

BUITENGEWONE
OFFISIËLE KOERANT
 VAN SUIDWES-AFRIKA.

OFFICIAL GAZETTE



EXTRAORDINARY
 OF SOUTH WEST AFRICA.

UITGAWE OP GESAG.

PUBLISHED BY AUTHORITY.

1/- Dinsdag, 13 Julie 1954. WINDHOEK Tuesday, 13th July, 1954. No. 1847.

INHOUD

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Goewermentskennisgewing.

Government Notice.

Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.

The following Government Notice is published for general information.

J. NESER,
Sekretaris van Suidwes-Afrika.

J. NESER,
Secretary for South West Africa.

Kantoor van die Administrateur,
 Windhoek.

Administrator's Office,
 Windhoek.

No. 169.] [13 Julie 1954. No. 169.] [13th July, 1954.

ORDONNANSIE 1954: UITVAARDIGING VAN.

ORDINANCE, 1954: PROMULGATION OF.

Dit het die Administrateur behaag om sy goedkeuring te leg, ooreenkomstig artikel twee-en-dertig van „De Zuid-west-Afrika Konstitusie Wet 1925” (Wet 42 van 1925), aan die volgende Ordonnansie wat hiermee vir algemene inligting gepubliseer word, ooreenkomstig artikel vier-en-dertig van gemelde Wet:—

The Administrator has been pleased to assent, in terms of section thirty-two of the South-West Africa Constitution Act, 1925 (Act No. 42 of 1925), to the following Ordinance which is hereby published for general information in terms of section thirty-four of the said Act:—

<i>No.</i>	<i>Titel.</i>	<i>Bladsy.</i>	<i>No.</i>	<i>Titel.</i>	<i>Page.</i>
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No. 26 van 1954.]

ORDONNANSIE

Ter wysiging en konsolidering van die wette op die ontginning van minerale en die bedryf van Myne, Werke en Masjinerie in die Gebied Suidwes-Afrika.

(Goedgekeur 25 Junie 1954.)

(Engelse teks deur die Administrateur geteken.)

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika, met die toestemming van die Goewerneur-generaal, dermate sodanige toestemming nodig is, voorafverkreë en deur boodskap van die Administrateur aan die Wetgewende Vergadering meegedeel ooreenkomstig die bepaling van artikel *ses-en-twintig* van die „Zuidwest Afrika Konstitutie Wet 1925“ (Wet 42 van 1925), soos gewysig by artikel *sectien* van die Wysigingswet op Aangeleenthede van Suidwes-Afrika 1949 (Wet 23 van 1949) van die Parlement van die Unie van Suid-Afrika, VERORDEN:—

INLEIDING.

1. Die reg om edele en onedele minerale in die Gebied en sy territoriale waters te ontgin, en om daaroor te beskik, berus by die Administrasie, en edela en onedele minerale moet volstrekt ooreenkomstig die bepaling van hierdie Ordonnansie gesoek en ontgin word.

2. In hierdie Ordonnansie, tensy die sinsverband 'n ander bedoeling aandui, beteken—

„*arbitrasie*“ beslissingsverrigtinge ooreenkomstig die bepaling van die „Arbitrasieproklamasie 1926“ (Proklamasie 3 van 1926);

„*beslaglegging*“ die inbeslagneming, deur 'n bode van 'n magistratshof of deur die Balju van die Hoogergereshof van Suidwes-Afrika, van enige roerende of vaste bates ter uitvoering van 'n uitspraak van sodanige hof;

„*bykomende werke*“ damme, putte, boorgate, pompstasies, pyplyne, tremspore, paale, hekke en mynhoë vir uitskot en slyk, en omvat die inrigtings en geboue vir die stamp en was en die ander bewerking of uitsmelting van ertse, en vir mense-bewoning;

„*edele minerale*“—

(a) edele metale (goud, silver, platinum, iridium en elke ander metaal van die platinumgroep en die ertse van die vermelde metale); asook slyk, halfsuiwer-ertse, metaalskui, uitskot, afsaksels, of die amalgaam van die voormelde edele metale;

(b) edelgesteentes (diamante, robyne, smaragde en saffiere), asook die ertse, halfsuiwer-ertse, gruis en konglomerate wat die voormelde edelgesteentes inhou;

(c) minerale wat die Administrateur by kennisgewing in die *Offisiële Koerant* „edel“ verklaar met die oog op hierdie Ordonnansie;

„*eienaar*“ betreffende 'n klein of myn of werke of masjinerie, elkeen wat die onmiddellike houër of huurder van 'n klein of myn of werke of deel daarvan is, of wat tot die bedryf van 'n klein of myn of deel daarvan bydra, en waar 'n klein of myn of werke of masjinerie aan 'n maatskappy behoort, omvat die woord „*eienaar*“ elke direkteur of sekretaris of verteenwoordiger of agent van die maatskappy in die Gebied, en waar die myn, werke of masjinerie aan 'n groep persone sonder regs persoonlikheid behoort, omvat dit elke lid van daardie groep in die Gebied;

No. 26 of 1954.]

ORDINANCE

To consolidate and amend the Laws in force in the Territory of South West Africa relating to minerals and to the operating of Mines, Works and Machinery.

(Assented to 25th June, 1954.)

(English text signed by the Administrator.)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa with the consent of the Governor General insofar as such consent is necessary, previously obtained and communicated to the Legislative Assembly by message from the Administrator in accordance with the provisions of Section *twenty-six* of the South West Africa Constitution Act, 1925 (Act 42 of 1925), as amended by Section *sixteen* of the South West Africa Affairs Amendment Act, 1949 (Act 23 of 1949) of the Parliament of the Union of South Africa, as follows:—

PRELIMINARY.

1. The right of mining for and disposing of precious and base minerals in the Territory, including the territorial waters, is vested in the Administration and no precious or base minerals shall be searched for or won save in accordance with the provisions of this Ordinance.

2. In this Ordinance unless inconsistent with the context—

„*accessory works*“ shall mean dams, wells, bore-holes, pump stations, pipe-lines, tramlines, roads, gates and dumping sites for tailings and slimes, and shall also include plant and buildings for the dressing, treating or smelting of ore and for residential purposes;

„*approve*“ in relation to the Surveyor-General and to any diagram shall mean the signing of such diagram by the Surveyor-General in order to signify that the requirements of this Ordinance and the regulations have been complied with in regard to such diagram;

„*arbitration*“ shall mean arbitration in accordance with the provisions of the Arbitration Proclamation, 1926 (Proclamation No. 3 of 1926);

„*attachment*“ shall mean attachment of any movable or immovable assets by any messenger of the magistrates' court or the Sheriff of the High Court of South West Africa in the execution of any judgment of such Court;

„*block of claims*“ shall mean a block of not more than four claims, pegged individually on the same day, under the same prospecting licence, with the sides of adjacent claims in that block coincident and continuous and with the block not exceeding an area of 72 hectares;

„*cease to be closed*“ shall mean in relation to any ground that such ground is again open to prospecting;

„*claim*“ shall mean an area of ground which in accordance with this Ordinance or a prior law has been lawfully pegged as a claim and on which the right to prospect for and develop minerals has been lawfully obtained and has not terminated, or been terminated;

„*claim holder*“ shall mean the person, or company, registered as the holder of a claim in the prospecting claim register kept in the office of the Inspector of Mines;

betreffende private grond, die persoon wat as eienaar daarvan in die Akteskantoor van die Gebied geregistreer staan, en dit omvat ook die huurder van Administrasiegrond ingevolge die heersende nedersettingswette waar sodanige huurder sy koopkeuse uitgeoefen het;

betreffende die Rehobothse Gebied, die Magistraat van Rehoboth in sy hoedanigheid as kaptein van die Burgergemeenskap Rehoboth;

betreffende 'n natuerlêerservaat, die natuerlêerskommissaris vir die streek waarin sodanige reservaat geleë is;

en voorts beteken dit die trustee van 'n insolvente boedel, die likwidateur van 'n maatskappy wat eienaar is, en die verteenwoordiger, wetlik as sodanig erken, van 'n eienaar wat oorede is of wat minderjarig of geesteskrank is, of wat andersins wetlik onvolwaardig is: Met dien verstande dat sodanige trustee, likwidateur of wetlike verteenwoordiger binne die perke van sy regsbevoegdheid handel;

„geslote” betreffende kleins, 'n kleim wat geregistreer is maar nóg verval het, nóg geroeër, nóg verlaat is nie;

„goedkeur” betreffende die Landmeter-generaal en 'n kaart, die ondertekening van sodanige kaart deur die Landmeter-generaal as aanduiding dat die vereistes van hierdie Ordonnansie en die daaruitvloeiende regulasies dienaangaande nagekom is;

„hierdie Ordonnansie” ook die regulasies wat hieruit voortvloei;

„Inspekteur” die Inspekteur van Mynwese, Masjinerie en Springstowwe, en omvat dit 'n adjunk-inspekteur en 'n assistent-inspekteur;

„kaart” 'n dokument met meeskundige, numeriese en woordelike voorstellings van 'n inygebied of gebied wat onderteken is deur iemand wat ingevolge 'n heersende wet as landmeter erken word, en wat deur die Landmeter-generaal goedgekeur is; en omvat 'n aftekening van 'n kaart wat in die kantoor van die Landmeter-generaal gemaak is en soos voormeld goedgekeur is, en ook 'n dokument wat te eniger tyd voor die afkondiging van hierdie Ordonnansie deur die Administrasie se Afdeling Mynwese as kaart aanvaar is;

„kleim” 'n stuk grond wat ooreenkomstig hierdie Ordonnansie of 'n vroeëre wet as prospekteegebied afgesteek is en waarop die reg om vir minerale te prospekteer en om sodanige minerale te ontgin, wettig verkry is, en nie verval het of opgesê is nie;

„kleimblok” 'n blok kleins (hoogstens vier, en altesaam hoogstens 72 hektaar groot) elk afsonderlik op dieselfde dag kragtens dieselfde prospekteeërnsis afgesteek, waarin die gemeenskaplike kant van aanliggende kleins saamval en saamkom;

„kleimhouer” die persoon of maatskappy wat as sodanig in die kleimregister in die kantoor van die Inspekteur van Mynwese ingeskryf staan;

„Londmeter” elkeen wat as sodanig erken word ter uitvoering van hierdie Ordonnansie en die daaruitvloeiende regulasies;

„masjinerie”—

(a) 'n lokomotief of 'n vasstaande of vervoerbare enjin, stoomketel of ander stoomwerktuig; en

(b) 'n toestel of reeks toestelle ter verwerking of verwikkeling van krag of vir die ontvangs, bewaring, oordrag of omsetting daarvan,

wat na leit of bedoeling, volgens die Inspekteur van Mynwese meen, vir meer as vyftig persent in verband met die mynbedryf of die vervaardiging van springstowwe gebruik word, maar dit sluit uit—

(i) huishoudelike toestelle wat as sodanig in private huise gebruik word, en

(ii) alle voertuie wat nie met stoom aangedryf word nie;

„Mineraal/Mineraalstof” alle delfstowwe wat uit die aarde verkry kan word deur mynbedryf, delvery, boorwerk, opbaggering, uitgraving of ander werksaamheid, en dit omvat sowel ghwano as steenkool, olie-licklip, natuurolie, natuurgas en soutwater, maar nie water self nie;

“closed” when used in reference to a claim shall mean a claim which is registered and has not lapsed or been cancelled or abandoned;

“coloured person” shall mean any person who is not a European;

“conversion” shall mean conversion of prospecting claims, or of beaconed portions of grant areas where exclusive prospecting rights are held, into mining areas in accordance with the provisions of this Ordinance;

“diagram” shall mean a document containing geometrical, numerical and verbal representations of a mining area or areas, which has been signed by a person recognised under any law then in force as a land surveyor and which has been approved by the Surveyor-General and includes a copy of a diagram prepared in the Surveyor-General's office and approved as aforesaid, or a document which has at any time prior to the promulgation of this Ordinance been accepted as a diagram in the Mines Division of the Administration;

“game reserve” shall mean any area defined as a game reserve in terms of the Prohibited Areas Proclamation, 1928 (Proclamation No. 26 of 1928), and any other area which may be so defined by any other law;

“Inspector” shall mean the Inspector of Mines, Machinery and Explosives and shall include a deputy inspector or an assistant inspector;

“land surveyor” shall mean a person recognised as such for the purpose of this Ordinance and the regulations;

“machinery” shall mean—

(a) any locomotive or any stationary or portable engine, boiler or other steam apparatus; and

(b) any appliance or combination of appliances intended for developing, receiving, storing, transmitting or converting power,

used or intended for use, in the opinion of the Inspector of Mines, to the extent of more than fifty percent in connection with mining operations or the manufacture of explosives; but shall not include—

(i) domestic appliances in use as such in private houses; or

(ii) vehicles other than steam driven vehicles;

“mine”, when used as a noun, shall mean and include all excavations for the purpose of searching for or winning minerals, as well as the workings of mineral deposits, whether abandoned or actually being worked, on the surface, from the surface downwards and underground, together with all buildings, premises, erections, appliances belonging or appertaining thereto above and below ground for the purpose of prospecting for or winning minerals by boring, excavating or other means; and, when used as a verb, shall mean to win minerals from the earth and shall include the collection of guano at any place on sea or on land within the limits of Territorial waters;

“mineral” shall mean and include all mineral substances that can be obtained from the earth by mining, digging, drilling, dredging, quarrying or other operations and shall include guano as well as coal, oil shale, natural oil, natural gas, and brine, but shall not include water;

Met dien verstande dat, behoudens die bepalings van sub-artikel (3) van artikel *seventien* van hierdie Ordonnansie, die woord „mineraal” geen grond, sand, klei, gruis of klip (buiten kalkklip of marmer) geld nie, as die genoemde minerale te goeder trou nodig is vir die—

- (i) landbou;
- (ii) bouwerk;
- (iii) omheining;
- (iv) padbou;
- (v) vervaardiging van bakstene en teëls;
- (vi) aanleg van sportgrond of vliegvelde;
- (vii) bou van brêe, damme, opgaardamme, keerdamme, kanale of ander besproeiingswerke;
- (viii) spoorbaan-aanleg;
- (ix) ander doeleindes wat die Administrateur by kennisgewing in die *Offisiële Koerant* bepaal.

„*myn*” alle uitgrawings wat geskied waar minerale gesoek en gewen word, asook die erfs- of uitkothope by erfsclae, hetsy verlate of steeds bewerk, bo op die grond en van die oppervlakte in die diepte in en ondergrond, saam met alle geboue, persele, inrigtings, toebehorende en verbandhoudende bo- of ondergrondse toestelle ter prospektering en ontginning van minerale deur boor- of delwerk of ander middele;

„*myng gebied*” ’n stuk grond wat ooreenkomstig die bepalings van hierdie Ordonnansie of van ’n vroëtere wet opgemeet is waarvan die akte van omsetting behoortlik in die Akteskantoor van die Gebied geregistreer is en wat tot myng gebied verklaar is;

„*naturelleservaat*” ’n stuk grond wat ingevolge die bepalings van artikel *sestien* van die „*Naturrele Administratie Proklamasie 1922*” (Proklamasie 11 van 1922) of ingevolge die bepalings van enige ander wet aangewys is vir die alleengebruik en -bewoning van natuurlike in die algemeen of van ’n besondere naturreles of -stam;

„*nie-blanke*” elkeen buiten ’n blanke;

„*omsetting*” die omskepping in mynggebiede, ooreenkomstig die bepalings van hierdie Ordonnansie, van prospekterkleinings of van afgebakende dele van toekenningsgebiede waarop daar alleenprospekteerregte geld;

„*ontgin*” om minerale uit die aarde te wen, en dit omvat die insameling van ghwano oral ter see of land tot aan die perk van die Gebied se territoriale waters;

„*oep*” betreffende grond, dat daar weer op sodanige grond geprospekter kan word;

„*oep grond*” grond waarop daar geprospekter kan word;

„*opgemeet/opgemete*” opgemeet deur ’n landmeter;

„*opgemete boerderygrond*” ook die Rehobothse *Gebiet* en elke naturreleservaat;

„*polisielone*” die grenslyn wat bepaal is vir die strek met die naam in die eerste bylae van die „*Verbode Gebiede Proklamasie 1928*” (Proklamasie 26 van 1928) of ’n wysiging daarvan;

„*private grond*” alle grond buiten Kroongrond, en, by die toepassing van hierdie Ordonnansie, omvat dit die Rehobothse *Gebiet* en elke naturreleservaat; en voorts omvat dit grond wat, ingevolge die wette op grondnedsersetting wat dan geld, van die Administrateur ghuur word, wanneer die huurder sy koopkeuse uitgeoefen het;

Provided that subject to the provisions of section *seventeen*, sub-section (3) hereof the term *mineral* shall not apply to soil, sand, clay, gravel or stone (other than limestone or marble) if these mineral substances are *bona fide* required for—

- (i) Agriculture.
- (ii) Building.
- (iii) Fencing.
- (iv) Road making.
- (v) The manufacture of bricks and tiles.
- (vi) The construction of sports fields or air fields.
- (vii) The construction of bridges, dams, reservoirs, weirs, canals, or other irrigation works.
- (viii) Railway construction.
- (ix) Any other purpose so declared by the Administrator by notice in the *Official Gazette*.

„*mining area*” shall mean an area of ground which has been surveyed and converted in accordance with the provisions of this Ordinance or a prior law and for which a deed of conversion duly registered in the Deeds Registry of the Territory has been issued;

„*native reserve*” shall mean an area set aside under the provisions of section *sixteen* of the Native Administration Proclamation, 1922 (Proclamation 11 of 1922), or of any other law for the sole use and occupation of natives generally or of any race or tribe of natives in particular;

„*open ground*” shall mean ground that is open for prospecting;

„*owner*” in relation to a claim or mine or works or machinery shall mean any person who is the immediate holder or lessee of a claim or mine or works or machinery or part thereof or tributor for the working of a claim or mine or any part thereof and in the case of a claim or mine or works or machinery owned by a company the term owner shall include every director or secretary or representative or agent of the company in the Territory and in the case of a mine or works or machinery owned by an unincorporated body of persons shall include every member of that body in the Territory;

in relation to private land shall mean the person registered as owner in the Deeds Registry of the Territory and shall include also a lessee of land owned by the Administration under the laws for the time being in force relating to land settlement when such lessee has exercised his option to purchase;

in relation to the Rehoboth Gebiet shall mean the magistrate of Rehoboth in his capacity as Kaptein of the Rehoboth Baster Community;

in relation to a native reserve shall mean the Native Commissioner of the area in which such reserve is situated;

and shall mean the trustee in any insolvent estate, the liquidator of a company which is an owner and the representative recognised by law of any owner who has died or who is a minor or is of unsound mind or is otherwise under disability, provided such trustee, liquidator or legal representative is acting within the authority conferred upon him by law;

„*police zone*” shall mean the line or boundary defined as such in the First Schedule of the Prohibited Areas Proclamation, 1928 (Proclamation No. 26 of 1928) or any amendment thereof;

„*precious minerals*” shall mean minerals that are—

- (a) precious metals (gold, silver, platinum, iridium, and all other metals of the platinum group and the ores of the said metals); as well as slimes, concentrates, slags, tailings, residues, or amalgam containing such precious metals as aforesaid;
- (b) precious stones (diamonds, rubies, emeralds and sapphires) as well as ores, concentrates, gravels or conglomerates, containing such precious stones as aforesaid;
- (c) declared by the Administrator by notice in the *Official Gazette* to be precious minerals for the purposes of this Ordinance;

„prospekteer” al die werk wat die soek na minerale vereis of meebring, letsy op oop grond of kleims; en betreffende ghwano kan sodanige werk oral ter see of land tot aan die perk van die Gebied se territoriale waters geskied;

„prospekteerder” die persoon of maatskappy deur, of namens, wie ’n prospekteerlisensie ingevolge hierdie Ordonnansie gehou word, en omvat dit ’n geregistreerde kleimhouer;

„publieke pad” elke pad, straat of verkeersweg waarop die publiek gebruiksgereg het, of wat die publiek minstens twaalf maande lank onbelemmerd gebruik het, en dit omvat daardie deel aan weerskante van die pad wat in die woordbeplanning van die Ordonnansie op Paasie 1953 (Ordonnansie 17 van 1953) „padreserwe” heet;

„regulasie” ’n regulasie wat ingevolge die bepalings van hierdie Ordonnansie gemaak is;

„Rehobothse Gebiet” die streek wat Gebiet heet in die Ooreenkoms wat opgeteken staan in die Bylaag van die Administrateur se Proklamasie van die agt-en-twintigste dag van September 1923 (Proklamasie 28 van 1923) of ’n wysiging daarvan;

„voorgeskryf” voorgeskryf by hierdie Ordonnansie en die daaruitvloeiende regulasies;

„werke” elke plek waar daar volgens die bepalings van hierdie Ordonnansie masjinerie is en elke dam, reservoir of ander waterbewaringstoel of -werktuig of inrigting wat krag verwerk, of ontwikkel of oordra, of water aanlei of materiaal vervoer, as sodanige krag, water of materiaal, na gelang en na die mening van die Inspekteur van Mynwese, na feit of bedoeling, tot op meer as vyftig persent in verband met die mynbedryf of die vervaardiging van springstowwe gebruik word;

„Wildreservaat” elke gebied waarvan die grense by die „Verbode Gebiede Proklamasie 1928” (Proklamasie 26 van 1928) as sodanig bepaal is; en elke ander gebied wat by ’n ander wet daartoe bepaal is.

