by the Commission in the notice:

Provided that no such direction shall be given after the licensee has served on the Commission a notice under section 40(1) that the discovery is not of commercial interest.

(3) The Commission may, with the approval of the Minister, by instrument in writing, exempt wholly or partly, from the requirement of subsection (1)(b), any licensee to whom that subsection applies, either unconditionally or subject to such conditions as are specified in the instrument of exemption.

(4) A person to whom a direction is given under subsection (2) and who fails or refuses to comply with the direction shall, on summary conviction, be liable to a fine of ten thousand dollars and imprisonment for two years.

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40. (1) Where a mineral to which a licence relates has been discovered in a prospecting area covered by that licence and the licensee has, pursuant to section 39(1)(a)(iii), submitted to the Commission evaluated test results in respect of the discovery, the licensee shall, within thirty days of the date of submission of the evaluated results, serve on the Commission a notice stating that the discovery is, or, as the case may be, is not, in the opinion of the licensee, of potential commercial interest.

Discovery of mineral of potential commercial interest.

(2) Where a notice served under subsection (1) states that the discovery of a mineral in any prospecting area is, in the opinion of the licensee, of potential commercial interest, the licensee may, unless the licence is sooner determined by surrender or cancellation under this Act, within a period of one year after the date on which such notice is so served, apply under section 43(1) for the grant of a mining licence in respect of the discovery parcel or parcels in the prospecting area or in respect of any part thereof:

Provided that the Commission, with the approval of the Minister and on application in that behalf made by the licensee may, if there are reasonable grounds for doing so, by instrument in writing, allow the licensee such further time, which it considers reasonable in the circumstances of the case, to apply for the grant of a mining licence.

(3) Where in any case to which subsection (2) applies, the holder of a prospecting licence fails within the period specified in that subsection, or within such further period as the Commission may allow under the proviso thereto, to apply for a mining licence in respect of the whole or part of the discovery parcel or parcels, in the prospecting area covered by that licence, the Commission may, if the prospecting licence is then in force in respect of the discovery parcel or parcels, by notice served on the licensee, direct that the licence shall cease to have effect in respect of the whole or part, as the case may be, of the discovery parcel or parcels with effect from the date specified therein and thereupon the licence shall cease to have effect with effect from the date so specified in respect of the whole or part, as the case may be, of such discovery parcel or parcels.

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Discovery of mineral not of potential commercial interest.

41. (1) Where a notice served under section 40(1) states that the discovery of a mineral in any discovery parcel or parcels in a prospecting area is not, in the opinion of the licensee, of potential commercial interest—

(a) subject to subsection (2), the Commission may, if the prospecting licence is then in force in respect of the aforesaid discovery parcel or parcels, within a period of twelve months from the date on which the said notice is served on it, direct by notice in writing served on the licensee that the licence shall cease to have effect with respect to such discovery parcel or parcels with effect from the date specified therein, and thereupon the licence shall cease to have effect in respect of the aforesaid discovery parcel or parcels with effect from the date so specified; and

(b) during the aforesaid period of twelve months, notwithstanding that during that period the Commission has not, pursuant to paragraph (a), directed that the licence shall cease to have effect in respect of the aforesaid discovery parcel or parcels, and during any period thereafter, section 39(1)(b) and (2) shall not apply in respect of the discovery, and any direction given under section 39(2) before the commencement of the aforesaid period of twelve months in respect of the discovery and not carried out before such commencement shall cease to have effect.

(2) The Commission shall not give a direction under subsection (1)(a) unless—

(a) it has given to the licensee a notice of its intention to do so;

(b) it has specified in that notice a reasonable time within which the licensee may make representation with respect to that notice; and

(c) on evidence available to it and after taking into account any representation made by the licensee, it considers that the discovery is not of potential commercial interest.

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42. (1) Where the holder of a prospecting licence has served, under section 40(1), a notice on the Commission stating that a discovery of a mineral in any parcel or parcels covered by the licence is, in the opinion of the licensee, of potential commercial interest, the Commission may by notice served on the licensee direct the licensee to carry out, within a period specified in the notice, being not less than one year, such investigations and studies as the Commission considers appropriate for the purpose of assessing the feasibility of the construction, establishment and operation of an industry for the mining of such mineral in the said parcel or parcels concerned and the licensee shall comply with the direction.

Investigation
and studies.

(2) The licensee shall furnish to the Commission such reports, analysis and data resulting from the investigations and studies carried out under this section as the Commission, by notice served on the licensee, may require.

CHAPTER 4

MINING LICENCES

43. (1) The holder of a prospecting licence may, within the period of one year specified in section 40(2) or within such further period as may be allowed by the Commission under the proviso thereto, apply under this subsection for the grant of a mining licence in respect of any discovery parcel or parcels in the prospecting area covered by that licence, or in respect of any part thereof, which following appraisal, can be shown to contain any mineral to which the licence relates.

Application for
mining licence.

(2) Any person, notwithstanding that he does not hold a prospecting licence in respect of any parcel or parcels, may, on the Commission being satisfied on data supplied by that person or otherwise that a mineral is located therein, apply under this subsection for the grant of a mining licence in respect of that parcel or parcels.

(3) An application under subsection (1) or (2)—

(a) shall be made to the Commission;

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(b) shall be accompanied by such reports, analysis and data resulting from the investigations and studies carried out under section 42 or otherwise;

(c) shall be accompanied by detailed proposals by the applicant for the construction, establishment and operation of all facilities and services for and incidental to the recovery, processing, storage and transportation of the mineral from the proposed mining area; and

(d) shall be accompanied by such other particulars as may be prescribed.

Grant of mining
licence.

44. (1) Subject to section 45—

(a) where an application is duly made under section 43(1) by the holder of a prospecting licence, the Commission shall grant the mining licence applied for on such conditions as are necessary to give effect to the application and the requirements of this Act; and (b) where an application is duly made under section 43(2), the Commission may grant, on such conditions as it determines, or refuse to grant, the mining licence applied for.

(2) Conditions necessary to give effect to a mineral agreement entered into by the applicant for a licence shall be included in any licence granted to the applicant under subsection (1).

(3) The holder of a mining licence shall—

(a) subject to section 45, carry on mining and development operations and commence production in accordance with his programme of mining operations;

(b) demarcate and keep demarcated, in the manner prescribed by or determined in accordance with, the Regulations, the mining area; and

(c) notify the Commission when he commences mining operations for profit.

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- 45.** The Commission may with the approval of the Minister and on application made to it by the holder of a mining licence, by instrument in writing, amend or suspend any obligation arising pursuant to section 44(3)(a), either conditionally or unconditionally.
- Suspension of obligation of licensee.
- 46.** (1) A mining licence in respect of any mineral shall not be granted to an applicant therefor unless the Commission is satisfied that—
- Restrictions on grant or refusal of mining licence.
- (a) the proposals of the applicant would ensure the most efficient and optimal use of the mineral resources concerned;
 - (b) the applicant has adequate financial resources and technical and industrial competence and experience to carry on effective mining operations;
 - (c) the applicant is able and willing to comply with the conditions on which the licence is proposed to be granted;
 - (d) the applicant's proposals for the employment and training of citizens of Guyana are satisfactory;
 - (e) the applicant's proposals with respect to the procurement of goods and services obtainable within Guyana are satisfactory;
 - (f) the exercise of any option given to the state under section 31(2) has been completed or arrangements have been made for that purpose; and
 - (g) if the applicant is in default, special circumstances exist which justify the granting of the licence notwithstanding the default.
- (2) The Commission shall not refuse an application under section 43(1) for the grant of a mining licence unless—
- (a) it has given the applicant a notice stating the particulars of the ground of the intended refusal, and also stating a reasonable date within which—
 - (i) the applicant may make representation in respect of the ground so stated; or

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(ii) where the applicant is in default or the proposals made by him require amendment, the applicant may remedy the default or amend the proposals; and

(b) the applicant has not, within the date so specified—

- (i) made any representation or otherwise dealt satisfactorily with the matters referred to in the notice; or
- (ii) in the case referred to in paragraph (a)(ii), remedied the default or suitably amended the proposals.

(3) Where any land is subject to more than prospecting licence, a mining licence shall not be granted to an applicant unless—

- (a) the applicant's prospecting licence relates to the mineral for which the mining licence is supplied for;
- (b) the mineral to be mined is not covered by any prospecting licence granted to a person other than the applicant; and
- (c) the Commission, with the approval of the Minister, is satisfied that—

- (i) the mining licence shall be granted in the public interest; and
- (ii) the rights of the holder of any other prospecting licence in respect of the land concerned would not be prejudiced by the grant of the mining licence.

Contents of
mining licence.

47. (1) A mining licence—

(a) shall—

- (i) state the date of the grant of the licence and the period for which it is granted;
 - (ii) specify the parcel or parcels to which the licence relates;
 - (iii) specify the mineral to which the licence relates; and
 - (iv) state the conditions subject to which the licence is granted;
- and

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(b) may contain such other matters as the Commission may determine for the purposes of subsection (2) or (3) or for any other purpose of this Act.

(2) There may be included in a mining licence conditions with respect to the duty of the licensee to supply minerals, to the extent specified in the licence, to meet the requirements of Guyana.

(3) There may be included in a mining licence conditions with respect to the processing, disposal or sale of minerals which may be mined.

48. (1) A mining licence, while it remains in force, confers on the licensee, subject to this Act and the conditions specified in the licence or to which the licence is otherwise subject, exclusive rights—

Rights conferred
by mining
licence.

(a) to carry on prospecting and mining operations in the mining area in respect of the mineral specified in the mining licence;

(b) subject to, and in accordance with the Guyana Gold Board Act 1981 in the case of gold, to dispose of any mineral recovered, or to stack or dump any mineral or any waste product resulting from the mining operation, in a manner approved by the Commission; and

(c) to carry on such operations and execute such works as are necessary for or in connection with any matter referred to in paragraph (a) or (b).

