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NIGERIAN MINERALS AND MINING ACT, 2007

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NIGERIAN MINERALS AND MINING ACT, 2007

2007 ACT No. 20

AN ACT TO REPEAL THE MINERALS AND MINING ACT, NO. 34 OF 1999 AND RE-ENACT THE NIGERIAN MINERALS AND MINING ACT, 2007 FOR THE PURPOSES OF REGULATING ALL ASPECTS OF THE EXPLORATION AND EXPLOITATION OF SOLID MINERALS IN NIGERIA ; AND FOR RELATED PURPOSES

[29*th Day of March*, 2007] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria—

CHAPTER 1—MINERALS, EXPLORATION, MINING AND QUARRYING

PART I—OWNERSHIP AND CONTROL OF MINERALS

Control of property in Minerals, water, etc. vested in the State.

1.—(1) The entire property in and control of all Mineral Resources in, under or upon any land in Nigeria, its contiguous continental shelf and all rivers, streams and water courses through out Nigeria, any area covered by its territorial waters or constituency and the Exclusive Economic Zone is and shall be vested in the Government of the Federation for and on behalf of the people of Nigeria.

(2) All lands in which minerals have been found in commercial quantities shall, from the commencement of this Act be acquired by the government of the federation in accordance with the provisions of the Land Use Act.

(3) The property in mineral resources shall pass from the Government to the person by whom the mineral resources are lawfully won, upon their recovery in accordance with this Act.

Prohibition of Exploration or exploitation of Minerals without authority.

2.—(1) No person shall search for or exploit mineral resources in Nigeria or divert or impound water for the purpose of Mining except as provided in this Act.

(2) The provisions of this Act in respect of Reconnaissance, exploration and exploitation of Mineral Resources in Nigeria shall apply to radio active Minerals with such modifications as may be determined by health and public policy considerations.

Lands excluded from Minerals exploration and Exploitation.

3.—(1) No mineral title granted under this Act shall authorize reconnaissance, exploration or exploitation of mineral resources on, or in, or the erection of beacons on or the occupation of any land—

(*a*) set apart for, or used for or appropriated or dedicated to any military purpose except with the prior approval of the President ;

(*b*) within fifty metres of an oil pipeline licence area granted under the Oil Pipeline Act ;

(*c*) occupied by any town, village, market, burial ground or cemetery, ancestral, sacred or archaeological site, appropriated for a railway or situated within fifty

metres of a railway, or which is the site of, or within fifty metres of, any government or public building, reservoir, dam or public road ;

(*d*) that is subject to the provisions of the National Commission for Museums and Monuments Act, Cap. N19, Laws of the Federation of Nigeria, 2004 and the National Parks Service Act, Cap. N65, laws of the Federation of Nigeria, 2004 ; or

(*e*) over which a Mineral Title has previously been granted by the Mining Cadastre Office and where such Mineral Title is subsisting.

(2) No reconnaissance activity shall be carried out and no mineral title shall be granted under this Act over any area that is designated as closed to mining operations.

PART II—ADMINISTRATION OF THE ACT

Functions of the Minister.

4. Subject to the provision of this Act, the Minister shall—

(*a*) ensure the orderly and sustainable development of Nigeria's Mineral Resources ;

(b) develop a well planned and coherent programme of exploitation of mineral resources taking into account the economic development, ecological and environmental factors ;

(*c*) monitor compliance with Community Development Agreements by industry operators ;

(*d*) establish the procedure for monitoring developments in the solid minerals sector and encourage the private sector investment in mineral resources development ;

(*e*) ensure that in the exploitation of the mineral resources, an equitable balance is maintained between foreign an indigenous interest ;

(*f*) create an enabling environment for the private investors, both foreign and domestic by providing adequate infrastructure for mining activities, and identify areas where Government intervention is desirable in achieving policy goals and proper perspective in mineral resources development ;

(*g*) accelerate the development of technical and professional manpower required in the mineral sector ;

(*h*) establish environmental procedures and requirements applicable to mining operations ;

(*i*) maintain liaison between investors and Government Departments and Agencies set up for the purpose of development of mineral resources and allied projects ; and collaborate with other Ministries and agencies of the Federal Government whose functions relate to the objectives of this Act ;

(*j*) prescribe measures for the general welfare and safety of workers engaged in mineral resources operations ;

(*k*) develop a geo-scientific databank, and collate detailed data concerning the identity, quantity and quality of Nigeria's Mineral Resources ;

(*l*) assist the private sector in identifying specific mining projects ;

(*m*) initiate, organize and participate in promotion mineral resources development, such as conferences, seminars and workshops geared towards the stimulation of investments in mineral resources ;

(n) provide and disseminate up to date information on incentives in mineral resources available to investors under this Act ;

(*o*) register and keep records of all enterprises and companies established and pursuing activities in mineral resources and allied projects ;

(*p*) cause to be created, such departments and agencies as are necessary for the effective administration of this Act ;

(*q*) introduce investment friendly local contents measures for mining projects ;

(*r*) facilitate the development of indigenous technical and professional manpower required in the mineral resources sector ;

(*s*) cooperate on behalf of the Federal Government with other Governments and international agencies in respect of matters relating to Nigeria's Mineral Resources ;

(t) do such other things as are reasonably necessary or expedient for the performance of his functions under this Act ; and

(*u*) have the power to designate a mineral as a radioactive mineral and by radioactive regulations make special provisions for the exploration, exploitation, possession, export or otherwise dealing in the radio active mineral.

Establishment of the Mining Cadastre Office.

5.—(1) There shall be established within six (6) months of the coming into effect of this Act a Mining Cadastre Office with the responsibility for the administration of Mineral titles and the maintenance of the cadastral registers.

(2) The Mining Cadastre Office—

(*a*) shall be a body corporate with perpetual succession and a common seal ;

(*b*) may sue and be sued in its corporate name ; and

(*c*) may acquire, hold and dispose of property, whether movable or immovable.

(3) The Mining Cadastre Office shall be administered by a Director-General who shall be assisted by such officers as shall be required for the efficient functioning of the cadastre system.

(4) In order to fulfil its functions under this Act the Mining Cadastre Office shall operate as the sole agency responsible for the administration of mineral titles.

(5) The Mining Cadastre Office shall in addition to any other functions prescribed by or under this Act perform the following—

(*a*) consider applications for mineral titles and permits, issue, suspend and upon the written approval of the Minister, revoke any mineral title ;

(*b*) receive and dispose of applications for the transfer, renewal, modification, relinquishment of mineral titles or extension of areas ;

(*c*) maintain a chronological record of all applications for mineral title in :

(*i*) a priority book which is to be specifically used to ascertain the priority and registration of applications for exclusive rights on vacant areas ;

(*ii*) a General Registry Book which is to be used for all other types of applications where registration of the priority is not required.

(*d*) undertake such other activities reasonably necessary for the purpose of carrying out its duties and responsibilities under the provisions of this Act.

Central Zonal Offices of the Mining Cadastre Office.

6. A Central Mining Cadastre Office with exclusive authority and jurisdiction over the whole of the country shall be established in Abuja as the headquarters of the Mining Cadastre Office. The Mining Cadastre Office shall, according to administrative convenience, maintain an appropriate number of Zonal offices.

Mining Cadastre Registers.

7. The Mining Cadastre Office shall open a series of files to be known as Mining Cadastre Office Registers for the purposes of this Act, comprising of—

(*a*) a register of Reconnaissance Permits ;

(*b*) a register of Exploration Licences ;

(*c*) a register of Mining Leases ;

(*d*) a register of Small-Scale Mining Leases ;

(*e*) a register of the Water Use Permits ; and

(*f*) a register of Quarry Leases.

Priority.

8.—(1) Where several applications are received on the same area or for Priority overlapping areas from two or more persons on the same business day the application which is first received in the proper form shall be deemed to have priority over the others.

(2) The criteria of first come, first served, as evidenced by registration with the issuing authority according to an established procedure, which in the case of the Mining Cadastre Office shall be registration in the Priority Register established by this Act, shall be strictly applied by the Mining Cadastre Office in case of competing applications for the same exclusive area.

(3) The Mining Cadastre Office shall provide a receipt to an applicant for Mineral title evidencing—

(*i*) all documents and fees received from the applicant in respect of the application ; and

(*ii*) the date and time of the application.

Competitive bidding.

9.—(1) The Minister shall by regulations determine areas wherein an exploration licence and a mining lease shall be granted based on competitive bidding requirements.

(2) The Mining Cadastre Office shall consider competing bids and shall, through an open and transparent method, select the bid which will promote the expeditious and beneficial development of the Mineral Resources of the area having regard to—

(*a*) the programme of Exploration and Mining Operations which the applicant proposes to carry out and the commitments as regards expenditure which the applicant is prepared to make ;

(*b*) the financial and technical resources of the applicant ; and

(*c*) the previous experience of the applicant in the conduct of Reconnaissance and Mining Operations.

(3) The successful application shall be treated as an application under sections 59 or 65.

Fees payable to the Mining Cadastre Office.

10. The Mining Cadastre Office shall collect—

(*a*) a fee for processing of applications for mineral titles ; and

(*b*) an annual service fee established at a fixed rate per square cadastral unit for administrative and management services rendered by the Cadastre.

Revocation of Mineral title for faiure to pay fees.

11. A mineral title shall become liable to revocation where the holder thereof Revocation of has failed to pay the prescribed fees.

Process for Revocation when Mineral title holder fails to pay fees.

12. In case of default of payment of the annual service fee due to the Mining Cadastre Office, the Mining Cadastre Office shall give a thirty day written default notice to the defaulting party and, if payment is not effected during that period, the Mining Cadastre Office shall record the default and revoke the mineral title.

Determination of fees payable.

13. The amount of the fees payable under section10, administration and modalities for their payment shall be determined in the regulations issued by the Minister.

Notice to Applicant.

14. Any notice required to be sent by the Mining Cadastre Office to an applicant for, or holder of a Mineral title shall be sent by courier service or registered mail to the last kn(wn address in Nigeria of the mineral title holder or given in person to an authorized representative of the applicant or holder of the mineral title in Nigeria or published in the Gazette. The notice shall for all purposes be sufficient notice of the subject matter of the notice to the applicant for or holder of a mineral title.

Relationship between the Minster and the Mining Cadastre Office.

15. In the execution of his functions and relationship with the Mining Cadastre Office, the Minister shall, at all times ensure the independence of the Mining Cadastre Office in regard to the discharge of its functions and operations under this Act.

Establishment of Departments.

16.—(1) For the purposes of carrying out his functions under this Act, the Minister shall establish in the Ministry—

(*a*) a Mines Inspectorate Department ;

(*b*) a Mines Environmental Compliance Department ; and

(*c*) such other departments as he may consider expedient for the proper administration of this Act.

(2) Such inspectors, officers and other employees as may be considered necessary for carrying out the objectives of this Act shall be appointed into the departments and agencies established pursuant to subsection (1) of this section.

(3) The powers and duties of the inspectors, officers, or other employees appointed under sub-section (1) of this section shall be those assigned to them

respectively under this Act, its regulations and in accordance with the provisions of the Public Service Rules in force.

Functions of the Mines Inspectorate Department

17. The Mines Inspectorate Department shall in addition to any other functions prescribed by this Act and subject to the direction of the Minister—

(*a*) exercise general supervision over all reconnaissance, exploration and mining operations to ensure their compliance with this Act ;

(*b*) supervise and enforce compliance by mineral title holders with all mine health and safety regulations prescribed under this Act and any other law in force ;

(*c*) prepare and render records, reports and returns as required by the Minister or as prescribed by Regulations ;

(*d*) take custody of mineral resources required by any Court to be forfeited to the Government ;

(*e*) with the prior approval of the Minister, dispose of any mineral resources forfeited to the Government ;

(*f*) carry out investigations and inspections necessary to ensure that all conditions relating to mineral titles and the requirements of this Act are complied with ;

(g) discharge such other duties as may be assigned from time to time, by the Minister ; and

(*h*) review and recommend to the Minister, programmes for controlling mining operations.

Functions of the Mines Environmental Compliance Department.

18. The Mines Environmental Compliance Department shall in addition to any other function prescribed by this Act and subject to the direction of the Minister—

(*a*) review all plans, studies and reports required to be prepared by Holders of Mineral title in respect of their environmental obligations under this Act ;

(*b*) monitor and enforce compliance by holders of mineral title with all environmental requirements and obligations established pursuant to this Act, its regulations and by any other law in force ;

(*c*) periodically audit the environmental requirements and obligations established pursuant to this Act, its regulations and by any other law in force and make recommendations thereon to the Minister ; and

(*d*) liaise with relevant agencies of Government with respect to the social and environment issues involved in mining operations, Mine closure and reclamation of land.

Establishment of State Mineral Resources and Environmental Mangement Committee.

19.—(1) There is hereby established for each State of the Federation a Committee to be known as the Mineral Resources and Environmental Management Committee, in this section referred to as "the Committee".

(2) The Committee in each State shall consist of—

(*a*) a representative of the Mines Environmental Compliance Department in the Ministry who shall be the chairman of the Committee ;

(*b*) a representative of the Ministry responsible for land matters or mineral related matters in the State ;

(*c*) the Mines Officer responsible for the State ;

(*d*) a representative of the Ministry of Agriculture or Forestry in the State ;

(*e*) a representative of the Surveyor-General of the State ;

(*f*) a representative of the Local Government Council when matters affecting the said Local Government Area are being considered by the Committee ;

(*g*) a representative of the State Environmental Department or Agency ;

(*h*) a representative of the Federal Ministry of Environment in the State.

(3) The functions of the Committee are to—

(*a*) consider and advise the Minister on issues affecting returns of necessary reports affecting grants of mining titles;

(*b*) consider issues affecting compensation and make necessary recommendations to the Minister ;

(*c*) discuss, consider and advise the Minister on the matters affecting pollution and degradation of any land on which any mineral is being extracted;

(*d*) consider such other matters relating to mineral resources development within the state as the Minister may, from time to time, refer to the Committee ;

(*e*) advise the Departments established in accordance with the provisions of this Act for the supervision of mineral Exploitation and the implementation of social and environmental protection measures ;

(*f*) advise the Local Government Areas and communities on the implementation of programs for environmental protection and sustainable management of Mineral resources ;

(*g*) advise and other necessary assistance required by holders of Mineral titles in their interaction with state governments, local government councils, communities, civil institutions, and other stakeholders ;

(*h*) advise the Minister in resolving conflicts between stakeholders ; and

(*i*) advise the Minister in respect of matters connected with the implementation of this Act.

(4) The Committee shall—

(*a*) meet at least once every three months and at such times as the Minister may deem necessary ; and

(*b*) regulate its own procedure ;

(5) The Chairman shall appoint a competent officer from the Mines Inspectorate Unit in the state to be the secretary of the Committee. The secretary shall have no right to vote at any meeting of the Committee.

(6) The Committee shall forward its report to the Minister after each meeting.

(7) Where the committee desires to obtain the advice of a host community or any other person on a particular matter, the committee may co-opt a representative of the relevant host community or any person as a member or such period as it thinks fit, but such a person shall not be entitled to vote in any meeting of the committee and his attendance shall not count towards a quorum.