3. Die ondergenoemde wette word hierby herroep: Die „Mynontginnings-Konsolidasie en Wysigingsproklamasie 1940” (Proklamasie 4 van 1940), en die „Toesig oor Masjinerie Proklamasie 1929” (Proklamasie 36 van 1929);

Met dien verstande dat regulasies wat ingevolge die bovermelde proklamasies afgekondig is, hul regskrag en -gevolg behou vir soverre hulle met hierdie Ordonnansie bestaanbaar is tot tyd en wyl regulasies wat ingevolge hierdie Ordonnansie afgekondig word, hulle herroep.

4. Die sewe hoofstukke van hierdie Ordonnansie gaan oor die volgende sake:—

- Hoofstuk I. Die administrasie van die Mynwet.
- Hoofstuk II. Prospekteering.
- Hoofstuk III. Mynbedryf.
- Hoofstuk IV. Spesiale toekennings van prospekteer- en ontginningsregte en permitte om oorkant die Polistesone en in reserwate te prospekteer. Bepalings oor die verhandeling van prospekteer- en ontginningsregte in natuurelreserwate.
- Hoofstuk V. Regte van prospekteerders, myneienaars en grondeienaars onderskeidelik.
- Hoofstuk VI. Die opmeting en registrasie van Myngebiede.
- Hoofstuk VII: Algemeen en Allerlei.

„prescribed” means prescribed by this Ordinance or the regulations thereunder;

„private land” shall mean land other than Crown land and for the purposes of this Ordinance the terms private land shall include the Rehoboth Gebiet and any native reserve, and shall further include land leased from the Administration under the laws for the time being in force relating to land settlement when the lessee has exercised his option to purchase;

„prospector” shall mean the person or company by whom or on whose behalf a prospecting licence is held under this Ordinance, and shall include a registered claim holder;

„prospecting” shall include all work which is necessary for or incidental to the search for minerals, whether on open ground or on claims and in regard to guano, in any place on sea or on land within the limits of Territorial waters;

„public road” shall mean any road, street or thoroughfare which the public has a right to use or has used without hindrance for a period of at least twelve months and shall include those parts adjoining the roadway as may fall under the definition of road reserve as given in the Roads Ordinance, 1953 (Ordinance 17 of 1953);

„regulation” shall mean a regulation made under the provisions of this Ordinance;

„Rehoboth Gebiet” shall mean the territory referred to as the Gebiet in the Agreement contained in the Schedule to the Proclamation of the Administrator dated the twenty-eighth day of September, 1923 (Proclamation No. 28 of 1923), or any amendment thereof;

„surveyed” shall mean surveyed by a land surveyor;

„surveyed land in farming use” shall include in its meaning the Rehoboth Gebiet and any native reserve;

„this Ordinance” includes any regulation made thereunder;

„works” shall mean any place where there is any machinery as defined in this Ordinance and any dam, reservoir or other contrivance intended for conserving water or producing or transmitting power or carrying water or material, if such power, water or material, as the case may be, is, in the opinion of the Inspector of Mines, used or intended for use to the extent of more than fifty percent in connection with mining operations or the manufacture of explosives.

3. The Mining Consolidation and Amendment Proclamation, 1940 (Proclamation 4 of 1940), and The Supervision of Machinery Proclamation, 1929 (Proclamation 36 of 1929), are hereby repealed: Provided that any regulations made under the said Proclamation shall remain in force and effect except in so far as they may be in conflict with this Ordinance and until they are repealed by means of regulations made in terms of this Ordinance.

4. This Ordinance is divided into seven chapters relating to the following matters:—

- Chapter I. Administration of the Mining Law.
- Chapter II. Prospecting.
- Chapter III. Mining.
- Chapter IV. Special grants of prospecting and mining rights, permits to prospect beyond the Police Zone and in reserves and provisions relating to the disposal of prospecting and mining property in native reserves.
- Chapter V. Respective rights of prospectors, mine owners and owners of land.
- Chapter VI. Survey and registration of Mining Areas.
- Chapter VII. General and Miscellaneous.

HOOFSTUK I.

DIE ADMINISTRASIE VAN DIE MYNWET.

5. (1) Hierby word daar 'n departement ingestel wat heet die Afdeling Mynwese en wat onder die bestuur en beheer staan van die Administrateur, deur middel van die Sekretaris van die Gebied: Met dien verstande dat hierdie bepaling geen belemmering, nog inkorting, inhoud van die bevoegdhede waarmee hierdie Ordonnansie die Inspekteur van Mynwese beklee nie.

(2) Dit is die Afdeling Mynwese se ampsplig om die toetsing en beheer oor die mynbedryf waar te neem, en voorts om al die regsbevoegdhede wat by die Administrasie berus of wat sy beaampptes wetlik toekom, ten opsigte van minerale, myno en werke in die Gebied uit te oefen.

(3) Van tyd tot tyd stel die Administrateur 'n staats-amptenaar aan wat die amptstiel Inspekteur van Mynwese voer, en hierdie beaamppte moet die magte en pligte uitvoeren wat die Administrateur deur middel van die Sekretaris van die Gebied wetlik aan hom oordra, en moet die algemene toetsing hou oor alle myne, werke en masjinerie in die Gebied. Die Administrateur kan van tyd tot tyd behoorlik gekwalifiseerde beaampptes aanstel om die Inspekteur van Mynwese by die uitoefening van sy ampspligte te staan.

(4) Ten opsigte van enige daad wat so 'n Inspekteur, of beaamppte met sy opdrag, te goeder trou in sy ampsvervulling verrig, mag daar in geen hof 'n geding weens bevoerde inbreuk of ander onregmatigheid ingestel word nie.

6. (1) Elke Inspekteur van Mynwese, Inspekteur van Masjinerie, of Inspekteur van Springstowwe kan te eniger tyd by dag of nag 'n myn of werke betree, en dit, of enige deel daarvan, of masjinerie daarin, inspekteur, mits hy die mynbedryf of -werking nie onnodig belemmer, vertraag of tot stilstand bring nie.

(2) Wanneer ook al 'n inspekteur by 'n myn of werke bevind dat 'n gevaarlike of defektiewe saak of praktyk wat enigsinis daarmee in verband staan, of die afwesigheid van enige saak of praktyk, moontlik liggaamlike besering aan enige iemand kan veroorsaak, of so iemand se gesondheid kan benadeel, en geen wet, regulasie of spesiale reël bestaan wat vereis dat so iets gedoen moet word of nie gedoen moet word nie, of wat so 'n praktyk gebied of verbied, moet hy op skrif kennis gee aan die bestuurder van die myn of werke met oopgaaf van die bepaalde ding, saak of praktyk wat na sy vereiste gedoen moet word of nie gedoen moet word nie, of nagekom of nagelant moet word, en kan hy na goedge-dunke desbetreffende bevele verstrekk.

7. Elkeen wat 'n beaamppte van die Afdeling Mynwese in sy pligsvervulling teengaan, of wat dit belemmer, of wat die wettige bevel van enige sodanige beaamppte verontagsaam, of wat weier of nalaat om enige sodanige beaamppte van die nodige middelle en hulp te voorsien sodat hy ingevolge hierdie Ordonnansie of 'n daaruitvloeiende regulasie myne of werke kan binnegaan, inspekteur, ondersoek of navraag doen in verband daarmee, of wat weier of nalaat om so 'n inspeksie of ondersoek by te woon wanneer hy daartoe gelas word, is skuldig aan 'n oortreding en is by skuldigebevinding strafbaar met 'n boete van hoogstens tweehonderd pond, of, by wanbetaling, met gevangenis met of sonder dwangarbeid vir 'n tydperk van hoogstens twaalf maande.

8. (1) Elkeen wat 'n bepaling van hierdie Ordonnansie of van 'n daaruitvloeiende regulasie verontagsaam of wat versuim om die bepaling van 'n kennisgewing of opdrag aan hom gegee deur 'n beaamppte van die Afdeling Mynwese ingevolge die bepaling van hierdie Ordonnansie of 'n regulasie daarvan uit te voer, is, waar hierdie Ordonnansie geen uitdruklike straf vir daardie oortreding of versuim bepaal nie, by skuldigebevinding strafbaar met 'n boete van hoogstens tweehonderd pond, of, by wanbetaling, met gevangenis vir 'n tydperk van hoogstens twaalf maande met of sonder dwangarbeid.

(2) 'n Magistraats-hof het spesiale regsbevoegdheid om die hierinvermelde maksimale strawwe op te lê, anders-luidende bepaling van enige ander wet desuieteenstaande.

CHAPTER I.

ADMINISTRATION OF THE MINING LAW.

5. (1) There shall be a department to be known as the Mines Division which shall be subject to the direction and authority of the Administrator through the Secretary for the Territory, provided that nothing in this section contained shall be deemed to fetter or restrict any discretion vested in the Inspector of Mines in terms of the provisions of this Ordinance.

(2) The function of the Mines Division shall be the supervision and control of the mining industry and the exercise of all rights, powers and jurisdiction vested in the Administration, or conferred upon officers of the Administration by any law in regard to minerals, mines and works in the Territory.

(3) The Administrator shall from time to time appoint an officer to be styled the Inspector of Mines who shall be a member of the Public Service and who shall carry out the powers and duties as may lawfully be assigned to him by the Administrator through the Secretary for the Territory and who shall exercise general supervision of all mines and works and machinery in the Territory. The Administrator may from time to time appoint properly qualified officers to assist the Inspector of Mines in the carrying out of his powers and duties.

(4) No action for injury or wrong shall lie in any court against the Inspector or the officers acting under his instructions, for any act done in good faith by such Inspector or such officers in the exercise of the powers and duties by this Ordinance vested in the Inspector.

6. (1) Any inspector of mines, inspector of machinery, or inspector of explosives may enter upon any mine or works and inspect or examine the same or any part thereof or any machinery thereon at any hour of the day or night, provided that he does not unnecessarily impede, slow up or stop the working of the mine or the carrying on of the works.

(2) Whenever any inspector finds at any mine or works that any thing or any practice in any way connected therewith is dangerous or defective or that the absence of any thing or practice is likely to cause bodily injury to or be injurious to the health of any person and no provision exists in any law, regulation, or special rule requiring any such thing to be done or not to be done, or requiring any such practice to be observed or forbidding any such practice, he shall give notice in writing to the manager of the mine or works stating the particular thing, matter, or practice which he requires to be done, or not to be done, or observed or discontinued, and may give such instructions relative thereto as he may deem expedient.

7. Any person who obstructs or binds any officer of the Mines Division in the discharge of his duty, or disobeys any lawful order given by any such officer, or refuses or neglects to furnish any such officer with the means and assistance necessary for making an entry, inspection, examination, or inquiry under this Ordinance or any regulation thereof or to attend, when required, any such inspection or examination, shall be liable on conviction to a fine not exceeding two hundred pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months.

8. (1) Any person who contravenes any provision of this Ordinance or of any regulation, or who fails to comply with the terms of any notice or instruction given by an officer of the Mines Division under the provisions of this Ordinance or any regulation thereof, shall, if no penalty be expressly provided by this Ordinance or by the regulation for the contravention thereof or failure to comply therewith, be liable on conviction to a fine not exceeding two hundred pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months.

(2) A magistrate's court shall have special jurisdiction to impose the maximum penalties mentioned in this section, anything to the contrary notwithstanding in any other law.

9. As enigiemand skuldig is aan 'n daad of versuim of verontagsaming van die bepaling van hierdie Ordonnansie of die daaruitvloeiende regulasies of van reëls opgestel ingevolge artikel *dertien*, en daardeur—

- (a) die veiligheid van enigiemand bedreig, of die moontlikheid van bedreiging skep, is hy, by skuldigebevinding, strafbaar met 'n boete van hoogstens tweehonderd pond of, by wanbetaling, gevangenis vir 'n tydperk van hoogstens twaalf maande met of sonder dwangarbeid;
- (b) ernstige liggaamlike besering aan enigiemand veroorsaak, is hy, by skuldigebevinding, strafbaar met 'n boete van hoogstens vierhonderd pond of, by wanbetaling, met gevangenis vir 'n tydperk van hoogstens twee jaar met of sonder dwangarbeid;
- (c) die dood van enigiemand anders veroorsaak, is hy, by skuldigebevinding, strafbaar met 'n boete van hoogstens eenduisend pond, of, by wanbetaling, gevangenis met of sonder dwangarbeid vir 'n tydperk van hoogstens vyf jaar, of met sodanige gevangenis sonder die keuse van 'n boete:

Met dien verstande dat niks in hierdie artikel of in artikel *agt* beskou moet word nie as vrystelling vir enigiemand van vervolging weens 'n oortreding van die gemene reg of van enige ander wet of as 'n beletsel vir die opregging aan so iemand van 'n swaarder straf vir so 'n oortreding as wat voorgeskryf word by skuldigebevinding aan 'n oortreding van hierdie Ordonnansie of die daaruitvloeiende regulasies.

10. (1) Elke inspekteur van mynweese, masjinerie of springstowwe kan 'n oortreding van 'n regulasie, of reël wat ingevolge artikel *dertien* geld, verhoor tensy die oortreding regstreeks die dood van enigiemand veroorsaak het.

(2) Wanneer so 'n beaempte kragtens hierdie artikel optree, en iemand skuldig bevind aan 'n oortreding van 'n regulasie of reël, kan hy 'n boete van hoogstens vyftien pond opleë, en wanneer die oortreder versuim by die betaling van die boete, moet die beaempte die oortreder se werkgewer die bedrag daarvan meedeel, en moet die werkgewer die betrokke bedrag terughoof uit die oortreder se betaalbare of toekomstige loon en aan die vermelde beaempte oordra ten bate van die Gebiedsankomstefonds.

(3) By elke sodanige verhoor moet elke sodanige beaempte met, waar nodig, behulp van 'n tolk, die getuïenis op skrif stel, sy bevinding en vonnis opteken, en aan die distriksmagistraat deurstuur, by wie daar teen 'n sodanige bevinding of vonnis geappelleer kan word as daar binne een-en-twintig dae na die datum van die vonnis skriftelike kennis gegee word, met opgaaf van die appélgronde, aan die magistraat en die betrokke beaempte. Die magistraat beslis aldoende oor elk so 'n appél.

11. (1) Wanneer ook al daar by 'n myn of werke 'n ongeluk plaasvind wat iemand so dood of ernstige liggaamlike besering veroorsaak, moet die inspekteur van mynweese, masjinerie of springstowwe ondersoek instel na die oorsaak van die ongeluk, en wanneer ook al die inspekteur 'n ondersoek onder ander omstandighede nodig ag, kan hy dit instel.

(2) 'n Inspekteur van mynweese, masjinerie of springstowwe of elke ander beaempte wat die Administrateur daartoe gelas, kan 'n ondersoek instel wanneer ook al by met rede meen dat 'n regulasie of spesiale reël wat ingevolge hierdie Ordonnansie afgekondig is, oortree is, of wanneer dit na die Administrateur se inasiening om enige ander rede wenslik is om ondersoek in te stel na gebeurtenisse by 'n myn of werke.

(3) Die voormelde beaempte moet die getuïenis by elke ondersoek ingevolge sub-artikel (1) notuleer, en die notule saam met sy verslag aan die Inspekteur besorg, en waar verontagsaming van die bepaling van hierdie Ordonnansie 'n ongeluk veroorsaak het of 'n mens-lewe gekos het, moet die Inspekteur sodanige notule en verslag met sy opmerkinge aan die Prokureur-generaal deurstuur.

(4) Die voormelde beaempte moet by elke ondersoek ingevolge sub-artikel (2) die getuïenis notuleer en die notule met sy verslag aan die Inspekteur besorg wat daarop die getuïenis en verslag aan die Administrateur en die Prokureur-generaal moet besorg. By oorweging van sodanige getuïenis en verslag kan die Administrateur na goeddunke nog 'n ondersoek deur 'n ander inspekteur van myn, werke, masjinerie of springstowwe, of deur enigiemand anders, gelas.

9. If any person be guilty of any act or omission or contravene any of the provisions of this Ordinance, or of the regulations, or of any rules under section *thirteen*, whereby—

- (a) the safety of any person is endangered, or likely to be endangered, he shall be liable on conviction to a fine not exceeding two hundred pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months;
- (b) serious bodily injury is caused to any person, he shall be liable on conviction to a fine not exceeding four hundred pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding two years;
- (c) the death of any person is caused, he shall be liable on conviction to a fine not exceeding one thousand pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding five years, or to such imprisonment without the option of a fine:

Provided that nothing in this section or in section *eight* contained shall be construed as exempting any person from prosecution for an offence under the common law or any other statute, or as preventing the imposition on such a person if convicted for such an offence, of a more severe penalty than is prescribed for a contravention of this Ordinance or the regulations.

10. (1) Every inspector of mines, machinery, or explosives may try any breach of a regulation or of any rule in force under section *thirteen* unless the death of any person has been directly caused by the breach.

(2) Any such officer when acting under this section may, on finding a person guilty of a breach of a regulation or rule, impose a fine not exceeding fifteen pounds, and in default by the offender of payment of the fine, the officer shall notify the amount to the offender's employer, who shall withhold the amount so notified from any wages due or to become due to the offender, and pay it over to the officer aforesaid for the benefit of the Territory Revenue Fund.

(3) At every such trial every such officer shall, with the assistance, if necessary, of an interpreter, take down the evidence in writing and record his finding and sentence in writing and transmit the same to the magistrate of the district and an appeal shall lie to that magistrate against any such finding or sentence, if, within twenty-one days after the date of the sentence, notice stating the grounds of appeal be given in writing to the magistrate and the officer aforesaid. The decision of the magistrate upon any such appeal shall be final.

11. (1) Whenever any accident, causing death or grievous bodily harm to any person occurs at a mine or upon any works, an inspector of mines, machinery, or explosives shall hold an inquiry into the cause of the accident, and whenever in any other circumstances the inspector deems it necessary to, he may hold such an inquiry.

(2) An inspector of mines, machinery, or explosives or any officer deputed by the Administrator may hold an inquiry whenever he has reason to believe that any regulations, or special rules made under this Ordinance, have been contravened, or, whenever in the opinion of the Administrator it is for any other reason expedient that an inquiry be held as to occurrences at any mine or works.

(3) The evidence at every enquiry held in terms of sub-section (1) shall be taken down in writing by the said officer and submitted with his report to the Inspector who, in the case of an accident caused by a breach of the provisions of this Ordinance or whenever a human life has been lost, shall transmit such evidence and report and his remarks thereon to the Attorney General.

(4) The evidence at every enquiry held in terms of sub-section (2) shall be taken down in writing by the said officer and submitted with his report to the Inspector who shall transmit such evidence and report to the Administrator and to the Attorney General. Upon consideration of such evidence and report, the Administrator may in his discretion order a further inquiry to be held by another inspector of mines, machinery, or explosives, or other person.

(5) Hierdie bepalings raak geensins die heersende wet wat geregtelike lykskouwings of ander ondersoek by sterfgevallen met buite-natuurlike oorsake vereis en reël nie, en by elke sterfgeval weens 'n ongeluk soos vermeld, moet daar sodanige lykskouing of ander ondersoek ingestel word soos die Gebiedswette bepaal, buiten en behalwe 'n ondersoek wat hierdie artikel gebied.

12. (1) Vir die doeleindes van 'n verhoor volgens artikel tien of ondersoek volgens artikel elf kan die voormelde beampte, op 'n wysie wat die regulasies voorskryf, getuies dagvaar om getuienis te gee of om dokumente of artikels in te lewer wat hy nodig beskou om die verhoor of ondersoek behoorlik te voer.

(2) Wanneer ook al by 'n ondersoek daar getuienis gelewer word waaruit enigsmatig aflei dat hy van 'n oortreding van 'n bepaling van hierdie Ordonnansie of van die daaruitvloeiende regulasies aangekla kan word, of dat hy enigens vir die ongeluk waarvoor die ondersoek gaan, verantwoordelik gehou kan word, kan so iemand enige getuie onder kruisverhoor neem, of kan hy die Inspekteur gelas om enige getuie synerontwille te dagvaar, of om getuienis of dokumente of enige artikel hoegenaamd te lewer, en voorts kan hy 'n ander aansel om hom by die ondersoek te verteenwoordig.

(3) Elke aldus gedagvaarde wat sonder redelike verskoning die opdrag van 'n dagvaarding verontagsaam, is skuldig aan 'n oortreding, en is, by skuldigbevinding deur 'n magistrat, strafbaar met 'n boete van hoogstens vyftien pond of, by wanbetaling, met gevangenis met of sonder dwangarbeid vir 'n tydperk van hoogstens een maand.

(4) Elkeen, gedagvaar al dan nie, wat onder verhoor weier om alle wettige vrae wat deur of met die toestemming van die voormelde beampte aan hom gestel word, met sy hele kennis en oortuiging te beantwoord of wat by die verhoor of ondersoek die voormelde beampte opsetlik bedrieg of wat die verrigtinge opsetlik steur, is skuldig aan 'n oortreding, en is, by so 'n skuldigbevinding soos sub-artikel (3) vermeld, onderhewig aan die strawwe daarin genoem.

(5) By elk so 'n verhoor moet die vermelde beampte 'n eed of plegtige verklaring aan getuies opleë, en by elk so 'n ondersoek kan hy desgekyls handel, en elke getuie aan wie so 'n eed of plegtige verklaring opgelê is, wat valse getuienis gee, is skuldig aan 'n oortreding, en is by skuldigbevinding onderhewig aan die strawwe wat artikel agt bepaal.

(6) Elk so 'n getuie het dieselfde voorregte betreffende die beantwoording van vrae of die inlewering van dokumente as wat hy onder dergelike omstandighede sou hê as hy om getuienis vir 'n hoër hof gedagvaar was.