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(2) Subject to the provisions of subsections (3), (4) and (5), the holder of a mining licence shall not intentionally carry on prospecting or mining operations for a mineral, unless it is a mineral to which his licence relates.

(3) Where, in the course of the exercise of his rights under a mining licence granted to him, the holder thereof discovers any mineral, not specified in the licence, he—

(a) shall, within a period of thirty days after the discovery, give to the Commission a notice stating—

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- (i) the discovery;
 - (ii) particulars of the mineral discovered; and
 - (iii) the circumstances in which the discovery was made;
- and

(b) may request the Commission to give its approval to the mining of the mineral in accordance with such programme of mining operations to be stated in the notice referred to in paragraph (a) or in a further notice given within such period of time as the Commission, with the approval of the Minister, may allow.

(4) The Commission may, with the approval of the Minister and upon a request made to it pursuant to subsection (3) (b), approve in writing—

- (a) the request as made for the mining of the mineral discovered; or
- (b) the request as amended by it and as may be agreed to by the holder of the licence.

(5) The approval given under subsection (4) shall form part of the mining licence referred to in subsection (3).

Application for
renewal of
mining licence.

49. The holder of a mining licence may apply, in accordance with the Regulations, for the renewal of the licence.

Renewal of
mining licence.

50. (1) Subject to subsections (2) and (3), on application duly made under section 49 for the renewal of a mining licence, the Commission may, with the approval of the Minister, grant a renewal of the licence on such conditions as it thinks fit, or refuse to grant a renewal.

(2) The Commission shall refuse to grant a renewal of a mining licence if the licensee is in default, unless the Commission considers that special circumstances exist which justify the granting of the renewal notwithstanding the default.

(3) The period for which a mining licence may be renewed shall not exceed seven years.

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51. (1) A mining licence, unless sooner determined by surrender or cancellation under this Act, shall by virtue of this subsection, continue in force—

Term of mining licence.

- (a) for a period not exceeding twenty years next after the date of the grant of the licence;
- (b) for any period for which the licence is renewed under section 50; and
- (c) for any period added pursuant to section 53(3), to the term of the licence.

(2) Notwithstanding the expiry of the term of a mining licence, the licence shall, unless sooner determined by surrender or cancellation under this Act, continue in force by virtue of this subsection, in respect of any parcel to which the licence relates if an application has been duly made for the grant of a renewal of the licence in respect of that parcel, until—

- (a) the application is finally dealt with by the grant of, or refusal to grant, the renewal; or
- (b) the application lapses.

CHAPTER 5

CANCELLATION OF LICENCE AND FORCE MAJEURE

52. (1) Subject to this section and section 53, where a licensee is in default the Commission may, with the approval of the Minister, by notice served on the licensee, cancel the licence.

Cancellation.

(2) For the purposes of subsection (1), a licensee shall be deemed to be in default if he—

- (a) fails to fulfil the conditions of his licence;
- (b) does not comply with the provisions of this Act or any other written law concerning prospecting or mining for minerals;

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- (c) fails to pay any amount payable by him under this Act or the licence; or
- (d) has been convicted of an offence under this Act.

(3) The Commission shall not, under subsection (1), cancel a licence on the ground of any default unless—

- (a) the Commission has, by notice served on the licensee, given not less than thirty days notice of the intention to cancel the licence on that ground;
- (b) the Commission has in the notice, specified a reasonable date before which the licensee may, in writing submit any representation which he wishes the commission to consider; and
- (c) the commission has taken into account—
 - (i) any action taken by the licensee to remove that ground or, where the default cannot be remedied, any offer by the licensee to the Commission of adequate compensation in respect thereof and any action by the licensee to prevent the recurrence of similar grounds; and
 - (ii) any representation submitted to the Commission by the licensee pursuant to paragraph (b).

(4) The Commission shall not, under subsection (1), cancel a licence on the ground that the licensee has failed to pay any amount payable by him under this Act or the licence if, before the date referred to in subsection (3) (b), and specified in a notice under that subsection, the licensee pays the amount together with any additional amount which may be payable under section 72.

(5) The Commission may, with the approval of the Minister, by notice served on a licensee, cancel his licence—

- (a) if the licensee, being an individual, is—
 - (i) adjudged bankrupt; or

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(ii) enters into any agreement or scheme of composition with his creditors or takes advantage of any law for the benefit of debtors; or

(b) if, in the case of a licensee being a body corporate, an order is made or a resolution is passed winding up the affairs of the body corporate, unless the winding up is for the purpose of amalgamation and the Commission has consented to the amalgamation, or is for the purpose of reconstruction and the Commission has been given notice of the proposed reconstruction.

(6) Subject to the provisions of a mineral agreement, where two or more persons, associated together in any form of joint arrangement constitute a licensee, the Commission shall not, under subsection (5), cancel the licence on the occurrence in relation to one or some only of the persons constituting the licensee, of an event entitling the Commission, subject to the approval of the Minister, so to do under that subsection if any other person or persons constituting the licensee satisfy the Commission that he or they, as the case may be, is or are willing and would be able to carry out the duties and obligations of the licensee.

(7) Subject to a mineral agreement, the holder of a mining licence may, at any time when his mining licence is in force, by giving to the Commission not less than six months previous notice in writing of his intention to do so, apply for the cancellation of his licence in respect of the whole of the mining area identified in the notice or any parcel or parcels therein and thereupon the Commission shall, cancel by instrument in writing his mining licence either in respect of the whole mining area or in relation to any parcel or parcels therein on such conditions (if any) as the Commission may specify in the instrument.

(8) On the cancellation of a licence, the rights of the licensee thereunder shall cease, but the cancellation shall not affect any liability incurred by the licensee before the cancellation and any legal proceedings that might have been commenced or continued against him may be commenced or continued against him notwithstanding the cancellation of the licence as if the licence had not been cancelled.

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Force majeure.

53. (1) Any failure on the part of a licensee to fulfil any condition of his licence or to meet any requirement of this Act or a mineral agreement shall not be a breach of the licence, this Act or the agreement, as the case may be, to the extent that the failure results from an act of war, hostility, insurrection or an exceptional, inevitable and irresistible natural phenomenon, or from any other cause specified in the licence or mineral agreement as constituting force majeure for the purposes of this section.

(2) Where the licensee fails to fulfil the conditions of his licence because of the occurrence of circumstances of a kind referred to in subsection (1), he shall forthwith notify the Commission giving particulars of the failure and its cause.

(3) Where a licensee is prevented from exercising any of his rights under his licence for any period because of the occurrence of circumstances of a kind referred to in subsection (1), then such additional period, as may be agreed by the Commission, with the approval of the Minister, shall be added to the term of his licence:

Provided that the Commission may refuse to agree to the addition of any period to the term of the licence if the licensee could, by taking any reasonable steps which were open to him, have exercised those rights during that period notwithstanding any such occurrence.

(4) This section shall not apply in relation to a failure to meet an obligation, under a licence or this Act, to make any payment of royalty, annual charges or fees.

CHAPTER 6

ENLARGEMENT OF PROSPECTING OR MINING AREA

Enlargement of prospecting or mining area.

54. (1) The holder of a prospecting or mining licence may apply to the Commission to have his prospecting or mining area enlarged by adding thereto any contiguous area specified in the application and, subject to the other provisions of this section the Commission may, with the approval of the Minister, approve the application either unconditionally or subject to such conditions as it may determine, or may refuse to do so.

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(2) The Commission shall not approve an application made under subsection (1)—

- (a) unless it is satisfied that to do so would ensure the most efficient and beneficial use of the mineral resources of Guyana; or
- (b) if, by reason of any provision of this Act, the Commission could not with the approval of the Minister then grant the applicant a prospecting licence or, as the case may be, a mining licence over the area of land in respect of which the licence is sought to be enlarged or could do so only subject to any condition which could not be satisfied.

(3) In granting or refusing an application under subsection (1), the Commission shall have regard to the past performance of the applicant.

(4) An application under subsection (1) may be granted wholly or partially.

(5) Notice of the Commission's decision on an application under subsection (1) shall be given to the holder of the licence, and where the application is approved wholly or partially the prospecting or mining area shall be deemed to have been enlarged as specified in the notice thereof; but such enlargement shall not be deemed to alter the term of the licence.

PART IV

PROSPECTING AND MINING ON MEDIUM AND SMALL SCALE

55. (1) This Part shall apply to prospecting or mining operations with respect to any mineral on a medium or small scale. Application of Part.

(2) The Minister may by the Regulations prescribe the circumstances; in which any prospecting or mining operations with respect to any mineral shall be deemed to be medium scale operations or small scale operations.

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Application for
prospect- ing
permit.

56. (1) A person, who is qualified under section 57 to hold a prospecting permit and. who desires to prospect for the purpose of locating claims may apply to the Commissioner, in such form as may be prescribed, for a prospecting permit.

(2) Every application under subsection (1) shall be accompanied by such fees as may be prescribed.

Prospecting
permits.

57. (1) Subject to this Act, the Commission may, on payment of the prescribed fee, issue to any person a prospecting permit on such conditions as the Commission may determine.

(2) A prospecting permit shall be issued only to the following persons—

- (a) an individual who is a citizen of Guyana and an adult;
- (b) a partnership consisting of two or more citizens of Guyana;
- (c) a company whose entire issued share capital is beneficially owned by citizens of Guyana or by a corporation which has been established by or under a written law in operation in Guyana, or partly by such citizens and partly by such a corporation;
- (d) a co-operative society registered under the Co- operative Societies Act;
- (e) a public corporation, or any other corporate body established by or under any written law in force in Guyana;
- or
- (f) any organisation established by the Government or by or under any written law in force in Guyana and authorised to carry on mining operations.

Cap. 88:01

(3) A prospecting permit shall not be issued to a person unless the Commission is satisfied that the person intends, within the limits of his competence and resources, to undertake prospecting operations without undue delay.