(8) The chairman and three other members shall form a quorum at a meeting of the Committee.

(9) Every meeting of the Committee shall be presided over by the Chairman or, in his absence, by the Mines Officer for the State.

(10) If on any question to be determined there is an equality of votes, the Chairman shall have a casting vote ; and

(11) The Committee shall have the power to determine its own procedure.

Delegation of powers by the Minister.

20.—(1) The Minister may, by notification in the Gazette, delegate to any department or officer of the Ministry the exercise or performance, subject to such conditions and restrictions as may be prescribed in the notification, of any function conferred on the Minister under this Act provided that it shall not apply to any function of the Minister to make Regulations.

(2) An officer authorized in writing by the officer in charge of the Mines Inspectorate Department may enter any mineral title Area where Mining Operations are being carried out under this Act, or which is within the general area of the mineral title for the purposes of inspecting such operations and he shall be provided by the mineral title holder with any information reasonably requested for the purpose of making a report.

(3) The failure of the mineral title holder to provide access to an officer for the purposes of inspection under subsection (2) shall constitute an offence.

Regulation.

21. The Minister shall subject to the provisions of this Act make Regulations Regulation in respect of any matter required to be prescribed by Regulations under this Act and generally for giving full effect to the provisions of this Act, including prescribing, amending or withdrawing any form that may be required under this Act.

Use of land for Mining a priorty. Cap. L5, LFN 2004.

22.—(1) The use of land for mining operations shall have a priority over other uses of land and be considered for the purposes of access, use and occupation of land for mining operations as constituting an overriding public interest within the meaning of the Land Use Act.

(2) In the event that a mining lease, a small scale mining lease or a quarry lease is granted over land subject to an existing and valid statutory or customary right of occupancy, the Governor of the state within which such rights are granted shall within sixty days of such grant or declaration revoke such right of occupancy in accordance with the provisions of section 28 of the Land Use Act.

Part III—Mining Incentives

Persons Eligible.

23. The persons eligible for the fiscal regime set out in this Part of this Act shall include companies or enterprises engaged in mining operations.

Capital Allowances.

24.—(1) Any licence holder eligible under the provisions of this part of this Act shall be entitled, in determining its total profits, to deduct from its assessable profits a capital allowance of ninety-five percent of Qualifying Capital Expenditure incurred in the year in which the investment is incurred—

(*a*) all certified exploration, development and processing expenditure, including feasibility study and sample assaying costs ; and

(*b*) all infrastructure costs incurred regardless of ownership and replacement.

(2) The amount of any loss incurred by any person eligible under the provisions of this part of this Act shall be deducted as far as it is possible from the assessable profits of the first year of assessment after that in which the loss was incurred and in so far as it cannot be so made, then from such amounts of such assessable profits of the next year of assessment, and so on up to a limit of four years after which period any unrelieved loss shall become lapse.

Exemption from customs duty and other benefits.

25.—(1) All operators in the mining industry shall be granted the following benefits—

(*a*) exemption from payment of customs and import duties in respect of plant, machinery, equipment and accessories imported specificallyand exclusively for mining operations ;

(*b*) expatriate quota and resident permit in respect of the approved expatriate personnel ; and

(*c*) personal remittance quota for expatriate personnel, free from any tax imposed by any enactment for the transfer of external currency out of Nigeria.

(2) For the purpose of subsection (1) of this section the Mines Inspectorate Department shall approve the appropriate machinery, equipment and accessories to be imported by the holder of a Mineral title for the purpose of this section.

(3) The plant, machinery, equipment and accessories imported pursuant to subsection (1) of this section may be disposed of by the holder of Mineral title upon the full payment of customs and import duties in respect thereof.

(4) The Mines Inspectorate Department shall ensure compliance with this section of this Act.

Permission to retain and use earned foreign exchange.

26. Where the holder of a mineral title earns foreign exchange from the sale of his minerals he may be permitted by the Central Bank of Nigeria to retain in a foreign exchange domiciliary account a portion of his foreign exchange earnings for use in acquiring spare parts and other inputs required for the mining operations which would otherwise not be readily available without the use of such earning.

Free transferability of funds.

27. Subject to the provisions of this Act, a holder of a mineral title shall be guaranteed free transferability through the Central Bank in convertible currency of—

(*a*) payments in respect of loan servicing where a certified foreign loan has been obtained by the holder for his mining operations ; and

(*b*) the remittance of foreign capital in the event of sale or liquidation of the mining operations or any interest therein attributable to foreign investment.

Tax relief period.

28.—(1) The tax relief period of a company granted mineral title under this Act shall commence on the date of operation and subject to the provisions of this Act or any other relevant financial enactment, the relief shall continue for three years.

(2) The tax relief period of a company granted a Mineral title under this Act may, by the end of the three years, be extended by the Minister for one further period of two years.

(3) The Minister shall not extend the tax relief period of a Company in exercise of the power conferred under subsection (2) of this section unless the Minister is satisfied as to—

(*a*) the rate of expansion, standard of efficiency and level of development of the company in mineral operations for which the Mineral title was granted ;

(*b*) the implementation of any conditions upon which lease was granted ; and

(*c*) the training and development of Nigerian personnel in the operation of the mineral concerned.

Application of Cap. F34 LFN 2004 and the NIPC Act.

29.—(1) The provisions of the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act shall apply to any investment in foreign currency made in respect of any mineral title granted pursuant to this Act.

(2) The provisions of the Nigerian Investment Promotion Commission Act shall apply to any foreign investment made in respect of any mineral title granted pursuant to this Act.

Deductibility of Environmental Costs.

30. A tax deductible reserve for environmental protection, mine rehabilitation, reclamation and mine closure costs shall be established by companies engaged in the exploitation of mineral resources; provided however, that the appropriateness of the reserve is certified by an independent qualified person taking into account the determination made under the provisions of this Act—

(*a*) the reserve is recorded in the audited financial statements of the companies ;

(*b*) tax deductibility will be restricted to actual amount incurred for the purpose of the reclamation ; and

(*c*) a sum equivalent to the reserve amount is set aside every year and invested in dedicated account or trust fund managed by independent trustees appointed pursuant to the provisions of the Act.

Pension Reform Act No. 2, 2004.

31. A tax deductible amount established in accordance with the applicable rate set out in the Pensions Reform Act shall be imposed on mining companies or enterprises, towards the payment of pensions to each employee.

Annual Capital Cost Indexation.

32. An annual capital cost indexation, whereby the unclaimed balance of capital costs is increased yearly by five percent, shall apply to mines starting production within five years from the date of enactment of this Act.

Royalty.

33.—(1) Any mineral obtained in the course of exploration or mining operations shall be liable to pay royalty as prescribed in the regulations made under this Act.

(2) The Minister may reduce or waive royalty on any mineral which the Minister is satisfied is being exported solely for the purpose of analysis or experiment or as a scientific specimen, not being in greater quantity than is reasonably necessary for that purpose.

(3) The Minister may defer payment of royalty on any minerals for a specific period, on the approval of the Federal Executive Council.

Establishment of the Solid Minerals Development Fund.

34.—(1) There is hereby established a fund to be known as the Solid Minerals Develo ment Fund (in this Chapter of this Act referred to as "the Fund").

(2) The Fund shall be utilized for the following—

(*a*) development of both human and physical capacity in the sector ;

(*b*) funding for geo scientific data gathering, storage and retrieval to meet the needs of private sector led mining industry ;

(*c*) equipping the mining institutions to enable them perform their statutory functions ;

(*d*) funding for the extension services to small scale and artisanal Mining Operators pursuant to Section 91 of this Act ; and

(*e*) provision of infrastructure in mines land.

Management Board of the Fund.

35.—(1) The Fund shall be managed by a body to be known as the Solid Minera's Development Board (in this chapter of the Act referred to as "the Board") which shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(2) The Board shall comprise—

(*a*) a chairman to be appointed by the President on recommendation of the Minister of Solid Minerals Development ;

(*b*) one person to represent the Central Bank of Nigeria ;

(*c*) one person to represent the Banker's Committee ;

(*d*) three persons to be appointed by the Minister to represent private mining operators and Mineral Processors ; and

(*e*) the Secretary to the Board.

(3) The quorum for meeting of the Board shall be three, of whom at least one shall be a member representing the Central Bank.

(4) The Board shall meet not less than four times in each year and on such other occasion as the Board may consider necessary.

(5) At any meeting of the Board, the Chairman shall preside, but if he is absent, the members present at the meeting shall appoint one of their member to preside at the meeting.

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(6) Subject to Section 27 of the Interpretation Act (which provides for decision of a statutory body to be taken by a majority of its members and for the person presiding to have a casting vote), the Board may make orders regulating its proceedings and those of any of its Committees.

(7) Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him as a member for such period as it thinks fit, but a person who is a member by virtue of this subsection shall not be entitled to vote in any meeting of the Board and shall not count towards a quorum.

(8) The Secretariat of the Board shall be located in such place as the Minister may determine.

(9) The administrative expenses of the Board shall be borne by the Federal Government.

Functions and Powers of the Board.

36. Notwithstanding any other provision of this Act, the Board shall—

(*a*) monitor the operation and evaluate the progress of the Fund ;

(*b*) advise the Minister as to changes required to improve the operation of the Fund ;

(*c*) receive and consider the report of the management agent appointed under the provision of this Act and advise the Minister on it ;

(*d*) determine the remuneration of external auditors and solicitors ;

(*e*) publish names of defaulters of loans granted under this Act in the national newspaper ;

(*f*) pursue defaulters through judicial action ;

(*g*) solicit the assistance of Government loan machinery in the recovery of loans granted under this Act ; and

(*h*) perform such other functions relating to the Fund as may be assigned to it by the Minister.

Custodian of the Fund.

37. The Central Bank shall be deemed to have been appointed as the Custodian of the Fund for the purpose this section.

Financial provisions.

38. The Fund shall consist of—

(*a*) any sums appropriated for Solid Minerals Development under the Revenue Act or any other Federal Law ;

(*b*) any sums appropriated for Solid Minerals Development under the Small and Medium Industries Equity Investment Scheme (SMIEIS) ;

(*c*) any funds received as grants, donations, foreign loans, bonds and long term swaps ;

(*d*) any sums appropriated to it by the Federal Government Budgetary allocation.

Annual Budget.

39. The Ministry of Solid Minerals Development shall each year present to the National Assembly a Budget proposal for the administering of the Fund.

Investment of surplus monies in the Fund.

40. Money in the Fund which may at any time be surplus to the current needs of the Fund may be invested in government securities and bonds, as may, from time to time, be determined by the Board.

Accounts and Audit.

41.—(1) The Board shall keep proper accounts in respect of monies forming part of the Fund and proper records in relation to those accounts and shall prepare annually, a statement of account.

(2) For the purpose of subsection (1) of this section, the financial year of the Fund shall be from 1st January to 31st December of every year or such other period as may be determined by the Board with the approval of the Minister.

(3) The account of the Fund shall be audited annually by an Auditor appointed by the Board from a list of Auditors provided by the Auditor General of the Federation.

Annual Report.

42.—(1) It shall be the duty of the Board to prepare and submit to the Minister, not later than three months after the end of the each financial year, a report which shall be in such form as the minister may direct.

(2) The copy of the report shall be forwarded to the Minister of Solid Minerals Development for his information and comments.

(3) The report shall include the audited account of the Fund in respect of the period in question together with the auditor's report on the accounts and shall be presented by the Minister to the Federal Executive Council not later than one month thereof.

PART IV—MINERALS EXPLORATION

Records and plan of exploration and Exploitation.

43.—(1) Any person that undertakes or is involved in reconnaissance or exploration or exploitation of Mineral Resources under a Mineral title or further to the authorization of the Minister in accordance with the provisions of this Act shall—

(*a*) keep correct plans of Exploration or Mining Operations conducted within the Mineral title Area ;

(*b*) keep correct records of every Mineral found and ore reserve calculated on the area of his mineral title lease ;

(*c*) supply to the Mining Cadastre Office copies of the plans and records at such time and periods and in such manners as the Mining Cadastre Office may demand ;

(*d*) provide to the Nigerian Geological Survey Agency for storage and archiving, a complete set of all geo scientific data acquired in the course of such activity inclusive of maps, coring and samples ; and

(*e*) the plans required to be kept shall be prescribed.

(2) No core obtained in the exercise of rights conferred by a Mineral title shall be destroyed or otherwise disposed of except for the purposes of assay, identification, or analysis without the permission in writing of the Minister, which permission shall be granted within 30 days of the receipt of the application.

(3) Any person who destroys or disposes of core or samples in contravention of subsection (2) of this section shall be guilty of an offence.

(4) The data required to be provided under subsection (1) of this section, shall be provided to the Nigerian Geological Survey Agency in such a manner as is sufficient for the identification of the core or sample and the location and geological horizon of its origin.

(5) The data required to be submitted under subsection (1) of this section, shall be kept confidential and shall not be disclosed to the general public until the earlier of—

(*a*) a period of 5 years after its submission ; or

(*b*) a part of the mineral title Area is relinquished by the mineral title holder ; or

(*c*) when the holder of the mineral title ceases to hold the title either as a result of revocation of the title or relinquishment thereof.

(6) When disclosure of the data is required by the general public, it shall be made available in accordance with the format stated in the Regulations.

(7) Any person that undertakes or is involved in the search for or exploitation of Mineral Resources in contravention of the provisions of subsection (1) of this section shall be guilty of an offence.

Discovery of Radioactive Minerals.

44.—(1) The holder of a mineral title shall, if he discovers during the course of mining, any radioactive mineral or any mineral that may reasonably be expected to be radioactive, immediately notify the Mines Inspectorate Department of the discovery in writing.

(2) The provisions of the Nuclear Safety and Radioactive Act shall apply to any radioactive mineral discovered pursuant to Mineral Exploitation under this Act.

(3) The Mines Inspectorate Department may, in consultation with other relevant authorities and with the approval of the Minister, authorise the removal of the radioactive minerals from the land where they have been obtained to any other place approved by the Minister for safe custody and in accordance with subsection (2) of this section.

Disclosure of confidential information.

45.—(1) Any officer or former officer responsible for the administration of this Act who has any confidential information, which if generally known might reasonably be expected to materially affect a Mineral Exploitation activity which—

(*a*) such officer acquired by virtue of his official capacity or former official capacity ; and

(*b*) it would be reasonable to expect a person in his official capacity or former official capacity not to disclose except for the proper performance of the functions attached to that official capacity,

shall not make improper use of such information to gain, directly or indirectly, an advantage for himself or for any other person.

(2) An officer appointed under this Act shall within thirty days of his appointment disclose any mineral title he may have or interest therein at the time of his appointment. No officer shall directly or indirectly acquire any Mineral title under this Act during the term of his appointment.

(3) Any officer who fails to comply with the provisions of sub-section (1) or (2) of this section commits an offence.

Grant of Mineral titles.