13. (1) 'n Mynbestuurder kan spesiale reëls opstel, wat bestaanbaar moet wees met hierdie Ordonnansie en die daaruitvloeiende regulasies, ter handhaving van orde en tug en ter voorkoming van ongelukke by daardie myn. Wanneer sodanige reëls opgestel is, moet hulle deur middel van die Inspekteur aan die Administrateur voorgelê word, en as die Administrateur hulle goedkeur, word hulle van krag nadat hulle veertien dae lank by 'n opvallende plek by so 'n myn opgeplak gestaan het.

(2) Waar die Administrateur so 'n reël onredelik of onnodig, of andersins ongewens ag, kan hy dit verwerp of verbeter, of te eniger tyd 'n wysiging daarvan gelas.

(3) Beswaar teen sodanige reëls kan by die Kantoor van die Inspekteur aangeteken word, en die Inspekteur moet dit dan met sy opmerkings daaroor by die Administrateur besorg, wat die reël waarteen daar beswaar geopper is, kan bekragtig of wysig.

(4) Totdat dit verwerp word, of soos dit gewysig word, het so 'n reël so lank dit opgeplak staan en leesbaar bly, dieselfde krag en gevolg as die regulasies, en elkeen wat dit deur daad of versuim verontagsaam, is by skuldigbevinding strafbaar met 'n boete van hoogstens vyftien pond of, by wanbetaling, met gevangenis met of sonder dwangarbeid, vir 'n tydperk van hoogstens een maand.

14. (1) Niemand wat buite die Gebied woon, mag as kleinhouer of eienaar van 'n myngebied geregistreer word nie, tensy hy 'n erkende agent in die Gebied by die kantoor van die Inspekteur laat registreer het.

(5) Nothing contained in this section shall be deemed to affect the law in force requiring and regulating inquests or other inquiries in case of death from other than natural causes, and in every case of death caused by such accident as aforesaid there shall be held, in addition to any inquiry rendered necessary by this section, such inquest or other inquiry as shall be provided for by the law of the Territory.

12. (1) For the purposes of any trial mentioned in section ten or inquiry mentioned in section eleven the said officer may, in manner prescribed by regulation, summon witnesses to give evidence or to produce documents or any article or thing which he may deem requisite for properly conducting the trial or inquiry.

(2) Whenever at any inquiry evidence has been given wherefrom any person is of opinion that he may be charged with contravening any provision of this Ordinance or a regulation, or may be held responsible in any manner for the accident forming the subject of the inquiry, such person may cross-examine any witness, or may require the inspector to summon any witness on his behalf either to give evidence or to produce documents or any article whatsoever, and every such person may appoint any other person to represent him at the inquiry.

(3) Any person so summoned who fails, without reasonable excuse, to comply with the terms of the summons, shall be guilty of an offence and liable on conviction before a court of a magistrate to a fine not exceeding fifteen pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding one month.

(4) Any person, whether summoned or not, who while under examination refuses to answer to the best of his knowledge or belief all questions lawfully put to him by or with the concurrence of the said officer, or who at the trial or inquiry wilfully insults the said officer or wilfully interrupts the proceedings, shall be guilty of an offence and liable on such conviction as is mentioned in sub-section (3) to the penalties therein mentioned.

(5) At any such trial the officer aforesaid shall and at any such inquiry he may, administer an oath or affirmation in lieu thereof to witnesses, and if any witness to whom an oath or affirmation has been so administered gives false evidence, he shall be guilty of an offence and liable on conviction to the penalties prescribed by section eight.

(6) Any such witness shall have the same privileges in respect of answering questions or producing documents as he would have under the same circumstances if he were summoned as a witness before a superior court.

13. (1) The manager of a mine may make special rules, not inconsistent with this Ordinance or any regulation thereof, for the maintenance of order and discipline, and the prevention of accidents in any such mine. The rules, when made, shall be submitted through the Inspector to the Administrator, and when approved by him they shall take effect after they have been posted up in a conspicuous place at such mine for fourteen clear days.

(2) The Administrator if he considers any such rule unreasonable, unnecessary, or otherwise undesirable, may disallow it, amend it or at any time requires it to be altered.

(3) Any objection to such rules may be lodged at the office of the Inspector, and shall be forwarded by him with his remarks thereon to the Administrator, who may either confirm or alter the rule regarding which the objection may have been lodged.

(4) All such rules, when and so long as they are posted up and are legible, shall, until so disallowed and save in so far as they may be altered, have the same force and effect as the regulations, and any person who contravenes or fails to comply with any such rule shall be liable on conviction to a fine not exceeding fifteen pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding one month.

14. (1) No person who is resident outside the Territory shall be registered as the holder of a claim or owner of a mining area unless he has registered at the office of the Inspector an accredited agent in the Territory.

(2) As 'n geregistreerde kleimhouer of die geregistreerde eienaar van 'n myngebied buite die Gebied gaan woon, moet hy binne een maand daarna 'n erkende agent in die Gebied by die kantoor van die Inspekteur laat registreer.

(3) Die agent oor wie sub-artikel (1) en (2) van hierdie artikel gaan, moet iemand wees wat die Inspekteur goedgekeur het, en sodanige agent is, by registrasie deur die Inspekteur, ingevolge die bepaling van hierdie Ordonnansie persoonlik verantwoordelik vir alle sake, en elko daad en versuim in verband met die kleims of myngebiede wat aan sy prinsipaal behoort, net soos sodanige kleims of myngebiede as sy eiendom of sy naam geregistreer staan: Met dien verstande dat die agent voor sodanige registrasie die Inspekteur skriftelik moet verwittig dat hy bereid is om sodanige verantwoordelijkheid te aanvaar.

(4) 'n Kleinhouer of myneienaar kan te eniger tyd die registrasie van sy erkende agent uitrek, maar moet dan binne 'n maand na die intrekking iemand anders wat die Inspekteur goedgekeur, as sy erkende agent soos voormeld laat registreer.

(5) 'n Geregistreerde amptelik erkende agent kan te eniger tyd sy amp as sodanig neerlê op skriftelike kennisgewing aan die Inspekteur. So 'n neerlegging word eers een maand nadat die Inspekteur so 'n kennisgewing gekry het, van krag, of eers wanneer iemand anders as sodanig geregistreer is, watter ook al eerder geskied.

(6) Elk so 'n kleinhouer of myneienaar moet binne een maand nadat hy van die Inspekteur kennis gekry het dat sy geregistreerde amptelik erkende agent bedank het, iemand anders as sy amptelik erkende agent laat registreer.

(7) Hierdie artikel onthef geen kleinhouer of myneienaar van die verpligtinge wat ingevolge hierdie Ordonnansie op hom rus nie, of van enige verantwoordelijkheid vir 'n plig wat hierdie Ordonnansie aan hom oplet ten opsigte van sy kleims of myngebiede nie.

15. (1) Buiten waar hierdie Ordonnansie anders bepaal, word elke kennisgewing of ander dokumente wat ingevolge hierdie Ordonnansie aan iemand bestel moet word, beskou as behoorlik bestel as dit persoonlik aan hom afgelewer word of gelaat word by, of per aangetekende pos besorg word by, sy jongste gewone woon- of sakeplek of, waar hy buite die Gebied verkeer, deur bestelling op die voormelde wyse aan sy behoorlik gemagtigde agent in die Gebied.

(2) Buiten waar hierdie Ordonnansie anders bepaal, moet alle openbare kennisgewings wat die Inspekteur uitreik 'n maand opgeplak bly aan die amptelike kennisgewingsbord by die Inspekteurskantoor en ook in die *Offisiële Koeraant* verskyn.

(3) Elke aansoek, beswaar of kennisgewing wat ingevolge hierdie Ordonnansie by die Inspekteur ingedien word, moet skriftelik geskied.

16. (1) Enigiemand kan binne een-en-twintig dae by die Administrateur in hoër beroep gaan teen 'n beslissing op opdrag wat die Inspekteur in die loop van sy werk teen of oor hom gegee het. So 'n hoër beroep moet skriftelik geskied, en moet die aanleiding daartoe uiteensit.

(2) Die appellant kan vra dat sy beroep verhoor moet word of deur—

- (a) die Administrateur-in-Uitvoerende Komitee, of
- (b) deur 'n spesiale kommissie.

(3) In iedere geval doen die Administrateur so gou moontlik die nodige stappe, en die een of die ander beslissing is afdoende.

(4) By aansoek om 'n spesiale kommissie moet die appellant eenhonderd pond by die Administrateur stort.

(5) Die spesiale kommissie bestaan uit vyf lede wat aldus aangestel word:—

Die Administrateur of sy verteenwoordiger is sowel voorsitter as lid; die appellant moet twee lede benoem en die Administrateur ook twee, en van hierdie lussagenoemde twee word een gekies uit dienende mynbestuurders in die Gebied.

(2) Should any registered holder of a claim or registered owner of a mining area take up residence outside the Territory he shall within one month of taking up such residence register at the office of the Inspector an accredited agent in the Territory.

(3) The agent referred to in sub-sections (1) and (2) of this section shall be a person approved by the Inspector and such agent shall, on being registered by the Inspector, be personally responsible under the provisions of this Ordinance for all matters, acts and omissions in connection with the claims or mining areas being the property of his principal in the same manner as if such claims or mining areas were registered in his name as his own property. Provided that prior to such registration such agent shall have informed the Inspector in writing that he is prepared to accept such responsibility.

(4) Any claim holder or mine owner may at any time revoke the registration of his accredited agent and shall within one month of such revocation register another person approved by the Inspector as his accredited agent as aforesaid.

(5) A registered accredited agent may at any time resign his appointment as such by giving notice in writing to the Inspector. The resignation shall not take effect until the expiration of one month after the receipt of such notice by the Inspector, or until the appointment of some other person has been registered, whichever may be the shorter period.

(6) Any such claim holder or mine owner shall, within one month after receipt of notice from the Inspector of the fact of the resignation of his registered accredited agent, register some other person as his accredited agent.

(7) Nothing in this section contained shall be taken in any way to relieve any claim holder or mine owner of any liability incurred under this Ordinance or of any responsibility for any duty imposed by it in regard to his claims or mining areas.

15. (1) Except where otherwise provided, any notice or other document required by this Ordinance to be served upon any person shall be deemed to be duly served if delivered personally to such person or left or sent by registered post to his last usual place of abode or business, or if he is absent from the Territory, by such service as aforesaid on any duly authorised agent of such person in the Territory.

(2) Except where otherwise provided, all public notices issued by the Inspector shall be posted on the official notice board of the office of the Inspector for a period of one month and shall also be published in the *Official Gazette*.

(3) Any application, objection or notification made to the Inspector in terms of this Ordinance shall be made in writing.

16. (1) Any person may, within twenty-one days, appeal to the Administrator against any decision against him or instruction affecting him given by an Inspector in the course of his duties. Such appeal shall be in writing and shall set out the grounds on which it is based.

(2) The appellant may ask for his appeal to be heard by either—

- (a) the Administrator-in-Executive-Committee, or
- (b) a Special Commission.

(3) In either case the Administrator shall take the necessary action as soon as possible and either decision shall be final.

(4) In applying for a Special Commission the appellant shall deposit with the Administrator the sum of one hundred pounds.

(5) The Special Commission shall consist of five members to be appointed as follows:—

The Administrator, or his representative, shall be member as well as Chairman, two members shall be nominated by the appellant and two by the Administrator; of these last two members, one shall be chosen from amongst the mine managers in charge of mines in the Territory.

(6) As die spesiale kommissie in die een of ander opsig teen die appellante beslis, kan hy gelas word om al die onkoste van die kommissie of dié deel daarvan waarop die kommissie besluit, en bowendien die maontlike getuielge, te betaal, en die storting wat by die Administrateur gedoen is, kan geheel of deels daarvoor aangewend word.

(7) As die spesiale kommissie ten gunste van die appellante besluit, moet die gestorte bedrag onmiddellik aan hom terugbesorg word.

(8) Staatsamptenare uitgesonderd, ontvang elke lid van so 'n kommissie volgens Administrateursbesluit, vergoeding en reistoeleae vir so lank die kommissie duur.

(6) If the decision of the Special Commission is against the appellant in any respect he may be ordered to pay the entire cost of the Commission, or such proportion thereof as the Commission may determine, as well as any fees payable to any witness who may have been summoned to appear, and the deposit lodged with the Administrator may be forfeited in whole or in part for these purposes.

(7) If the decision of the Special Commission is in favour of the appellant the sum deposited by him shall be returned forthwith.

(8) The members of such Commission, other than Public Servants, shall each receive such remuneration, with reasonable travelling allowances, while engaged in the actual commission, as the Administrator may determine.

HOOFSTUK II.

PROSPEKTERING.

17. (1) Behoudens bestaande prospekter- en ontginningsregte en buiten waar hierdie Ordonnansie uitdruklik anders bepaal, kan daar oral in dié deel van die Gebied wat binne die Polisiezone lê met 'n prospekterlisensie geprospekter word.

(2) Nieteenstaande andersluidende bepalings in hierdie Ordonnansie, kan net die eienaar binne drie maande na die inwerkingtreedingsdatum van hierdie Ordonnansie kleims afsteek vir die ondergenoemde mineraalstowwe:—

Apatiet	Korund
Bariumsulfant	Krioliet
Borakspeërel	Marmar
Gips	Scepsteen
Granaat	Veldspaat
Kalkklip	Vermikuliet
Karnalliet	

Met dien verstande dat as die eienaar sy regte op enige van die bovermelde mineraalstowwe wat in of op sy grond voorkom, skriftelik aan 'n ander afstaan, die sessionaris of enigemand anders aan wie die sessionaris op sy beurt skriftelik sy regte afstaan, die reg het om kleims af te steek vir die betrokke mineraalstowwe volgens die voorwaardes van die sessie.

Met dien verstande voorts dat regte van 'n eienaar of sessionaris ingevolge die bepalings van hierdie sub-artikel onderhewig is aan regte wat verkry is voordat die eienaar of sessionaris sy regte verkry het.

(3) Die Administrateur kan, ten opsigte van die hele Gebied of 'n deel daarvan, by kennisgewing in die *Offisiële Koerant* verklaar dat waar steen of klip, klein, sand of gruis ontgin of bewerk word ter verhandeling teen wins, sodanige ontginning of bewerking geheel of deels onderhewig is aan die bepalings van hierdie Ordonnansie.

18. By kennisgewing in die *Offisiële Koerant* kan die Administrateur prospektering of kleimafsteeking in 'n bepaalde streek ten opsigte van een of meer bepaalde minerale verbied oor 'n tydperk of tydperke wat hy na goëdunko stel.

19. (1) Niemand mag prospekter of kleims afsteek nie—

(a) in 'n dorp, gelug, begraaftplaaas of lokasie of op 'n publieke pad of spoorweg of vliegveld of op grond waar prospektering of kleimafsteeking ingevolge hierdie Ordonnansie of 'n vroëere wet verbied is, buiten met die skriftelike magtiging van die Inspekteur, en dan op die voorwaardes wat hy stel;

(b) op verboude laude of tuine, vrugteboorde, wingerde of plantasies, of binne honderd meter van 'n fontein, put, boorgat, standhoudende stroom, reservoer, dam, aangelegde waterloop of -kering, of binne tweehonderd meter van 'n kraal of gebou of op grond waar bykomende mynwerke ingevolge hierdie Ordonnansie ingerig is, of binne driehonderd meter van enige punt op die naaste grens van 'n erf soos bepaal by artikel drie van die Dorpe-Ordonnansie 1928 (Ordonnansie 11 van 1928) as so 'n erf opgeneem is ter insluiting by 'n dorp, sonder die skriftelike toestemming van die eienaar van grond waar daar na voorneme geprospekter of kleims afsteek gaan word, of van die eienaar van die bykomende mynwerke waarvan dié betrokke is;

CHAPTER II.

PROSPECTING.

17. (1) Subject to existing prospecting and mining rights and save as may otherwise be specially provided under this Ordinance, prospecting under the authority of a prospecting licence may be carried on anywhere in that portion of the Territory lying within the limits of the Police Zone.

(2) Notwithstanding anything in this Ordinance contained no person other than an owner, shall within a period of three months from the coming into operation of this Ordinance, peg any claim for any of the following mineral substances:—

Apatite	Garnet
Barytes	Gypsum
Borax	Limestone
Carnallite	Marble
Corundum	Tale
Cryolite	Vermiculite
Felspar	

Provided that if any owner shall have ceded in writing to any other person his rights over such mineral substances occurring on or in the land owned by him, the cessionary or any other person to whom in turn the said rights shall have been ceded in writing, shall have the right to peg for such mineral substances to the extent of and subject to the terms of the cession. Provided further that any rights acquired by an owner or cessionary under the provisions of this sub-section shall be subject to any rights acquired prior to the acquisition of the rights of the owner or cessionary.

(3) The Administrator may by notice in the *Official Gazette* declare for the whole Territory or any portion thereof that where the winning or working of stone, clay, soil, sand or gravel is for a purpose of disposal to another party for profit, such winning or working shall be subject to the provisions of this Ordinance in whole or in part.

18. The Administrator may by notice in the *Official Gazette* reserve any area from prospecting or pegging in respect of one or more minerals for such period or periods as he may deem fit.

19. (1) No person shall prospect or peg claims—

(a) in any town, village, cemetery or location or on any public road or railway or airfield or on any land reserved from prospecting or pegging under this Ordinance or any prior law, except with the written authority of the Inspector, and under such conditions as he may prescribe;

(b) in any cultivated land or garden, orchard, vineyard or plantation, or within 100 metres of any spring, well, borehole, perennial stream, reservoir, dam, artificially constructed watercourse or water-works, or within 200 metres of any kraal or other building, or on any land on which accessory works have been erected in terms of this Ordinance, or within 300 metres from any point on the nearest boundary of any erf as defined under section three of the Townships Ordinance, 1928 (Ordinance 11 of 1928), if such erf has been surveyed for the purpose of inclusion in a township, without the written permission of the owner of the land on which it is proposed to prospect or peg, or of the owner of the accessory works where such accessory works are concerned;

(c) op private grond voordat die houër van die prospekterlisensie sy lisensie vir naamtekening aan die eienaar of bewoner van daardie grond aangebied het, en by so 'n aanbieding moet die eienaar of bewoner sy naam op die lisensie teken. Doen die eienaar of bewoner hom egter nie voor nie, moet die prospekterder met 'n aangetekende brief die eienaar van sy voorneme om te prospekter van kleins af te steek in kennis stel en by die naaste kantoor van die Inspekteur van die Polisie bewys lewer dat hy die aangetekende brief gepegs het voordat hy op daardie grond begin prospekter van kleins afsteek. Die Inspekteur van die Polisie, na gelang, moet dan die nommer van die poskantoorkwitansie aanteken, en 'n dienooreenkomstige inskrywing op die lisensie doen.

(2) Elkeen wat 'n bepaling van hierdie artikel verontagsaam, is skuldig aan 'n oortreding.

20. (1) Elkeen wat vir minerale prospekter of wat 'n klein afsteek sonder 'n lopende prospekterlisensie wat behoortlik ingevolge die bepalings van hierdie Ordonnansie uitgereik is, is skuldig aan 'n oortreding.

(2) Die Inspekteur kan van so iemand die geldwaarde op eis van minerale wat weens onwettige prospektering of klemafsteeking gewen is, of hy kan na goeddunke beslag lê op die betrokke minerale ten bate van die Administrasie.

(3) Buiten waar sy prospekterlisensie ingevolge die bepalings van hierdie Ordonnansie geroep of opgeskort word, is elkeen wat sonder 'n lopende prospekterlisensie 'n klein hou, skuldig aan 'n oortreding.

21. (1) Behoudens die bepalings van hierdie Ordonnansie kan die Inspekteur op aanvraag prospekterlisensies uitreik ten opsigte van elke deel van die Gebied waar prospektering wettig is.

(2) Die Inspekteur kan na die goeddunke besluit of hy 'n prospekterlisensie moet uitreik aan iemand wat ingevolge hierdie Ordonnansie en sy maontlike wysigings van tyd tot tyd en enige ander huidige of vroere Gebiedswet op prospektering of die ontginning van edele en onedele minerale aan 'n oortreding skuldig bevind is, en die Inspekteur kan desgeljks besluit oor die rojering van 'n reeds uitgereikte lisensie.

(3) Geen lisensie bly langer as twaalf maande geldig nie, en die termyn van elke lisensie moet daarop aangedui word.

(4) Die lisensiegeld vir elke lisensie wat uitgereik word, is vyf sjelings per maand of maandelik.

(5) Geen prospekterlisensie word uitgereik voordat die aansoeker 'n kontante storting of bankwaarborg vir 'n bedrag wat die Inspekteur bepaal, aan hom besorg het nie, en in elk geval mag die bedrag nooit minder as vyftig pond wees nie as sekerheidsstelling dat die oppervlakte van eiendom wat moontlik gevaarlik geraak het weens prospektering of ontginning deur of namens die prospekterder tot veiligheid herstel sal word.

Die Inspekteur kan te enige tyd die bedrag van die kontante storting of bankwaarborg verhoog waar die omstandighede dit syns insiens gebied, en by versum om hierdie vereiste binne een maand na kennisgewing daarvan na te kom, kan die Inspekteur die prospekterder se lisensie en kleimittel rojer, en daarop het so 'n prospekterder twee jaar lank geen reg op 'n lisensie nie.