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(4) A prospecting permit shall be in such form as may be prescribed and shall describe the land wherein the holder of the permit may carry on prospecting operations, the mineral in respect of which the holder of the permit may prospect and whether the operations are medium scale or small scale operations.

58. (1) The holder of a prospecting permit shall not carry on prospecting operations—

Restrictions on rights under prospecting permit.

- (a) in land in any prospecting area or mining area; or
- (b) in land—

- (i) which is part of a claim, unless he holds a claim licence in respect thereto;
- (ii) which is part of an area subject to a mining permit; or
- (iii) which is part of an area subject to a quarry licence unless the Commission is satisfied that the exercise of rights under the prospecting permit in such area would not substantially prejudice the carrying out of operations under the quarry licence and gives its approval to the carrying on of the prospecting operations in such area.

(2) A prospecting permit shall not be transferred.

(3) Section 27 shall *mutatis mutandis* apply in relation to the holder of a prospecting permit as it applies in relation to a licensee referred to in that section.

59. A prospecting permit shall expire on the expiry of twelve months from the date of issue of the permit, and may be renewed on each occasion for a further period of twelve months on application made therefor in the prescribed form and on payment of prescribed fees.

Term of prospecting permit.

60. (1) Subject to this Act and the conditions of the permit, the holder of a prospecting permit for medium scale operations may enter on any land identified in the permit as land in which he is authorised to prospect and carry on, in accordance with the Regulations, prospecting operations in that land for any mineral in respect of which the prospecting permit has been granted.

Prospecting for mineral by holder of prospecting permit.

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(2) Subject to this Act, the holder of a prospecting permit for small scale operations may locate a claim or claims in accordance with the Regulations.

Mining permits
and claim
licences.

61. (1) Where the holder of a prospecting permit discovers a mineral of an anomalous occurrence, in the land subject thereto or locates a claim, he shall within sixty days, or such longer period thereafter as the Commission may allow, apply in accordance with the Regulations for a mining permit or a claim licence for mining, by way of medium scale operations or small scale operations, for the mineral in such land or the claim, and if he does not do so the prospecting permit shall lapse.

(2) Every application for a mining permit or a claim licence shall be accompanied by such fees as may be prescribed.

(3) Subject to this Act, on application made therefor by the holder of a prospecting permit and on payment of such fees as may be prescribed, the applicant shall subject to such conditions as may be determined by the Commission, be granted—

- (a) where the prospecting permit is for medium scale operations, a mining permit; or
- (b) where the prospecting permit is for small scale operations, a claim licence.

(4) A mining permit or a claim licence shall identify the boundaries of the land and the mineral in respect of which it has been granted and shall be in such form as may be prescribed.

Restrictions on
grant of mining
permit or claim
licence.

62. (1) A mining permit or a claim licence shall not be granted to any person pursuant to section 61 in respect of—

- (a) any mineral, or any land, other than the mineral or the whole or part of the land identified in the prospecting permit held by the applicant for the mining permit or claim licence; or

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(b) any land which, at the time the application for the mining permit or claim licence is made, is subject to a mining permit, claim licence, a special mining permit or a mining licence in favour of another person.

(2) The Commission shall not grant a mining permit or claim licence—

- (a) if it has reasonable grounds to believe that the applicant does not intend to carry on, in good faith, within the limits of his competence and resources, mining operations in the proposed claim;
- (b) if the applicant is in default and the Commission is not satisfied that there are sufficient grounds to waive the default; or
- (c) if the area in respect of which the mining permit or claim licence is sought is in excess of the area prescribed.

63. (1) Subject to this Act, a mining permit granted pursuant to section 61—

Period of validity and renewal of mining permit or claim licence.

- (a) shall be valid for a period of five years from the date of the grant of the permit; and
- (b) may, on application made to the Commission, be renewed for further periods, not exceeding five years on each occasion or for the life of the deposit of the mineral in respect of which it is granted, whichever is shorter.

(2) Subject to this Act, a claim licence granted pursuant to section 61—

- (a) shall be valid from the date on which the claim licence is granted until the 31st December of the year in which it is granted; and
- (b) may be renewed on each occasion for a further period of twelve months commencing on the 1st January in each year, on application duly made to the Commission for the renewal of the claim.

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(3) A mining permit or claim licence shall not be renewed pursuant to subsection (1)—

- (a) unless the Commission is satisfied that the applicant for the renewal has carried on, in good faith, within the limits of his competence and resources, mining operations in the claim area and intends to continue doing so; or
- (b) if the applicant for the renewal is in default and the Commission is not satisfied that there are sufficient grounds to waive the default.

Rights and duties of holder of mining permit or claim licence.

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64. (1) Subject to this Act and the conditions subject to which a mining permit or claim licence is granted, the holder of a mining permit or claim licence has the right to enter the area covered by the mining permit, or the claim in respect of which the claim licence is granted, as the case may be, and has the exclusive right, while the mining permit or claim licence is in force, to mine therein, and subject to and in accordance with the Guyana Gold Board Act in the case of gold, to remove therefrom and dispose of, the minerals in respect of which the mining permit or the claim licence is granted.

(2) The holder of a mining permit or claim licence shall—

- (a) carry on mining operations, in good faith, in the area covered by the mining permit, or the claim in respect of which the claim licence is granted, as the case may be, within the limits of his competence and resources;
- (b) furnish the Commission with such information relating to his prospecting or mining operations carried on in the area referred to in paragraph (a) as the Commission may reasonably require or as may be prescribed; and
- (c) carry out promptly any direction relating to mining or prospecting operations which may be given to him by the Commission pursuant to this Act for the purpose of ensuring safety or good mining practice or such other purpose as may be prescribed.

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(3) Section 27, shall *mutatis mutandis* apply in relation to the holder of a mining permit or claim licence as it applies in relation to a licensee referred to in that section.

65. (1) Subject to this section, where the holder of a prospecting permit, mining permit or a claim licence is in default, the Commission may, with the approval of the Minister, by notice in writing served on the holder by registered post, cancel the prospecting permit, mining permit or the claim licence, as the case may be.

Cancellation of prospecting permit, mining permit or claim licence.

(2) The Commission shall not, under subsection (1), cancel a prospecting permit, mining permit or claim licence on the ground of default unless—

(a) the Commission has, by notice in writing served on the holder thereof—

- (i) given not less than thirty days notice of the Commission's intention to cancel the prospecting permit, mining permit or claim licence on the ground of default; and
- (ii) specified a date on which the holder may in writing, or in person, or by counsel submit to the Commission any matter which he wishes the Commission to consider; and

(b) the Commission has taken into account—

- (i) any action taken by the holder to remove the default or to prevent the recurrence of such default; and
- (ii) any matters submitted to the Commission by or on behalf of the holder of the prospecting permit, mining permit or licence pursuant to paragraph (a)(ii):

Provided that nothing in this subsection shall apply in the case of a default comprising non-payment of any rent due under this Act or the prospecting permit, mining permit or claim licence, as the case may be.

(3) The Commission shall not, under subsection (1) cancel a prospecting permit, mining permit or claim licence on the ground that the holder thereof has failed to pay any amount, other than rent, payable by

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him under this Act in respect of the prospecting permit, mining permit or claim licence as the case may be, if, before the date specified in the notice referred to in subsection (2)(a), such holder pays the amount of money concerned together with any penalty which may be payable pursuant to section 72.

(4) The Commission may, with the approval of the Minister, by notice in writing served on the holder of a prospecting permit, mining permit or claim licence, cancel the prospecting permit, mining permit or claim licence, as the case may be—

(a) if the holder thereof, being an individual, is—

- (i) adjudged bankrupt; or
- (ii) enters into any agreement or scheme of composition with his creditors or takes advantage of any law for the benefit of debtors; or

(b) if, in the case of a holder, being a company or a corporation, an order is made or a resolution is passed winding up the affairs of the company or corporation, unless—

- (i) the winding up is for the purpose of amalgamation or reconstruction;
- (ii) the Commission has been given written notice thereof; and
- (iii) the Commission has consented to the amalgamation or reconstruction.

Saving of certain rights.

66. On the cancellation of a prospecting permit, mining permit or claim licence, the rights of the holder of the prospecting permit, mining permit or claim licence shall cease, but the cancellation shall not affect any liability incurred by him before the cancellation, and any legal proceedings, that might have been commenced or continued against the former holder of the prospecting permit, mining permit or claim licence, may be so commenced or continued against him notwithstanding the cancellation of the licence as if the licence had not been cancelled.

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67. (1) The Regulations may make provision for—

Special mining permits.

- (a) the grant and renewal of special mining permit in respect of any mineral, and the restrictions and limitations in relation thereto; and
- (b) the rights and duties of the holder of any such permit,

in cases where, because of the nature of the operations involved the Commission is of the opinion that the operations could not appropriately be carried on under the other provisions of this Act.

(2) The Regulations made pursuant to subsection (1) may provide for the application, with or without modifications, exceptions, restrictions or qualifications, of any provision of this Act to, and in relation to, the special mining permits referred to above and any holder thereof.

PART V

FINANCIAL

68. (1) Subject to this Act, the holder of a mining licence shall, in accordance with his licence and this Act, pay to the Government royalty in respect of minerals obtained by him, or by any other person on his behalf or with his permission, from the mining area to which the licence relates.

Royalty on minerals obtained under licence or permit.

(2) Subject to this Act, the holder of a mining permit, a claim licence, a special mining permit or a quarry licence shall, in accordance with this Act, pay to the Government royalty in respect of minerals obtained by him, or by any person on his behalf or with his permission, from the area covered by the mining permit, the claim licence, the special mining permit or the quarry licence, as the case may be.

(3) Royalty shall be payable—

- (a) pursuant to subsection (1)—

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- (i) at the rate fixed by, or computed in accordance with the provisions of, the mining licence concerned; or
- (ii) if no rate is so fixed, or provisions so made, in the mining licence concerned, at the rate prescribed; or

(b) pursuant to subsection (2), at the rate prescribed.