46.—(1) Subject to the provisions of this Act, the right to search for or exploit Mineral Resources is obtained through one of the following mineral titles in the form of—

(*a*) a Reconnaissance Permit ;

(*b*) an Exploration Licence ;

(*c*) a Small Scale Mining Lease ;

(*d*) a Mining Lease ;

(*e*) a Quarry Lease ; and

(*f*) a Water Use Permit.

(2) Subject to the exceptions provided in this Act, any person that undertakes or is involved in the search for or exploitation of Mineral Resources without the requisite mineral title or authority shall be guilty of an offence.

(3) Any mineral title issued under this Act shall be subject to such conditions as may be prescribed in the licence or lease or by Regulation made under this Act.

(4) The form of all Mineral titles shall be prescribed.

Qualification for Reconnaissance Permit.

47. A qualified applicant for a Reconnaissance Permit is—

(*a*) a citizen of Nigeria with legal capacity and who has not been convicted of a criminal offence ; or

(*b*) a body corporate duly incorporated under the Companies and Allied Matters Act ; or

(*c*) a Mining Co-operative.

Qualification for Exploration Licence.

48. A qualified applicant for an Exploration Licence is—

(*a*) a body corporate duly incorporated under the Companies and Allied Matters Act ; or

(*b*) a Mining Co-operative ; or

(*c*) the holder of a Reconnaissance Permit granted in respect of the area subject to the application, provided that the applicant has fulfilled all the conditions attached to the Reconnaissance Permit.

Qualification for Small Scale Mining Lease.

49. A qualified applicant for a Small Scale Mining Lease is—

(*a*) a citizen of Nigeria with legal capacity and who has not been convicted of a criminal offence ; or

(*b*) a Mining Co-operative ; or

(*c*) a body corporate duly incorporated under the Companies and Allied Matters Act ; or

(*d*) the holder of an Exploration Licence granted in respect of the area subject to the application, provided that the applicant has fulfilled all the conditions attached to the Exploration Licence.

Qualification for Mining Lease.

50. A qualified applicant for a Mining Lease is a body corporate duly incorporated under the Companies and Allied Matters Act or other legal entity that—

(*a*) has demonstrated under conditions stated in the regulations that a commercial quantity of Mineral Resources exists in the area in respect of which the application is made ; and

(*b*) has fulfilled all the conditions attached to the Exploration Licence in respect of the area subject to the application.

Qualification for Quarry Lease.

51. A qualified applicant for a Quarry Lease is—

(*a*) any individual citizen of Nigeria with legal capacity and who has not been convicted of a criminal offence ; or

(*b*) a Mining Co-operative ; or

(*c*) a body corporate duly registered under the Companies and Allied Matters Act ; or

(*d*) any person extracting construction materials for the construction of roads, railway lines, dams and other engineering works or structures of public interest.

Qualification for Water Use Permit.

52. A qualified applicant for a Water Use Permit is—

(*a*) the Holder of the Exploration License, Mining Lease or Quarry Lease at the time that the water right granted will be used ; or

(*b*) an applicant for a Mining Lease, Small Scale Mining Lease or Quarry Lease for which the water right will be required to be used.

Prohibition of certain Persons from obtaining Mineral Titles.

53. The Mining Cadastre Office shall not grant a mineral title under this Act to an applicant if it is shown that within a period of five years before the date of the application a shareholder holding a controlling share of the applicant has been convicted of an offence under this Act.

Working Capital.

54.—(1) The Mining Cadastre Office shall require an applicant for mineral title to provide—

(*a*) proof of sufficient working capital for the Exploration or mining of the area applied for and of technical competence to carry on the proposed Exploration or mining operation as prescribed in the Regulations under this Act ; and

(*b*) any other information as the Mining Cadastre Office shall require or prescribe.

(2) Where an applicant fails to satisfy the Mining Cadastre Office as provided in subsection (1) of this section, the Mining Cadastre Office shall, upon consultation with the Minister refuse the application. The applicant may submit a new application to the Mining Cadastre Office.

Grant of Reconnaissance Permit.

55. Subject to the provisions of this Act, the Mining cadastre Office shall, within 30 days of the receipt of the application of any qualified applicant and upon payment of the prescribed fees, grant and issue to that person a Reconnaissance Permit to search for Mineral Resources.

Conditions for grant of Reconnaissance permit.

56.—(1) A Reconnaissance Permit shall be granted subject to the covenants and conditions that the Holder thereof shall—

(*a*) carry out reconnaissance on a non exclusive basis ;

(*b*) not engage in drilling, excavation or other sub surface techniques ;

(*c*) submit information and such periodical reports as may be prescribed by relevant Departments of the Ministry ;

(*d*) conduct reconnaissance activities in an environmentally and socially responsible manner as may be prescribed by relevant Departments of the Ministry ; and

(*e*) compensate users of land for damage to land and property; and pay the prescribed fees.

(2) The activities allowed under a Reconnaissance Permit together with corresponding environmental and social obligations shall be further specified in regulations.

(3) Reconnaissance activity authorized by a Reconnaissance Permit shall not constitute a land use right for the purposes, objectives, rents, fees and requirements of the Land Use Act.

(4) A Reconnaissance Permit is not transferable.

Duration of Reconnaissance Permit.

57. A Reconnaissance Permit shall be issued for a period of one year and is renewable annually provided the requirements of this Act and its regulations have been met.

Right of Holder of reconnaissance Permit.

58.—(1) A Reconnaissance Permit, confers on the Holder the right to—

(*a*) obtain access into, enter on or fly over any land within the territory of Nigeria available for mining purposes to search for Mineral Resources on a non exclusive basis ; and

(*b*) obtain and remove surface samples in small quantities.

(2) Subject to the provisions of this Act, the Reconnaissance Permit shall not be granted over any land that is or has become subject to an exploration licence, small scale mining lease, mining lease or water use permit.

Grant of Exploration Licence.

59.—(1) Subject to the provisions of this Act, the Mining Cadastre Office shall, upon receipt of a valid application from a qualified applicant, grant and issue to that person, an exploration licence within thirty days of the filing of such application ;

(2) An exploration licence shall not be granted over any land that is subject to an existing exploration licence, mining lease, small scale mining lease or quarry lease.

(3) An exploration licence shall not be granted in respect of an area exceeding 200 square kilometres.

Rights of Exploration Licence Holder.

60.—(1) The holder of an exploration licence shall have the exclusive right to conduct exploration upon the land within the area of his licence and for that purpose may—

(*a*) enter upon the land with his agents and workmen ;

(*b*) employ on the land any number of persons for the purpose of such exploration ;

(*c*) erect and maintain thereon any machinery and plant and subject to the provisions of this Act, construct such ways as may be necessary for or in connection with his Exploration operations ;

(*d*) explore on an exclusive basis for all Mineral Resources and to carry out the operations and work necessary for the achievement of this objective ;

(*e*) take, remove and export specimens and samples not exceeding such limit as prescribed in the Regulations to be reasonably required for purposes of analysis ;

(*f*) conduct bulk sampling and trial processing of Mineral Resources not exceeding such limit as is reasonably required for determining mining potential ;

(*g*) sell specimens and samples obtained from exploration activities or from bulk sampling and trial processing ; and

(*h*) while engaged in exploration, take timber other than protected trees and use water from any lake, or Watercourse not the subject of a Water Use Permit for domestic purposes, in accordance with Regulations ; and sink or drill shafts or wells and dig holes and trenches.

(2) Who has fulfilled all the conditions attached and subject to the provisions of this Act, shall be entitled to the grant of a mining lease for any mineral for which he was authorized to explore (the authority not having been determined by a notice) under the provisions of this Act in respect of any portion of the area included in the licence.

Obligations of an Exploration Licence Holder.

61.—(1) Every holder of an exploration licence shall—

(*a*) conduct exploration activities in a safe, friendly, skilful, efficient and workmanlike manner in accordance with the regulations ;

(*b*) conduct exploration activities in an environmentally and socially responsible manner ;

(*c*) if intending to explore on land occupied subject to a right of occupancy, give notice to the Chairman of the affected Local Government Area concerned and to the holder of the right of occupancy or the user or occupier of the land before commencing exploration activities on the land ; and where the Mineral title area is within more than one Local Government Area, the Mineral title holder shall give notice to the respective chairmen of the Local Government Areas concerned and the holders of rights of occupancy or the users and occupiers of land affected accordingly ;

(*d*) maintain and restore, the land that is the subject of the licence to a safe state from any disturbance resulting from exploration activities, including, but not limited to filling up any shafts, wells, holes or trenches made by the titleholder, and in compliance with applicable environmental laws and regulations ;

(e) not abstract, divert or discharge water or effluent from any Watercourse except in compliance with a water use permit and regulations ;

(*f*) not explore in any forest reserve except with the approval of the Minister and in consultation with other relevant authorities and subject to such conditions as may be specified in the Regulations ;

(*g*) compensate users or occupiers of land for damage to land and property resulting from activities in the exploration area ;

(*h*) allow geological surveys and mapping by government agencies and scientific surveys by educational institutions as provided for in this Act, if such activities will not interfere with exploration operations ;

(*i*) submit information and such periodical reports as may be prescribed in the Regulations ; and

(*j*) pay all applicable fees, annual rental and water usage charges.

(2) The Mining Cadastre Office may, upon the application of the Holder and for good cause shown, suspend the obligation to work in respect of the Licence and may direct that any or part of the period of suspension shall not be reckoned in the currency of the licence, if during that time no work is done by the holder on the lands included in the area covered by the licence.

(3) The activities allowed under an exploration licence together with corresponding environmental, social and other obligations shall be further prescribed.

(4) The holder of an exploration licence has the exclusive right to apply for, and to be granted subject to this Act, one or more Small Scale Mining Leases, Mining Leases or Quarry Leases in respect of any part or parts of the exploration area, if the Exploration Title Holder has complied with the obligations of the Exploration Licence under this Act.

Duration of an Exploration Licence.

62. The duration of an exploration licence is for three years and it may be renewed for two further periods of two years each provided—

(*a*) the titleholder has complied with his minimum work obligation commitments ; and

(*b*) all other requirements of this Act and its regulations have been met.

Payment of Royalty for Sale of Mineral Resources under Exploration Licence.

63. The holder of an exploration Licence who sells any Mineral Resources as provided for in this Act shall be subject to the payment of royalty as if the Mineral Resources sold were obtained under a mining lease.

Discovery of additional Minerals.

64.—(1) An applicant for an exploration licence, mining lease, small scale mining lease and quarry lease shall indicate the minerals, which he intends to explore or mine within his Lease on his application.

(2) Where in the course of the exercise of his rights under this Act the holder of a mining lease, small scale mining lease and quarry lease discovers any mineral not specified in his lease, he shall, within thirty days of the discovery, notify the mining cadastre office in writing of the discovery.

(3) The notice given to the Mining Cadastre Office under subsection (1) of this section shall—

(*a*) contain particulars of the Minerals discovered ;

(*b*) the location and circumstance of the discovery ; and

(*c*) have appended thereto a proposed program for the orderly and timely exploitation of the minerals discovered therewith.

(4) Where the Mining Cadastre Office is satisfied with the programme proposed by the mineral title holder under subsection (2) (*c*) of this section, it shall approve the application within thirty days of the submission of the application and shall accordingly endorse the Mineral title with the right or authority to the holder to mine the Mineral discovered ; provided, however, that where the Minerals subsequently discovered are security Minerals —

(*a*) the provisions of subsection (3) (*c*) of this Section shall not apply ; and

(*b*) the Mineral title holder shall not have a right to mine such mineral.

(5) It shall be an offence for a Mineral title Holder or any of his agents or employees to conduct Mining Operations with respect to any Mineral not included in the Mineral title without complying with the provisions of this section.

PART V—MINING

Grant of Mining Lease.

65.—(1) Subject to the provisions of this Act, the Minister shall, upon receipt of a valid application from a qualified applicant, grant and issue to that person a Mining Lease for the purposes required within forty-five days of such application.

(2) No Mining Lease shall be granted in respect of any area within an Exploration Licence Area or a Small Scale Mining Area except to the Holder of the Exploration Licence or Small Scale Mining Lease covering such area.

Duration of Mining Lease.

66. The duration of a Mining Lease is twenty-five years, and shall be renewable every twenty-four years provided that—

(*a*) the Holder thereof has complied with his minimum work obligation commitments ; and

(*b*) all other requirements of this Act and its regulations have been met.

Area for Mining Lease.

67. The area of land in respect of which any Mining Lease is granted shall be determined in relation to the ore body as defined in the feasibility study submitted in respect of the Mining Lease together with an area reasonably required for the workings of the Mineral Resources, provided such area shall not exceed fifty square kilometres.

Rights of Mining Lease Holder.

68. A mining lease confers on the holder the right within the Mining Lease Area to—

(*a*) obtain access and to enter the Mining Lease Area ;

(*b*) exclusively use, occupy and carry out Mineral Exploitation within the Mining Lease Area ;

(*c*) exclusively carry out exploration within the Mining Lease Area ;

(*d*) utilize the water and wood and other construction materials as necessary for mineral exploitation in accordance with the Permit and Regulations ;

(*e*) use such portions as may be required for the purposes of growing such plants and vegetables, or keeping such animals, poultry and fish as may be reasonable for use of the employees at the Mine ;

(*f*) store, remove, transport, submit to treatment, transform and process the Mineral Resources, and dispose of any waste ; and

(*g*) market, sell, export or otherwise dispose of the mineral products resulting from the Mining Operations.

Prohibition of Sale of plants, animals, water obtained in the Mining Lease area without authorization.

69. The holder of a mining lease shall not, unless authorized under any other Federal law, remove beyond the boundaries of the Mining Lease area for commercial gain any of the timber or other forest produce, plants, vegetables, animals, poultry, fish, or water obtained from or raised on the Mining Lease area.

Obligations of Mining Lease Holder.

70.—(1) Every holder of a mining lease shall—

(*a*) commence mine development within eighteen months for a Mining Lease for Mineral Resources and, twelve months for a Mining Lease for Mineral Water, effective from the date that the requirements of this Act have been met, unless circumstances justify an extension of the period ;

(*b*) commence production no later than thirty six months for a Mining Lease for Mineral Resources and twelve months for a Mining Lease for Mineral Water, effective from the date that the requirements of this Act have been met, unless circumstances justify an extension of the period ;

(*c*) carry out Mining Operations in a skilful and efficient manner ;

(*d*) maintain the Mining Lease area and Mining Operations in a safe manner in compliance with applicable mine health and safety regulations ;

(*e*) not divert water from any water course in a manner contrary to the provisions of this Act ;

(*f*) comply with social obligations prescribed in the regulations ;

(*g*) comply with all requirements for Environmental Impact Assessment Studies and protection plans required under this Act ;

(*h*) allow access to any adjoining land through the Mining Lease area insofar as such access shall not interfere with Mining Operations ;

(*i*) allow the construction and use on Mining Lease area of such waterways, canals, pipelines, sewers, drains, wires, transmission lines, public roads, and public utilities as shall not interfere with Mining Operations ;

(*j*) compensate owners or lawful occupiers of land for the revocation of their rights to use the land under this Act ;

(*k*) submit information and such periodical reports as may be prescribed in the Regulations ;

(*l*) cause to be maintained in Nigeria, plans and true and sufficient books of account of the Mining Operations and other businesses undertaken in the Mining Lease area, and of the sale or other disposal of the Mineral Resources obtained ; and to produce such books upon request from duly authorized officers ; and

(*m*) pay fees, annual rental, royalty and water usage charges, if any and as prescribed in the regulations.