22. (1) Prospekterlisensies word net uitgereik aan—

- (a) blankes van agtien jaar en ouer;
- (b) maatskappye geregistreer ingevolge die bepalings van die Maatskappy-Ordonnansie 1928 (Ordonnansie 19 van 1928), soos gewysig;
- (c) 'n buitelandse maatskappy wat aan die vereistes van die Maatskappy-Ordonnansie 1928 (Ordonnansie 19 van 1928), soos gewysig, voldoen het;

Met dien verstande—

- (i) dat staatsampnare van die Gebied en onderwysers in die Onderwysdepartement van die Gebiedsadministrasie eers toestemming van die Administrateur moet verkry voordat hulle klains kan afsteek of kleins of myngebiede in die Gebied mag besit;

(c) on private land until the holder of the prospecting licence has produced his licence to the owner or occupier of that land for endorsement, and on such production the owner or occupier shall endorse the licence. If the owner or occupier is not available, the prospector before carrying out any prospecting or pegging on that land, shall advise the owner of his intention to prospect or peg by means of a registered letter and shall produce proof at the nearest office of the Inspector or nearest Police Station of the posting of such registered letter. The Inspector or the Police, as the case may be, shall record the number of the receipt issued by the Post Office and shall endorse the licence accordingly.

(2) Any person contravening any of the provisions of this Section shall be guilty of an offence.

20. (1) Any person who prospects for minerals, or pegs a claim, without being in possession of a current prospecting licence duly issued in accordance with the provisions of this Ordinance, shall be guilty of an offence.

(2) The Inspector may demand from such person payment of the value of any minerals that may have been won as a result of such unlawful prospecting or pegging of a claim, or he may, in his discretion confiscate such minerals for the benefit of the Administration.

(3) Except insofar as his prospecting licence may have been cancelled or suspended in terms of this Ordinance any person who is a claimholder without being in possession of a current prospecting licence shall be guilty of an offence.

21. (1) Subject to the provisions of this Ordinance, prospecting licences may, upon application, be issued by the Inspector in respect of any portion of the Territory in which prospecting is permitted.

(2) The issue of a prospecting licence to, or the cancellation of one already issued to, a person who has been convicted of an offence under this Ordinance as may be amended from time to time or any other existing or former law of the Territory relating to the prospecting or mining for precious or base minerals, shall be in the discretion of the Inspector.

(3) No licence may be issued for a period longer than twelve months and every licence shall specify the period for which it is valid.

(4) On every licence issued there shall be payable a fee of 5/- for each month or part thereof.

(5) No prospecting licence shall be issued until the applicant has made a cash deposit or given a bank guarantee to the Inspector for an amount to be fixed by the Inspector, and in any event not less than £50, as a guarantee for the restoration to a safe condition of the surface of any property which may be rendered unsafe by prospecting or development operations carried out by the prospector or in his name.

(6) The Inspector may at any time require the amount of the deposit or bank guarantee to be increased if in his opinion the circumstances so demand, and failure to comply with this requirement within one month of notification having been given, shall entitle the Inspector to cancel the prospecting licence and any claims held by the prospector. Such prospector shall not be entitled to hold a licence for a period of two years.

22. (1) A prospecting licence shall not be issued to any person other than—

- (a) a European of the age of 18 years or more,
- (b) a company registered under the provisions of the Companies Ordinance, 1928 (Ordinance 19 of 1928), as amended,
- (c) a foreign company which has complied with the requirements of the Companies Ordinance, 1928 (as amended);

Provided that:—

- (i) Members of the Public Service of the Territory, and teachers in the employ of the Education Department of the Administration of the Territory, may not peg or own any claims or mining areas in the Territory without the prior consent of the Administrator;

- (ii) dat 'n vrou wat in gemeenskap van goedere getroud is, eers haar eggenoot se skriftelike toestemming daartoe moet verkry;
- (iii) dat, in die Rehobothse Gebied, Burgers van die Rehobothse Bastergemeenskap en, in die natuurle-reservate, natuurle wat wetlig daar woon dieselfde reg op prospekterlisensies het as blankes, en dieselfde verpligtinge.

(2) Waar 'n prospekterlisensie onopsetlik of verkeerdlik uitgereik word aan iemand wat ingevolge die bepalings van hierdie artikel daartoe onbevoeg is, is so 'n lisensie totaal en van die begin af nieg, maar die persoon aan wie die lisensie uitgereik is, doen in daardie verband geen straf op nie as hy onmiddellik op aanvraag van die Inspekteur of 'n blanke lid van die Suid-Afrikaanse Polisieg-mag, die lisensie prysgee.

23. (1) 'n Lopende prospekterlisensie verleen aan 'n prospekterder die reg om kleins af te steek in daardie dele van die Gebied waar kleins afgesteek kan word, en, behoudens beperkings ingevolge die bepalings van hierdie Ordonnansie, het 'n prospekterder die alleenreg om te prospekter vir minerale op kleins wat op sy naam registreer staan, of om sodanige kleins oor te dra aan 'n ander houër van 'n lopende prospekterlisensie.

(2) Behoudens die bepalings van artikel sewe-en-dertig het die houër van 'n prospekterlisensie geen reg om enige minerale van so 'n klein te wen, verwyder of verhandel nie.

24. (1) Prospekterkleins kan iedere dag, buiten 'n Sondag en 'n openbare vakansiedag, tussen sonop en sononder afgesteek word, en dan deur die middelpunt van die lang sye af te pen op die wyse wat die regulasies voorskryf.

Die hoeke van die klein, of, waar die klein deel is van 'n kleinblok, die hoeke van die kleinblok, moet duidelik aangetoon word met bakens op die wyse wat die regulasies voorskryf, en dit wel binne sewe dae na die afstekdatum.

(2) Geen klein of kleinblok word beskou as behoortlik afgesteek of afgebaken nie tensy die vereistes van hierdie artikel en van die regulasies ten genoë van die Inspekteur nagekom is.

(3) Behoudens die hieropvolgende bepalings moet elke klein regboekig wees, met die lang sye hoogstens 600 meter en die kort sye hoogstens 300 meter.

(4) Afwyking van die reghoekige fatsoen word net toegelaat waar die nabyheid van eerder afgepende kleins of myngebiede die reghoekige fatsoen onmoontlik maak, en in so 'n geval moet vroeëre kleins of myngebiede onderskei word van die onderhawige klein of kleinblok met bakens wat ter voorkoming van inbreuk opgerig moet word al langs die perke van die vroeëre kleins of kleinblok. Waar, weens die nabyheid van vroeëre kleins of kleinblokke, 'n prospekterder verplig word om 'n klein met 'n onreghoekige fatsoen af te baken, is so 'n klein egter nie onwettig omdat een sy die maksimale lengte wat sub-artikel (3) oplet, oorskry nie: Met dien verstande steeds dat so 'n klein nooit agtien lektaar mag oorskry nie.

(5) Net aansiggende grond mag deel uitmaak van 'n klein of kleinblok.

25. Die Inspekteur kan besluit—

- (a) of 'n afgesteekte en afgebakende klein wesenlik afwyk van die voorgeskrewe fatsoen en afmetings, of nie, en of die bakens van 'n klein volgens voorskryf van regulasie opgerig is of nie;
- (b) oor elke vraag wat ontstaan oor die wettigheid van die afsteking of afbakening van 'n klein of kleinblok;
- (c) oor elke geskil wat ontstaan weens werklike of beweerde dubbele afsteking of kleinoorvleueling.

Behoudens die bepalings van sub-artikel (3) van artikel vier-en-twintig kan die Inspekteur ook toelaat dat 'n hoekgebiede verskuif word sodat daardie bakens op 'n lyn of plaas kan word sonder oorvleueling op vroeëre kleins of sonder oop ruimtes tussen 'n pa afgesteekte en 'n vroeëre klein.

(ii) A woman married in community of property may not hold a prospecting licence, unless her husband has given his written consent thereto;

(iii) In the Rehoboth Gebiet, Burgers of the Rehoboth Baster Community, and in native reserves, natives lawfully resident therein, shall possess the same rights to hold prospecting licences and be subject to the same obligations as Europeans.

(2) Where a prospecting licence is inadvertently or wrongly issued to a person who is not qualified to hold such a licence in terms of this section, such licence shall be deemed to be null and void *ab initio*, and the person to whom the licence has been issued shall suffer no penalties in that regard if, upon demand by the Inspector or by any European member of the South African Police, the said licence is surrendered forthwith.

23. (1) A current prospecting licence shall entitle a prospector to peg off mineral claims in such parts of the Territory as may be open to pegging by him and, subject to any restriction in force in terms of this Ordinance, a prospector shall have the sole right to prospect for minerals on claims registered in his name, or to transfer such claims to another party holding a valid prospecting licence.

(2) Save as provided in section thirty-seven the holder of a prospecting claim shall have no right to win, remove or dispose of any minerals from such claim.

24. (1) Prospecting claims shall be pegged by pegging the middle points of the long sides in the manner prescribed by regulation and may be pegged only between the hours of sunrise and sunset on any day other than a Sunday or public holiday.

The corners of a claim, or if the claim forms one of a block of claims, the corners of the block of claims, shall be clearly demarcated by beacons, in the manner prescribed by regulation, within seven days of the date of pegging.

(2) No claim or block of claims shall be deemed to have been duly pegged or beaconed if the requirements prescribed by this section and by regulation have not been observed to the satisfaction of the Inspector.

(3) Save as hereinafter provided every prospecting claim shall be of rectangular shape, the longer and shorter sides of the claim not exceeding 600 and 300 metres respectively.

(4) Deviation from the rectangular shape shall only be permissible where the proximity of claims previously pegged or beaconed areas previously acquired renders this shape impossible; in such case such prior holdings shall be excluded from the claim or block of claims by beacons erected along the boundaries of such prior holdings so as to avoid any encroachment. Where owing to the proximity of such prior holdings a prospector is compelled to beacon off a claim in a shape other than that of a rectangle such claim shall not be rendered invalid by reason of the fact that one of its sides exceeds the maximum length as prescribed in sub-section (3), provided always that the area of such claim shall not exceed 18 hectares.

(5) Areas of land which are not contiguous to each other may not be included in one prospecting claim or block of claims.

25. The Inspector shall have authority to decide:—

- (a) Whether or not a claim as pegged and beaconed differs materially from the shape and dimensions prescribed, and whether or not the beacons of any claim conform to the prescribed requirements;
- (b) Any question that may arise in regard to the validity of the pegging or beaconing of any claim or block of claims;
- (c) Any dispute arising through overpegging, or alleged overpegging.

Subject to the provisions of sub-section (3) of section twenty-four he shall also have authority to allow any corner or line beacon erected along the boundaries of prior holdings to be shifted, so as to place such beacons on line without encroaching on a prior holding, or leaving open spaces between a claim pegged and a prior holding.

26. (1) Elkeen wat 'n kleim afgesteek het, hetsy persoonlik of deur 'n agent of werknemer, moet binne agt-en-twintig dae na die afsteekdatum die Inspekteur daarvan kennis gee op die vorm wat die regulasie voorskryf, en moet die verskaldigde kleimgelde ten opsigte van elke afgesteekte kleim, vir 'n sesmaandse termyn betaal.

Hierdie verpligtinge ontstaan sodra die kleim afgesteek is, en elkeen wat daarmee versium, is skuldig aan 'n oortreding, en verbeur bowendien alle regte op enige betrokke kleim, tensy die versium by sodanige verpligtinge te wyte is aan oormag.

By elke geding ingevolge die bepalinge van hierdie artikel word daar vermoed dat die beskuldigde verantwoordelik is vir die afsteking waaroor die aanklag gaan, totdat die teenoënde bewys word: Met dien verstande dat so 'n geding net ingestel kan word met die skriftelike magtiging van die Prokureur-generaal.

Die vonnisvleende hof kan voorts ten gunste van die Administrasie van die Gebied uitspraak gee vir kleimgelde wat die hof opeisbaar bevind ingevolge die bepalinge van hierdie sub-artikel, en so 'n uitspraak kan as siviel-regtelike vonnis van die hof uitgevoer word.

(2) Die kennisgewing wat sub-artikel (1) vermeld, moet die volgende besonderhede bevat—

- (a) die naam voluit en die posadres van die prospek-teerder;
- (b) die nommer van die prospektee-lisensie;
- (c) die spesifieke name van die minerale of minerale waarvoor die kleim afgesteek is;
- (d) die afsteekdatum;
- (e) die rangnommer van elke betrokke kleim;
- (f) die plaasnaam en -nommer en die magistraatsdistrik waarin die kleim geleë is, met die naam en posadres van die eienaar van die grond waarop die kleim afgesteek is;
- (g) 'n drievoudige sketsplan wat ontwerp is ten genoë van die Inspekteur volgens die vereistes van die regulasies.

(3) By ontvang van die afsteek kennisgewing en by oortuiging dat die bepalinge van hierdie Ordonnansie betreffende afsteking en kennisgewing daarvan behoorlik nagekom is, verwittig die Inspekteur die grondeienaar skriftelik daarvan en rig hy aan die grondeienaar so adres, soos bekendgemaak ingevolge sub-artikel (2) (f) hierbo, 'n eks-emplaar van die sketsplan wat ingevolge sub-artikel (2) (g) hiervan ingedien is.

(4) Die Inspekteur kan na goëdunke die tydperk van agt-en-twintig dae wat sub-artikel (1) as kennisgewingtyd vir kleimafsteking bepaal, ten opsigte van afgeleë streke verleng.

27. Geen ontginning mag by 'n kleim geskied voordat die Inspekteur die betrokke kleim geregistreer het nie, nog voordat die persoon op wie so naam die kleim afgesteek is, of aan wie die kleim oorgepra word, 'n sertifikaat van die Inspekteur toon wat hom magtig om die kleim te ontgin nie.

28. (1) 'n Register wat heet „kleimregister” word in die kantoor van die Inspekteur gelê, en daarin word die afsteking, verlatting, roëring en oordrag van kleins opgeteken na gelang die kantoor kennisgewing ontvang.

(2) Die afsteking of oordrag van 'n kleim word nie geregistreer nie, tensy die bepalinge van hierdie Ordonnansie en die regulasies oor die kennisgewing van afsteking of oordrag ten genoë van die Inspekteur nagekom is.

(3) By registrasie van die afsteking of die oordrag van 'n kleim reik die Inspekteur 'n registrasiesertifikaat aan die geregistreerde houër uit.

(4) Die publiek het gedurende die amptelike werkeru-kosteloos die reg op insae in die kleimregister.

26. (1) Every person who has pegged a claim, whether personally or by means of an agent or employee, shall within twenty-eight days from the date of pegging notify the Inspector of such pegging, on a form prescribed by regulation and shall pay the claim fees due in respect of each claim pegged for a period of six months.

The said obligations shall be incurred as soon as the claim is pegged, and any person not fulfilling such obligations shall be guilty of an offence and shall in addition forfeit all rights in respect of any claim that is concerned, unless the non-fulfilment of such obligations is due to *viz* *major*.

In any proceedings taken under the provisions of this section, it shall be presumed that the accused is responsible for the pegging that forms the subject of the charge, until the contrary is proved. Provided that no proceedings shall be so instituted except on the written authority of the Attorney General. The court by which such person is convicted may furthermore give judgment in favour of the Administration of the Territory for any claim fees which it shall find to be due in terms of the provisions of this sub-section, and any such judgment may be executed as a civil judgment of the court.

(2) The notification referred to in sub-section (1) shall include—

- (a) the full name and postal address of the prospector;
- (b) the number of the prospecting licence;
- (c) for what specific mineral or minerals the claim has been pegged;
- (d) the date of pegging;
- (e) the ordinal number or numbers of the claim or claims;
- (f) the farm name and number and the magisterial district wherein the claim is situated with the name and postal address of the owner of the land on which the claim has been pegged;
- (g) a sketch plan in triplicate drawn to conform with the requirements of the regulations and to the satisfaction of the Inspector.

(3) On receipt of the notification of pegging the Inspector shall, if satisfied that the provisions of this Ordinance relating to pegging and notification thereof have been properly observed, register the claim and inform the owner of the land in writing thereof and shall send to his address as notified under sub-section (2) (f) hereof a copy of the sketch plan submitted in accordance with sub-section 2 (g) hereof.

(4) The Inspector may, in his discretion, extend the period of twenty-eight days referred to in sub-section (1) for the notification of claims pegged in remote areas.

27. No development may be carried out on any claim until such claim has been registered by the Inspector and until the person in whose name the claim has been pegged, or to whom the claim is subsequently transferred, produces a certificate issued by the Inspector authorising him to develop such claim.

28. (1) A register shall be kept in the office of the Inspector to be styled the "Prospecting Claims Register" in which shall be registered the pegging, abandonment, cancellation and transfer of all prospecting claims as have been notified to the said office.

(2) The pegging or transfer of any claim shall not be registered unless the provisions of this Ordinance and the regulations relating to the notification of pegging or transfer of claims have been carried out to the satisfaction of the Inspector.

(3) On the registration of the pegging or transfer of a claim the Inspector shall issue a certificate of registration to the registered holder.

(4) The Prospecting Claim Register shall be open for inspection by the public free of charge during the official office hours.

29. (1) Met ingang van die eerste dag van die maand waarin 'n klein afgesteek is, of van die eerste dag van die maand waarin hierdie Ordonnansie in werking tree, na gelang van die jongste, word kleingelde teen vier sjielings per maand vir elke klein betaalbaar by die kantoor van die Inspekteur, en bly dit betaalbaar totdat die klein weer oopgaan, of, by omsetting, totdat omsettingsgeld ingevolge artikel vyf-en-veertig hiervan betaalbaar word.

(2) Die aanvanklike betaling van kleingeld moet ten opsigte van 'n sesmaande tydperk geskied, en is binne agt-en-twintig dae na kennisgewing van kleimafsteeking betaalbaar. Daaropvolgende kleingelde kan ten opsigte van 'n maksimale tydperk van twaalf maande vooruit betaal word, maar moet in elk geval ten minste maandeliks vooruit op die eerste dag van die maand geskied en bring by agterstalligheid 'n boete van een kwart van die opisbare bedrag mee. As sodanige gelde saam met maontlik opgeloope boetes nie betaal word op of voor die laaste dag van die maand waarin hulle opisbaar word nie, gaan die betrokke kleims oop. By die toepassing van hierdie sub-artikel word myngeliede as kleims beskou totdat die eerste myngeld ingevolge artikel vyf-en-veertig betaalbaar word.

(3) Vier maal die geld voorgeskryf by sub-artikel (1) is betaalbaar op 'n klein of kleinblok wat nie binne twee jaar na die afsteekdatum of na die datum van inwerking-trede van hierdie Ordonnansie, na gelang van die jongste, in 'n myngelied omgesit is nie.

(4) Vier maal die geld voorgeskryf by sub-artikel (1) is betaalbaar op 'n klein of kleinblok waaruit minerale gewen en verhandel is, en dit wel van die eerste dag van die eerste dag van die maand waarin hierdie Ordonnansie in werking tree, na gelang van die jongste datum.

(5) Ten opsigte van 'n klein waarop daar ingevolge 'n vroeëre wet dubbele gelde betaal word by die datum van inwerking-trede van hierdie Ordonnansie, tensy die klein in 'n myngelied omgesit word, bly sodanige dubbele gelde betaalbaar oor 'n tydperk van twee jaar van die eerste dag van die maand waarin hierdie Ordonnansie in werking tree, en daarna is vier maal die gelde betaalbaar.

(6) Op grond waar kleims verlaat is of vervel het en wat binne drie maande geheel of deels afgesteek word op die naam van, of ten behoeve van, dieselfde prospek-teerder as voorheen moet daar kleingeld betaal word teen die tarief wat betaalbaar sou gewees het as die grond geslote gebly het.

30. (1) Die geregistreerde kleinhouer moet alle redelike maatreëls tref om die bakens wat sy klein aanwys, te hou in 'n toestand wat aan die vereistes van die regulasies voldoen, en wanneer die Inspekteur hom skriftelik daartoe gelus moet hy op eie koste maar ten genoef van die Inspekteur bakens of klipstapels of plate herstel wat beskadig is of onlesbaar gemaak het. Versuim om hierdie vereiste na te kom binne 'n redelike tyd wat die Inspekteur stel, gee die Inspekteur die reg om die klein te roeier.

(2) 'n Prospek-teerder of sy verteenwoordiger moet kosteloos die middel- en die hoekbakens van 'n klein wat in sy naam afgesteek is, aanwys op versoek van 'n Inspekteur, die Polisie, die eienaar of bewoner van die grond waarop die klein geleë is, of op versoek van enige ander beoortelike geïnteresseerde prospek-teerder wat 'n aansiggende klein wil afsteek. Met dien verstande dat waar daar bevind word dat die sketsplan van 'n betrokke klein op lias in die kantoor van die Inspekteur noukeurig genoeg is om die posisie van die aansiggende klein aan te dui en dat die bakens wat die klein bepaal, behoortlik in die grond staan, die prospek-teerder wat die baken-aanwysing versoek het, die kleinhouer die moontlike onkoste daarvan moet vergoed.

31. Die Inspekteur kan 'n kleinhouer kennis gee dat hy binne 'n tydperk wat die kennisgewing stel, maar minstens drie maande, die prospek-teerwerkzaamhede moet uitvoer wat, na die Inspekteur meen, by die aard van die eerste klaf op sodanige klein pas. As so 'n kleinhouer binne sodanige tydperk versuim om die aangewese werksaamhede ten genoef van die Inspekteur uit te voer, kan die Inspekteur die klein roeier.

29. (1) As from the first day of the month during which any claim was pegged, or as from the first day of the month of commencement of this Ordinance, whichever is the later date, prospecting claim fees at the rate of four shillings per month in respect of each claim shall be payable at the office of the Inspector until such claim ceases to be closed, or in the case of conversion, until a fee becomes payable in terms of section forty-five hereof.