(4) Royalty shall be payable in kind by the holder of a mining licence, a mining permit, a claim licence, a special mining permit or a quarry licence, if—

- (a) in the case of a mining licence, the mining licence or the Regulations; or
- (b) in any other case, the Regulations, provide for the payment of royalty in kind.

Payment of royalty in specified foreign currency.

69. (1) Where royalty in respect of any mineral is payable in cash, the royalty shall, if so directed by the Minister, be paid in such foreign currency, or in any of two or more foreign currencies, specified by the Minister in the direction.

(2) In this section “foreign currency” means any currency other than Guyana dollar, which is legal tender in any country outside Guyana.

Prohibition on disposal of minerals.

70. (1) If the holder of a mining licence, mining permit, claim licence, special mining permit or quarry licence fails to pay any royalty payable by him on or before the due date, or any further time allowed by the Minister, the Minister may, by notice served on the holder of the mining licence, mining permit, claim licence, special mining permit or quarry licence, prohibit the removal of, or any dealings in, or with, any mineral from the area, covered by any such licence or permit, or from any other area covered by a mining licence, mining permit, claim licence, special mining permit or quarry licence held by that holder, or from both areas, until all outstanding royalty in arrears has been paid or until an arrangement has been made, and accepted by the Minister, for the payment of the royalty in arrears, and the holder of such permit or licence shall comply with the notice.

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(2) Any person who contravenes a notice under subsection (1) shall, on summary conviction, be liable to a fine of twenty-five thousand dollars and imprisonment for five years.

71. The Commission may, with the approval of the Minister, from time to time, make such arrangements as appear appropriate to the Commission to secure that the holder of a mining licence complies with this Act and his licence, and in particular may accept guarantees in respect of that compliance from any person including shareholders in a body corporate, whether or not the body corporate is, or is to be, the holder of a licence. Guarantee for compliance with Act and licence.

72. (1) Where the liability of a person under this Act or a licence to pay an amount is not discharged on or before the date when the amount became payable, there shall be payable by that person, by way of penalty, an additional amount calculated at the rate of one-third of one per cent per day, upon so much of that amount as from time to time remains unpaid, to be computed from the date on which that amount became payable and until it is paid. Penalty for late payment.

(2) The Minister may, in any particular case, for any reason that is in his opinion sufficient, remit the whole or part of the amount payable by way of penalty under this section.

(3) Where royalty to be paid by a licensee is payable in kind, any references to “amount” in this section shall be construed as a reference to the price of the mineral payable as royalty computed as on the date on which it becomes payable.

73. (1) The Minister may, on application made to him by the holder of a mining licence, mining permit, claim licence, special mining permit, or quarry licence and after consultation with the Minister assigned responsibility for finance, by order, and subject to any conditions that may be specified therein— Remission and recovery of royalty.

- (a) remit, in whole or in part, any royalty payable by the applicant; or
- (b) defer payment of any royalty, specified in the order.

(2) Royalty payable in cash pursuant to section 68 and any penalty payable in respect of that royalty under section 72, shall be deemed to be a debt due to the State and recoverable in the same manner as revenues due to the State.

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(3) A certificate by the Commission certifying that a specified amount of royalty or penalty is payable by a person identified in the certificate shall, in any proceedings taken against that person for the recovery of any royalty or penalty, be received as evidence of that fact, but without prejudice to the right to adduce evidence in rebuttal.

(4) Where royalty is payable in kind, the price of the mineral payable as royalty computed as on the date on which it became payable, and any penalty payable in respect of that royalty under section 72, shall be deemed to be a debt due to the State and may be recovered in accordance with subsections (1) and (2).

(5) The provisions of this section shall be without prejudice to any other provision of this Act.

PART VI

EXPORT OF RADIO-ACTIVE MINERALS

Regulation of
export of radio-
active minerals.

74. (1) No person shall export, or attempt to export, from Guyana any radio-active mineral except under and in accordance with a permit granted under subsection (2).

(2) The Commission may, with the approval of the Minister, grant to any person a permit to export any radio-active mineral on such conditions as may be specified in the permit.

(3) Any person who contravenes subsection (1) shall on summary conviction, be liable—

- (a) in the case of an individual to a fine of five thousand dollars and to imprisonment for one year;
- (b) in the case of a body corporate to a fine of twenty-five thousand dollars and to imprisonment for one year.

PART VII

MODIFICATION OF TAX LAWS

75. (1) The Minister assigned responsibility for finance may, by order, which shall be subject to negative resolution of the National Assembly, direct that-

- (a) any or all of written laws mentioned in subsection (2) shall not apply to, or in relation to, the holder of any licence or permit under this Act: or
- (b) any or all of the written laws mentioned in subsection (2) shall apply to, and in relation to, any person who is the holder of any licence or permit under this Act or any class of such adaptations, exceptions, modifications and qualifications as may be specified in the order.

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(2) The written laws referred to in subsection (1) are-

- | | |
|---|------------|
| (a) provisions relating to stamp duty in the Tax Act; | Cap. 80:01 |
| (b) the Income Tax Act; | Cap. 81:01 |
| (c) the Income Tax (In Aid of Industry) Act; | Cap. 81:02 |
| (d) the Corporation Tax Act; | Cap. 81:03 |
| (e) the Property Tax Act | Cap. 81:21 |
| (f) the Customs Act; and | Cap. 82:01 |
| (g) the Industries Aid and Encouragement Act. | Cap. 95:01 |

PART VII

SAFETY IN MINES AND HEALTH AND WELFARE OF WORKER

76. (1) The Regulations may make provisions for the arrangements to be made, and steps to be taken, in respect of all matters needed for ensuring safety in mines or quarries or in prospecting, mining or quarrying operations, including maintenance of books and documents and provision of facilities for mines officers or other persons to inspect mines.

Provisions regarding safety.

(2) There shall be such number of officers, with such titles, qualifications and functions, as may be determined by the Minister for the purposes of administering the Regulations made under this section, and for enforcing their compliance.

77. (1) The Regulations may make provisions for the measures to be taken, and the facilities to be provided, by the owner or manager of a mine or quarry, or any other person carrying on prospecting, mining or quarrying operations in respect of the health and welfare of the workers and other persons employed by him, including provisions in respect of hours of work, facilities for maintaining health of the workers and other persons so employed, and facilities to be provided to any trade union, which is a recognised bargaining agent for such workers or any class of such workers or, in the absence of any such trade union in respect of such workers or class of workers, any trade union enjoying substantial support among such workers or class of workers.

Provisions regarding welfare of workers.

(2) There shall be such number of officers, with such titles, qualifications and functions, as may be determined by the Minister for the purposes of administering the Regulations made under this section, and for enforcing their compliance.

(3) The Regulations made under this section may prohibit the employment of persons below the age specified therein in any category of work relating to prospecting, mining or quarrying operations.

(4) The provisions of subsection (3) shall be without prejudice to the provisions of the Employment, of Young Persons and Children Act.

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Different provisions under section 75 or 76, having regard to nature of mining operations.

78. The regulations made under section 75 or 76 may make different provisions applicable to different persons, having regard to the nature of the operations, the mineral in respect of which the operations are being carried on and the nature of the functions of any category of workers.

Penalty for contravention of regulation made under section 76 or 77

79. Any Regulation made under section 76 or 77 may provide that any person who contravenes it shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment not exceeding one year or both and where the offence is a continuing one, to a further penalty five hundred dollars for each day during which the offence continues.

Regulations made under section 76 or 77 subject to negative resolution.

80. Any Regulation made under section 76 or 77 shall be subject to negative resolution of the National Assembly.

PART IX

RESTRICTION ON RIGHTS OF HOLDER OF LICENCE OR PERMIT,
AND SURFACE RIGHTS

Restriction on exercise of rights in relation to certain lands.

80. (1) A licensee shall not exercise any of his rights under this Act or his licence—

(a) except with the written consent of the Minister, in respect of—

- (i) the foreshore;
- (ii) any land set apart or required for such public purposes (other than mining development) as may be prescribed;
- (iii) any land dedicated as a place of burial or which is a place of religious significance;

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(iv) any land within, or within two hundred metres (or such greater distance as may be prescribed) of the boundaries of, any township, or of any land set apart for a new township or a town extension; or

(v) any land within, or within two hundred metres (or such greater distance as may be prescribed) of the boundaries of, any village, or of any land set apart for a new village or a village extension;

(b) except with the written consent of the lawful occupier thereof, in respect of—

(i) any land which is the site of, or which is within two hundred metres (or such greater distance as may be prescribed) of, any inhabited, occupied or temporarily unoccupied house or building;

(ii) any land within fifty metres (or such greater distance as may be prescribed) of any land which has been cleared or ploughed or otherwise *bona fide* prepared for the growing of, or upon which there are growing, agricultural crops; or

(iii) any land from which during the year immediately preceding, agricultural crops have been reaped;

(c) in respect of any area which is subject to a petroleum production licence under the Petroleum (Exploration and Production) Act except with the written consent of the holder of that licence; or

(d) in respect of any prescribed land or area, except with the consent of such person as may be prescribed.

No. 3 of 1986

(2) Any consent under subsection (1)(a) may be given unconditionally or subject to such conditions as are specified in the instrument of consent; and before giving any consent under subsection (1)(a)(iv) or (v) where there is a local government authority responsible for the government of the relevant township or village, the Minister shall consult that authority.

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(3) In this section “foreshore” means that part of the shore of the sea and of tidal navigable rivers which is covered by the medium high tide between the spring tides and the neap tides.

Drilling or other mining operations near railway, etc.

82. A licensee shall not carry on any drilling or other mining operations at any point within two hundred metres of a railway, dam, reservoir, canal or other public work except with the written consent of the Minister or of any person authorised by him, either specifically or generally, in that behalf, and such consent may be given either unconditionally or subject to such conditions as may be specified in the instrument of consent.

Avoidance of interference with mining operations, etc.