(2) The activities allowed under a Mining Lease together with corresponding environmental and social obligations shall be further specified in regulations.

Pre-Conditions for commencement of development.

71.—(1) The holder of a mining lease shall not commence any development work or extraction of Mineral Resources on the Mining Lease Area until after—

(*a*) the submission and approval by the Mines Environmental Compliance Department of all Environmental Impact Assessment Studies and mitigation plans required under applicable environmental laws and regulations ;

(*b*) the submission and approval by the Mines Inspectorate Department of the details of the work which the applicant is prepared to undertake or a programme for carrying out any minimum work obligations imposed by the Mines Inspectorate Department ;

(c) the conclusion of a Community Development Agreement approved by the Mines Environmental Compliance Department ; and

(*d*) the Holder has duly notified, compensated, or offered compensation to all users of land within the Mining Lease Areas as provided for under this Act or in the event of a dispute, after the matter has been resolved by Arbitration ;

(2) The holder of a mining lease, except a mining lease for mineral water exploitation, is required to have resolved the matters specified in subsection (1) (*a*) and (*b*) of this section within three years from the issue of the Mining Lease, failing which the Mining Lease may be temporarily suspended without affecting the rental payments that shall continue and without prejudice to the transfer right of the title Holder under the provisions of this Act ;

(3) The Holder of a Mining Lease for Mineral Water Exploitation is required to have complied with the conditions specified in subsection (1) (*a*) and (b) of this section within two years from the issue of the Mining Lease for Mineral Water, failing which the Mining Lease may be suspended.

Rights to graze livestock by occupier of land or Holder of certificate of occupancy.

72. Subject to this Act and any other enactment, the lawful occupier of any land within an area subject to Mining Lease shall retain the right to graze livestock upon or to cultivate the surface of the land in so far as the grazing or cultivation does not interfere with the Mining Operations in the Mining Lease Area.

Technical supervision of mining under a mining lease.

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

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

(3) Where a person with adequate mining qualification and experience in mining is not available to supervise the mining operations being undertaken under a lease, the company shall cease operations until suitably qualified person is available.

Rights of lessee to remove fixtures.

74.—(1) The lessee of a mining lease who has paid all rents, royalties and other payments due to be made by it under this Act or under the terms of its lease may, within three months, in the case of alluvial lease, and six months, in the case of lode lease, after the expiration or other determination of his lease, remove all or any of the plants, building or other property of the lessee.

(2) Where on the expiration or determination of the lease, a lessee is in default in the payment of any rent, royalty or other payments, and in the case of a lessee who has not removed its property within—

(*a*) three months in the case of an alluvial lease ; or

(*b*) six months in the case of a lode lease ; or

(*c*) such further period, if any, as the Mines Inspectorate may allow the plant, building and property of the lessee on the land, the subject of the lease, shall become the property of the Federal Government and may be dealt with and disposed of in lieu of the rent, royalty or other payments, as the case may be.

PART VI—QUARRYING

Application.

75. This part applies in relations to all naturally occurring quarriable minerals, such as asbestos, china clay, fuller's earth, gypsum, marble, limestone, mica, pipe clay, slate, sand, stone, late rite, gravel, etc. which may also be lawfully extracted under Mining Leases.

Prohibition of unauthorised quarrying.

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76.—(1) Not withstanding the provisions of any other enactment, consent or approval provided for under an enactment and in particular, sections 9 (1), 29 (1), 10, 11, 12 and 13 of the National Inland Waterway Authority Act, every operation for the purpose of extracting any quarriable mineral from a quarry including sand dredging in the navigable water ways or else where , for industrial use (in this part referred to as a "quarrying operation") shall be conducted under a lease or licence granted by the Minister under this Act.

(2) Every grant of a lease or licence shall be made subject to the provisions of this Part, the prescribed regulations and the terms of the lease or licence.

(3) Pursuant to section 1 (1) of this Act, except as provided in this part, no person shall conduct any quarry operation on any land in Nigeria its contiguous continental shelf and all rivers, streams and water courses throughout Nigeria, any area covered by its territorial waters or constituency and the Exclusive Economic Zone, or divert or impound water for that purpose.

(4) In this section, "industrial use" includes sale, bargain and usage for or in connection with any industry or trade and excludes sand dredging for the improvement of navigability of waterways, in so far as the sand dredged is not sold or used for commercial purposes.

Area and validity of quarry lease.

77. A quarry lease shall—

(*a*) not be granted in respect of any area of land exceeding 5 square kilometres ; and

(*b*) unless previously revoked or otherwise determined, remain in force for a period of five years ; or any lesser period for which the lease has been granted, from the date of the grant of the lease and shall then expire unless renewed.

Rights of the Holder of a Quarry Lease.

78.—(1) Subject to the provisions of this Act, a quarry lease shall confer on the lessee the right to—

(*a*) enter on the land within the area of the lease or licence granted under this Part ;

(*b*) carry out quarrying operation on the land within the area of the lease and shown on the plan supplied (if required) by the applicant ; and

(*c*) remove and dispose of any quarriable minerals specified in the lease.

(2) Subject to the provisions of this Part and the Regulations, the Holder of a quarry lease who has complied with the provision of this Part and the regulations relating in particular to compensation and the payment of surface rents shall, for the purposes of the quarrying operation, have on the land within the area of the lease, the right to—

(*a*) make all necessary excavations ;

(*b*) erect, construct and maintain such houses and buildings as, in the opinion of the Mines Inspectorate Office, are necessary for his use and for the use of his agents and servants ;

(*c*) erect, construct and maintain such engines, machinery, buildings and workshops and other structures as may be necessary or convenient ;

(*d*) stack or dump any of the products from the quarry ;

(*e*) lay water pipes and make water courses and ponds, dams and reservoirs ; and

(*f*) construct and maintain all such electrical transmission lines, tramways, railway, roads, landing grounds, communication and conveniences as may be necessary subject to laws and regulations governing these infrastructures.

(3) A lessee under a lease—

(*a*) may, on the land within the area of the lease cut, take and use any tree when necessary in the course of the quarrying operation or when required for carrying out the quarrying operation or for domestic purpose ;

(*b*) shall not take any protected tree except with the consent of the proper Forestry officer ; and

(*c*) shall reimburse the Mining Cadastre Office for any payment made by the Mining Cadastre Office in respect of any fee and royalty prescribed under the forestry law of State.

(4) A quarry lease shall not, except as provided under a water licence granted under this Part convey any exclusive right or privilege in relation to any lake, river, spring, stream or other body of water on, passing through or adjacent to the land within the area of the lease.

(5) Nothing in this section shall authorize the Holder of a quarry lease to make such alteration in the flow of water in any navigable water as would obstruct or interfere with or is likely to obstruct or interfere with the free and safe passage of any vessel, boat, canoe or other craft.

Survey.

79. Subject to the provision of this section, the Mining Cadastre Office shall, before granting a lease, require the area specified in the application to be surveyed in accordance with the provisions of the survey Co-ordination Act and the cost of the survey shall be paid by the application in accordance with the scale prescribed by or under that Act.

Consequential Amendment.

80. A reference in any enactment (apart from this Act, the Factories Act and the Criminal Code Act) to a Mine or Mining Operations shall be construed, unless it is otherwise expressly provided or the context otherwise requires, as including a reference to a quarry or quarrying operations and effect shall be given to the enactment with any necessary modifications.

PART VII—ROADS

Construction of Roads.

81. No person shall, in the course of Exploration or carrying out mining operations, under this Act construct a road, tramway or railway over, on or under—

(*a*) any State land, other than that comprised within the area of the mining lease, without the consent of the Mining Cadastre Office after consultation with the officer in charge of lands in the Federal Capital Territory, Abuja, or in the State as the case may be ;

(*b*) any customary lands, other than those comprised within the area of the mining lease, without the approval of the Mining Cadastre Office, after consultation with the Chairman of the Local Government Council or Area Council, as the case may be ; without first—

(*i*) giving notice in writing to the lessee or holder or applicant ; and

(*ii*) obtaining the consent of the Mining Cadastre Office.

Use of mining road.

82.—(1) A person who has constructed a road, tramway or railway in accordance with the provisions of this Act shall not hinder or prevent any other person from having access to using the road, tramway or railway.

(2) A person who constructs a road, tramway or railway may, if in his opinion, the road, tramway or railway is being used by any other person in such a manner as—

(*a*) will cause appreciable damage to the road, tramway or railway ; or

(*b*) substantially increase the cost of its upkeep, may call on the user to contribute to the cost of upkeep.

(3) Where a person uses a road, tramway or railway constructed by another person in such a manner as to interfere materially with the free use and enjoyment of it, the person who constructed the road, tramway or railway may call on that user to limit his use of the road in order to stop the interference.

(4) A person who constructs a road, tramway or railway over any part of the area of a mining lease under the provision of this Act may be required by the lessees or holder of the mining lease or mining title who wishes to mine the area covered by the road to divert the road, tramway or railway to some other part of the area of the lease or title and cost of the diversion shall be borne by the person who constructed the road, tramway or railway.

(5) References to a person who constructs a road, tramway or railway under the provisions of this Act shall be construed as also references to a person who maintains the road, tramway or railway to which section 73 of this Act applies.

(6) The person who constructed a road, tramway, or railway may close it for the purpose of occur by reason of any inadequacy of the road, tramway or railway and shall not be liable to any person to whom the notice is given.

(7) A person who is constructing a road, tramway or railway shall display and keep displayed, adequate notice drawing attention to any bridges or culverts and to any precautions necessary, in the use of the road, tramway or railway and the user of a motor vehicle who neglects the precautions notified shall be liable to reimburse the person who constructed it, the cost of any damage occurring to a bridge or culvert by him.

(8) For the purpose of this section "road", tramway or railway" includes a road, tramway or railway constructed by a local community or person and used in connection with exploration or mining operations.

Obstruction of right of way prohibited.

83. No person shall, except in relation to minerals designated by the Minister as strategic in accordance with the provisions of this Act in the course of Exploration or carrying on mining operations under this Act impede or obstruct the right of way over any public road.

PART VIII—INQUIRY INTO ACCIDENTS

Repport of Accident.

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

(*a*) to the nearest Police Station ; or

(*b*) to the office of the Mines Inspectorate Department in the State in which the accident occurred.

(2) On receipt of the report made pursuant to subsection (1) of this section, the Mines Inspectorate Department shall forthwith inform the

(3) Every accident occurring in connection with a quarrying operation and involving loss of life or serious injury to any person shall be reported to the inspector or quarry officer immediately, by the quickest available means of communication.

(4) The place where the accident occurred shall be left undisturbed, and no person shall interfere with the surface working or any part in which or on which the accident has occurred until the place or anything at the place, has been visited or examined by an Inspector or quarry officer.

Panel of Inquiry.

85. If an accident occurs in a mine the Minister shall set up a panel consisting of not less than four members to inquire into the cause of the accident.

Matters to be determined on inquiry.

86. The panel of inquiry shall determine the cause of the accident including—

(*a*) whether the Holder or its agent is guilty of negligence or took all reasonable and proper precautions to prevent the accident ;

(*b*) whether any person was killed or injured as a result of the accident ; and

(*c*) how future accidents might be prevented.

Power of panel of inquiry.

87.—(1) For the purposes of an inquiry under the provisions of this Act, the Panel appointed by the Minster to conduct the inquiry shall have power to—

(*a*) authorize any person, where necessary, to have access to the quarry or any surface working and remove anything from the place where the accident occurred and take such other measures as may be necessary for the conduct of the inquiry ;

(*b*) summon witnesses, require witness to give evidence on oath or produce any report, book or other document for the purposes of any examination and payment of expenses of witnesses ; and

(c) do or direct to be done such other things as he may deem necessary.

(2) For the purpose of subsection (1) of this section, the Panel holding an inquiry under this Part of this Chapter shall have the powers of a Judge under the Tribunals of Inquiry Act.

(3) A person summoned to attend or to produce any report, book or document under subsection (1) of this section who refuses or neglects to do so, or refuses to answer any question put to him by or with the concurrence of the Panel holding the inquiry, commits an offence and is liable on conviction to a fine of one hundred thousand Naira.

(4) No person summoned under this section shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at the inquiry. be entitled to the same privileges to which he would have been entitled if giving evidence before a court or law.

(5) A witness attending at the request of or on summons by a Panel holding an inquiry shall, subject to any order made by the Panel, be entitled to the like expenses as if summoned to attend the Court, and payment shall be made in the same manner as if the person were a witness in a criminal trial.

Inquiry by court.

88.—(1) Where in the opinion of a Panel conducting an inquiry under section 85 of this Act, the accident was not due to any of the causes mentioned in that section he may recommend that the report be referred to a judge of the Federal High Court who shall hold an inquiry into the cause of the accident.

(2) The Judge shall within fourteen days of the determination of the inquiry, send a copy of his findings to the Minister and, if so requested, a copy of the record of the proceedings.

Interpretation of this Part.

89. In this part of this Act "serious injury" means—

(*a*) a fractured skull, pelvis, arm, thigh, spine, forearm or leg ; or

(b) a dislocated shoulder ; or

(*c*) the amputation of an arm, a hand, one finger or more of the same hand, a leg or foot ; or

(*d*) the loss of the sight of an eye ; or

(*e*) any other serious bodily injury, including internal hemorrhage or burns or asphyxia, if the injury is likely to endanger life, cause permanent incapacity or impair efficiency subsequently.

CHAPTER 2—SMALL SCALE MINING

The Area of small-scale lease.

90.—(1) The area covered by a small scale mining lease shall not be less than 5 acres and shall not exceed 3 square kilometres.

(2) All lease holders shall carryout effective rehabilitation of the mined out areas to the satisfaction of the Mines Environmental Compliance Department and also pay prescribed rehabilitation fee, proportionate to their profits as a way to defray further cost of rehabilitation and reclamation.

(3) The Small Scale and Artisanal Mining Department shall ensure that mining activities are restricted to the established zones of mineralization.

Extension services.

91. The Government through the Ministry shall provide the following extension services to duly registered and performing mining co-operatives of small scale and artisanal miners—

(*a*) prospecting and exploration services shall be provided for registered mining co-operatives to determine the geological setting, structure and nature of occurrence, quantity and quality of minerals being mined ;

(*b*) provide mineral testing standards and the determination of mineral grades ;

(*c*) provide proven mineral reserve evaluation including feasibility reports ;

(*d*) assist small scale miners on mine design and planning suitable for the deposit ;

(*e*) teach adequate skills in mining to small scale and artisanal miners and regularly introduce them to new mining technology ;

(*f*) provision of teaching equipment and plant for hire on an arrangement with manufacturers of leasing companies and proper linkage and guarantees provided ;

(*g*) introduce appropriate mineral processing technology skills in order to meet market demands and optimize profit ;

(*h*) provision of environmental impact assessment report and detailed guidelines on waste and tailing disposal ;

(*i*) introduction of health and safety procedure in the mines, provision of water and health facilities to large mining camps ;

(*j*) holding regular workshops to update miners knowledge on legal, marketing, business skills and infrastructural support, facilitate mineral testing and the determination of mineral grades ; and

(*k*) facilitate mineral testing and the determination of mineral grades.