(2) The initial payment in respect of any claim shall be for a period of six months and falls due within the period within which pegging must be notified in terms of section twenty-six. Subsequent payments may be accepted for a maximum period of twelve months in advance, but shall, in any event, be made at least monthly in advance on the first day of every month and shall carry a penalty of one fourth of the amount payable if overdue. If such payments, together with penalties which may have accrued, are not made on or before the last day of the calendar month in which they fall due, the prospecting claims in respect of which such payments are due shall cease to be closed. For the purpose of this subsection mining areas shall be treated as claims until the first mining fee becomes payable in terms of section forty-five.

(3) A fee of quadruple the fee prescribed under subsection (1) shall be payable on any claim or block of claims not converted into mining areas within a period of two years of the date of pegging, or within two years of the date of commencement of this Ordinance, whichever is the later date.

(4) A fee of quadruple the fee prescribed under subsection (1) shall be payable on any claim or block of claims from which minerals have been won and disposed of, as from the first day of the month in which such disposal took place or from the first day of the month of commencement of this Ordinance, whichever is the later date.

(5) In respect of any claim on which in terms of a earlier law double fees were being paid at the date of commencement of this Ordinance such double fees shall, failing conversion of the claim, continue to be payable for two years from the first day of the month of commencement of this Ordinance whereafter the quadruple fee shall be payable.

(6) There shall be payable on any ground held under claims that have been abandoned or allowed to lapse and which ground or any portion thereof is repegged within three months in the name of the same prospector or in his interest, claim fees at the rate that would have been payable had such ground remained closed.

30. (1) The registered holder of a claim shall take all reasonable measures to maintain the beacons defining his claim in a condition to conform with the requirements as set out in the regulations and whenever required in writing by the Inspector he shall restore to the satisfaction of the Inspector and at his own expense, any beacons, cairns, or plates that may have become damaged or defaced. Failure to comply with this requirement within such reasonable time as may be fixed by the Inspector shall entitle the Inspector to cancel the claim.

(2) A prospector or his representative shall point out free of charge the middle and corner beacons of claims pegged in his name on being requested to do so by an Inspector, the Police, the owner or occupier of the land on which the claim is situated or by any duly licensed prospector who may desire to peg an adjoining claim. Provided that where it is found that the sketch plan of any claim concerned, filed in the office of the Inspector, is sufficiently accurate to enable the position of the claim to be located therefrom, and that the beacons defining the claim are properly erected on the ground, then any prospector who has required such beacons to be pointed out to him in terms of the provisions of this section, shall be liable to the claim holder for any expenses incurred thereby.

31. It shall be lawful for the Inspector to give notice to the holder of any prospecting claim that within a period to be fixed in such notice, which shall not be less than three months, he will be required to execute prospecting operations as are in the opinion of the Inspector appropriate to the character of the mineral deposit on such claim. If such claim holder fails to execute such operations within such period to the satisfaction of the Inspector the Inspector may cancel such claim.

Kleims wat ingevolgt die bepalings van hierdie artikel geroep word, mag eers twaalf maande na die rojcedatum weer op die naam van dieselfde prospektoerder afgesteek of geregistreer word.

32. (1) Elke prospektoerder moet sy bedryf ten genoë van die Inspekteur in 'n veilige toestand hou, en waar die oppervlakte van grond gewaarlik geraak het weens prospektering of ontginning vanvoor sodanige prospektoerder verantwoordelik is, of ingevolgt artikel *negenig* verantwoordelik was, moet hy die oppervlakte ten genoë van die Inspekteur herstel of andersins veilig maak.

(2) Waar 'n prospektoerder sy verpligting versuim om die oppervlakte van grond, soos voormeld, te herstel of veilig te maak, is hy skuldig aan 'n oortreding, en bowendien kan die Inspekteur die nodige stappe doen om bodemskade wat ontstaan uit sodanige prospektoerder se bedryfswaardigheid te herstel en daarvoor kan hy die bedrag, of deel daarvan, aanwend wat ingevolgt sub-artikel (5) van artikel *een-en-twintig* gestort of gewaarborg is.

By 'n geding ingevolgt die bepalings van hierdie sub-artikel geld die vermoede dat die beskuldigde die bodemskade veroorsaak het waaroor die beskuldiging gaan tot dat die teenoë bewys word: Met dien verstande dat 'n geding soos voormeld net ingestel kan word as die Prokureur-generaal dit skriftelik magtig.

33. (1) 'n Geregistreerde kleimhouer kan sy reg op sy kleim oordra aan elkeen wat 'n prospektoerlisensie het.

So 'n oordrag moet geskied by wyse van 'n skriftelike ooreenkoms op die vorm wat die regulasies voorskryf, en dit moet volstruck en onvoorwaardelik wees.

So 'n oordrag word eers geregistreer nadat die Inspekteur 'n afskrif daarvan gekry het saam met 'n drievoudige sketsplan van die kleim wat na voornemo oorgepra word.

(2) Die oordrag van die kleim word eers van krag nadat die sertifikaat wat sub-artikel (3) van artikel *agten-twintig* vermeld aan die kleimontvanger uitgereik is.

34. 'n Geregistreerde kleimhouer kan sy reg op 'n kleim opse deur kennisgewing van kleimverlating aan die Inspekteur te besorg. By ontvangs van so 'n kennisgewing rojceer die Inspekteur die aantekening in die kleimregister, en daarop gaan die betrokke kleim weer oop.

Kleimverlating ontfed die kleimhouer geseins van die verpligting om die bepalings van artikel *twee-en-dertig* na te kom nie.

35. Sodra 'n prospektoerkleim oopgaan, moet die geregistreerde houder daarvan alle bakens en vore wat die kleim- of kleimblokgrens aandui, verwyder of toegooi en wel so dat dit onmiskenbaar blyk dat die kleingebied weer vir afsteking oopstaan.

As so 'n kleimhouer sy verpligting ingevolgt hierdie artikel versuim, is hy skuldig aan 'n oortreding, en bowendien kan die Inspekteur die aangeweë verwydering op koste van die kleimhouer uitvoer, en daarvoor kan hy die storting of waarborg ingevolgt artikel *een-en-twintig* aanwend.

36. By die oordrag, vervalling, verlating of rojering van al sy kleims en by die verbeuring van sy prospektoerlisensie, kan 'n prospektoerder skriftelik by die Inspekteur aansoek doen om die terugbetaling van geld wat hy moontlik as waarborg vir die nakoming van sy verpligtinge gestort het, en wat hom goedgeskryf staan.

Behoudens die bepalings van artikel *negen-en-sestig* moet die Inspekteur sodanige gelde so gou doelik terugbetaal.

37. (1) Geen prospektoerder mag van sy prospektoerle minerele wat in die loop van sy bedryfswaardigheid gewen is, verwyder nie, nóg sodanige minerele verhandel nie, buiten met magtiging van 'n skriftelike permit wat die Inspekteur daartoe uitgereik het, en dan ooreenkomsdig die bepalings daarvan:

Prospecting claims cancelled under the provisions of this section may not be pegged or registered in the name of the same prospector within a period of twelve months from the date of such cancellation.

32. (1) Every prospector shall, to the satisfaction of the Inspector maintain his workings in a safe condition and shall repair or make safe to the satisfaction of the Inspector, the surface of any land which has been rendered unsafe by prospecting or development operations for which such prospector is responsible or has become responsible in terms of section *ninety*.

(2) If any prospector fails to repair or make safe the surface of any land as aforesaid, he shall be guilty of an offence, and in addition the Inspector may take the necessary steps to repair any surface damage, resulting from the operations of such prospector, and may for this purpose utilise the amount, or part thereof, deposited or guaranteed in terms of sub-section (5) of section *twenty-one*.

In any proceedings instituted under the provisions of this sub-section, it shall be presumed that the accused is responsible for the surface damage that forms the subject of the charge, until the contrary is proved. Provided that no proceedings shall be instituted as aforesaid except on the written authority of the Attorney General.

33. (1) A registered holder of a prospecting claim may transfer his right to the claim to a party who is the holder of a prospecting licence.

Such transfer shall be by written agreement executed on the form prescribed by the regulations and shall be absolute and unconditional.

Such transfer shall not be registered until the Inspector is furnished with a copy of such agreement together with a sketch plan in triplicate of the claim it is intended to transfer.

(2) Transfer of a claim shall not take effect until the certificate provided for under sub-section (3) of section *twenty-eight* has been issued to the transferee.

34. A registered claim holder may abandon his rights to any claim by giving notice of such abandonment to the Inspector. On receipt of such notification the Inspector shall cancel the claim from the prospecting claim register whereupon the said prospecting claim shall cease to be closed.

Abandonment of a claim shall not affect the responsibility of the claim holder in regard to the observance of the provisions of section *thirty-two*.

35. As soon as a prospecting claim has ceased to be closed, the registered holder thereof shall forthwith remove all beacons and trenches marking such claim or block of claims in such a manner as to leave no doubt that the claim area is again open to pegging.

If such holder fails to fulfil his obligations in terms of this section he shall be guilty of an offence, and in addition the Inspector may proceed to effect such removal as aforesaid at his expense, and may for this purpose utilise the amount deposited or guaranteed in terms of section *twenty-one*.

36. On the transfer, lapse, abandonment or cancellation of all claims he may have held and on the forfeiting of his prospecting licence, a prospector may apply, in writing, to the Inspector for the refund of any monies he may have deposited as security for the fulfilment of his obligations and which may be standing to his credit.

Subject to the provisions of section *sixty-nine* the Inspector shall refund such monies as soon as is practicable.

37. (1) No prospector shall remove from the site of his prospecting operations any minerals which have been recovered in the course of such operations, or dispose of such minerals, except under the authority of and in accordance with the terms of a written permit issued by the Inspector.

Met dien verstande dat 'n prospekteerder sonder die verloop wat hierdie sub-artikel vereis, 'n redelike hoeveelheid van die erts wat moontlik te goeder trou vir uitkenning of gehaltebepaling nodig is, kan verwyder van die plek waar hy prospekteer. Sodanige monsters mag egter nie verkoop word nie, tensy 'n permit wat so 'n verkoping magtig, ingevolge hierdie artikel uitgerick is:

Met dien verstande voort dat die prospekteerder in die tyd tussen die datum waarop hy 'n klein afgesteek het, en die datum waarop 'n sertifikaat ingevolge artikel sewen-twintig ten opsigte van daardie klein aan hom uitgerick is, die mineraalstowwe wat hy met sy aanvanklike bewaringspreek uit daardie klein gehaal het, na 'n veilige bewaarplek in die gebied kan verwyder. By so 'n verwydering moet die prospekteerder die Inspekteur onmiddellik en skriftelik in kennis stel dat hy die mineraalstowwe verwyder is, hoewel, en waarheen dit verwyder is, en voordat 'n prospekteerder sodanige mineraalstowwe kan verhandel, moet hy 'n permit hê wat ingevolge hierdie artikel uitgerick is.

Die Inspekteur kan sodanige permit uitreik onderhewig aan voorwaardes wat hy na goedgevind stel, en sodanige permit word aan geen kleinhouer uitgerick wat nog nie al die kleingelde betaal het wat ten opsigte van die kleins op sy naam verskuldig is nie.

(2) Niemand, hetsy prinsipaal of agent, mag van 'n prospekteerder enige minerale ontvang of koop nie, tensy die prospekteerder 'n permit kan toon van die Inspekteur wat hom magtig om sodanige minerale te verwyder of te verhandel. In so 'n geval moet die ontvanger of koper die permit behou.

(3) Elkeen wat in die gebied minerale van 'n prospekteerder ontvang of gekoop het, moet, voordat hy sodanige minerale na 'n bestemming buite die gebied versend, die permit waaroor sub-artikel (2) van hierdie artikel gaan aan die Inspekteur terugbesorg in ruil vir 'n permit op sy eie naam. So 'n ruilpermit moet aan die doecane getoon kan word ten tye van die versending.

(4) Elkeen wat die bepaling van hierdie artikel verontsaam, is skuldig aan 'n oortreding, en bowendien kan die Inspekteur betaling van die waarde van die minerale wat onwettig verwyder, of verhandel is, van die betrokkenes opeis, of kan hy ten bate van die Administrasie beslag lê op sodanige minerale, en voorts kan hy verklaar dat die klein waaruit die minerale gevein is, oorgegaan het. As die betrokke bedrag nie betaal word nie, kan die Inspekteur 'n sivilregtelike verhaalgeding instel.

38. (1) Die houër van 'n klein vir onedelc minerale wat by die inwerkingtreddingsdatum van hierdie Ordonnansie geregistreer is, het ook met ingang van die inwerkingtreddingsdatum van hierdie Ordonnansie die alleenreg om daarop vir onedelc minerale te prospekteer, buiten waar die prospekteerreg op edele minerale reeds aan iemand anders behoort.

(2) Die houër van 'n klein vir edele minerale wat by die inwerkingtreddingsdatum van hierdie Ordonnansie geregistreer is, hou nog steeds by die inwerkingtredding van hierdie Ordonnansie ook die alleenreg om vir onedelc minerale te prospekteer, buiten waar die prospekteerreg op onedelc minerale reeds ingevolge 'n vroercr wet aan iemand anders behoort.

HOOFSTUK III.

MYNBEDRYF.

39. Buiten waar hierdie Ordonnansie uitdruklik anders bepaal, is elkeen wat minerale ontgin of mynuwek oprig om onedelc of edele minerale te wen, buiten as behoortlik-geregistreerde myneciener, of met die toestemming van 'n behoortlik-geregistreerde myneciener en op die myngebied wat op sodanige myneciener se naam geregistreer staan, is skuldig aan 'n oortreding, en is, by skuldigebevinding, strafbaar met 'n boete van hoogstens driehonderd pond of net gevangenis vir 'n tydperk van hoogstens drie jaar of met sowel die boete en die gevangenis, en bowendien kan die Inspekteur die waarde van minerale wat met mynbedrygheidde waarby hierdie artikel verontsaam is, gevein is, van so iemand opeis, of kan hy beslag lê op sodanige minerale ten bate van die Administrasie. As sodanige bedrag nie betaal word nie, kan die Inspekteur 'n sivilregtelike verhaalgeding daarvoor instel.

Provided that a prospector may, without obtaining permission in terms of this sub-section dispose of or remove from the site of his prospecting operations such reasonable samples as may be required for bona fide purposes of identification or assay. Such samples however shall not be sold unless a permit authorising such sale has been issued in terms of this section.

Provided further that during the interval between the date on which he has pegged a claim and the date on which a certificate in terms of section twenty-seven has been issued to him in respect of that claim a prospector may remove to a place of safekeeping in the Territory the minerals he has obtained from that claim in the course of his initial operations. On such removal the prospector shall forthwith inform the Inspector in writing of the minerals, the quantities thereof and the place to which they have been removed and shall not dispose of such minerals except under the authority of a permit issued in terms of this section.

The Inspector may issue such permit subject to such conditions as he may deem fit, and such permit shall not be granted to any claim holder who has not paid all claim fees that are due in respect of claims registered in his name.

(2) No person shall receive or purchase, whether as principal or agent, from any prospector any minerals, unless the prospector can produce a permit from the Inspector authorising the removal or disposal of such minerals. In such case the permit shall be retained by the receiver or purchaser.

(3) Any person having received or purchased in the Territory any minerals from any prospector shall, before consigning such minerals to a destination outside the Territory return to the Inspector the permit referred to in sub-section (2) of this section in exchange for a permit in his own name. Such exchange permit shall be available for production to the Customs authorities at the time of consignment.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence, and in addition the Inspector may demand from the parties concerned payment of the value of the minerals which have been unlawfully removed or disposed of or may confiscate such minerals for the benefit of the Administration, and may further declare that the claim from which such minerals have been recovered has ceased to be closed. If such amount is not paid the Inspector may institute civil proceedings for its recovery.

38. (1) The registered holder as at the date of commencement of this Ordinance of any prospecting claim for base minerals shall, as from the date of commencement of this Ordinance also hold on such claim the sole right to prospect for precious minerals except in so far as the right to precious minerals may already be held by any other person.

(2) The registered holder as at the date of commencement of this Ordinance, of any prospecting claim for precious minerals shall, from the date of commencement of this Ordinance, continue to hold also on such claim the sole right to prospect for base minerals except in so far as the right to base minerals may already be held by any other person.

CHAPTER III.

MINING.

39. Save as specially provided for in this Ordinance, any person who mines or erects mining works for the purpose of winning base or precious minerals, except as a duly registered mine owner, or with the permission of a duly registered mine owner and on the mining area registered in the name of such mine owner, shall be guilty of an offence, and liable on conviction to a fine not exceeding three hundred pounds or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment, and in addition the Inspector may demand from such person payment of the value of any minerals which have been won as a result of mining operations carried on in contravention of this section, or he may confiscate such minerals for the benefit of the Administration. If such amount is not paid the Inspector may institute civil proceedings for its recovery.

40. Die houër van prospekterregte ingevolge artikel drie-en-twintig kan te eniger tyd ontginningsreg op sy klein verkry deur die klein of kleins ingevolge artikel drie-en-veertig in 'n myngebied of myngebiede te laat omsit met 'n akte van omsetting.

41. (1) Behoudens die bepaling van hierdie Ordonnansie en die prospekter- of ontginningsregte van andere op die myngebied wat by die inwerkingtreedingsdatum van hierdie Ordonnansie bestaan, het die geregistreerde eienaar die alleenreg om in daardie myngebied—

- (a) vir al die minerale vermeld in die akte van omsetting te prospekter, en om hulle te ontgin, te wen en te verhandel;
- (b) al die nodige maatreëls te tref, sowel op as onder die oppervlakte van sy myngebied, ter prospektering, ontwikkeling of ontginning van sodanige minerale;
- (c) die nodige toerusting, werke en geboue op sy myngebied aan te bring om die erts wat hy in sy bedryf gewen het, te vervoer, af te werk, te behandel en te smelt.

(2) Geen myneienaar mag minerale wat hy in sy mynbedryf gewen het, verhandel nie buite met die magtiging van 'n skriftelike permit wat die Inspekteur uitreik, en dan ooreenkomstig die bepaling daarvan.

Met dien verstande dat 'n myneienaar sonder die verlof wat hierdie sub-artikel vereis, 'n redelike hoeveelheid van die erts wat moontlik te goeder trou vir uitkenning of gehaltsbepaling nodig is, van sy myn kan verwyder. Sodanige monsters mag egter nie verkoop word nie, tensy 'n permit wat so 'n verkoping magtig ingevolge hierdie sub-artikel uitgereik is.

Geen permit word ingevolge hierdie sub-artikel uitgereik nie aan 'n myneienaar wat agterstallig is met die betaling van myngelde wat ingevolge artikel vyf-en-veertig betaalbaar is, of wat versuim om sy plicht ingevolge artikel een-en-veertig na te kom.

42. Behoudens die bestaande ontginnings- of prospekterregte van andere en die voorgeskrewe opmetingsperke moet 'n myngebied reghoekig wees, en die lengte hoogstens vyf keer langer as die breedte, en die grenslyne altyd reguit.

In sy diepte word nie myngebied begrens deur die loodlyn van sy sye soos bepaal deur die posisie van die bakens op die grond ten tye van die omsettingsopmeting, en die oppervlakte word bereken in hektaar op 'n horisontale vlak.

43. (1) Voordat hy kleins in 'n myngebied laat omsit, moet 'n kleinhouer die Inspekteur van sy voorneme verwittig, en bevestiging verkry dat sy reg op die kleins wat hy wil omsit, suiwer is. Voorts moet hy vasstel of die voorgestelde naam van die myngebied vir die Inspekteur aanneemlik is in dié sin dat dit nie indruis teen die naam van 'n reeds bestaande myngebied nie en dat dit andersins om voldoende rede aanvaarbaar is.

(2) Voor die omsetting moet die voorgestelde myngebied op die voorgeskrewe wyse opgemet, afgebaken en gekarteer word op koste van die betrokke kleinhouer en volgens sy reëling.

(3) Daarop moet die kleinhouer aansoek om die omsetting by die Inspekteur doen. Sy aansoek moet vergesel gaan van die volgende—

- (a) die opmetingsinligtings en, in viervoud, die kaart van die voorgestelde myngebied;
- (b) genoeg geld om die voorgestelde omsetting te adverteer en te laat register in die Akteskantoor en ook om die Landmeter-generaal se ondersoekgelde te betaal;
- (c) 'n afsonderlike storting of bankwaarborg vir 'n bedrag wat die Inspekteur as voldoende beskou om die toe-oppervlakte van eiendomme wat moontlik deur toekomstige mynbedrywighede gevaarlik kan raak, te beveilig. Die storting moet in elk geval minstens vyftig pond wees.

40. The holder of prospecting title under section twenty-three may at any time secure mining title over his prospecting claims by the conversion of such claim or claims into a mining area or areas by a deed of conversion in terms of section forty-three.

41. (1) Subject to the provisions of this Ordinance and to any prospecting or mining rights held by other persons in the mining area as at the date of commencement of this Ordinance, the registered owner of a mining area shall have the exclusive right in his mining area to:—

- (a) Prospect for, develop, recover and dispose of all the minerals specified in the Deed of Conversion;
- (b) Take all necessary measures on and under the surface of his mining area for the purpose of prospecting, developing and mining such minerals;
- (c) Erect the necessary equipment, plant and buildings on his mining area for the purpose of transporting, dressing, treating and smelting the ore recovered by him during his mining operations.

(2) No mine owner shall dispose of any minerals recovered by him during his mining operations except under the authority of and in accordance with the terms of a written permit issued by the Inspector.

Provided that a mine owner may, without obtaining permission in terms of this sub-section remove from the site of his mining operations such reasonable samples as may be required *bona fide* for purposes of identification or assay. Such samples however shall not be sold unless a permit authorising such sale has been issued in terms of this sub-section.