83. A licensee shall exercise his rights under this Act and his licence in such manner as to offer no unnecessary, or reasonably avoidable obstruction or interruption to any mining or prospecting operations being carried on in the land subject to the licence or lands adjacent thereto.

Right to graze livestock, etc.

84. (1) The lawful occupier of any land in a prospecting area or mining area shall retain any right which he may have to graze livestock upon or to cultivate the surface of the land, except in so far as the grazing or cultivation interferes with prospecting or mining operations in such area.

(2) The lawful occupier of any land in a mining area shall not erect any building or structure in the area without the consent of the holder of the mining licence; but if the Minister considers that the consent is being unreasonably withheld, the Minister may give in writing his consent to the lawful occupier for doing so and thereupon the lawful occupier may do so subject to the conditions (if any) imposed by the Minister.

(3) The rights conferred by a licence shall be exercised reasonably and so as to effect as little as possible the interest of any lawful occupier; of the land subject to the licence or on which rights under the licence are exercised, consistent with the reasonable and proper conduct of operations pursuant to the licence.

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(4) Without limiting the generality of the provisions of subsection (3), a person carrying on prospecting or mining operations under a licence, shall not, except where that person gives to the Commission prior notice in writing of the expected nature and duration of the interference, take any action which in any way will interfere with fishing or navigation, lawfully being carried on.

85. (1) Where, in the course of prospecting or mining operations in any parcel of land in any prospecting area or mining area, any damage is caused or done to the surface of the parcel of land, or to any cultivation or building, thereon, as a result of those operations, the licensee shall be liable to pay fair and reasonable compensation to the holder of any right, title or interest in or over that parcel of land in accordance with his right, title or interest. Compensation.

(2) The compensation payable under subsection (1) shall be such sum as may be agreed to between the licensee and the person entitled to receive the compensation or, if they fail to arrive at an agreement, such sum as may be determined by the High Court on application made to it by the licensee or the person entitled to receive compensation.

86. A licensee shall, before commencing prospecting operations or mining operations in any parcel, give to the holder of any right, title or interest in or over that parcel or who is in occupation thereof, notice, in such manner and form as may be prescribed, of the licensee's intention to commence the operations. Notice of intention to commence prospecting operations, etc.

87. (1) The Minister may acquire land for the purpose of carrying on, or facilitating the carrying on, of prospecting or mining operations. Acquisition of land for prospecting or mining operations.

(2) The provisions of the Acquisition of Lands for Public Purposes Act shall *mutatis mutandis* apply to the acquisition of any land under subsection (1) as if the carrying on, or facilitating the carrying on, of the prospecting or mining operations, for the purposes of which the land is being acquired, were a public work. Cap.. 62:05

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*A.D. 1989]**The Mining Act**No. 20]*

Power of Minister to apply sections 81 to 87 to operations by holder of prospecting permit, etc.

88. (1) The Minister may by order apply the provisions of sections 81 to 87 (inclusive), with such modifications, adaptations, qualifications or exceptions as may be specified therein to operations by the holder of a prospecting permit, a mining permit, a claim licence, a special mining permit or quarry licence.

(2) An order under subsection (1) shall be subject to negative resolution of the National Assembly.

PART X

QUARRY LICENCE

Grant and renewal of quarry licence.

89. (1) Subject to the provisions of this Act, a licence for the quarrying of any quarriable mineral (hereinafter referred to as quarry licence) may be granted or renewed by the Commission.

(2) A quarry licence shall be granted only to—

- (a) an individual who is a citizen of Guyana;
- (b) a company within the meaning of the Companies Act; or
- (c) any organisation established by the Government, whether incorporated or not.

Cap. 89:01

(3) A quarry licence shall be granted only—

- (a) in respect of State land or Government land; or
- (b) in respect of any other land owned by the applicant for the licence or, where the land is owned by any other person, the applicant has entered into an arrangement in writing with such other person under which the applicant has the right to quarry for and remove the mineral to which the application relates.

(4) A quarry licence shall be subject to this Act, such conditions as may be prescribed or other conditions that may be specified in the licence.

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90. (1) Every application for a quarry licence or for the renewal of a quarry licence shall be in such form, and shall contain such particulars as may be prescribed.

Application for quarry licence or its renewal.

(2) Every application referred to in subsection (1) shall be accompanied by such fees as may be prescribed.

91. (1) Every quarry licence shall be in such form may be prescribed.

Form of quarry licence and fees for grant or renewal of licence.

(2) Such fees as may be prescribed shall be payable for the grant of a quarry licence or for renewal thereof.

92. No quarry licence shall be granted in respect of any land which is, at the time when the quarry licence is granted, subject to—

Restriction on grant of quarry licence.

- (i) a mining licence;
- (ii) a mining permit;
- (iii) a claim licence;
- (iv) a special mining permit; or
- (v) any other quarry licence,

unless the Commission is satisfied that the exercise of rights under the proposed quarry licence would not substantially prejudice the carrying out of operations under any such licence or permit as is referred to in paragraphs (i) to (v) (inclusive).

93. (1) Subject to this Act, a quarry licence shall be valid—

Term of quarry licence.

- (a) for such period, not exceeding fifteen years, as may be specified in the licence, including the date of issue of the licence; and
- (b) for any further period, not exceeding five years on each occasion, for which the quarry licence is renewed.

(2) In determining the period for which any quarry licence is to be granted, the Commission shall have regard to the scale of operations to be carried on under the licence, including the expenditure involved and the equipment to be used.

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(3) A quarry licence may state that it is transferable, and where it is so stated, the licence may be transferred with the approval of the Commission, but otherwise a quarry licence shall not be transferrable.

(4) The provisions of section 65, with the exception of the proviso to subsection (2) of that section, shall *mutatis mutandis* apply in relation to the cancellation of a quarry licence.

Rights under
quarry licence.

94. (1) The holder of a quarry licence may, subject to this Act and the conditions of the licence, enter upon the land specified in his licence and quarry and remove therefrom, and dispose of, any mineral to which his licence relates.

(2) Section 27, shall *mutatis mutandis* apply in relation to the holder of a quarry licence as it applies in relation to a licensee.

Records of
quarry licence.

95. Subject to the Regulations, the Commission shall maintain a register, in such manner and containing such particulars as may be prescribed of all quarry licences issued under this Chapter, and of the renewal, transfer or cancellation of any such licence.

Royalty payable
by holder of
quarry licence.

96. (1) The holder of a quarry licence shall pay to the Government royalty at such rate as may be prescribed.

(2) Royalty payable under subsection (1) shall be payable in kind if, and to the extent to which, prescribed by or under the Regulations.

PART XI

GEOLOGICAL AND GEOPHYSICAL SURVEY

Permission for
geological or
geophysical
survey.

97. (1) The Minister may permit any person to carry on geological, geophysical and other surveys and investigations in Guyana or any part of it which in his opinion are relevant for the prospecting for, or mining of, any mineral, on such terms and conditions as may be agreed between the Minister and the applicant for the permission.

(2) The terms and conditions referred to in subsection (1) may include terms and conditions relating to—

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- (a) the period for which the permission is granted;
- (b) furnishing to the Minister information obtained as a result of any survey or investigation referred to in that subsection;
- (c) restrictions, if any, on the dissemination to any person, other than the Minister, of any information obtained as a result of the survey or investigations; and
- (d) payment to the Government of fees for the grant of the permission.

PART XII

REGISTRATION AND LICENSING OF DREDGES, ETC.

98. The Regulations may prescribe that the owner of a dredge which is in a mining district or claim shall register the dredge and shall take out a licence for the dredge, and where any such regulations have been made, no dredge which is not registered, or for which a licence has not been taken out, in accordance with the Regulations, shall be taken into or kept in any mining district or claim.

Registration and licensing of dredges.

99. Section 98 and the Regulations shall apply to such machinery, equipment or plant, being machinery, equipment or plant which is used or which can be used for mining, processing or preparation of any mineral, as may be specified by the Minister by order.

Application of section 98 to mining machinery, etc.

PART XIII

FORFEITURE OF AIRCRAFT, ETC.

100. In this Part the expression "Commissioner" has the same meaning as in the Guyana Geology and Mines Commission Act.

Definition.
No. 9 of 1979

101. (1) Any aircraft, ship or carriage, together with all animals and things, or any dredge or machinery, made use of in the commission of an act, or for a purpose, prohibited by or under this Act shall be forfeited and the forfeiture of any aircraft, ship, carriage, animal, thing, dredge or machinery, shall be deemed to include the tackle, apparel and furniture, if any, thereof:

Forfeiture of aircraft, etc.

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Provided that where—

- (a) the Minister; or
- (b) the magistrate, in any proceedings under this Act for forfeiture and condemnation of any aircraft, ship, carriage, together with all animals and things, or any dredge or machinery, liable for forfeiture under this section,

is satisfied beyond reasonable doubt that—

- (i) the person who was the owner of the aircraft, ship, carriage, together with all animals and things, or the dredge or machinery; and
- (ii) in the case of an aircraft or ship, every person who was a responsible officer thereof or in the case of a dredge or machinery the person in charge thereof, when it was made use of in the commission of any act or for any purpose aforesaid, was not concerned in or privy to such use, the aircraft, ship, carriage, together with all animals and things, or the dredge or machinery, as the case may be, shall be restored to the owner thereof.

(2) In this section the expression “responsible officer”, in relation to any aircraft or ship, has the same meaning as in section 201(2) of the Customs Act and includes also such other officers, not mentioned therein, as may be specified by the Minister by order.

Cap.. 82:01

Search of
aircraft, etc.

102. (1) Subject to the other provisions of this section, if—

- (a) the Commissioner; or
- (b) any other officer of the Commission, or public officer, authorised in writing by the Commissioner for the purposes of this Part (hereinafter referred to as the “authorised person”),

has reasonable cause to suspect that any aircraft, ship or carriage, together with all animals and things, or any dredge or machinery is being, or was, made use of in the commission of any act, or for a purpose, prohibited by or under this Act, he may enter and search the aircraft, ship or carriage, together with all animals and things, or the dredge or

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machinery and it shall be lawful for him, in case of resistance, to break open any door, and to force and remove any other impediment or obstruction to such entry.