CHAPTER 3—POSSESSION AND PURCHASE OF MINERALS

Exemption.

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

Possession of Minerals.

93. No person, other than an officer of the Ministry authorized in that behalf by the Minister and acting in the execution of his duty, shall possess any Mineral unless—

(*a*) the mineral is won from a mineral title area of which the person is the holder and which entitles him to explore and exploit the minerals ; or

(*b*) the person holds a permit to possess or purchase that mineral issued under the provisions of this Act ; or

(*c*) the person is in respect of that mineral within the meaning of regulations made under this Act, a duly authorized agent or employee of any person permitted by paragraphs (*a*) and (*b*) of this subsection to possess that mineral.

Purchase ofr Minerals.

94. No person shall purchase any mineral unless he holds a licence to purchase minerals issued under this Act.

Establishment of Minerals buying Centres.

95. Proceeds recovered under a small scale mining Lease shall be sold to a licensed Mineral Procurement Centre, hereinafter referred to as a "Mineral Buying Centre" and valid sales receipts obtained and when "Mineral Buying Centre" and valid sales receipts obtained and when centres required shall be produced for inspection by an authorized officer of the Cadastre Office.

Registration as a buying Centres.

96.—(1) The requirements for registration as a buying centre shall be in accordance with this Act.

(2) All buying Centres, so registered shall be required to keep an up to date record of all purchases and sales of minerals acquired with details as to which mine within the country the minerals were won and obtained.

CHAPTER 4—ENVIRONMENTAL CONSIDERATIONS AND RIGHTS OF HOST COMMUNITIES

Saving as to wining of certain minerals.

97.—(1) Nothing in this Act shall be construed as preventing any citizen of Nigeria from wining, subject to such conditions as may be prescribed by the Minister, salt, soda, potash or galena from any land (other than land within the area of mining lease or land) designated by the Minister as security land pursuant to section 1 (2) of this Act from which it has been the custom of the members of the community to which he belongs to win before the coming into force of this Act.

(2) The Minister may by order published in the Gazette direct the provisions of subsection (1) of this section to apply, within such local limits as may be prescribed by the order, to any mineral which the Minister is satisfied has before the commencement of this Act been customarily won by any community.

(3) Where before the commencement of this Act, it was the custom of the members of any community to win any of the minerals to which subsections (1) and (2) of this section apply from any lands over which a mining lease is granted, the lease shall, during the continuance of the lease, pay to the members of that community as means to determine lest a government levied value.

Prohibition of Mineral exploration in certain areas.

98.—(1) No person shall, in the course of Exploration or mining, carry out operations, in or under any area held to be sacred or permit injury or destruction of any tree or other thing which is the object of veneration.

(2) When any question arises under this section as to whether an area is held to be sacred or tree or thing is the object of veneration, the question shall be decided by the Mining Cadastre Office on the recommendation of the Mineral Resources Committee of the State concerned.

(3) A licensee or lessee who causes injury or damage to any area, tree or thing mentioned in subsection (1) of this section shall pay fair and adequate compensation to the persons or communities affected by injury or damage.

Saving as to certain quarriable minerals.

99.—(1) Subject to subsection (2) of this section, nothing in this chapter shall be deemed to apply in relation to the extraction of sand, clay, laterite and stone for personal use by the local inhabitants of an area in accordance with the local custom of the community of that area.

(2) No explosive shall be used for the extraction of any of the minerals referred to in subsection (1) of this section.

Notice to owner or occupier.

100. When an application is made for a Mineral title in respect of an area which includes any private land or land occupied under a state lease or right of occupancy, the notice of the application, shall be given in the prescribed manner to the owner or occupier of the land and consent obtained before the licence is granted, otherwise the licence may be granted with exclusion of the private land in question.

Reservation of rights of owner or occupier.

101.—(1) The holder of mining lease shall exercise his rights under the Act subject to such limitations relating to surface rights as the Minister may prescribe in accordance with the Act.

(2) The rights conferred by a mining lease shall be exercised in a manner consistent with the reasonable and proper conduct of the operations concerned.

(3) Subject to the provisions of section (2) of this Act, the lawful occupier of any land within an area subject to a mining lease shall retain the right to graze livestock upon or cultivate the surface of the land in so far as the grazing or cultivation does not interfere with the mining operations in the area.

Surface rent.

102.—(1) The lessee of a mining lease shall pay rent, in advance without demand being made of it, at such rate per annum as shall be determined by the Minister for all lands occupied or used by it in connection with its mining operations.

(2) The Minister shall, before granting a mining lease on any private or any State land—

(*a*) cause the owner or occupier of the land to be informed of the intention of the Minister to grant the lease ; and

(*b*) require the owner or occupier of the land to state in writing within the period specified by the Regulations made under this Act, the rate of annual surface rent which the owner desires should be paid to him by the lessee for the land occupied or used by it for or in connection with its mining operations.

(3) If within the time specified pursuant to subsection (2) of this section, the owner or occupier states the rate of the rent he desires should be paid, and the Minister is satisfied that the rent is fair and reasonable, the surface rent payable in respect of the land of the owner or occupier shall be the amount specified and the rent shall be notified to the lessee as soon as possible .

(4) The rate of the surface rent, whether fixed by the owner, occupier or by the Minister, shall be subject to revision by the Minister at intervals of five years.

(5) In fixing the surface rent payable, the Minister shall take into consideration the damage which may be done to the surface of the land by the mining or other operations of the lessee, for which compensation is payable.

(6) The lessee shall pay all expenses incurred by the Government in which surveying, measuring or otherwise ascertaining the extent of the land in respect of which surface rent is payable.

(7) If in the opinion of the Minister it is impracticable or undesirable to determine the extent of the land occupied or used by a mining lessee, the Minister may permit the lessee to pay surface rent at such rate as the Minister may determine over the whole area of the lease.

Land Use Allocation Committee.

103. Any question arising as to—

(*a*) the extent of the land occupied or used by the lessee ; or

(*b*) the date on which lessee commenced or ceased to occupy or use any land ; or

(*c*) the proportion of the surface rent payable to the persons entitled to receive any portion of the surface rent shall be referred to the land Use and Allocation Committee of the relevant State for determination, and the report of the Land Use

Allocation Committee shall be taken in to consideration by the Minister in making a decision.

Compensation on Certificate of Occupancy.

104. Where, by reason of the grant or existence of a mining lease, the President, in the case of Federal land, the Governor of State, in any other case, revokes a right of occupancy over land, the subject of a certificate of occupancy or resumes possession of any land occupied under state lease, the mining lessee, shall pay to the Government the amount of the compensation paid by the Governor to the holder of the certificate of occupancy or the State lessee by reason of the revocation or resumption of possession, as the case may be.

Acceptance of rent not to operate as waiver of forfeiture.

105. The acceptance of any rent by or on behalf of the State shall not be held to operate as waiver by the state of —

(*a*) any forfeiture accruing by reason of the breach of any of the provision of this Act, or the regulations made under it ; or

(*b*) any covenant or condition, express or implied, in any lease granted under any previous enactment or instrument.

Security.

106.—(1) The Minister may, before granting a mineral title to any person, direct that person to—

(*a*) give security by depositing with the government such sums as may be prescribed ; or

(*b*) reimburse the Federal Government for any compensation, the Federal Government paid to any State or occupier in respect of land on which the lease or license for the minerals is given.

(2) The Minister may accept a banker's guarantee as prescribed in the Regulations made under to this Act in lieu of the deposit prescribed by this section.

Compensation.

107. A holder of Mineral title may, in addition to any other amounts payable under the provision of this Act and subject to valuation report by a Government licensed valuer, pay to the occupier of land held under a State lease or the subject of right of occupancy—

(*a*) reasonable compensation for any disturbance of the surface rights of the owner or occupier and any damage done to the surface of the land on which the exploration or mining, is being or has been carried ; and

(*b*) in addition pay to the owner of any crop, economic tree, building or work damaged, removed or destroyed by the holder of the mining title or by any of its agents servants, compensation for the damage, removal or destruction of the crop, economic tree, building or work.

Assessment of compensation.

108. The amount of the compensation payable under the provisions of this Part of this Chapter shall be determined by the Mining Cadastre Office after consultation with the State Minerals Resource and Environmental Management Committee and a Government licensed Valuer.

Non payment of compensation.

109.—(1) Where the holder, six months after the grant of a Mineral title, defaults in payment of the compensation, the Minister may suspend the Mineral title until—

(*a*) the amount awarded is paid ; and

(*b*) the holder has deposited with the government such further sum as security or any further payment as the Minister may demand.

(2) If the holder does not make payment and deposit within 30 days after the suspension of the Mineral title in accordance with subsection (1) of this section, the Minister may revoke the Mineral title of the person in default.

Payment of compensation an implied condition.

110. It is an implied condition in this Part of this Chapter that the Holder of Mining Title shall pay the compensation prescribed in this Part of this Chapter to the person entitled to it.

Prevention of Pollution of environment.

111. The holder of mineral title shall, in exercise of his rights under the Mineral title, have regard to the effect of the mining operations on the environment and take such steps as may be necessary to prevent pollution of the environment resulting from the mining operation.

Compensation to lessee.

112.—(1) the holder of a mineral title who surrenders any land as provided for under this Act shall be paid compensation for any interference with any way, work building or plant or for the expenses incurred in the exploration of the area required for public purpose and, in the case of a mining lease, for the loss or reasonable expectation of profits from proved minerals on the land required for public purpose.

(2) Any question arising as to what are proved minerals, shall be determined by the Minister, after obtaining the report of a special committee set up by the Minister for that purpose.

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

(4) The Holder of a Mineral title shall not disturb the occupier of any part of the land specified in the Mineral title Area during the course of any quarrying operation until the land is actually required for the purpose.

Compensation for crops, economic trees, etc.

113.—(1) In addition to any reimbursement payable to the Federal Government, the Holder of a Mineral title shall pay to the owner or occupier of any land within the area of the lease or licence, compensation for any crop, economic tree, building or work damaged, removed or destroyed by the holder of the lease or licence or by his agent or servant.

(2) The holder of a mineral title shall reimburse or make any payment required under subsection (1) of this section in respect of any building erected, crop or economic tree planted or work constructed on the land after the date on which surface rent become payable.

(3) Any compensation payable under this Chapter of this Act may, subject to the provisions of this Act and in any appropriate case, be determined by the Minister

after giving consideration to the report of any committee set up for the consideration of any compensation to be paid by the Federal Government to the owner or occupier of land for which the lease or licence is or may be granted under this Chapter of this Act.

(4) Notwithstanding anything contained in this Act or in any regulations made under it, a person who suffers any damage, loss or disturbance of his right by reason of the operation of any of the provisions of this Chapter of this Act shall be entitled to—

(*a*) be paid adequate compensation in respect of the damage, loss or disturbance ; and

(*b*) refer any question as of his interest in the subject matter of the damage, loss or disturbance and as to the amount of compensation payable for determination to the Federal High Court having jurisdiction in the area in which the subject matter is situate.

Restoration of mines land.

114.—(1) The Minister shall by order require the grantee of a mining lease to restore any area in respect of which mining operation has been, is being, or is to be carried out, on or after the date on which this Act comes into operation.

(2) Any order made pursuant to subsection (1) of this section may contain all or any of the provisions of the covenants and conditions which may be imposed under the provision of that subsection and upon due service of the order, the provisions thereof shall be deemed to be covenants and conditions of the lease or grant concerned.

Reclamation.

115. Where land which is subject of a mining lease has been exploited, the Reclamation mined out areas shall be restored by the applicant under the condition of its grant otherwise the relevant provision of section 10 of this Act shall apply.

Community Development Agreement.

116.—(1) Subject to the provisions of this section, the Holder of a Mining Lease, Small Scale Mining Lease or Quarry Lease shall prior to the commencement of any development activity within the lease area, conclude with the host community where the operations are to be conducted an agreement referred to as a Community Development Agreement or other such agreement that will ensure the transfer of social and economic benefits to the community.

(2) The Community Development Agreement shall contain undertakings with respect to the social and economic contributions that the project will make to the sustainability of such community.

(3) The Community Development Agreement shall address all or some of the following issues when relevant to the host community—

(*a*) educational scholarship, apprenticeship, technical training and employment opportunities for indigenes of the communities ;

(*b*) financial or other forms of contributory support for infrastructural development and maintenance such as education, health or other community services, roads, water and power ;

(*c*) assistance with the creation, development and support to small scale and micro enterprises ;

(*d*) agricultural product marketing ; and

(*e*) methods and procedures of environment and socio-economic management and local governance enhancement.

(4) In the event of the failure of the host community and the lessee, after several attempts to conclude the Community Development Agreement by the time the Title Holder is ready to commence development work on the lease area, the matter shall be referred to the Minister for resolution.

(5) The Community Development Agreement shall be subject to review every 5 years and shall, until reviewed by the parties, have binding effect on the parties.

Objectives of the Community Development Agreement.

117. The Community Development Agreement shall specify appropriate consultative and monitoring frameworks between the Mineral title Holder and the host community, and the means by which the community may participate in the planning, implementation, management and monitoring of activities carried out under the agreement.

Environmental Obligations.

118. Every holder of a mineral title under this Act shall as far as it is reasonably practicable—

(*a*) minimize, manage and mitigate any environmental impact resulting from activities carried out under this Act ; and

(*b*) rehabilitate and reclaim, where applicable, the land disturbed, excavated, explored, mined or covered with tailings arising from mining operations to its natural or predetermined state or to such state as may be specified in this Act, its regu'ations and other pertinent laws in force, and in accordance with established best practices.

Environmental impact Assessment.

119. Every holder of an exploration licence, small-scale mining lease, mining lease, quarry lease and water use permit shall—

(*a*) prior to the commencement of mining operations ; or

(*b*) upon application for an extension of the term ; or

(*c*) upon an application for the conversion of a Mineral title, submit to the Mines Environmental Compliance Department—

(*i*) an environmental impact assessment statement approved by the Federal Ministry of the Environment in respect of the Exploration or Mining Operations to be conducted within the Mineral title Area ; and

(*ii*)an Environmental Protection and Rehabilitation Program containing such details as may be provided for in the environmental regulations issued pursuant tc this Act.

Contents of the Environmental Protection and Rehabilitation Program.

120.—(1) The Environmental Protection and Rehabilitation Program required under the provisions of this Act shall—

(*a*) provide for specific rehabilitation and reclamation actions, inspections, annual reports ;

(*b*) a reasonable estimate of the total cost of rehabilitation ;

(*c*) cost estimates for each specific rehabilitation and reclamation action ; and

(*d*) a timetable for the orderly and efficient rehabilitation and reclamation of the Mineral title area to a safe and environmentally sound condition suitable for future economic development or recreational use.