A permit in terms of this sub-section shall not be issued to any mine owner who is in arrear with any payment of mining fees that have become due in terms of section forty-five or who fails to discharge his duty in terms of section fifty-one.

42. Subject to existing mining or prospecting rights held by other persons and within the survey limits as prescribed a mining area shall be a rectangle with a length not exceeding five times its breadth and shall always be bounded by straight lines.

In depth the mining area shall be bounded by perpendicular planes in conformity with the sides of the mining area as determined by the position of the beacons on the ground at the time of the conversion survey and the superficial area shall be calculated in hectares on a horizontal plane.

43. (1) Preliminary to the conversion of claims into a proposed mining area a claim holder shall notify the Inspector of his intention thereof and shall obtain confirmation that his title to the claims he desires to convert is in good standing. Further he shall ascertain if the proposed name of the mining area is acceptable to the Inspector on the grounds that it does not conflict with the name of any existing mining area and is acceptable for other good and proper reason.

(2) Prior to conversion the proposed mining area shall be surveyed, demarcated and a diagram thereof prepared, in the manner prescribed, at the expense of and as arranged by the claimholder concerned.

(3) The claimholder shall apply to the Inspector for the conversion to be effected and such application shall include:—

- (a) The survey records and, in quadruplicate, the diagram of the proposed mining area.
- (b) A sum of money sufficient to cover the costs of advertising and registering in the Deeds Registry the proposed conversion, and the examination fees of the Surveyor-General.
- (c) A separate deposit or bank guarantee sufficient in the opinion of the Inspector to cover the cost of restoring to a safe condition the surface of any property which may be rendered unsafe by future mining operations and which, in any event, shall be not less than £50.

(4) Die Inspekteur moet die opmetingsstukke en -kaarte by die Landmeter-generaal inlewer vir ondersoek en goedkeuring. Keur die Landmeter-generaal die sketskaart goed, dan kondig die Inspekteur die voorgestelde omsetting in die *Offisiële Koerant* af, en ook in 'n nuusblad wat omloop in die magistratsdistrik waarin die betrokke kleims geleë is. 'n Afskrif van die afkondiging moet ook op die ampstelike kennisgewingbord by die Inspekteurskantoor verskyn. Die bedoelde kennisgewing moet die volgende besonderhede oor die voorgestelde myngebied bevat—

- die kleimholder se naam en woonadres voluit;
- die myngebied se voorgestelde naam en die nommer wat daaraan toegeken is vir registrasiedoeleindes;
- die nommers van die kleims wat die voorgestelde myngebied beslaan;
- die bo-oppervlakte volgens die goedgekeurde sketskaart;
- die ligging;
- die mintraal of minerale wat die myneienaar kan ontgin.

Die bedoelde kennisgewing moet voorts alle belanghebbendes in die voorgestelde omsetting versoek om hul besware daarteen binne sestig dae aan die Inspekteur te besorg en die kennisgewing moet voorts spesiaal bestel word aan enigiemand wat, na die Inspekteur se wete, regte het wat teen die aanstaande myneienaar se regte indruis.

As daar binne die vermelde tydperk geen sodanige beswaar by die Inspekteurskantoor ingedien word nie, word indruisende regte soos voormeld as vervel beskou. In die vermelde tydperk moet die goedgekeurde sketskaart van die voorgestelde myngebied onder die gewone verkure by die Inspekteurskantoor vir die publiek ter insae lê.

Na afloop van die voormelde tydperk moet die Inspekteur sy beslissing gee oor ontvange besware.

Appel teen 'n Inspekteursbeslissing ingevolge hierdie sub-artikel moet ooreenkomstig die bepaling van artikel *sesien* geskied.

(5) Die Inspekteur moet sy omsettingsbesluit in die *Offisiële Koerant* adverteer en hy moet elke omsetting sertifiseer met 'n akte wat „omsettingsakte” heet en wat die volgende besonderhede oor die myngebied bevat—

- die eienaar se naam en woonadres voluit;
- die naam van die myngebied, en die nommer wat die Landmeter-generaal daaraan toegeken het;
- die geregistreerde nommers wat die omgesette kleims;
- die bo-oppervlakte en fatsoen daarvan volgens die goedgekeurde kaart;
- die naam en nommer van die plaas of plase waar die myngebied geleë is en die registrasieafdeling;
- die minerale wat ontgin kan word;
- die datum waarop die akte verly is;
- die Inspekteur se naamtekening en ampstempel.

(6) Die akte van omsetting moet drievoudig opgestel word en 'n eksemplaar van die goedgekeurde kaart moet elke afskrif vergees. Wanneer die Inspekteur so 'n akte onderteken het, berus die ontvangingsreg by die persoon wat in die akte as eienaar van die betrokke myngebied aangevoeg word, buiten dermate daar spesiaal regte vir iemand anders of vir die Administrasie voorbehou word.

(7) Die akte van omsetting in die goedgekeurde kaart van die myngebied moet drievoudig aan die Registrateur vir Aktes besorg word vir registrasie in die myngebiedsregister. Die Registrateur moet een eksemplaar daarvan registreer en die oorspronklike saam met die derde eksemplaar aan die Inspekteur stuur, wat die oorspronklike akte vir sy register behou en die derde eksemplaar kosteloos aan die geregistreerde myneienaar besorg.

44. (1) Ten opsigte van myngebiede wat reeds by die datum van inwerkingtreding van hierdie Ordonnansie bestaan, kan die Inspekteur die myneienaar te eniger tyd versoek om ingevolge sub-artikel (3) (e) van artikel *drie-en-veertig* 'n storting te doen of 'n waarborg te verskaf, en voorts kan hy die myneienaar versoek om die stortingsbedrag of waarborg te verhoor.

(4) The Inspector shall lodge the survey records and diagrams with the Surveyor-General for examination and approval. Should the diagram be approved by the Surveyor-General, the Inspector shall announce the proposed conversion in the *Official Gazette* and in a newspaper circulating in the magisterial district within which the claims to be converted are situated. A copy of the announcement shall be posted on the official notice board of the office of the Inspector. The said announcement shall include the following details in regard to the proposed mining area:—

- The full name and address of the claim holder.
- The proposed name of the mining area and the number allotted to it for registration purposes.
- The numbers of the claims included in the proposed mining area.
- The superficial area as shown on the approved diagram.
- The situation.
- The mineral or minerals which the mine owner will be entitled to mine.

The said announcement shall furthermore call upon all persons who may be interested in the proposed conversion to lodge any objections they may wish to make to the said conversion with the Inspector within sixty days, and shall be specially served upon any person who is known by the Inspector to have rights that are or may be in conflict with the rights of the prospective mine owner.

If no such objections are received at the office of the Inspector within the said period any conflicting rights as aforesaid shall be deemed to have lapsed. During the said period the approved diagram of the proposed mining area shall be open to inspection by the public at the office of the Inspector during ordinary office hours.

If any objections are received the Inspector shall adjudicate upon such objections at the expiration of the aforesaid period.

Any appeal against a decision given by the Inspector in terms of this sub-section shall be made in accordance with the provisions of section *sixteen*.

(5) A decision to effect the conversion shall be advertised in the *Official Gazette* by the Inspector who shall certify every conversion by a deed, styled "Deed of Conversion", which shall include the following details relating to the mining area:—

- The full name and residential address of the owner.
- The name of the mining area and number allocated by the Surveyor-General.
- The registered numbers of the claims converted.
- The superficial area and shape as shown on the approved diagram.
- The name and number of the farm or farms on which the mining area is situated and the registration division.
- The minerals which may be mined.
- The date of execution of the deed.
- The signature and official stamp of the Inspector.

(6) The deed of conversion shall be prepared in triplicate, a copy of the approved diagram being attached to each copy, and when such deed has been signed by the Inspector the mining rights in the area therein described shall vest in the person stated in such deed to be the owner of the said mining area, except in so far as any rights may be specially reserved in such deed to any other person or to the Administration.

(7) The deed of conversion with the approved diagram of the mining area attached shall be sent in triplicate to the Registrar of Deeds for purposes of registration in the Mining Area Register. The Registrar shall register one copy thereof and shall send the original together with the third copy to the Inspector who shall retain the original as record and who shall hand the third copy to the registered mine owner free of charge.

44. (1) In regard to mining areas already in existence at the date of commencement of this Ordinance the Inspector may at any time call upon the mine owner to make a deposit or provide a guarantee as provided in sub-section (3) (e) of section *forty-three* or call upon any mine owner to increase the amount of his deposit or bank guarantee.

(2) Versuim om binne dertig dae na kennisgewing aan die bepalings van hierdie sub-artikel te voldoen, is 'n oortreding, en die Inspekteur kan bowendien die betrokke myngebied verbeurd verklaar.

(3) By die oordrag, vervaling, verlaten of verbeurdverklaring van al die myngebiede waarop die myneienaar reg het, kan hy skriftelik by die Inspekteur aansoek doen om terugbetaling van gelde wat hy moontlik gestort het as sekerheidsstelling dat hy sy verpligtinge na sou kom, en wat hom goedgeskryf staan.

Behoudens die bepalings van artikel *negen-en-sestig* moet die Inspekteur sodanige gelde so gou doenlik terugbetaal.

45. (1) Met ingang van die eerste dag van die maand waarin hierdie Ordonnansie in werking tree moet elke myneienaar myngebiedgeld ten opsigte van sy myngebied of myngebiede betaal teen drie sjielings per hektaar of hektaardeel per jaar.

(2) Die myngebiedgeld moet halfjaarliks vooruit betaal word by die kantoor van die Inspekteur en wel op die eerste dag van April en die eerste dag van Oktober iedere jaar.

(3) Waar 'n akte van omsetting na die inwerking-treding van hierdie Ordonnansie onderteken word, moet die geld op die eerste dag van die maand wat op die datum van ondertekening van die akte van omsetting volg, betaal word. In hierdie geval moet die myngebiedgeld eweredig verminder word.

(4) Elkeen wat sestig dae in gebreke bly ten opsigte van die betaling van myngebiedgelde, is strafbaar met 'n boete van een kwart van die verskuldigde bedrag.

(5) Waar die bedrag wat ten opsigte van myngebiedgelde verskuldig is en 'n moontlike boete ingevolge sub-artikel (4) tesame dertig dae nadat die boete opeisbaar word, nog agterstalling is, moet die Inspekteur betaling per angetekende brief van die skuldenaar opeis by sy geregistreerde adres.

Betreffende myngebiede moet die Inspekteur gelyktydig—

- (a) die eienaar kennis gee wanneer stappe ter verbeurdverklaring, soos hierna bepaal, moontlik word;
- (b) die geregistreerde verbandhouders, of ander houders van saaklike regte, per angetekende brief kennis gee van die aanskrywing aan die eienaar;
- (c) sodanige kennisgewing in die *Offisiële Koerant* plaas en 'n afskrif daarvan op sy amptelike kennisgewingsbord applak.

Tensy die opgelope bedrae saam met die bekendmakingskoste binne sestig dae na die datum van die bekendmaking betaal word, kan die Inspekteur die betrokke myngebied verbeurd verklaar en bowendien 'n sivilregtelike verhaalgeding teen die wanbetaler instel. Nadat die Inspekteur die myngebied verbeurd verklaar het, moet hy die Registrateur van Aktes daarvan in kennis stel en moet die Registrateur van Aktes sodanige verbeurdverklaring in die myngebiedregister en op die betrokke akte van omsetting aanteken, en daarop gaan elke reg op die ontginning en verhandeling van minerale op sodanige gebied terug na die Administrasie.

46. Wanneer edele of onedele minerale twee jaar lank gereeld uit 'n klein of kleimblok ontgin is of wanneer 'n klein of kleimblok so lank aaneen geslote gebly het, kan die Inspekteur die betrokke geregistreerde kleimblok versoek om sodanige klein of kleimblok binne die tyd wat hy in sy kennisgewing aangee, om te set. By versuim aan omsetting binne die aangeewe tyd of binne die verlenging wat die Inspekteur na goeदनुके toestaan, gaan sodanige klein of kleimblok weer op, maar mag dieselfde kleimblok dit nóg geheel nóg deels weer afsteek, nóg mag dit op sy naam geregistreer word, voor verloop van twaalf maande nie.

Voorts kan die Inspekteur andere verbied om sodanige klein of kleimblok, of deel daarvan, te prospekter of af te steek, en kan hy regte wat sodaniges verkry het, intrek wanneer die omstandighede op 'n gepeopde ontwyking van die bepalings van hierdie artikel dui.

(2) Failure to comply with the provisions of this subsection within thirty days after notification shall constitute an offence and shall furthermore entitle the Inspector to declare the mining area concerned forfeited.

(3) On the transfer, lapse, abandonment or forfeiture of all areas he held under mining title a mine owner may apply in writing to the Inspector for the refund of any monies he may have deposited as security for the fulfillment of his obligations and which may be standing to his credit.

Subject to the provisions of section *sixty-nine* the Inspector shall refund such monies as soon as is practicable.

45. (1) As from the first day of the month of commencement of this Ordinance every mine owner shall pay a mining area fee in respect of his mining area or areas at the rate of three shillings per hectare or part of a hectare per year.

(2) The mining area fee shall be payable half yearly in advance on the first day of April and the first day of October in each year at the office of the Inspector.

(3) In the case of a deed of conversion signed after the commencement of this Ordinance the fee shall be payable on the first day of the month following upon the date of signature of the deed of conversion, proportionate deduction being made accordingly.

(4) Any person who is in default for a period of sixty days with any payment due in respect of mining area fees shall be liable to a penalty of one fourth of the amount due.

(5) If any amount due in respect of mining fees together with any penalty incurred under sub-section (4) remains unpaid for sixty days after the penalty became due, the Inspector shall demand payment thereof by registered post addressed to such person at his registered address.

In regard to mining areas the Inspector shall simultaneously—

- (a) notify the owner that steps may be taken for forfeiture as hereinafter provided;
- (b) advise any registered bond-holders, or any other holder of real rights by registered post of the notice of demand sent to the owner;
- (c) publish such notice in the *Official Gazette* and post up a copy thereof on his official notice board.

Unless the amounts which have accrued, together with the cost of publication, are paid within sixty days from the date of such publication, the Inspector may declare such mining area forfeited, and may in addition institute civil proceedings against the defaulter for its recovery. After the Inspector has declared such mining area forfeited he shall advise the Registrar of Deeds who shall note such forfeiture in the Mining Area Register and on the Deed of Conversion concerned and thereupon all rights to mine for and dispose of minerals in such area shall revert in the Administration.

46. When any precious or base minerals have been regularly recovered from a prospecting claim or block of claims for a period of two years, or when a prospecting claim or block of claims has been kept closed continuously for such period, the Inspector may call upon the registered holder concerned to convert such claim or block of claims within a time to be specified in such notice. Failing such conversion within such time or within any further extended period granted by the Inspector in his discretion such claim or block of claims shall cease to be closed and may not again be pegged or registered either wholly or in part in the name of the same holder for a period of twelve months.

The Inspector may furthermore prohibit the prospecting or pegging of such claim or block of claims or any portion of such claim or block of claims by other persons and may cancel any rights acquired by such persons, when it is clear from the circumstances that an attempt is being made to evade the provisions of this section.

47. (1) Binne twee jaar na die omsettingsdatum op die betrokke akte van omsetting moet elke myncienaar die mynbedryf wat pas by die aard en eienskappe van die minerale erts in sy myngebied gereeld begin uitoefen op dit ononderbroke vooruits tensy omstandighede buite sy beheer dit belet. Die Inspekteur kan die tyd waarin hierdie verpligting nagekom moet word, verleng.

(2) Die Inspekteur kan besluit of ontginningsbedrywighede wel volgens die verpligtinge wat hierdie artikel aan die myncienaar opleë, geskied.

(3) Die Administrateur kan gelas dat die verpligtinge wat mynciennars ingevolge hierdie artikel het in bepaalde gebiede nagekom kan word deur die jaarlikse uitgaan van 'n aangegewe geldbedrag op die betrokke myngebiede, en deur die indiensneming van 'n aangegewe getal blanke en nie-blanke werkers, en hy kan ook die tydperk, twee jaar, wat sub-artikel (1) bepaal, verkort, maar nie tot korter as 'n jaar nie.

(4) Waar die myncienaar die bepalinge van sub-artikels (1) en (3) verontagsaam, kan die Inspekteur na behoorlike kennisgewing waarvan hy die termyn na goedgeundke stel, die betrokke gebied verbeurd verklaar.

48. (1) Op behoorlike aansoek by die Inspekteur kan hy 'n myncienaar verlof gee om nodige werke in verband met sy mynbedryf aan te bring in 'n myngebied of op 'n klein wat aan 'n ander behoort maar net dermate die bykomende werke noodsaaklik is vir die voordelige bedryf van die aansoeker se myn, en mits sodanige werke nie die betrokke se mynbedryf of prospektering bedroeg of belemmer nie.

Hierdie reg word verleen op voorwaardes wat die Inspekteur na goedgeundke stel.

(2) 'n Myncienaar aan wie verlof verleen is om bykomende werke aan te bring, moet volle vergoeding betaal vir skade of verliese aan andere ten gevolge daarvan, en alle minerale wat daarmee verkry word uit kleins of myngebiede wat aan andere behoort, moet kosteloos aan hulle uitgelewer word. Minerale wat tydens die aanbou van bykomende werke op open grond gewen word, is, by die toepassing van hierdie Ordonnansie, deel van die opbrengs van die myn waarvoor die bykomende werke opgerig is.

49. Waar twee onafhanklike eienaars die reg het om binne die grense van dieselfde myngebied minerale te wen, het een, onderwyl by ooreenkomstig sy akte van omsetting sy eie minerale ontgin, aanspraak op die ander se minerale wat sy ontginning meebring, maar minerale wat aldus meeval, moet op versoek aan die eintlike eienaar uitgelewer word teen betaling van die verbandhoudende ontginningskoste.

50. (1) By 'n geskil tussen twee of meer mynciennars moet die Inspekteur besluit in hoe verre 'n myncienaar die reg het om water te gebruik wat hy op sy myngebied aangefet of oopgemaak het of wat hy met die oog op sy mynbedryf gelei het, en die Inspekteur kan hom verlof gee om die nodige masjinerie daarvoor in te rig.

(2) By afwesigheid van ooreenkoms tussen die betrokke partye moet die Inspekteur die voorwaardes stel waarop—

- (a) daar beskik word oor surpluswater verkry by 'n myn of daarheen gelei deur die myncienaar;
- (b) pyplyne, mynpaats, tremlyne en soortgelyke werke wat die myncienaar aangebring het, deur andere gebruik kan word.

Waar 'n myncienaar versuim om die Inspekteur se opdragte ingevolge die bepalinge van hierdie Ordonnansie na behoorlike kennisgewing (die termyn waarvan die Inspekteur na goedgeundke bepaal) na te kom, kan die betrokke myngebied verbeurd verklaar word.

47. (1) Every mine owner shall within two years from the date of conversion as noted on his deed of conversion commence regular mining operations appropriate to the character and nature of the mineral deposit occurring on his mining area and shall continue the same without interruption unless prevented by circumstances over which he has no control. The Inspector may grant an extension of the period within which this obligation shall be fulfilled.

(2) The Inspector shall decide whether any mining operations that are carried on are in accordance with the obligation imposed on the mine owner by this section.

(3) The Administrator may direct that in particular areas the obligations of mine owners in terms of this section shall be met by the annual expenditure of a specified sum of money on the mining areas concerned, and by the employment of a specified number of European and non-European persons, and may also in such areas reduce the period of two years as provided for in sub-section (1) to any period not less than one year.

(4) Should any mine owner fail to comply with the provisions of sub-section (1) and (3) the Inspector may after due notice, the period of the said notice being in his discretion, declare the area concerned forfeited.

48. (1) On due application being made the Inspector may grant permission to a mine owner to erect any necessary works required by him in connection with his mining operations on a mining area or claim belonging to another person, but only in so far as such accessory works are essential to the advantageous working of the mine of the applicant, and provided that such works will not unduly interfere with or endanger mining or prospecting operations on the claim or mining area belonging to the other person concerned.

The said right may be granted subject to such conditions as the Inspector may see fit to impose.

(2) A mine owner to whom permission has been granted to erect accessory works must pay full compensation for any damage or loss resulting to other persons from the creation of such accessory works, and any minerals mined and recovered by him from any claims or mining areas belonging to such persons during the creation of such accessory works must be handed over to the said persons free of charge.

Any minerals won in the creation of accessory works on open ground shall, for the purposes of this Ordinance, be treated as part of the production of the mine for which the accessory works have been erected.

49. If two different mine owners are entitled to the right to win minerals within the boundaries of one and the same mining area, then each or either of such owners, when winning his own minerals as specified in his deed of conversion shall be entitled to win in combination therewith the minerals of the other, but any minerals so won in combination must, on request, be surrendered to the true owner thereof against payment of the actual cost of mining involved.

50. (1) In the case of a dispute between two or more mine owners, the Inspector shall decide in how far a mine owner has the right to use water found or opened up by him on his mining area or artificially conducted there by him for the purpose of his mining operations, and may grant him permission to construct the necessary appliances therefor.

(2) In the absence of agreement between the parties concerned the Inspector shall fix the conditions on which—

- (a) any surplus water obtained on or brought to a mine by the mine owner shall be disposed of;
- (b) pipe-lines, mine roads, tram lines and similar works constructed by the mine owner may be used by third parties.

Should a mine owner fail to carry out any instructions given by the Inspector in terms of this section after due notice, the period of such notice being in the discretion of the Inspector, the mining area concerned may be declared forfeited.