(2) Before the Commissioner or any authorised person proceeds to effect a search under that subsection he shall apply to a magistrate for the issue of a warrant under the hand of the magistrate authorising the search and it shall be lawful for the magistrate by special warrant under his hand to authorise the applicant to enter and search the aircraft, ship or carriage, together with all animals and things, or the dredge or machinery, by day or by night.

(3) Except where delay caused thereby is likely to defeat the purpose of the search, the Commissioner, or any authorised person, shall not effect a search under this section without applying for and obtaining under subsection (2) a special warrant authorising the search.

(4) Where it is not practicable for the Commissioner or any authorised person to apply for and obtain under subsection (2) a special warrant authorising a search under this section for the reason, to be recorded in writing, that the delay caused thereby is likely to defeat the purpose of the search, the Commissioner or the authorised person may carry out the search without applying for and obtaining a special warrant as aforesaid, but shall make a report in writing regarding the search to the nearest magistrate within a period of forty-eight hours of the search or, where such report cannot be made within the aforesaid period, as soon as it can be made.

103. (1) Where the Regulations have made the provisions referred to in section 97, any dredge which is not registered, or for which a licence has not been taken out, in accordance with such Regulations, and found in a mining district or in a claim shall be forfeited and the forfeiture of a dredge shall be deemed to include any furniture thereof.

Forfeiture of
dredges and
specified
machinery not
registered or
licensed.

(2) Where the Regulations had made the provisions referred to in section 97 and any machinery, equipment or plant has been specified under section 98, any specified machinery which is not registered, or for which a licence has not been taken out, in accordance with such Regulations, and found in a mining district or in a claim shall be forfeited.

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Seizure of
aircraft, etc.

104. The Commissioner or any authorised person may seize any aircraft, ship, carriage, together with all animals and things, or any dredge or machinery, liable for forfeiture under this Part.

Report of
seizure to
magistrate.

105. (1) A report shall be made in writing of every seizure under section 103, stating the reasons therefor, to the nearest magistrate by the person making the seizure within a period of forty-eight hours of the seizure or, where such report cannot be made within the aforesaid period, as soon as it can be made.

(2) The magistrate shall direct in whose custody any aircraft, ship, carriage, animal, thing, dredge or machinery seized under section 103 shall be kept and such direction shall be complied with by the person making the seizure.

(3) Without prejudice to the provisions of subsection (2), a magistrate may order the delivery of any aircraft, ship, carriage, together with all animals and things, or any dredge or machinery seized under section 103 to the owner thereof on security being given for the payment to the Commissioner of the value thereof in case of condemnation.

Notice of seizure
and claim for
seized aircraft,
etc.

106. (1) Where any aircraft, ship, carriage, animal, thing, dredge or machinery is seized under this Part, notice of the seizure shall be given by a mining officer as soon as possible to the owner and the person in charge thereof, if such person is not the owner.

(2) A notice under subsection (1) shall be given to the owner or person in charge of the seized aircraft, ship, carriage, animal, thing, dredge or machinery—

(a) by delivering the notice personally to the owner or person in charge, as the case may be, or by sending the notice by post to his usual place of abode or business premises; or (b) if the owner or the person in charge, as the case may be, is not known or, if known, he cannot be found after reasonable enquiry and his usual place of abode and his business premises are not known, or he refuses to accept the notice when tendered to him, by publishing the notice in one newspaper having circulation in Guyana.

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(3) Any person who claim any aircraft, ship, carriage, animal, thing, dredge or machinery, seized under this Part, as its owner, or any other person duly authorised by the owner, may give notice to the Commission, that he claims the aircraft, ship, carriage, animal, thing, dredge or machinery, within thirty days from the date on which the notice of seizure under subsection (1) was given to him:

Provided that the Commission may, if there are good and sufficient reasons for so doing, which shall be recorded in writing, entertain a claim after the expiry of the aforesaid period of thirty days, but before the expiry of three months from the date of the seizure.

(4) An aircraft, ship, carriage, animal thing, dredge or machinery seized under this Part, and in respect of which no notice of claim was given before the expiry of three months from the date of its seizure, may be sold by the Commissioner, in such manner as may be prescribed.

(5) Where a notice of claim has been made under subsection (3) in respect of an aircraft, ship, carriage, together with all animals and things, or any dredge or machinery, seized under this Part and—

(a) a complaint for its forfeiture and condemnation under section 107, or a complaint against the owner thereof for an order in respect of an offence under this Act, in the commission of any act constituting which offence it is used, is not made within ninety days of its seizure or within such further time, as may be allowed by the magistrate referred to in section 104(2), or

(b) the complaint made for its forfeiture and condemnation under section 107 is rejected, and no order for its forfeiture and consideration is made under section 106,

then, upon order being made therefor by the aforesaid magistrate, the aircraft, ship, carriage, together with all animals and things, or dredge or machinery shall be restored to the owner thereof by the person who is given its custody under section 104(2) or, where the aircraft, ship, carriage, together with all animals and things, or dredge or machinery has been delivered to the owner thereof under section 104(3) on the giving of security, the security bond shall be cancelled.

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- Condemnation of seized aircraft, etc. on conviction. **107.** Where a person is convicted of an offence under this Act, the court convicting him may, in addition to any other penalty imposed, order that any aircraft, ship, carriage, together with all animals and things, dredge or machinery of which he was the owner when the offence was committed and which is liable for forfeiture on account of its use for any act constituting the offence, be forfeited and condemned.
- Complaints for forfeiture under this Part. **108.** (1) Subject to the provisions of section 106, any forfeiture imposed by this Part may be sued for and recovered summarily before a magistrate on the complaint of any mines officer.
- (2) The practice and procedure of the magistrate's court in its civil jurisdiction shall apply to, and in relation to, any complaint under subsection (1).
- Disposal of seizure. **109.** All seizures whatsoever which have been made and condemned under this Part shall be disposed of in such manner as may be prescribed.
- Part in addition to, and not in derogation of, other provisions. **110.** The provisions of this Part shall be in addition to, and not in derogation of, the other provisions of this Act.

PART XIV

SPECIAL PROVISIONS RELATING TO AMERINDIANS

- General saving as to Amerindians. **111.** (1) Except during the period when a member of any Amerindian community (hereinafter referred to as Amerindian) is the holder of a licence or permit under this Act, (during which period the privileges he had immediately before the commencement of this Act shall stand suspended in respect of any matter to which the licence or permit related), the provisions of this Act shall not, save as otherwise provided herein, be deemed to affect the privileges that any Amerindian as such had immediately before the commencement of this Act in relation to prospecting, mining or quarrying for any mineral.

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(2) Any Amerindian shall exercise any privilege referred to in subsection (1) in the manner provided in the Regulations and subject to the provisions thereof.

112. For the purposes of this Act, all land occupied or used by Amerindian communities and all land necessary for the quiet enjoyment by the Amerindians of any Amerindian settlements, shall be deemed to be lawfully occupied by them.

Occupation of land by Amerindians.

113. It shall not be lawful for any Amerindian to take any mineral from any land which is subject to a licence or permit under this Act, and any mineral found in the possession of an Amerindian, and which is not proved to have been lawfully obtained by him, shall be forfeited to the State.

Protection of person in relation to any area subject to licence or permit.

114. (1) Where any Amerindian who is not the holder of a mining licence, claim licence or special mining permit under this Act obtains and desires to sell any valuable mineral or precious stone, it shall be sold by the Commission on his behalf and the proceeds shall be paid to such Amerindian.

Disposal of all valuable minerals and precious stones obtained by Amerindians.

(2) It shall not be lawful for any person to obtain, receive or purchase any valuable mineral or precious stone from an Amerindian directly, and all valuable minerals or precious stones so obtained, received or purchased shall be forfeited to the State.

114. (1) Where it appears that any person has made use of any Amerindian to obtain any valuable mineral or precious stone in contravention of or in fraud of the provisions of this Act, the valuable mineral or precious stone so obtained shall be forfeited to the State.

Forfeiture of valuable minerals or precious stones obtained through Amerindian.

(2) Any valuable mineral or precious stone forfeited to the State shall be applied by the Minister for the benefit of the Amerindian referred to in subsection (1) or otherwise as the Minister directs.

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PART XV

MISCELLANEOUS

Appeal against
decision of
Commission
refusing to grant
or renew, or
cancelling,
licence, etc.

116. (1) Any person aggrieved by a decision of the Commission refusing to grant to him a prospecting licence, mining licence, prospecting permit, claim licence or quarry licence, or refusing to renew any such licence or permit granted to him or cancelling any such licence or permit, may, subject to such terms and conditions (including the time within which the appeal may be made and the fee to accompany the appeal) as may be prescribed, appeal to the Minister against such decision of the Commission.

(2) The Minister, after giving the appellant a reasonable opportunity of being heard, may pass appropriate orders on the appeal, which shall be binding on the appellant and the Commission.

(3) For the purpose of deciding any appeal made under this section, the Minister may request the Commission to produce before the Minister any document in its possession or to submit to him a report in regard to the subject matter of the appeal and the Commission shall comply with the request.

Delegation.

117. (1) The Minister may by instrument delegate any function conferred on him by this Act, not being any function relating to the hearing of appeals or the making of subsidiary legislation, to the Commission or any member thereof or the Commissioner of Geological Surveys and Mines.

(2) The Commission may by resolution delegate to any member thereof or the Commissioner of Geological Surveys and Mines any function (not being a function delegated to it under subsection (1)) conferred on the Commission by this Act.

Establishment of
stations.

118. (1) The Minister may by notice published in the *Gazette*, establish one or more stations in or in the neighbourhood of a mining district.

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(2) The Commission shall, by notice published in the *Gazette*, designate a mines officer to be in charge of a station.