(2) The Mines Environmental Compliance Department shall exercise all its powers in respect of Environmental Protection and Rehabilitation Programs provided for in section 119 in consultation with the State Mineral Resources and Environmental Management Committee established pursuant to Section 19 of this Act.

(3) The Mines Environmental Compliance Department may approve or reject an Environmental Protection and Rehabilitation Program submitted by a Mineral title Holder and shall notify the Holder of the Mineral title of its decision thereon within sixty days of the submission of the Environmental Protection and Rehabilitation Programme.

(4) If the Mines Environmental Compliance Department does not notify the Holder of a Mineral title within the period specified under subsection (3) of this section, the Environmental Protection and Rehabilitation Program shall be deemed to have been approved as submitted.

(5) In the case of a rejection of the Environmental Protection and Rehabilitation Program by the Mines Environmental Compliance Department, the Mineral title Holder may—

(*a*) submit such other number of Environmental Protection and Rehabilitation Programs as may be necessary in order to obtain the approval of the Mines Environmental Compliance Department ; or

(*b*) if its application is rejected twice, the Holder may submit the matter to arbitration within thirty days of notification of the decision under subsection (3) of this section.

(6) In the case of its approval, the Mines Environmental Compliance Department shall ensure the implementation of the Environmental Protection and Rehabilitation Program.

Establishment of the Environmental Protection and Rehabilitation Fund.

121.—(1) The Minister shall establish an Environmental Protection and Rehabilitation Fund for the purpose of guaranteeing the environmental obligations of Holders of Mineral titles as provided under this Act.

(2) The Minister shall appoint a reputable institution customarily engaged in business as trustees or fund managers to administer the Environmental Protection and Rehabilitation Fund.

(3) The trustees appointed pursuant to subsection (2) of this section shall operate the fund in accordance with the provisions of the Trustees Investments Act, Cap T22 Laws of the Federation of Nigeria, 2004 or amendments thereof.

(4) Every holder of a mineral title shall commence contributions to the Environmental Protection and Rehabilitation Fund in accordance with the amounts specified in the approved Environmental Protection and Rehabilitation Program not later than one year from such approval.

(5) If the Mines Environmental Compliance Department determines that the estimated cost of implementing the approved Environmental Protection and Rehabilitation Program is substantially less than the amount already deposited in the Environmental Protection and Rehabilitation Fund, it may—

(*a*) refund any excess amount in the Fund to the Holder of the Mineral title ; or

(*b*) review the amount of future contributions or modify the contribution schedule as the circumstances may require.

(6) Where a mineral title is renewed, the holder shall pay into the Environmental Protection and Rehabilitation Fund such annual amounts as may be specified in an amended Environmental Protection and Rehabilitation Program approved under section 120 of this Act.

(7) The trustee shall keep proper records in respect of the operation of the Fund, and shall cause to be prepared by an independent firm of chartered accountants appointed by the Minister an audited statement of accounts in respect of each financial year.

(8) The trustee shall, not later than three months after the end of each financial year, cause a copy of the audited statement of accounts referred to in subsection (6) of this section to be sent to the Minister and each member of the State Mineral Resources and Environmental Management Committee.

(9) The Environmental Protection and Rehabilitation Fund and any sum accruing therefrom shall be applied only for the implementation of the Environmental Protection and Rehabilitation Program to which they relate in accordance with the timetable of payments established in the Environmental Protection and Rehabilitation Programme.

(10) The holder of a mining lease shall implement and meet all obligations described in the Environmental Protection and Rehabilitation Program during the term of the Mining Lease.

(11) When the Environmental Protection and Rehabilitation Program has been fully implemented and completed further to a certification by an independent external audit has confirmed that the implementation of the Environmental Protection and Rehabilitation Program has been satisfactorily completed, the Head of the Mines Environmental Compliance Department shall authorize the refund of any sum remaining in the Environmental Protection and Rehabilitation Fund to the title holder within thirty days of the receipt of the certification.

Service of Demand Notice.

122.—(1) Where a holder of a mining lease is required to make a payment to the Environmental Protection and Rehabilitation Fund under section 121 of this Act and fails to do so within thirty days of a written notice given by the Mines Environmental Compliance Department requesting payment of the amount owing, the Mines Environmental Compliance Department shall—

(*a*) serve, or cause to be served, on the holder a thirty day demand notice in writing ; and

(*b*) cause a record of the service of the notice to be endorsed by the Mining Cadastre Office on the copy of the Mining Lease in the register to which it relates.

(2) If the whole of the sum demanded by the notice under subsection (1) of this section is paid to the Environmental Protection and Rehabilitation Fund within the time specified therein, the notice shall thereupon cease to have effect to and the Mines Environmental Compliance Department shall cause to be cancelled in the Cadastre Register the record endorsed on the Mining Lease pursuant to sub section (1) (*b*) of this section.

(3) If by the end of the period specified in the demand notice the sum owed has not been paid to the Environmental Protection and Rehabilitation Fund, the Trustees to the Environmental Protection and rehabilitation Fund shall—

(*a*) institute the necessary court proceedings to recover the amount ; and

(*b*) suspend payment of any amount payable from the Environmental Protection and Rehabilitation Fund to the defaulting titleholder in accordance with the provisions of this Part, and the Mining Lease shall thereon become liable to suspension.

Pollution of water course prohibited.

123. No person shall, in the course of mining or exploration for minerals, pollute or cause to be polluted any water or watercourse in the area within the mining lease or beyond that area.

Purification of wa er.

124. Every person who uses water in connection with mining operation, whether for—

(*a*) the generation of power for mining purposes ; or

(*b*) the removal of mineral substance ; or

(*c*) concentration, milling or otherwise shall, whatever may be the nature and date of the document of title under which the use is enjoyed, make such provisions as shall ensure that the water so used does not contain injurious substances in quantities likely to prove detrimental to animal or vegetable life when the water leaves the mining area in which it has been so used.

Compensation for damages and pollution.

125. A licensee or lessee shall pay compensation to the owner or occupier—

(*a*) whose land or interest in the land is injuriously affected by the exercise of the rights conferred by the licence or lease, for any such injurious effect not otherwise made good ; and

(*b*) who suffers damages as a result of pollution of any source of water, used for domestic and other purposes, as a consequence of the exploration or operations in any work connected with the property, for any such damage not otherwise made good.

Deposit of tailings.

126. —(1) The Minister may by regulations prescribe the quantity of tailing that may be deposited in any natural water course by a lessee under this Act.

(2) No mineral title holder shall, without permission obtained on application by it in writing to the Mines Inspectorate Department, deposit a greater quantity of tailing in any natural water course than that prescribed by regulations.

(3) On the application of a mineral title holder and on good cause being shown the Mines Inspectorate may grant a permit authorizing the deposit of greater quantities of tailing than that prescribed by the regulations and may make the grant subject to such conditions as he may deem necessary and those conditions shall be endorsed on the permit.

(4) The Mines Inspectorate may revoke or vary the conditions of any permit granted under this section if the holder commits a breach of any of the conditions of the permit.

Alterations in water supply prohibited.

127.—(1) No person shall make or permit any other person to make, without the permission of the Mines Inspectorate Department, any alterations in the water supply of any land so as to prejudicially affect the water supply enjoyed by any other person or land.

(2) Whenever any alteration as in subsection (1) of this section is made the lessees benefiting by the alteration shall, in the absence of proof to the contrary, be presumed to have made it.

Restoration of river bank.

128. The Mines Inspectorate Department shall by order in writing, require any person who, in the course of mining operations, unlawfully interferes with the bank of any water course to—

(*a*) restore the bank to the condition in which it was immediately prior to interference ; or

(*b*) remake the bank in such a manner as may be specified in the order.

Amendment of water licence.

129.—(1) A holder of a water licence may apply to the Mining Cadastre Office for an amendment to be made to the water licence with respect to—

(*a*) the volume of water may be diverted ;

(*b*) the lease to observe by the water licence ;

(*c*) the name of the holder ; or

(*d*) endorsement on the water licence.

(2) No amendment shall be made in respect of an increase in the volume of water to be diverted unless notice of the application for the increase is given in the manner provided under this Act and no objection is received concerning the application.

Agreement of other interested persons.

130.—(1) It shall be the duty of every applicant for a water licence to reach agreement with all persons likely to be adversely affected by the grant of such water licence at or before the time of making his application and to inform the Mining Cadastre Office of any conditions in the water licence.

(2) Where no agreement is reached pursuant to subsection (1) of this section, the matter should be referred to the Minister for appropriate action, and where the Minister's action is not accepted, the matter should be referred to Arbitration.

CHAPTER 5—OFFENCES AND PENALTIES

Illegal Mining, False and misleading statements, false or non declar..tion Smuggling.

131. A person who—

(*a*) conducts exploration or mines minerals or carries out quarrying operations otherwise than in accordance with the provisions of the Act ;

(*b*) in making application for mineral title, knowingly makes a statement which is false or misleading in any material particular ;

(*c*) in any report, return or affidavit submitted in pursuance of the provisions of this Act, knowingly gives an information which is false or misleading or fails to declare in any material particular ;

(*d*) removes, possesses or disposes of any mineral contrary to the provisions of this Act, commits an offence.

Loans.

132.—(1) No loan granted pursuant to Part III of this Act shall be applied to any purpose other than that for which the loan was granted.

(2) Any person who applies a loan granted pursuant to Part III of this Act in contravention of subsection (1) of this section commits an offence and is liable on conviction to a fine of an amount not less than the amount of the loan and interest accruing thereof in respect of which the offence was committed or imprisonment for a term of not less than five years.

(3) Where an offence under this section is committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager secretary or other similar officer of the body corporate (or any person purporting to act in any such capacity) he as well as the body corporate shall be deemed to be guilty of the offence and may be proceeded against and punished in accordance with subsection (2) above.

Offences.

133. A mineral title holder who is guilty of an offence under section 131 is liable to have his licence revoked and on conviction at the first instance, to a fine not less than ₦20,000,000.00 ; and imprisonment of not less than five years, if the offence is a continuing one, whether or not it is a first offence, the person convicted shall, in addition, be liable to a fine of ₦20,000.00 in respect of each day during which the offence continues.

Salting.

134. A person who—

(*a*) places or deposits, or causes to be placed or deposited in a place any minerals, with the intention to mislead any other person as to the mineral possibilities of the place ; or

(*b*) mingles or causes to be mingled, with samples or ore, any substances which may enhance the value or in any way change the nature of the ore, with the intention to cheat, deceive or defraud; or engages in the business of milling, leaching, sampling, concentrating, reducing, assaying, transporting, or dealing in ores, metals or minerals, contrary to the provisions of this Act commits an offence under this Act and is liable on conviction to a fine of not less than ₦500,000.00 or to imprisonment for a term not exceeding 2 years or to both fine and imprisonment.

Use of False or Fraudulent Scales.

135. A person who keeps or uses any false or fraudulent scale or weight for weighing ores, metals or minerals, or uses any false or fraudulent assay scale or weight or enriched fluxes used for ascertaining the assay value of minerals, knowing them to be false or fraudulent commits an offence under this Act, and is liable on conviction to a fine of not less than ₦100,000.00 or more than ₦1,000,000.00 or to imprisonment for a term not less than 1 year or to both fine and imprisonment.

Misrepresentation.

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

(2) Where a person who makes a false representation as in subsection (1) of this section is a holder of another mining title, that mining title shall be revoked.

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

Unlawful interference.

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

Obstruction.

138.—(1) Any person who without lawful cause—

(*a*) interferes with or obstructs any mining or quarrying operations authorized by or under this Act ; or

(*b*) interferes with any machinery, plant work or property on, in under or over land in exercise of a right conferred by or under this Act commits an offence.

(2) A person who commits an offence under section 137 and subsection (1) of this section is liable on conviction—

(*a*) at the first instance, to a fine not exceeding ₦500,000.00 or to imprisonment for a term not exceeding 2 years or to both the fine or imprisonment ; and

(*b*) at a second or subsequent offence, to imprisonment for a term not exceeding 5 years or below 2 years.

(3) If the offence is continuing one whether or not it is a first offence, the person convicted shall, in addition, be liable to a fine of ₦10,000.00 in respect of each day or part of a day during which the offence continues.

Offence by a body of persons.

139.—(1) Where an offence under this Act or under the regulations made there under is committed by a body of persons—

(*a*) in the case of a body corporate, other than a partnership, every director of the body who took part in the management of the body shall be deemed to be guilty of that offence ; and

(*b*) in the case for a partnership, every partner or officer of that body shall be deemed to be guilty of that offence.

(2) Nothing in this section shall be construed as exempting any person who actually committed an offence under this Act from the penalties provided for the offences committed by him.

Offence by body corporate.

140.—(1) Where an offence under this Act has been committed by a body corporate or firm or other association of individuals, a person who at the time the commission of the offence was an officer thereof or was purporting to act in such capacity is severally guilty of that offence and liable to be prosecuted against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

(2) In this section and the other provisions of this Act, officer—

(*a*) in relation to a body corporate, includes a director, chief executive, manager and secretary ;

(*b*) in relation to a firm, includes a partner and other officer thereof ;

(*c*) in relation to any other association of individuals, includes a person concerned in the management of the affairs of such association.

Dispute resolution.

141.—(1) Any dispute arising between the holder of a mineral title and the Government in respect of the interpretation and application of this Act, its regulations and the terms and conditions of mineral titles shall be resolved, in the first instance, on an amicable basis.

(2) Where the dispute is in the nature of a bona fide investment dispute, and such dispute is not amicably settled as provided under subsection (1) of this section, it shall be resolved in accordance with the provisions of the Nigerian Investment Promotions Commission Act, Cap. N117 Laws of the Federation of Nigeria, 2004.

(3) Any other dispute between the holder of a mineral title and the Government shall be resolved in the Federal High Court, if not settled in accordance with the provisions of subsection (1) or (2) of this section.

Jurisdiction of th Federal High Court.

142. An offence under this Act and the regulations made under it shall be tried by the Federal High Court.

CHAPTER 6—MISCELLANEOUS PROVISIONS

Expor er of minerals to make declaration, etc.

143.— (1) An exporter of any mineral shall—

(*a*) before the mineral is entered for export declared on the appropriate customs entry form the State from which the mineral was extracted ; and

(*b*) on demand made by the prescribed authority,

furnish the information relating to any mineral which the exporter has exported under paragraph (*a*) of this subsection within the time and in the manner as may be required.

(2) A person who does not comply with any of the provisions of subsection (1) of this section, commits an offence and is liable on conviction—

(*a*) at the first instance, to a fine not exceeding ₦500,000.00 or to imprisonment for a term not exceeding 2 years or to both the fine or imprisonment ; and

(*b*) at a second or subsequent offence, to a fine not exceeding ₦1 million or to imprisonment for a term not exceeding 5 years or both.

(3) A proper officer of the Nigerian Customs Service may refuse to accept the entry of any mineral in respect of which he is satisfied that the provisions of subsection (1) of this section have not been complied with.

Scientific specimen.