51. (1) Elke myncienaar moet die oppervlakte van eiendom wat gedurende prospectering, ontwikkeling, of ontginning gevaarlik of onveilig geraak het, tot veiligheid herstel, en moet toesien dat alle mynirigtings veilig werk onderwyl daar mynbedrywighede aan die gang is, en dat dit veilig is wanneer hy die myn verlaat.

Versuim met hierdie plig is 'n oortreding, en bowendien kan die Inspekteur die nodige stappe doen om skade aan die bodem weens die bedrywighede van die betrokke myncienaar te herstel, of om die myn-irigtings te bevestig, en daarvoor kan hy die bedrag aanwend wat ingevolge sub-artikel (3) (c) van artikel *drie-en-veertig* gestort of gewaarborg is. As die bedrag te min is vir die bestryding van sodanige herstelkoste kan die Inspekteur 'n sivil-regtelike geding teen die myncienaar instel om die tekort te verhaal.

(2) Hierdie artikel ontleem geen grondcienaar die reg om vergoeding te eis van 'n myncienaar weens skade aan sy eiendom nie.

52. (1) 'n Myncienaar kan by die Inspekteur verlot vra om sy myngebied in twee of meer dele te verdeel.

(2) As die Inspekteur verlot tot onderverdeling toestaan, moet hy sy toestemming tot sodanige onderverdeling skriftelik aan die aansoekende myncienaar verleen, en wanneer ook al daar 'n onderverdelingsakte ooreenkomstig die „Registrasie van Aktes Proklamasie 1939” (Proklamasie 37 van 1939) uitgereik of geregistreer word, moet die eienaar onmiddellik daarna 'n derde eksemplaar van die akte met 'n bygaande kaart aan die Inspekteur besorg.

(3) Sodanige onderverdeling moet volgens voorskrif geskied.

53. (1) Wil die geregistreerde eienaar van 'n myngebied dit verlaat, moet hy die Inspekteur skriftelik van sy voorneme verwittig, en met die kennisgewing genoeg geld saamstuur om die bekendmakingskoste van die verlatingskennisgewing deur die Inspekteur, soos hierna bepaal, te bestry.

(2) As daar geen verband op die myngebied geregistreer is nie, moet die Inspekteur by ontvangs van die kennisgewing, die verlatung so gou doentlik bekend maak in die *Offisiële Koerant* en in 'n nuusblad wat omloop in die magistrantsdistrik waarin die myngebied geleë is, en in die bekendmaking aandui, of die datum waarop die betrokke gebied vir afsteking op sal gaan, of dat daar besluit is om die gebied ingevolge artikel *agtien* van pro-spektering of afsteking terug te hou.

(3) As daar verbande op die myngebied geregistreer is, moet die Inspekteur by ontvangs van die verlatingskennisgewing die eerste-verbandhouer per aangetekende brief van die voorgenoemde verlatung verwittig. As sodanige verbandhouer binne sestig dae nadat die brief gepep is die Inspekteur nog nie laat weet het dat hy die oordrag, aan hom, van die myncienaar se regte op die betrokke eiendom, op die wyse uitengesit by sub-artikel (5) aanvaar nie, nog dat hy bereid is om die betrokke myngelde te betaal nie, moet die Inspekteur al die ander verbandhouders beurtelings volgens die registrasie-orde van hulle verband per aangetekende brief van die voorgenoemde verlatung verwittig, en as elke sodanige verbandhouer op sy beurt sestig dae nadat die brief aan hom gepep is, nog nie die Inspekteur verwittig het dat hy die oordrag van die betrokke myncienaar se regte op die betrokke eiendom volgens die bepaling van sub-artikel (5) hiervan aanvaar nie, moet die Inspekteur die verlatingskennisgewing afkondig soos sub-artikel (2) hiervan bepaal.

(4) As die eerste-verbandhouer, of, by versuim, die volgende verbandhouer, na gelang van die registrasie-orde van sy verband, op sy beurt die Inspekteur beoorlik verwittig dat hy die oordrag van die voornede regte aanvaar, maar dertig dae daarna nog geen stappe in dier voege gedoen het nie, vervul sy reg om die oordrag te aanvaar, en moet die Inspekteur die verlatung afkondig soos sub-artikel (2) hiervan bepaal.

51. (1) Every mine owner shall restore to safe condition the surface of any property rendered dangerous or unsafe during prospecting, development or mining operations and to secure such workings whilst carrying on mining operations, and before abandoning any mine.

Any failure to discharge this duty shall constitute an offence and in addition the Inspector may take the necessary steps to repair any damage to the surface resulting from the operations of the mine owners concerned, or to render the working safe, and may utilise the amount deposited or guaranteed in terms of sub-section (3) (c) of section *forty-three* for this purpose. If such amount be insufficient to cover the cost of effecting such repairs the Inspector may institute civil proceedings against the mine owner for the recovery of the balance.

(2) Nothing in this section contained shall be deemed to deprive any land owner of the right to claim compensation from any mine owner, in respect of damage done to his property.

52. (1) A mine owner may apply to the Inspector for permission to sub-divide his mining area into two or more portions.

(2) If the application for sub-division is approved by the Inspector, he shall supply the applicant with his written consent to such sub-division and whenever any deed relating to such sub-division is issued or registered in accordance with the provisions of section *eighty-four* of the Deeds Registry Proclamation, 1939 (Proclamation No. 37 of 1939), the owner shall, immediately after registration has been effected, supply the Inspector with a third copy of such Deed, together with a diagram attached thereto.

(3) Such sub-division as aforesaid shall be effected in the manner prescribed.

53. (1) If the registered owner of a mining area wishes to abandon the mining area he shall notify the Inspector in writing of his intention to do so and forward with such notification sufficient funds to cover the cost of publication by the Inspector of a notice of abandonment.

(2) If no bond has been registered against the mining area the Inspector, on receipt of the notification, shall as soon as practicable publish the notice of abandonment in the *Official Gazette* and in a newspaper circulating in the magisterial district within which the mining area is situated and shall state in such notice either the date when the area concerned will be open for pegging or that it has been decided to reserve such area from prospecting or pegging in terms of section *eighteen*.

(3) If any bonds have been registered against the mining area the Inspector, on receipt of the notification of abandonment, shall advise the bondholder of the first bond by registered letter of the proposed abandonment. If within sixty days after the despatch of such letter such bondholder has not advised the Inspector that he proposes to take transfer of the rights of the mine owner over the property concerned in the manner as set out in sub-section (5) or to pay any mining fee that may be involved the Inspector shall advise in turn any further bondholders, in the order of the time of registration of their bonds, by registered letter of the proposed abandonment and if each such further bondholder in turn has not within sixty days after the despatch of such letter to him advised the Inspector that he proposes to take transfer of the rights of the mine owner over the property concerned in the manner as set out in sub-section (5) the Inspector shall proceed to publish the notice of abandonment in the manner as set out in sub-section (2).

(4) If the first bondholder or, failing him, any further bondholder in his turn in order of time of registration of his bond duly advises the Inspector that he proposes to take transfer of the rights as aforesaid and takes no steps to fulfill his undertakings within thirty days thereafter his right to take transfer shall lapse and the Inspector shall proceed to publish the notice of abandonment in the manner as set out in sub-section (2).

(5) As die eerste-verbandhouer, of, by versuim, die volgende verbandhouer, na gelang van die registrasie-ordo van sy verband, op sy beurt stapte ter aanvaarding van die oordrag van die voornemde regte doen, moet die Inspekteur die Registrateur van Aktes daarvan verwittig, wat die verlatting, deur die geregistreerde myneciener, in die betrokke mynuitel-akte moet aantekene, en daarop gaan al die regte en verpligtinge volgens sodanige titel op sodanige verbandhouer oor.

(6) By die afkondiging van 'n verlattingkennisgewing verwittig die Inspekteur ook die Registrateur van Aktes wat dan die verlatting in sy register aantekene, en daarop gaan al die regte van die geregistreerde eienaar van die myngebied oor na die Administrasie, en word elke geregistreerde saaklike reg op sodanige gebied as vervall beskou.

54. (1) Die verbeurdverklaring van myngebiede geskied deur die Inspekteur by kennisgewing in die *Offisiële Koerant*, en daarin gee hy die redes vir die verbeurdverklaring aan.

(2) By verbeurdverklaring kan die betrokke myngebied vir prospektering en afsteking op verklaar word met ingang van 'n datum wat die Inspekteur in die kennisgewing van verbeurdverklaring aangee.

55. Wanneer 'n ontginnings- of prospekterreg wat in die Akteskautoor geregistreer is, ondervreel, of oorgee, of beëindig word, gee die Inspekteur die Landmeter-generaal skriftelik kennis daarvan.

56. Wanneer 'n myngebied verlaat word, of verbeurd verklaar word, kan die Inspekteur na goeie dink besluit of en in hoeverre die ondergrondse steiers, steenwerk, stutpale, lere of ander beskermingsmiddele vir die ondergrondse werke of die oppervlakte van die myn verwyder moet word.

Elkeen wat sodanige myntoebehoere of -materiaal verwyder teen die besluit van die Inspekteur in of voordat daardie besluit gegee is, is skuldig aan 'n oortreding.

57. Elke akte van omsetting of 'n daaropvolgende reg daartoe wat bestaan by die inwerkingtreedingsdatum van hierdie Ordonnansie en wat bepaal dat die ontginningsregte wat dit verleen, ook die reg insluit om onedelde minerale te ontgin, omvat met ingang van die datum van inwerking-treding van hierdie Ordonnansie die verlening van die regte op die ontginning van edele minerale in die myngebied waarvoor die akte gaan, buiten waar iemand anders ingevolge 'n vroeëre wet die reg op edele minerale het, en sy ontginningsregte ingevolge daardie akte nog geld.

Desgelyks omvat elke akte van omsetting, of daaropvolgende reg daartoe, wat by die inwerkingtreedingsdatum van hierdie Ordonnansie bestaan, en wat bepaal dat die ontginningsregte wat dit verleen die reg insluit om onedelde minerale te ontgin, ook met ingang van die inwerking-tredingsdatum van hierdie Ordonnansie die verlening van die regte van die ontginning van onedelde minerale in die myngebied waarvoor die akte gaan, buiten waar iemand anders ingevolge 'n vroeëre wet die reg op onedelde minerale het en sy ontginningsregte ingevolge daardie akte nog geld.

HOOFSTUK IV.

SPEZIALE TOEKENNINGS VAN PROSPEKTEER- EN ONTGINNINGSREGTE, PERMITTE OM OORKANT DIE POLISIESONE EN IN RESERVATE TE PROSPEKTEER EN BEPALINGS OOR DIE VERHADELING VAN PROSPEKTEER- EN ONTGINNINGSREGTE IN NATURELLE-RESERVATE.

58. (1) By toekenningsakke kan die Administrateur aan enigeenand die alleenreg teken, op voorwaardes wat hy na goeie dink stel, om 'n bepaalde strek te prospekter of te ontgin of in die algemeen of ten opsigte van enige besondere minerale.

(2) 'n Applikant om so 'n toekening moet sy aansoek deur middel van die kantoor van die Inspekteur skriftelik aan die Administrateur rig, en sodanige inligting soos die Inspekteur vereis ter steuning van sy aansoek verskaf.

(5) If the first bondholder or, failing him, any further bondholder in his turn in order of time of registration of his bond takes steps to take transfer of the rights as aforesaid the Inspector shall inform the Registrar of Deeds accordingly who shall note the abandonment by the registered owner on the mining title concerned whereupon all the rights and obligations conveyed by such title shall be deemed to vest in such bondholder.

(6) Upon the publication of a notice of abandonment of a mining area the Inspector shall notify the Registrar of Deeds who shall note the abandonment in his records whereupon all rights formerly held by the registered owner of the mining area shall vest in the Administration and any registered real right over such area shall be deemed to have lapsed.

54. (1) Forfeiture of mining areas shall be by notice in the *Official Gazette* under the hand of the Inspector, and such notice shall give the reason for such forfeiture.

(2) Upon forfeiture, the mining area concerned may be declared open to prospecting and pegging as from a date announced by the Inspector in the notice of forfeiture.

55. When any mining or prospecting title registered in the Deeds Registry is subdivided, transferred, terminated or forfeited the Inspector shall notify the Surveyor-General thereof in writing.

56. When a mining property is abandoned or forfeited, the Inspector may in his discretion decide whether and to what extent the underground timbering, masonry work, safety pillars, ladderways, or anything provided for the protection of the underground workings or the surface of such mining property may be removed.

Any person removing such fixtures or materials contrary to the decision of the Inspector or before such decision has been given shall be guilty of an offence.

57. Any deed of conversion, or any subsequent title thereto, existing at the date of commencement of this Ordinance, specifying that the mining rights it confers include the right to mine base minerals shall, as from the date of commencement of this Ordinance, include the conferment of the rights to mine precious minerals in the mining area to which the deed relates except only in so far that the rights in respect of precious minerals may already be held by any other person in terms of a prior law, and that the mining rights under the deed have not terminated.

Similarly any deed of conversion, or any subsequent title thereto, existing at the date of commencement of this Ordinance specifying that the mining rights it confers include the right to mine precious minerals shall, as from the date of commencement of this Ordinance, include the conferment of the rights to mine base minerals in the mining area to which the deed relates except only in so far that the rights in respect of base minerals may already be held by any other person in terms of a prior law, and that the mining rights under the deed have not terminated.

CHAPTER IV.

SPECIAL GRANTS OF PROSPECTING AND MINING RIGHTS, PERMITS TO PROSPECT BEYOND THE POLICE ZONE AND IN RESERVES AND PROVISIONS RELATING TO THE DISPOSAL OF PROSPECTING AND MINING PROPERTY IN NATIVE RESERVES.

58. (1) The Administrator may by deed of grant confer upon any person the exclusive right to prospect or mine any defined area, either generally or in respect of any particular mineral, subject to such terms and conditions as he may deem fit.

(2) Application for such grant shall be made in writing through the Office of the Inspector and the applicant shall supply such information in support of his application as the Inspector may require.

(3) Prospektering, ontwikkeling en ontginning in so 'n toekenningsgebied moet ooreenkomstig die bepalings van hierdie Ordonnansie geskied.

(4) So 'n toekenningsakte heet „prospekteertoekennings” en moet in die Akteskantoor geregistreer word. Die Registrateur van Aktes hou 'n register wat „Prospekteertoekenningsregister” heet en daarin word alle prospektereitoekennings geregistreer.

(5) Die bepalings van hierdie Ordonnansie oor die registrasie van aktes van omsetting in die Akteskantoor geld met die nodige veranderinge ook die registrasie van toekenningsaktes: Met dien verstande dat waar die Landmeter-generaal op skrif getuig dat die inligting to min is om 'n kaart met die oog op die toekenningsakte te ontwerp, die Administrateur die Registrateur van Aktes kan gelas om die toekenningsakte te registreer met 'n plan wat die Landmeter-generaal goedkeur, of sonder 'n kaart of plan.

(6) Die konsessionaris mag sy regte uit 'n toekenningsakte nie sonder die toestemming van die Administrateur oordra, afstaan of verhuur nie.

59. (1) Die houer van alleenprospekteerregte toegestaan ingevolge artikel *agt-en-vyftig* het, ten opsigte van mineraalstowwe waarop hy sodanige regte het, ea so lank die regte duur, die alleenreg tot verkryging van die ontginningsreg op daardie deel of dele van sy toekenningsgebied wat die Administrateur, veral met die oog op die omvang en uitslag van sy prospekteebedrywighede, as redelik groot genoeg beskou, en goedkeur.

(2) By goedkeuring deur die Administrateur ingevolge sub-artikel (1) moet die konsessionaris gedurende die geldigheidstermyn van sy alleenprospekteerregte sodanige deel onder die toesig van 'n landmeter in die fatsoen van 'n myngebied laat bepaal, ea binne drie maande na die oprigting van die bakens by die Inspekteur aansoek doen om omsetting van sodanige deel in 'n myngebied.

(3) Behalwe waar hierdie artikel die houer van alleenprospekteerregte vrystel van die afsteking van kleims as noodsaaklike voorvereiste van ontginningsregverkryging deur middel van die omsetting van prospekteekeims in myngebiede geld al die bepalings van hierdie Ordonnansie betreffende so 'n omsetting met die nodige veranderinge ook die omsetting van 'n ontginningsregdeel in 'n myngebied.

(4) Myngebiedgelde volgens voorskrif ten opsigte van sodanige deel, begin ooploep van die datum waarop die Administrateur ingevolge sub-artikel (1) sy goedkeuring verleen het, en daarop moet die toekenningshouer 'n bedrag wat die Inspekteur bepaal by die Inspekteur stort as waarborg vir die betaling van die voorgeskrewe gelde vir die voorgene omsetting van die ontginningsregdeel in 'n myngebied.

60. Niemand mag onder die hoogwaterlyn minerale ontgin of daarvoor prospektee nie tensy hy die houer is van 'n toekenningsakte uitgereik ingevolge artikel *agt-en-vyftig*.

61. (1) Niemand mag in die volgende gebiede minerale ontgin of daarvoor prospektee nie—

(a) 'n Naturelreservaat, uitgesonderd 'n natuurel wat wettig daar woon;

(b) 'n Wildreservaat;

(c) die gebied oorkant die Polisiesone;

tensy hy die houer is van 'n spesiale permit uitgereik in opdrag van die Administrateur op voorwaardes wat hy stel.

(2) Aansoek om permitte uit hoofde van hierdie artikel moet skriftelik deur middel van die Inspekteurskantoor geskied en die applikant moet die inligting betreffende sy aansoek verskaf, waarom die Inspekteur vra.

62. Geen eienaar van 'n klein- of myngebied in 'n naturelreservaat mag dit oordra, afstaan, verhuur of andersins verhandel nie, tensy hy vooraf die Administrateur se toestemming daartoe verkry het.

(3) Prospekting, developing and mining operations in such grant area shall be subject to the provisions of this Ordinance.

(4) Such deeds of grant shall be styled Prospecting Grants and shall be registered in the Deeds Registry. The Registrar of Deeds shall keep a register styled "Prospecting Grants Register" in which all prospecting grants shall be registered.

(5) The provisions of this Ordinance in regard to the registration of deeds of conversion in the Deeds Registry shall apply *mutatis mutandis* to the registration of deeds of grant, provided that where the Surveyor-General certifies in writing that insufficient data are available for the preparation of a diagram for the deed of grant, the Administrator may direct the Registrar of Deeds to register such deed of grant with a plan approved by the Surveyor-General or without a diagram or a plan.

(6) A grantee may not transfer, cede or lease his rights under a Deed of Grant without the consent of the Administrator.

59. (1) The holder of exclusive prospecting rights granted in terms of section *fifty-eight* shall, in respect of any mineral substance for which he holds such rights and during the currency of such rights have the exclusive right to obtain mining title over such portion or portions of his grant area, as the Administrator, having particular regard to the scope and results of his prospecting operations, may consider reasonable and approve.

(2) Upon approval by the Administrator in terms of sub-section (1) the grantee shall, during the currency of his exclusive prospecting rights, cause such portion to be beaconed under the supervision of a land surveyor in the shape of a mining area and within three months of the erection of the beacons apply to the Inspector for the conversion of such portion into a mining area.

(3) Except in so far as this section may free the holder of exclusive prospecting rights from pegging prospecting claims as an essential preliminary to the obtaining of mining title by means of conversion of prospecting claims into mining areas all the provisions of this Ordinance relating to such conversion shall, *mutatis mutandis*, apply to the conversion of a mining rights portion into a mining area.

(4) Mining areas fees as prescribed shall become payable in respect of such portion as from the date of approval by the Administrator in terms of sub-section (1) and the holder of the grant shall deposit with the Inspector such sum as the Inspector may direct as security for payment of the prescribed fees pending the conversion of the mining rights portion into a mining area.

60. No person may prospect for or mine any mineral below highwater mark unless he is the holder of a deed of grant issued in terms of section *fifty-eight*.

61. (1) No person may prospect or mine in—

(a) any native reserve other than a native lawfully resident therein;

(b) any game reserve;

(c) the area beyond the Police Zone;

unless he is the holder of a special permit issued on the instructions of the Administrator under such conditions or circumstances as the Administrator may direct.

(2) Application for permits under this section shall be made in writing through the Office of the Inspector and the applicant shall supply such information concerning his application as the Inspector may require.

62. No owner of a claim or mining area in a native reserve shall transfer, cede, lease or otherwise dispose of such claim or mining area unless he has obtained the permission of the Administrator.

HOOFSTUK V.

REGTE VAN PROSPEKTEERERS, MYNELENAARS EN GRONDEIENERS ONDERSKEIDELIK.

RESPECTIVE RIGHTS OF PROSPECTOR, MINE OWNER AND OWNER OF LAND.

63. Behoudens die bepalinge van artikel agtien en negentien die die houder van 'n prospekterlisensie wat behoorlik ingevolge die bepalinge van hierdie Ordonnansie uitgereik is, op private grond prospekter, en kan hy water, droë hout of paaië daarop gebruik, en kan hy die grond gebruik om die hekke, paaië, geboue, mynhoop of opslegplekke daarop aan te bring wat sy prospektering versleg van meebreng.

63. Subject to the provisions of sections eighteen and nineteen the holder of a prospecting licence duly issued in accordance with the provisions of this Ordinance may conduct prospecting operations on private land and may use any water, dead wood, or roads thereon and may use such land for the purpose of constructing gates, roads, buildings, dumps or storage sites as may be necessary and incidental to his prospecting operations.