119. (1) The Minister may by order direct that any person going to or coming from a mining district specified therein shall stop and report at one or more of the stations specified therein to the mines officer or respective mines officers in charge thereof. Reporting at station.

(2) Where the mines officer in charge of a station has reason to suspect that evidence of the contravention, or intended contravention, of any provision of this Act, the Guyana Gold Board Act or the Custom Act may be found on any person who has reported to the station or on or in any container or thing in the possession of that person, such officer may search and examine his body or the thing. No. 12 of 1981. Cap. 82:01

(3) For the purpose of any search under subsection (2), the mines officer referred to therein may obtain such assistance or may use such force as in his opinion is required and may break open any lock or the thing.

(4) A mines officer in charge of a station may seize anything he finds in consequence of a search under this section which he has reason to believe provides evidence of the commission of an offence under any written law referred to in subsection (2) or anything which he has reason to believe is liable to be forfeited under this Act, the Guyana Gold Board Act or the Customs Act.

(5) Where a mines officer in charge of a station seizes anything under this Act he shall forthwith prepare a list of the things he has seized in the presence of the person from whose possession it was seized and two witnesses and a copy of the list signed by such officer and the witnesses shall at the earliest possible date thereafter be sent by such officer to the magistrate having jurisdiction over the place where the station is situated.

120. For the purposes of this Act, a female person shall be searched only by another female person and a male person shall be searched only by another male person. Search of persons.

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Obstruction of holder of licence or permit. [6 of 1997]

121. Any person who, without reasonable excuse, obstructs or prevents the holder of a licence or permit under this Act in or from doing, any act which the holder of the licence or permit is authorised to do by or under this Act or his licence or permit, shall, on summary conviction, be liable to a fine of five thousand dollars and imprisonment for one year.

Restriction on removal of minerals.

122. (1) Any mineral shall not be removed from the area from which they have been obtained to any other area, or disposed of in any manner, except—

(a) by the holder of a licence or permit granted under this Act in relation to that mineral and the area from which the mineral was obtained—

- (i) subject to subsection (2), for the purpose of sampling or analysis; or
- (ii) save as otherwise provided in this Act, in accordance with the terms and conditions of his licence or permit; or

(b) as otherwise provided by or under this Act.

(2) The holder of a licence or permit under this Act shall not, under subsection (1) (a)(i) take or send out of any area referred to therein any sample of any mineral without the written consent of the Commission given under this subsection.

Order prohibiting removal of gold, etc., without permission of district mines officer.

123. (1) The Minister may by order direct that no person shall remove any gold or precious stone or any other mineral specified in the order, from a mining district, outside that mining district without the permission in writing of the district mines officer for the district.

(2) An order under subsection (1) may exempt any person or class of persons from that order, or may direct that the order shall not apply to gold or precious stones, or to any other mineral specified in the order, not exceeding the quantity specified therein.

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124. Any person who contravenes section 122 or order made under section 123 shall, on summary conviction, be liable—

Penalty for contravention of section 122 or order under section 123.

- (a) in the case of an individual, to a fine of five thousand dollars and imprisonment for one year;
- (b) in the case of a body corporate to a fine of twenty-five thousand dollars and imprisonment for one year.

125. Any person who—

Penalty for giving false information, etc., in application for licence etc.

- (a) in, or in connection with, any application for a licence or permit under this Act gives or permits to be given information which he knows or has reason to believe is false or misleading in a material particular;
- (b) in any report, return or affidavit, submitted in pursuance of this Act or his licence or permit, includes or permits to be included any information which he knows or has reason to believe is false or misleading in a material particular; or
- (c) places or deposits, or is accessory to the placing or depositing of, any mineral or other substance in any place with the intention of misleading, or knowing that it is likely to mislead, any other person as to the possibility of any mineral existing in that place,

shall, on summary conviction, be liable—

- (i) in the case of an individual, to a fine of five thousand dollars and imprisonment for one year; or
- (ii) in the case of a body corporate, to a fine of twenty-five thousand dollars and imprisonment for one year.

126. (1) For the purposes of this Act a mines officer, district mines officer, or other officer referred to in section 5 may, at all reasonable times—

Power of entry, etc.

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(a) enter and inspect any area, structure, building, vehicle, vessel or aircraft which, in the opinion of the mines officer, district mines officer or other officer, has been, is being, or is to be, used in connection with prospecting operations or mining operations;

(b) inspect, examine and test, or cause to be examined or tested by a qualified person, any machinery or equipment which, in the opinion of the mines officer, district mines officer, or other officer, has been, is being or is to be, used in connection with any of the operations referred to in paragraph (a);

(c) take or remove for the purpose of analysis or testing or for use in evidence in connection with an offence against this Act samples of minerals or other substances from any area where any of the operations referred to in paragraph (a) are being carried on;

(d) inspect, take extracts from, and make copies of, any document relating to any of the operations referred to in paragraph (a);

(e) by instrument in writing issue directions to, and impose restrictions on, the holder of any licence or permit granted under this Act, or any person employed by him in, or in connection with, any of the operations referred to in paragraph (a), with respect to the health, safety and welfare of the persons employed by the holder of the licence or permit;

(f) if, in the opinion of the mines officer, district mines officer or other officer, the area, structure or building or machinery or equipment used in, or in connection with, any of the operations referred to in paragraph (a) is unsafe, direct the holder of the licence or permit in writing to effect—

- (i) the cessation of any of the operations referred to in paragraph (a) on or in, and the withdrawal of all personnel from, any area, structure or building being used in connection with any such operations and specified in the direction; or
- (ii) the discontinuance of the use of any machinery or equipment, specified in the direction,

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unless and until such action as is necessary for safety, specified in the direction, is taken by the holder of the licence or permit and completed;

(g) make such examinations and inquiries as are necessary to ensure that the provisions of this Act, or any directions issued, restrictions or conditions imposed or orders made under this Act, are being complied with; and (h) obtain and record statements from witnesses, and appear at, or conduct inquiries, regarding accidents occurring in the course of any of the operations referred to in paragraph (a), and appear at inquests, and call and examine witnesses, and cross-examine witnesses.

(2) Before exercising any of his powers under subsection (1), if there is any person present who is, or appears to be, in charge of the area, structure or building, vehicle, vessel, or aircraft, machinery or equipment, mineral or other substance or document in respect of which the power is about to be exercised, a mines officer, district mines officer or other officer shall identify himself to that person and, in the case of issuing a direction under subsection (1)(e) or (f) identify himself to any person to whom he is about to give a direction.

(3) Any person who is aggrieved by a direction of a mines officer, district mines officer or other officer made under subsection (1)(e) or (f) may appeal in writing to the Commission, which shall, as soon as practicable and after giving the appellant and the mines officer, the district mines officer or other officer, as the case may be, a reasonable opportunity of being heard, pass appropriate orders on the appeal; but the bringing of the appeal shall not affect the operation, pending the disposal of the appeal of the direction appealed from:

Provided that the Commission may for reasons to be recorded in writing stay the operation of the direction.

(4) On appeal under subsection (3), the Commission may rescind, affirm or modify the direction appealed from.

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(5) While exercising his powers under subsection (1), a mines officer, district mines officer or other officer may be accompanied by any person who the mines officer, district mines officer or other officer believes has special or expert knowledge of any matter being inspected, examined, tested or analysed.

(6) A person who is an occupier, or is in charge of any area, structure or building, or in charge of any vehicle, vessel, aircraft, machinery or equipment referred to in subsection (1), shall provide a mines officer, district mines officer or other officer with all reasonable facilities and assistance (including the provision of necessary means of transport) for the effective exercise of the powers conferred upon a mines officer, district mines officer or other officer by this section.

(7) Any person who—

- (a) without reasonable excuse, obstructs or hinders a mines officer, district mines officer or other officer in the exercise of any of his powers under this section;
- (b) knowingly or recklessly makes a statement or produces any document, which is false or misleading in any material particular, to or before a mines officer, district mines officer or other officer engaged in carrying out his functions under this section; or
- (c) with intent to mislead or deceive a mines officer, district mines officer or other officer when so engaged, conceals or withholds any information,

shall, on summary conviction, be liable to a fine of ten thousand dollars and imprisonment for two years.

(8) In this section and section 127, “document” includes book, tape, disc, film, diagram, profile, chart, photograph, whether negative or positive, and any data recorded or stored by means of any computer or other device and any material subsequently derived from the data so recorded.

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127. (1) Without prejudice to any other provision of this Act, where the Commission has reason to believe that a person has in his possession or under his control information or data relating to prospecting operations or mining operations in Guyana, or minerals obtained in Guyana or the value thereof, it may, by notice, require that person—

Commission's power to obtain information relating to prospecting or mining operations.

- (a) to submit to the Commission such information or data within the period and in the manner specified in the notice;
- (b) to attend before the Commission or a person identified in the notice, at such time and place specified therein and to answer questions relating to those operations or the value of such minerals; and
- (c) to produce before the Commission or a person identified in the notice, at the time and place specified therein, books and other documents in his possession or under his control relating to those operations, minerals obtained as a result of the operations or the value of such minerals.

(2) Where pursuant to a notice under subsection (1), any book or other document is produced before the Commission or a person, the Commission or the person may make copies of, or take extracts from, the book or other document.

(3) Any person who—

- (a) refuses or fails to comply with a notice under subsection (1) to the extent to which he is capable of complying with it;
- (b) in purported compliance with a notice in respect of the matters referred to in subsection (1)(a), knowingly or recklessly furnishes information or data which is false or misleading in any material particular;
- (c) when attending before the Commission or any person in pursuance of a notice in respect of the matters referred to in subsection (1)(b) knowingly or recklessly makes a statement or furnishes any information or data to the Commission or any person which is false or misleading in any material particular; or

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(d) in purported compliance with a notice in respect of any matter referred to in subsection (1)(c) knowingly or recklessly produces before the Commission or any person any book or other document which is false or containing any statement or entry which is false in any material particular,

shall, on summary conviction, be liable to a fine of ten thousand dollars and imprisonment for one year.