144.—(1) Whenever any mineral is exported solely for the purpose of analysis or experiment or as a scientific specimen, the certificate shall be forwarded to the Minister and the person exporting the sample shall obtain a certificate of the result of analysis of the sample and deliver, within six months of the exports of the sample, a true copy of the certificate to the Minister.

(2) A person who fails to comply with the provisions of this section commits an offence and is liable on conviction to a fine of not more than ₦100,000.00 and not less than ₦50,000.00.

Boundary.

145. Every mineral title, temporary title or mining lease shall be bounded by vertical planes from the surface boundary lines drawn downwards to an unlimited depth from surface.

Power to seize.

146.—(1) An officer of the ministry authorized in that behalf may arrest without warrant, any person whom he finds committing or reasonably suspects to have committed an offence under this Act or regulations made under it and may seize—

(*a*) any tool, implement, or vehicles used in committing the offence ; and

(*b*) any mineral won illegally.

(2) A person arrested and the items seized, shall be kept in the custody of the Police and taken within 48 hours before an appropriate Court and if the person is found guilty, he shall in addition to any other punishment provided for under this Act or any enactment, forfeit the seized items to the Federal Government.

(3) The Mines Inspectorate Department may, by notice in writing require any lessee, or any person employed by the lessee or holder to appear before the mines officer at a reasonable time and place and give information regarding mining operations in or about the area of the mining which he possesses, and the lessee, holder or other person shall comply with the notice and give the information.

(4) The Mines Inspectorate Department may, by order in writing, direct that prospecting or mining operations be suspended in an area, whether it is the subject of a mining lease or exploration licence or not, until such arrangements as are in his opinion necessary to prevent danger to life or property or to compliance with the act are made.

(5) The Mines Inspectorate Department may cancel or vary the terms of any notice or order issued by him under subsection (4) of this section.

(6) An order made under subsection (4) of this section shall lapse after 14 days of its issuance, unless it is confirmed by the Mines Inspectorate Department.

Transfer of Mineral title.

147.—(1) Subject to subsections (2), (5) and (6) of this section, a mineral title is transferable under this Act subject to the approval of the transfer by the Minister and registration of the transfer with the Mining Cadastre Office as provided in sub sections (3) and (4) of this section.

(2) The rights arising from a mineral title or permit that are transferable under this Act can be wholly and partially assigned, sub leased, pledged, mortgaged, charged, hypothecated or subject to any security interest.

(3) The mineral title holder shall make an application for approval of the transfer of a mineral title to the Mining Cadastre Office in the prescribed form.

(4) In the application for a transfer of a mining title, the holder shall provide to the Mining Cadastre Office such details of the assignment or transfer as may be required together with any other information that the Mining Cadastre Office may require.

(5) The Mining Cadastre Office shall approve a transfer of a mineral title under subsection (1) of this section if the transferee is a qualified applicant, provided that the application for transfer shall be deemed automatically approved if not acted upon by the Mining Cadastre Office within thirty days from official receipt thereof.

(6) The approval of the Mining Cadastre Office shall not be required for an assignment to an affiliate, where the obligations of the affiliate are guaranteed by the assignor or by a parent company.

(7) In the event of the death of the mineral title holder the laws of succession shall apply.

(8) The transferor of a mineral title shall remain liable for the performance of any obligations arising out of acts or contracts made in respect of the Mineral title Area, including environmental obligations, incurred prior to the date of the transfer as well as for any claims for damages or injuries by bona fide third parties.

(9) Where the transfer under this section is in the nature of a security interest, the holder of the mineral title shall remain liable for all obligations in respect of the Mineral title until the later in time of redemption of the security or the expiration of the Mineral title.

(10) No mineral title or rights therein may be assigned to a person to whom that Mineral title could not have been granted under this Act.

Renewal of Mineral title.

148. Where the holder of a mineral title applies during the pendency of his title for a renewal of the Mineral title, the current Mineral title shall remain in force until the date of the renewal of the Mineral title or the refusal of the application.

Suspen ion of Mineral title.

149.— (1) Without prejudice to any other provisions of this Act, upon the written approval of the Minister, the Mining Cadastre Office may suspend a Mineral title for a period not exceeding sixty days if the holder—

(*a*) fails to make any payments required by or under this Act on the due date ; or

(*b*) has breached any condition of the mineral title ;

(*c*) has contravened any provisions of this Act ;

(*d*) has failed to comply with any lawful order given in connection with his operations ;

(*e*) makes any statement to the Mining Cadastre Office which he knows or ought to have known to be false ; or

(*f*) for any reason becomes ineligible to apply for a Mineral title under the provisions of this Act.

(2) A mineral title shall only be suspended after thirty days notice of the intention to suspend the Mineral title containing in detail the grounds thereof is given to the holder and during the period fixed the holder has failed to remedy the breach or remove the grounds for suspension within the required period.

Surrender of Mineral title.

150.—(1) The holder of a mineral title may, upon application in the prescribed form and manner, and upon meeting prescribed conditions, surrender the Mineral title.

(2) The Mining Cadastre Office shall approve an application made under subsection 1 of this section to surrender the mineral title if he is satisfied that—

(*a*) the holder of the mineral title has submitted the request for surrender in the prescribed form and manner ;

(*b*) the surrender will not affect any liability incurred by the mineral title holder before the surrender of the Mineral title, including environmental obligations ;

(*c*) all rents due and fees prescribed, if any, have been paid by the holder of the mineral title ; and

(*d*) the holder of the mineral title has surrendered the original title document.

Revocation of Mineral title.

151. Without prejudice to the power of the Minister to determine a mineral title in any other manner, the Minister may, revoke any Mineral title if—

(*a*) the holder is convicted by any court of competent jurisdiction for an offence under this Act or its regulations and the time for appealing against the conviction, if any, has lapsed or the appeal has been dismissed or withdrawn or struck out for want of prosecution ;

(*b*) the holder breaches any provision of this Act or regulations made or of any terms or conditions of his Mineral title whether express or implied ;

(*c*) the holder breaches any order or notice issued or given under this Act or regulations made under it, or on being required by the Minister by notice to show cause within a time specified in the notice why the Mineral title should not be revoked, the Holder fails to comply or show adequate cause ;

(*d*) the mineral title holder before the expiration of the term of the licence, surrenders the Mineral title in the manner prescribed ; or

(*e*) the Holder is declared by a Court of competent jurisdiction to be insolvent or bankrupt or goes into insolvent liquidation, except as part of a scheme for reorganization, amalgamation or an arrangement with its creditors ;

(*f*) the mineral title is held jointly by more than one person and the provisions of subsection (1) (*a*) of this section apply to anyone of the joint holders unless the other joint holders are able to assume the obligations of the former and adopt measures which will guarantee the performance of these obligations ;

(*g*) no progress is made in the organization of the Mining Operations in the case of all Mineral title other than a Reconnaissance Permit by the end of the period provided for in the Mineral title ;

(*h*) in the case of a Small Scale Mining Lease or Mining Lease, the holder wholly discontinues operations under the Lease during a continuous period of six months.

(2) A mineral title shall be revoked upon written advice of the Minister and after thirty days notice of the intention to revoke the mineral title containing in detail the grounds thereof is given to the holder and during the period fixed the holder has failed to remedy the breach or remove the grounds for revocation within the required period.

(3) Any notice issued by the Minister and sent by registered mail to the last known address in Nigeria or given in person to an authorized representative of the mineral title holder in Nigeria or published in the *Gazette*, shall for all purposes be sufficient notice of the revocation of the mineral title to the mineral title holder.

Delivery of documents.

152. Upon the revocation of a mineral title, the former holder thereof shall deliver to the Mines Inspectorate Department responsible for the area—

(*a*) all records which the holder is obliged to submit under the provisions of this Act and regulations ;

(*b*) all plans or maps of the area covered by the mineral title prepared by the holder or at his instructions ; and

(*c*) such other documents relating to the Mineral title as the Mines Officer may request.

Notice of requesting delivery of documents.

153. Upon revocation of a mineral title, a notice in the prescribed form requesting the delivery of the documents specified under this section shall be sent to the former mineral title holder.

Failure to deliver documents.

154. The failure of the recipient of the notice under this section to deliver the said documents, within thirty days of the delivery of the notice shall be an offence under this Act.

Continuing obligations of Mineral title holder.

155. Notwithstanding the revocation of a mineral title in accordance with this Act the mineral title or Permit holder, shall remain liable for the performance of any obligations arising out of the mineral title, including environmental obligations, incurred prior to the date of revocation as well as for any claims for damages or injuries by bona fide third parties.

Appeal of Revocation.

156. The decision of the Mining Cadastre Office to revoke a mineral title shall be subject to appeal in accordance with the provisions of this Act.

Reliquishment of part of Mineral title.

157.—(1) The holder of a Mineral title may at any time during the period of the validity of such Mineral title, upon application to the Mining Cadastre Office in the prescribed form and manner and upon meeting prescribed conditions, relinquish the area or part of area covered by the mineral title, provided, the geometry and dimensions of each surrendered area shall satisfy the prescriptions of this Act and its regulations.

(2) upon relinquishment of the area or part of the area covered by the mineral title in accordance with the provisions of sub section (1) of this section, the fees payable on the basis of the area covered by the mineral title shall be adjusted proportionally taking into account the area relinquished.

(3) The relinquishment of the area or part of the area covered by the mineral title shall not affect the duration of the mineral title.

(4) The relinquishment of the area or part of the area shall not affect any liability incurred by the Mineral title Holder in respect of the area relinquished prior to the relinquishment, including environmental obligations.

Contiguous Areas.

158.—(1) The holder of several mineral titles whose areas are contiguous may at any time during the period of the validity of such Mineral titles, upon application to the Mining Cadastre Office in the prescribed form and manner and upon meeting prescribed conditions, consolidate some or all of the contiguous areas covered by the min :ral titles under a single one of such mineral titles, provided the geometry and dimensions of the consolidated area shall satisfy the prescriptions of this Act and its regulations.

(2) After the consolidation of mineral title areas under subsection (1) of this section, the validity of the resulting mineral title and the surface rents payable for the new area shall be the period of the validity and the surface rents payable for the oldest of the mineral title whose area was part of the consolidation.

Abandonment or Permanent Cesser of Production.

159. —(1) A holder of a Mining Lease, Small Scale Mining Lease, and Quarry Lease intending to abandon or permanently cease production from the Lease Area shall provide a written notice to the relevant departments established under this Act three months before such intended abandonment or cessation of production. A copy of such a notice shall also be given at the same time to the Mining Cadastre Office.

(2) The notification shall be accompanied by a report outlining details of the intended abandonment or permanent cessation of production and the reasons thereof together with a plan, showing the workings of the Mine up to the time of the notice.

(3) Upon receipt of the notice in the prescribed form the relevant department shall make appropriate recommendations to the Minister with regards to the abandonment plan.

(4) Upon receipt of this recommendation the Minister shall within ten days cause the matter to be investigated.

(5) After investigation of the abandonment or permanent cessation of the production, if the mineral title holder maintains the notice, the Mining Cadastre Office shall take note of the abandonment or cessation of production.

(6) In case of abandonment or permanent cessation of production within the title area, the mineral title holder shall—

(*a*) securely seal, fence or cover every mine shaft and adit ;

(*b*) make safe all tailings and water retention areas ; and

(*c*) demolish, fence or lock all potentially hazardous buildings, structures, plant and equipment.

(7) In case of suspension of production due to weather, labour situation, market problems or other reasonable causes, the mineral title holder shall inform the Mines Inspectorate Department of the situation as soon as possible.

(8) If the suspension exceeds three months, the mineral title holder shall send a notice to the Mines Environmental Compliance Department stating the reasons for the extended shut down of the mine and indicating the measures taken in respect of site maintenance, or if abandonment is contemplated the measures that will be taken in accordance with the Environmental Protection and Rehabilitation Program established under the provisions of this Act in the eventuality of the title being transferred to a new operator or surrendered.

(9) The requirements to be met and the procedure to follow in case of abandonment, permanent cessation or suspension of production by a titleholder shall be defined in the regulations.

Geological Studies and Mapping.

160.—(1) For the purpose of determination of the characteristics and undertaking of an inventory of mineral occurrences, the Minister may approve the conduct of geological studies and mapping of the national territory by specialized agencies of the Government, without obtaining a mineral title, on any land that is not closed by any other law, provided that if such activity is required to be conducted in an area subject to an Exploration Licence, a Mining Lease, a Small Scale Mining Lease or a Quarry Lease, a written notice of the proposed activity shall be given by the Minister to the mineral title holder.

(2) Educational institutions regulated under the laws of Nigeria may carry out similar studies of a scientific nature as provided in subsection (1) of this section without obtaining a mineral title on the same condition as specified for the Government in sub section (1) of this section.

(3) No agency or educational institution authorized to perform any activity described in subsections (1) or (2) of this section may be granted, directly or indirectly and for a period of five years, thereafter, a mineral title on any land where studies have been carried out.

(4) Where an agency of Government or an educational institution undertakes scientific studies authorized under subsections (1) and (2) of this section, compensation shall be paid by the agency or educational institution to the User or Occupier of that land or to the holder of mineral title to such land for any damage to the land or any property therein.

(5) The compensation payable pursuant to subsection (4) of this section may in default of an agreement be claimed and determined by arbitration and shall, in case of

any disturbance or damage caused by any employee of Government or by staff or student of the educational institution, be payable by the Government or the educational institution as the case may be.

Repeal of the Minerals and Mining Act, 1999.

161.— (1) The Minerals and Mining Decree No. 34 of 1999 is hereby repealed.

(2) The repeal of the enactment specified in subsection (1) of this section shall not affect any thing done or purported to be done under the repealed Act.

Savings in respect of office holders.

162. Any person who, immediately before the commencement of this Act, was holding any office to which appointments may be made under this Act shall continue in that office and be deemed for the purposes of this Act to have been so appointed.

Savings provisions in respect of Mineral titles granted under the Repealed Act.

163.—(1) Any person who, immediately before the appointed date, was the Holder of a right or a lease or a licence under the Repealed Act shall be deemed to have become on the appointed date the holder of an interim right, lease or licence.

(2) During the interim period, the holder of an interim right or lease or licence is authorised to carry on the operations which he was authorised to carry on immediately before the appointed date under the right, lease or licence of which he was the holder ; and in carrying on those operations the holder of the interim right, lease or licence shall in respect of those operations enjoy the same rights and be subject to the same liabilities as if the Repealed Act were still in force.

(3) The Holder of an A Small-scale Mining Lease ; or existing mineral title under the Repealed Act shall immediately upon the commencement of this Act, apply for and be entitled, as the case may be, to the grant of —

(*a*) Reconnaissance Licence ;

(*b*) an Exploration Licence under this Act in respect of the area covered by the interim right or licence ;

(*c*) a Small-scale Mining Lease ;

(*d*) a Mining Lease ; or

(*e*) a Quarry Lease.

(4) A mineral title granted under subsection (1) of this section shall be deemed to have been granted on the date on which the mineral title under the Repealed Act was granted, and shall remain in force, subject to this Act, for a period equal to the unexpired period of the mineral title under that Act.