General
penalty.

128. Any person who is guilty of an offence under this Act for which no penalty is otherwise expressly provided shall, on summary conviction, be liable—

- (i) in the case of an individual, to a fine of ten thousand dollars and to imprisonment for one year; or
- (ii) in the case of a body corporate, to a fine of twenty-five thousand dollars and to imprisonment for one year.

Orders for
forfeiture on
conviction.

129. (1) Where a person is convicted of an offence against this Act, the court convicting him may, in addition to any other penalty impose, make an order—

- (a) for the forfeiture of any minerals recovered in the course of the commission of the offence; or
- (b) for the payment, by the person convicted, to the State of an amount equal to the proceeds of the sale of the minerals so recovered.

(2) Where the court is satisfied that an order made under subsection (1)(a) cannot for any reason be enforced, the court that made the order may, upon application made in that behalf by the mines officer set aside the order and make an order referred to in subsection (1)(b).

Enforcement of
forfeiture.

130. Without prejudice to any other provision of this Act, any forfeiture imposed by this Act may be sued for and recovered summarily in a magistrate's court in its civil jurisdiction on the complaint of any mines officer.

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131. Notwithstanding any other provision of this Act, the Minister may, in any case he thinks proper and in substitution for any proceedings in a court, accept on behalf of the State a sum of money by way of compensation from any person reasonably suspected of a contravention of this Act:

Power to accept compensation for an offence.

Provided that such compensation shall be accepted only where the person reasonably suspected of such contravention has expressed his willingness in such form as may be prescribed that the contravention as aforesaid shall be so dealt with.

132. The holder of any licence or permit under this Act shall, at all times, keep the State indemnified against all actions, claims and demands that may be brought or made against the State by reason of anything done by the holder of the licence or permit in the exercise or purported exercise of his rights under this Act or the licence or permit, as the case may be.

Obligation of licensee to indemnify state.

133. Where by or under this Act provision has been made for an appeal to the Commission from any order or direction of a mines officer, or district mines officer or any other person, and any such order appealed against was made by the Commissioner, he shall not function as a member of the Commission for the purposes of hearing or deciding the appeal.

Commissioner not to take part in hearing or deciding of appeals by Commission in certain cases.

134. Without prejudice to any other provision of this Act, the Minister may by order exempt any person or class of persons or any operation or class of operations from any provision of this Act.

Power of exemption.

135. The Minister may by order, which shall be subject to negative resolution of the National Assembly, amend the Schedule.

Amendment of Schedule.

136. (1) The Minister may make regulations for carrying out the purposes of this Act.

Power to make regulations.

(2) Without prejudice to the generality of the foregoing, the Regulations may, in particular, provide for all or any of the following matters—

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- (a) the prospecting for minerals, including the carrying on of all operations and the execution of all works for that purpose;
- (b) the mining of minerals, including the carrying on of all operations and the execution of all works for that purpose;
- (c) conservation, and prevention of the waste, of minerals;
- (d) the form and contents of, and conditions with respect to, applications for the grant or renewal of licences and permits under this Act;
- (e) the form and contents of licences and permits granted under this Act and of their renewal;
- (f) the minimum area of a parcel; the maximum area for which a mining permit may be granted; the circumstances in which prospecting or mining operations with respect to any mineral shall be deemed to be medium size operations or small scale operations; the minimum area to be retained by a prospecting licensee after relinquishment under section 37(2);
- (g) the construction, erection, maintenance, operation or use of installations, machinery, or equipment;
- (h) health, safety and welfare standards, and implementation of these standards, in connection with prospecting or the mining for minerals;
- (i) the manner of demarcation of any area in respect of which a licence or permit has been granted under this Act;
- (j) submission to the Minister or the Commission of reports, returns and other information;
- (k) the transfer of licences or permits, or interests in licences or permits, granted under this Act;
- (l) annual charges;
- (m) fees payable along with the application for, or for the grant of any licence or permit, or for any other purpose, under this Act;
- (n) subject to the other provisions of this Act, the manner of service of any notice, direction or other document under this Act and the form of any notice;
- (o) prospecting for and locating of claims;
- (p) the grant and renewal of mining permits and the rights and duties of holders of such permits;
- (q) registration and licensing of dredges;

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- (r) rates of royalty payable by holders of licences or permits; cases in which royalty shall be payable in kind;
- (s) public purposes for the purpose of section 81(1)(a)(ii);
- (t) distances for the purposes of section 81(1);
- (u) land or area or nature of land or area in respect of which, or the persons whose, consent is required for the purposes of section 81(1)(d);
- (v) manner of giving notice under section 86;
- (w) form of register of quarry licences under section 95;
- (x) manner of sale of seized aircraft, ship, carriage, animal, thing, dredge or machinery under section 106(4);
- (y) disposal of seizures under section 109;
- (z) manner of exercise of privileges of Amerindians;
- (za) the form of making an appeal against a decision of the Commission; and the form for the purposes of the proviso to section 131;
- (zb) subject to the provisions of the Guyana Gold Board Act, the regulation of the possession or sale or purchase of minerals and the movement or conveyance of minerals from or in any area;
- (zc) cutting and use of timber from State lands for purposes connected with mining;
- (zd) procedure for determination of disputes;
- (ze) any other matter that may be, or is required to be, prescribed by the Minister by regulations.

Cap. 66:01

(3) Save as otherwise provided in this Act, the Regulations may provide that any person who commits a breach of any provision thereof shall, on summary conviction, be liable for such penalty as may be provided therein, being a fine not exceeding twenty-five thousand dollars or imprisonment for a period not exceeding two years or both and, where the offence is a continuing one, to a further penalty not exceeding five hundred dollars for each day during which the offence continues.

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PART XVI

REPEALS, SAVINGS AND AMENDMENTS OF CERTAIN ENACTMENTS

Repeal of
Mining Act
and Savings.

137. (1) The Mining Act (hereinafter referred to as the “said Act”) is hereby repealed.

(2) Notwithstanding the repeal of the the Mining Act (hereinafter referred to as the “said Act”)—

(a) all regulations made under the said Act, to the extent to which they could be made under this Act, shall, subject to the power of the Minister to amend or repeal them, continue in force as if they have been made under this Act;

(b) mining districts declared and stations established under the said Act shall, save as otherwise directed by the Minister, be deemed to be mining districts declared and stations established under this Act;

(c) save as otherwise directed by the Minister, mines officers or other officers appointed under the said Act, shall be deemed to be mines officers or other officers under this Act, and any such mines officer or other officer shall perform under this Act the functions they were performing under the said Act immediately before the commencement of this Act, in

so far as such functions are consistent with the provisions of this Act; and

(d) all licences and permits issued under the said Act shall continue in force as if they were granted under this Act, but they shall be subject to the provisions of this Act; and for the purposes of this paragraph a concession or lease, so far as it relates to any mineral, shall be deemed to be a mining licence granted under this Act, and a permission to occupy and explore any State lands, or exclusive right to occupy and explore within a given area, given under section 13 of the said Act shall be deemed to be a prospecting licence granted under this Act.

(3) All agreements entered into before the commencement of this Act by the government or the Commission and any other person containing provisions in respect of the matters referred to in section 19, and subsisting immediately before such commencement, shall be

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deemed to be a mineral agreement entered into under that section by the Commission and such other person and shall, subject to the provisions of this Act, continue in force as such:

Provided that the term of the agreement shall be computed with effect from the date on which it was entered into or in such other manner as may be provided therein.

138. The Radio-active Mineral Act is hereby repealed.

Repeal of Radio-active Minerals Act
Cap. 65:04

139. The provisions of the State Lands Act shall, in respect of any matter for which provision has been made under this Act, stand repealed to the extent to which the provisions first mentioned are inconsistent with the provisions of this Act.

Partial repeal of
State Lands Act.
Cap.. 62:01

140. Nothing in this Act shall be deemed to affect the operation of the Public Lands (Private Roads) Act.

Public Lands (Private
Roads) Act not affected.
Cap. 62:03

141. The Guyana Geology and Mines Commission Act 1978 is hereby amended in the following respects-

Amendment of Guyana
Geology and Mines
Commission Act 1976
No. 9 of 1979

- (1) in section 1, by the substitution, for the words "Guyana Geology and Mines Commission Act 1978" of the words "Guyana Geology and Mines Commission Act 1979";
- (2) in section 4-
 - (a) in subsection (2)(c), by the substitution, for the words "mining areas," of the words "areas where mining operations are carried on or are proposed to be carried on";
 - (b) in subsection (3)(a), by the substitution , for the words "exclusive permissions, prospecting and claim licences", of the words "or exclusivepermission, or any licence, permit, or mineral agreement granted, or entered into or deemed to be granted or entered into, under the Mining Act 1989";
 - (c) in subsection (3) (b)-
 - (i) by the insertion, after the word "all" of the word "royalties, penalties";
 - (ii) by the substitution, for the words "Mining Act", of the words "Mining Act 1989"

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 SCHEDULE

RADIO-ACTIVE MINERALS

1. Any mineral containing uranium or thorium and, in particular and without prejudice to the generality of this paragraph, the substances hereinafter set out in this Schedule.
2. Minerals of the pitchblende group, including pitchblende, uraninite, ulrichite, broggerite, cleveite, and related mineral species.
3. Torbernite and autunite.
4. Secondary uranium minerals other than torbernite and autunite including rutherfordine, uranite, uranophane, gummite, thorogummite, uranocircite, kasolite, becquerelite and other silicates, hydrates, carbonates, phosphates, or arsenates of uranium.
5. Carnotite and tyuyamunite and related uranium-bearing vanadate ores.
6. Uranium bearing, iobate-titanate-tantalate ores, including euxenite, polycrase, blomstrandine, priorite, samarskite, fergusonite, betafite and related minerals.
7. Monazite, thorite and thorianite. _

 Passed by the National Assembly on 1989-12-28

F.A. Narain
 Clerk of the National Assembly

(16/1989)