(5) A Small Scale Mining Lease granted under subsection (1) of this section shall—

(*a*) remain in force, subject to this Act, for such period, not exceeding the unexpired period of the mining licence or lease which remained at the appointed date, or the period of five years, whichever is lesser ; and

(*b*) require compliance with the programme of development and mining under the Repealed Act.

(6) A Mining Lease granted under this section shall—

(*a*) remain in force, subject to this Act, for a period equal to the unexpired residue of the Mining Lease held under the Repealed Act ;

(*b*) require compliance with the programme of development and mining under the Repealed Act ;

(*c*) require compliance with an Environmental Protection and Rehabilitation Program drawn up by the holder of the interim lease which shall be approved by the Environment Compliance Department established under this Act and shall form part of the conditions of the Mining Lease provided that—

(*i*) it meets the requirements of this Act ; and

(*ii*) if the Mines Environmental Compliance Department considers that the program does not meet the requirement of this Act any requirements, the matter or matters in dispute shall be referred to an independent expert chosen by agreement between the Committee and the holder of the interim lease, whose decision shall be binding ; and in the event that the Committee and the interim holder are unable to agree on the choice of the expert, the expert shall be appointed by the Chief Judge of the Federal High Court.

(7) Where the holder of an interim lease who, immediately before the appointed date, held a Mining Lease under the Repealed Act elects to apply for a Small Scale Mining Lease under this Act, the Minister may, if the holder of the interim lease has before the appointed date been carrying on mining operations on a substantial scale, direct that the applicant apply for a Mining Lease and in any such case the provisions set out in this paragraph shall apply as though the holder of the interim lease had elected to apply for a Mining Lease.

(8) The holder of an interim lease who, immediately before the appointed date, held a Mining Lease or quarrying lease for building or industrial minerals granted under the Repealed Act, may apply for, and shall be granted, in respect of the area covered by his interim Mining Licence or lease under Part XI of this Act a Quarry Lease.

(9) A Quarry Lease granted under this paragraph—

(*a*) shall be granted for such period as may be applied for, but not exceeding the unexpired period of the mining licence or lease which remained at the appointed date, or the period of ten years, whichever is greater ; and

(*b*) shall not derogate from the compliance requirements attached to the mining licence or lease granted under the Repealed Act.

(10) The holder of an interim right or lease or licence for water who, immediately before the appointed date, held a right, lease or licence for water granted under the Repealed Act may apply for, and shall be granted, in respect of the area covered by his interim right, or lease or licence a Water Use Permit.

(11) A Water Use Permit granted under this section shall be granted for as long as the Mining Lease, Small Scale Mining Lease or Quarry Lease for which use it was granted remains valid ; and shall not derogate from the compliance requirements with

the conditions attached to the water right, lease or licence granted under the Repealed Act.

(12) During the interim period and thereafter, if the transformation has been effected in accordance with this Act, the right, lease or licence held under the Repealed Act shall be adapted to the geometry and boundaries introduced by the Mining Cadastre Office and shall be granted subject to the procedures and requirements of the Mining Cadastre Office, including the payment of the rental and other fees.

Interpretation.

164. In this Act, unless the context otherwise requires—

"Access Order" means an order issued by the Minister to the Owner, Occupier, or User of land to compel the user or occupier of land subject to the mineral title to give the holder of the mineral title access to the land for the exercise of his rights under such title or permit ;

"Alluvial" includes any form of mineral deposit, other than carbonaceous deposit, which does not fall within the definition of "Lode" ;

"Application" means an application for the grant or surrender of a Mineral title made in accordance with this Act ;

"Arbitration" means arbitration in accordance with the Arbitration and Conciliation Act (Chapter 19 of the Laws of the Federation of Nigeria, 1990) ;

"Artisanal Mining" means Mining Operations limited to the utilization of non mechanised methods of reconnaissance, exploration, extraction and processing of Mineral Resources within a Small Scale Mining Lease Area ;

"Beneficiation" means the crushing and separating of Mineral Ore into valuable substances or waste by any of a variety of techniques ;

"Companies and Allied Matters Act" means the Companies and Allied Matters Act, Cap. C20 Laws of the Federation Nigeria, 2004 ;

"Committee" or "the Mineral Resources and Environmental Management Committee" means the Committee established under section 19(1) of this Act ;

"Court" means any duly constituted court, in the Federal Republic of Nigeria, other than a Customary Court or an Area Court ;

"Days" means working days ;

"Director-General" means the Director-General of the Mining Cadastre appointed under this Act ;

"Environmental Protection and Rehabilitation Fund" means the Environmental Protection and Rehabilitation Fund established under subsection (1) of section 121 of this Act ;

"Environmental Protection and Rehabilitation Program" means the Environmental Protection and Rehabilitation Program required to be provided under this Act ;

"Exclusive Economic Zone" means the Exclusive Economic Zone of Nigeria as defined in the Exclusive Economic Zone Act, Cap. E17 Laws of Federation of Nigeria ;

"Explore" means the operations and works aimed at the discovery, the determination of characteristics and the evaluation of the economic value of Mineral Resources within an Exploration Licence Area ;

"Exploration Licence Area" means an area that is the subject of an Exploration Licence ;

"Exploration Licence" means Exploration Licence granted under the provisions of this Act ;

"Exploration Operations" means the operations and works carried out in the course of exploration ;

"Federal Mines Officer" means the head of the Mines Inspectorate Division of the Federal Ministry of Solid Minerals within a State ;

"Gazette" means an Official Gazette of the Federal Republic of Nigeria ;

"General Register" means a register maintained by the Mining Cadastre Office in which is recorded applications for Mineral titles which do not confer an exclusive right to relevant Mineral Resource ;

"Government" means the Government of the Federal Republic of Nigeria ;

"Holder of a Mineral Title" means the person to whom such Mineral title was granted and, where a Mineral title has been validly transferred, includes a person in whom such Mineral title or a part of the rights thereunder has become vested by assignment but does not include a mortgagee or charge or a holder of a security interest thereon ;

"Holder of a right of occupancy" means a person entitled to a right of occupancy granted or deemed to be granted by virtue of the Land Use Act, Cap L5, Laws of the Federation of Nigeria, 2004 and includes any person to whom a right of occupancy has been validly assigned or has validly devolved on the death of a Holder of a right of occupancy but does not include any person to whom a right of occupancy has been sold or transferred without a valid assignment, nor a 'mortgagee'; 'sub lessee' or 'sub under lessee' thereof ;

"Lapidary" means an operation established to engage in the cutting and processing of gemstones ;

"Lawful Occupier" in relation to any land means a person who is in actual occupation of the land or any part of it and where there are more than one person, means that one of them who is the owner, or who is responsible or would be so responsible if the land were let at a rent or otherwise occupied in circumstances in which consideration or damages for such occupation would be payable ;

"Lode" includes any true mineralized fissure vein, contact vein, segregated vein, bedded vein, metalliferous blanket, stock word, such irregular deposits as conform generically, to the above classification, any igneous rock containing metalliferous or radio active mineral when work for that mineral, and bed of any mineral, including bed of ironstone ;

"Mine" when used as a noun, means any place, excavation or working in or on which any operation connected with mining is carried on together with all buildings, premises, erections, infrastructure water reservoirs, tailings, ponds, waste,

overburden and other dumps, and appliances belonging or appertaining thereto, above or below the ground for the purpose of mining, treating or preparing Minerals, obtaining or extracting any Mineral or metal by any mode or method or for the purpose of dressing mineral ores but does not include a smelter or a refinery ;

"*Mine*" when used as a verb, means to intentionally mine minerals, and includes any operations directly or indirectly necessary therefore or incidental thereto, including such processing of minerals as may be required to produce a first saleable product, and "*mining*" shall be construed accordingly ;

"*Minerals*" or "*Mineral Resources*" means any substance whether in solid, liquid, or gaseous form occurring in or on the earth, formed by or subjected to geological processes including occurrences or deposits of rocks, coal, coal bed gases, bituminous shales, tar sands, any substances that may be extracted from coal, shale or tar sands, mineral water, and mineral components in tailings and waste piles, but with the exclusion of Petroleum and waters without mineral content ;

"*Mineral Exploitation*" means operations and works related to the technical and economic utilization of Mineral Resources, including Mine development, extraction, treatment, processing and beneficiation of Mineral Resources as well as the activities necessary or related to the marketing of such Mineral Resources ;

"*Mineral title*" means Reconnaissance Permit, Exploration Licence, Small Scale Mining Lease, Mining Lease, Water Use Permit, or Quarry Lease or any one of these titles, consistent with the context in which the term "Mineral title" is used ;

"*Mining Co-operative*" means a group of artisanal miners registered as a co operative under relevant federal or state laws and Mining Co-operatives shall be construed accordingly ;

"*Mining Lease*" means the Mining Lease granted under this Act ;

"*Mining Operations*" means the operations and works carried out in the course of Mineral Exploitation, inclusive of the search for and exploration for Minerals, beneficiation, processing and contract mining ;

"*Mining Lease Area*" means an area subject to a Mining Lease Area ;

"*Minister*" means the Minister responsible for Solid Minerals Development ;

"*Ministry*" means the Ministry responsible for regulating matters relating to the exploration, development and exploitation of Mineral Resources ;

"*Mineral Title Area*" means an area in Nigeria that is subject to a Mineral title ;

"*Permit*" means a Permit granted under this law ;

"*Person*" means an individual or a corporate entity, partnership, joint venture, co-operative, trust, or other entity that is recognized by the law as a distinct body with the right to enter into contracts and to own property ;

"*Petroleum*" means any naturally occurring hydrocarbons, or any naturally occurring mixture of hydrocarbons, or any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state and any other substance, and including the substances already named, that has been returned to a natural reservoir, but does not include coal, bituminous shaless, tar sands, any

substance that may be extracted from coal, shale or tar sands or any other stratified deposits from which oil can be extracted by destructive distillation ;

"*Pollution*" means any change in the environment caused by substances, radio active or other waves noise, odours, dust or heat emitted from any activity, including the storage or treatment waste or substances, construction or the provision of services where that change has an adverse effect on human health or well being or on the composition or resilience and productivity of natural or managed ecosystems or on materials useful to people, or will have such an effect in the future and "*Pollutes*" shall be construed accordingly ;

"*Prescribed*" means as prescribed by the Regulations ;

"*President*" means the President of the Federal Republic of Nigeria ;

"*Processing*" means the operations and works carried out in the course of mineral in order to obtain metals, alloys, or other mineral commodities requiring treatment from other mineral substances either as extracted or as previously subjected to treatment as provided for under this Act ;

"*Protected trees*" means trees which are for the time being declared to be protected trees under the Forestry Law of a State and includes all trees within a forest reserve or a National Park ;

"*Reconnaissance*" means the operations and works to carry out the search for Minerals through physical observation, rock sampling, geological surface analysis, geophysical surveys, geochemical surveys, photogeological surveys by other non obstructive surveys or studies of surface geology or by other remote sensing techniques, laboratory testing and assays ;

"*Reconnaissance Area*" means an area of land that is the subject of a Reconnaissance Permit ;

"*Reconnaissance Operations*" means the activities conducted further to a Reconnaissance Permit ;

"*Reconnaissance Permit*" means reconnaissance Permit issued under this Act ;

"*Regulations*" means regulations made under this Act, which are from time to time, in force ;

"*Road*", "*Tramway*" or "*Railway*" includes a road, tramway or railway constructed by a local community or person and used in connection with exploration or mining operations ;

"*Quarry*" means a surface working or uncovered excavation used for the purpose of extracting Mineral Resources for Construction ;

"*Quarry operations*" includes any form of activity for the extraction of Mineral Resources for Construction, other than an activity conducted or to be conducted underground, and any activity preparatory or incidental to that activity thereto ;

"*Security Minerals*" means a radioactive mineral which contains by weight at least one twentieth of one per cent (0.05%) of uranium, thorium, or any combination thereof including but not limited to monazite, sand and other ores containing thorium, caronite, pitch blend, and other ores containing uranium ;

"*Small Scale Mining*" means Artisanal, Alluvial and other forms of Mining Operations involving the use of low level technology or application of methods not requiring substantial expenditure for the conduct of Mining Operations within a Small Scale ;

"*Small Scale Mining Lease*" means the Small Scale Mining Lease granted for exploitation of Mineral Resources under this Act ;

"*Small Scale Mining Lease Area*" means an area that is the subject of a Small Scale Mining Lease ;

"*State Government*" means the Government of a State within the Federal Republic of Nigeria and shall also include the Federal Capital Territory ;

"*Treatment*" means operations having the objective of carrying out the concentration, beneficiation and purification of Mineral Resources as well as the separation of the respective mineral substances ;

"*User or Occupier of land*" means any person occupying or using land in compliance with the Land Use Act, Cap. L5, Laws of the Federation of Nigeria 2004 or customary law and includes the sub lessees or sub under lessee of a such User or Occupier of land ;

"*Water Use Permit*" means a Water Use Permit issued under this Act ;

"*Watercourse*" means any channel or duct whether natural or artificial, which confines, restricts or directs the flow of water ;

"*Worker*" means a workman as defined in section 1 of the Workmen's Compensation Act, Cap. W6, Laws of the Federation of Nigeria, 2004 ;

"*Won*" means the production or extraction of Mineral Resources.

165. This Act may be cited as the Nigerian Minerals and Mining Act, 2007. Citation.

I Certify, in accordance with Section 2 (1) of the Acts Authentication Act, Cap. 4, Laws of the Federation of Nigeria 1990, that this is a true copy of the Bill passed by both Houses of the National Assembly.

NASIRU IBRAHIM ARAB,
Clerk to the National Asembly
16*th Day of March*, 2007.

EXPLANATORY MEMORANDUM

This Act creates a distinct role for the private sector as operator and owner of mineral resources won in accordance with the provisions of this Act and, a role for the Government as the regulator of all matters relating to the reconnaissance, exploration, exploitation, beneficiation, possession, retention, transportation, transformation, sale, marketing and other related purposes of mineral resoruces in Nigeria.

SCHEDULE TO THE NIGERIAN MINERALS AND MINING BILL, 2007

(1) *Short title of the Bill*	(2) *Long title of the Bill*	(3) *Summary of the contents of the Bill*	(4) *Date passed by the Senate*	(5) *Date passed by the House of Representatives*
Nigerian Minerals and Mining Bill, 2007.	An Act to repeal the Minerals and Mining Act. No. 34 of 1999 and re-enact the Nigerian Minerals and Mining Act 2007 for the purpose of regulating all aspects of the exploration and exploitation of solid Minerals in Nigeria ; and for related purposes.	This Bill seeks to repeal the Minerals and Mining Act, No. 34 of 1999 and re-enact the Nigerian Minerals and Mining Act 2007 for the purposes of regulating all aspects of the exploration and exploitation of solid Minerals in Nigeria.	21st February, 2007.	1st February, 2007.

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. 4. Laws of the Federation of Nigeria, 1990.

NASIRU IBRAHIM ARAB,
Clerk to the National Assembly
16*th Day of March*, 2007.

I ASSENT.

LS

CHIEF OLUSEGUN OBASANJO, GCFR
President of the Federal Republic of Nigeria
29*th Day of March*, 2007.