64. 'n Kleinhouer of myneenaar kan op sy klein of myngebied of op oop grond, bykomende werke wat hy syns insiens by sy prospektering, ontwikkeling of ontginning nodig het, aanbring: Met dien verstande dat grond wat behou of verbou is, of omheininge wat vir die boerdery of nywerheid dien, vir sodanige gebruik uitgesluit is tensy daar bewys kan word dat sodanige bebouing of verbouing van grond, of die omheining daarvan, nie te goeder trou ter bewoning daarvan, of vir die boerdery of die nywerheid uitgevoer is nie, maar wel bloot om die kleinhouer of die myneenaar in sy volle regsuitoefening te belemmer.

64. Any claim holder or mine owner on his claims or mining areas and on open ground may erect any accessory works he may consider necessary for his prospecting, development or mining operations. Provided that land containing buildings, cultivated land or enclosures used for farming or industrial purposes shall be exempt from such use unless it can be shown that the erection of such buildings or the cultivation of such land or its enclosure has been carried out not for the purpose of bona fide occupation, farming or industry but merely with the intention of obstructing any claim holder or mine owner in the full enjoyment of his rights.

65. (1) Die eienaar van private grond is geregtig op vergoeding waar bedryfgebiede deur of namens 'n prospekterder of myneenaar die gebruik van paaië, hout en water meebreng, maar dit sluit water uit wat so 'n prospekterder of myneenaar opmaak op 'n klein of in 'n myngebied wat op sy naam geregistreer staan. Voorts het die grond-eienaar reg op vergoeding waar bedryfgebiede deur of namens 'n prospekterder of myneenaar skade veroorsaak aan eiendom wat op of deel van daardie grond is, asook vir waardevermindering van die bodem en die algehele of gedeeltelike onderbreking van sy woonreg op daardie grond.

65. (1) The owner of private land shall be entitled to compensation in respect of any operations by any prospector or mine owner that may involve the use by, or on behalf of, such prospector or mine owner of roads and wood and water but excluding water opened up by such prospector or mine owner on a claim registered in his name or on his mining area; and shall be entitled to compensation in respect of any operations by any prospector or mine owner that may cause damage to property on, or forming part of, that land, diminution of the surface value and total or partial interruption of the right of occupation of that land.

(2) So 'n eienaar kan toereikende sekerheidsstelling vir die nakoming van die voormelde verpligtinge deur die betrokke prospekterder of myneenaar eis, voordat hy prospektering, ontwikkeling of ontginning op sy grond hoef toe te laat, en waar sodanige sekerheid nie ten genoë van die Inspekteur gestel word nie, is dit onwettig om sodanige prospektering of ontwikkeling of ontginning op daardie grond te doen, en elkeen wat sodanige onwettige bedryfgebied pleeg, is skuldig aan 'n oortreding, en die Inspekteur kan hom, afgesien van ander strawwe, sy prospekterlisensie, klein- en ontginningsreg ontnem.

(2) Such owner may demand adequate security for the fulfillment of the aforesaid obligations on the part of the prospector or mine owner concerned before allowing any prospecting, developing or mining operations to be commenced on his land and if such security is not provided to the satisfaction of the Inspector it shall not be lawful to conduct such prospecting, developing or mining operations on such land and any person who conducts such unlawful operations shall be guilty of an offence and in addition to any other penalties may be deprived of his prospecting licence, claim rights and mining rights by the Inspector.

(3) Nadat prospektering, ontwikkeling of ontginning aangevang het, kan so 'n eienaar steeds op die voormelde wyse sekerheidsstelling eis, en versium om aan die eis te voldoen, het dieselfde gevolge, met die nodige veranderinge, as versium om aan 'n so 'n eis te voldoen voordat prospektering, ontwikkeling of ontginning aangevang.

(3) Security as aforesaid may similarly be demanded by such owner after prospecting, developing or mining operations have been commenced and failure to comply with such demand shall have the same consequences *mutatis mutandis* as hereinbefore set out in regard to a demand made before prospecting, developing or mining operations were commenced.

(4) Elke eis om vergoeding wat uit hoofde van hierdie artikel ontstaan, verjaar na drie jaar.

(4) Any claim for compensation accruing in terms of this section shall be prescribed within a period of three years.

66. Die sertifikaat uit hoofde van artikel sewentwintig ten opsigte van 'n klein of opgemete grond wat vir die boerdery gebruik word, moet eers uitgereik word nadat die persoon op wie se naam die klein afgesteek is of die persoon aan wie die klein oorgegee is, en die grond-eienaar, die Inspekteur skriftelik kennis gee dat hulle 'n ooreenkoms aangegaan het oor die voorwaardes waarop die grond-eienaar ingevolge artikel vyf-en-sestig vergoed gaan word.

66. The certificate required in terms of section twenty-seven shall not be issued in respect of any claim pegged on surveyed land in farming use until the Inspector has been notified in writing by the party in whose name the claim is pegged, or the party to whom the claim is transferred, and by the owner of the land that they have entered into an agreement as to the terms under which the land owner will be compensated in terms of section sixty-five.

67. (1) By gemis aan skriftelike ooreenkoms tussen 'n grond-eienaar en 'n prospekterder of myneenaar insake hul onderskeie regte kan die een of die ander skriftelik by die Inspekteur aansoek doen dat hul geskil aan 'n beslegtingsraad voorgelê moet word.

67. (1) In default of written agreement between a land owner and any prospector or mine owner in matters involving their respective rights either party may apply in writing to the Inspector for the dispute to be referred for settlement to a board of adjudication.

(2) So 'n beslegtingsraad bestaan uit die magistrat van die distrik waarin die geskil ontstaan het, en hy is die voorsitter, saam met twee Administrasie-amptenare wat, na die Administrateur meea, bevoeg is om in so 'n

(2) Such board of adjudication shall consist of the magistrate of the district in which the dispute has arisen, who shall be chairman, together with two Administration officers who, in the opinion of the Administrator, are suitably qualified to serve on such board.

(3) So 'n beslegtingsraad kan besluit—

- (a) op die vergoedingsbedrag ingevolge artikel vyf-en-sestig, en die tyd en wyse van vereffening;
- (b) oor enige geskil wat ontstaan oor die voorwaardes van 'n ooreenkoms wat voor of na die inwerkingtreedingsdatum van hierdie Ordonnansie tussen 'n grond-eienaar en prospekterder of myncienaar aangegaan is betreffende die bedrag of die tyd en wyse van die vergoeding wat ingevolge artikel vyf-en-sestig betaal moet word;
- (c) oor 'n geskil wat ontstaan tussen die grondeienaar en prospekterder of myncienaar, oor die voorwaardes waarop elk sy onderskeie reg op die grond kan uitoefen;
- (d) oor 'n geskil wat ontstaan tussen die grondeienaar en 'n prospekterder of myncienaar oor die voorwaardes waarop daar beskik moet word oor surpluswater wat 'n prospekterder of myncienaar op 'n kleim of myngebied aangebring of daarheen gelei het.

(4) By ontvangs van 'n aansoek uit hoofde van sub-artikel (1) stel die Inspekteur die Administrateur daarvan in kennis, en die Administrateur benoem daarop die beslegtingsraad.

(5) Met die oog op 'n verhoor deur 'n beslegtingsraad kan die voorsitter getuies dugvaar om getuienis of dokumente of enige ander artikel te lewer wat hy nodig ag vir 'n behoorlike verhoor voor die raad, en die raad kan enige private grond, kleim, myngebied of spesiale toekenningsgebied betrec met die oog op 'n ondersoek ter plaase

(6) Elke aldus gedagvaarde wat sonder redelike verskoning versuim om aan die bepaling van die dagvaarding te voldoen, is skuldig aan 'n oortreding, en is, by skuldigebevinning, deur 'n bevoegde hof, strafbaar met 'n boete van hoogstens vyf-en-twintig pond of, by wanbetaling, tot gevangenis met of sonder dwangarbeid van hoogstens een maand.

(7) Elkeen, hetsy gedagvaar of nie, wat veier om onder verhoor alle regmatige vrac wat deur of met goedkeuring van die voorsitter aan hom gestel word, met sy hele kennis en oortuiging te beantwoord, of wat by die verhoor die raad of 'n raadslid opsetlik beledig of wat die verrigtinge opsetlik onderbreek, is skuldig aan 'n oortreding, en hy is by skuldigebevinning onderhewig aan die straf wat sub-artikel (6) bepaal.

(8) By 'n verhoor kan die voorsitter aan 'n getuie 'n eed, of plegtige verklaring in die plek daarvan, ople, en as 'n getuie aan wie die eed of plegtige verklaring aldus opgelê is, valse getuienis aflê, is hy skuldig aan 'n oortreding, en is hy, by skuldigebevinning, onderhewig aan die straf wat artikel agt bepaal.

(9) Elk so 'n getuie geniet dieselfde voorregte in verband met die beantwoording van vrac en die lewering van dokumente as wat hy onder dieselfde omstandighede sou hê as getuie voor 'n hoere hof.

(10) By elk so 'n ondersoek moet die getuienis genotuleer word, en moet die voorsitter die raadsbeslissing aanteken. Die raadsbeslissing moet aan elk van die geskilveroerendes en aan die Inspekteur ingegedel word.

(11) Appèl teen 'n raadsbeslissing kan ingevolge artikel sestien van hierdie Ordonnansie by die Administrateur aangeteken word, en dit wel binne een-en-twintig dae nadat die beslissing ingevolge sub-artikel (10) van hierdie artikel ingegedel is.

(12) Elkeen wat 'n beslissing van die beslegtingsraad nie binne die tydperk wat die raad stel, uitvoer nie, is skuldig aan 'n oortreding, en is, by skuldigebevinning, onderhewig aan die straf wat artikel agt van hierdie Ordonnansie bepaal, en as so iemand die prospekterder of myncienaar is, kan die Inspekteur bowendien die prospekterlisensie of die kleimreg of die outginningsreg van die versuimende prospekterder of myncienaar intrek.

(3) Such board of adjudication shall have authority to decide:—

- (a) The amount of compensation to be paid in terms of section sixty-five and the time and manner of payment.
- (b) Any dispute that may arise over any terms of any agreement that may have been entered into prior or subsequent to the date of commencement of this Ordinance between a land owner and a prospector or mine owner concerning the amount or manner and time of payment of compensation payable in terms of section sixty-five.
- (c) Any dispute that may arise between the land owner and a prospector or mine owner as to the terms under which each may exercise his respective rights on the land.
- (d) Any dispute that may arise between the land owner and a prospector or mine owner as to the conditions on which any surplus water obtained on or brought to a claim or mining area by a prospector or mine owner be disposed of.

(4) On receipt of an application under sub-section (1) the Inspector shall inform the Administrator who will take the necessary steps to constitute the board.

(5) The chairman of a board of adjudication for the purposes of any enquiry in which such board may be engaged, may summon witnesses to give evidence or to produce documents, or any article or thing which he may deem requisite for properly conducting an enquiry before the board and the board may enter on any private land, prospecting claim, or mining area or special grant area for purposes of an inspection in loco.

(6) Any person so summoned who fails without reasonable excuse to comply with the terms of the summons shall be guilty of an offence and liable on conviction before a competent court to a fine not exceeding twenty-five pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

(7) Any person whether summoned or not who while under examination refuses to answer to the best of his knowledge or belief all questions lawfully put to him by or with the concurrence of the chairman or who at the inquiry wilfully insults the board or any member thereof or wilfully interrupts the proceedings shall be guilty of an offence and liable on conviction to the penalties set out in sub-section (6).

(8) At any enquiry the chairman may administer an oath or affirmation in lieu thereof to witnesses and if any witness to whom an oath or affirmation has been so administered gives false evidence, he shall be guilty of an offence and liable on conviction to the penalties prescribed in section eight.

(9) Any such witness shall have the same privileges in respect of answering questions or producing documents as he would have under the same circumstances if he were summoned as a witness before a superior court.

(10) At every such enquiry the evidence shall be taken down in writing and the chairman shall record the decision of the board in writing.

The decision of the board shall be supplied to each of the parties in the dispute and to the Inspector.

(11) An appeal against a decision of the board shall lie to the Administrator, in terms of section sixteen of this Ordinance, within twenty-one days of the decision having been supplied in terms of sub-section (10) of this section.

(12) Any person who fails to carry out a decision of a board of adjudication within such time limit as the board may prescribe shall be guilty of an offence and liable on conviction to the penalties as set out under section eight of this Ordinance and should such person be the prospector or mine owner the Inspector, in addition, may cancel the prospecting licence and the claim holdings or the mining area of the defaulting prospector or mine owner.

68. As die betaling van vergoeding volgens die ooreenkoms tussen 'n prospekteerder of myneienaar en die grondeienaar op die betaaldag ontbreek, is die wanbetalende prospekteerder of kleimhouer/myneienaar skuldig aan 'n oortreding, en is hy, by skuldigebevinding, strafbaar volgens artikel 67.

69. (1) Voordat die Inspekteur bedrae terugbetaal wat ter sekerheidsstelling ingevolge sub-artikel (5) van artikel een-en-twintig of sub-artikel (3) (c) van artikel drie-en-veertig by hom gestort is, vernem hy skriftelik by die eienaar van boerderygrond waar die betrokke prospekteerder of myneienaar 'n klein of myngebied het, of die betrokke prospekteerder of myneienaar die gevaar wat sy uitgrawings of ander myn- of prospekteerwerkzaamhede moutlik geskep het, syns insiens na behore uitgeskel het.

(2) As die grondeienaar sestig dae nadat die brief per aangetekende pos aan hom gerig is, nog nie antwoord nie, enmits die Inspekteur oortuig is dat die prospekteerder of myneienaar sy verpligtinge ingevolge sub-artikel (1) van artikel twee-en-dertig of sub-artikel (1) van artikel een-en-veertig, saamgelees met die dienooreenkomstige regulasies, nagekom het, betaal die Inspekteur die stortingsgeld wat die betrokke prospekteerder of myneienaar goedgeskryf staan, terug.

(3) Antwoord die grondeienaar egter dat die grond syns insiens nie tot veiligheid herstel is nie en die Inspekteur steun nie saam nie, moet die saak aan arbitrasie onderwerp word.

70. (1) Geen prospekteerder of myneienaar of werknemer by 'n prospekteerder of myneienaar, mag op ogemete boerderygrond 'n hond aanhou nie, tensy hy skriftelike verlof daartoe van die eienaar of bewoner van daardie grond ontvang het.

(2) Elkeen wat hierdie artikel verontagsaam, is skuldig aan 'n oortreding, en is, by skuldigebevinding, strafbaar 'n boete van hoogstens vyf-en-twintig pond met gevangenis van hoogstens een maand met of sonder dwangarbeid.

71. (1) Waar die eienaar van ogemete boerderygrond waarop mynbedrywighede geskied, met opgaaf van redes aan die Administrateur skryf dat die bedrywighede hom belet om sy grond vir die boerdery te gebruik, en tegelykertyd aansoek doen dat die myneienaar gelas moet word om die grond wat weens sodanige mynbedrywighede reeds vir boerdery nutteloos is, of kan word, te koop, kan die Administrateur na sodanige ondersoek soos hy paslik ag, en by oortuiging dat ontginning en boerdery nie gelyktydig op dieselfde plaas voortgesit kan word nie, gelas dat die myneienaar of -eienaars die geheel of die nodige deel van die grond, op voorwaardes wat hy na goeuddeuking stel, moet aankoop, en by versuim daarmee kan die Administrateur die betrokke ontginningsregte intreke.

(2) As die grondeienaar en die myneienaar of -eienaars nie oor die grondprys ooreen kan kom nie, moet die geskilverendes die grondprys en die afbetalingswyse deur arbitrasie laat vasstel.

72. (1) Waar 'n klein op ogemete boerderygrond afgesteek word of waar 'n myngebied ogemete boerderygrond insluit, moet daar ten bate van die eienaar van die boerderygrond uit die bedrae wat ingevolge artikels negen-en-twintig en vyf-en-veertig inbetaal is, die onderstaande dele oorgedra word—

- (a) ten opsigte van kleims, drie sjielings per maand per klein;
- (b) ten opsigte van myngebiede, twee sjielings per jaar per hektaar.

(2) Waar 'n klein afgesteek is of 'n myngebied gehou word op grond wat deels aan een eienaar behoort en deels aan 'n ander, besluit die Inspekteur watter deel van hierdie bedrae per maand die eienaars onderskeidelik toekom.

(3) Bedrae wat ingevolge hierdie artikel aan grondeienaars oorgedra moet word, betaal die Inspekteur aan die einde van April en Oktober iedere jaar, of so gou doenlik daarna.

Met dien verstande dat waar dit oor grond in die Rehobothse Gebiet of in 'n natuurreserwaat gaan, die Inspekteur die bedrag wat die eienaar toekom, oordra aan die afsonderlike administrasie- of trustfonds wat by wet vir die Rehobothse Gebiet of vir die betrokke natuurreserwaat ingestel is.

68. If payment of compensation as agreed between a prospector or mine owner and a land owner is not made on due date the defaulting prospector or claim holder shall be guilty of an offence and liable on conviction to the penalties as set out in section eight.

69. (1) Before making any refund of security monies deposited with him in terms of sub-section (5) of section twenty-one or sub-section (3) (c) of section forty-three the Inspector shall ascertain in writing from the owner of any land in farming use where the prospector or mine owner may hold any claim or mining area if such land owner is satisfied that the prospector or mine owner concerned has made safe any dangerous excavation and restored to safety any other unsafe condition as may have resulted from his prospecting or mining operations.

(2) In the absence of a reply from the owner of the land within sixty days of the posting of a notice to him by registered post, and provided the Inspector is satisfied that the prospector or mine owner has discharged his obligations under sub-section (1) of section thirty-two or sub-section (1) of section fifty-one, read with the respective regulations, the Inspector shall refund such deposit monies as may stand to the credit of the prospector or mine owner concerned.

(3) Should the land owner reply that he is not satisfied that the land has been made safe and the Inspector disagrees the matter shall be submitted to arbitration.

70. (1) No prospector or mine owner or any employee of a prospector or mine owner shall keep any dog on surveyed land in farming use unless he has obtained written permission thereto from the owner or occupier of that land.

(2) Any person contravening this section shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds or to imprisonment with or without hard labour for a period not exceeding one month.

71. (1) Should the owner of surveyed land in farming use on which mining operations are proceeding, submit in writing to the Administrator, giving his reasons therefore, that such operations prevent the use of his land for farming purposes, and at the same time make application that the mine owner be directed to buy from him what land has been or is likely to be rendered useless for farming purposes because of such mining operations, the Administrator may, after making such investigations as he may deem appropriate and on his being satisfied that mining and farming operations cannot proceed simultaneously on the same farm, direct that the mine owner or mine owners shall buy, on such conditions as he may consider necessary to impose, the whole or such necessary part of the land on pain of cancellation of any mining rights they may hold on such land.

(2) If the land owner and the mine owner or owners are unable to agree as to the price to be paid for the land, the price and mode of payment shall be fixed by arbitration among the various parties.

72. (1) Where a prospecting claim is pegged on or where a mining area includes any surveyed land in farming use there shall be paid for the benefit of the owner of such land from the amounts paid in terms of sections twenty-nine and forty-five the following:—

- (a) In respect of prospecting claims an amount of three shillings per month per claim.
- (b) In respect of mining areas an amount of two shillings per annum per hectare.

(2) Where a prospecting claim is pegged or a mining area is held partly on land of one owner and partly on land of another owner the Inspector shall decide what proportion of these amounts is to be paid to the respective owners.

(3) Amounts to be paid to land owners in terms of this section shall be paid by the Inspector to the owners entitled thereto at the end of April and October in each year or as soon thereafter as he may find practicable. Provided that in the case of the Rehoboth Gebiet or in any native reserve the amounts due to the owner shall be paid by the Inspector into the separate Administration or Trust Fund established for the Rehoboth Gebiet or for that native reserve under the provisions of any law.

73. (1) Met ingang van die eerste dag van die maand wat volg op die inwerkingtreding van hierdie Ordonnansie moet elke prospekteerder of myncienaar wat op opgemete boerderygrond prospekteer of ontgin, aan die grondeienaar twee sjielings per maand per hooft betaal ten opsigte van die verbyfy, licty tydelik of permanent, van elke werknemer, elke werknemer se afkanklike en werknemer se bediende wat in verband met die prospektering of ontginning op daardie grond verkeer:

Met dien verstande—

- (a) dat waar die prospektering of ontginning in 'n natuurelleservaat betref, die prospekteerder of myncienaar geen sodanige bedrag hoef te betaal ten opsigte van sy nie-blanke werknemers wat wettig in die natuurelleservaat woon of gedomiseer is nie;
- (b) dat ten opsigte van prospektering en ontginning in 'n natuurelleservaat, die Administrateur na goeddunke die bedrag wat ingevolge hierdie artikel betaalbaar is, kan verminder.

(2) Die prospekteerder of myncienaar moet die verskuldigde bedrag maandeliks betaal aan die grondeienaar voor of op die vyftiede dag van die maand wat volg op die maand waarvoor daar betaal moet word:

Met dien verstande dat alle bedrae wat ingevolge sub-artikel (1) ten opsigte van prospektering of ontginning in 'n natuurelleservaat verskuldig is, aan die Inspekteur betaal moet word, en hy betaal dit so gou doenlik oor aan die afsonderlike administrasie- of trustfonds vir die natuurelleservaat, ingevolge desbetreffende wetsbepalings.

(3) By wanbetaling kan die Inspekteur die wanbetaler belet om sy prospektering of ontginning voort te sit, totdat hy behoorlik gepresteer het, en die Inspekteur kan 'n bedrag wat die grondeienaar ingevolge hierdie artikel toekom, uit die storting wat uit hoofde van artikels een-en-twintig en drie-en-veertig moet geskied en wat die wanbetaler goedgeskryf staan, aan die grondeienaar uitbetal.

74. Geen bepaling in hierdie hoofstuk moet so uitgedruk word dat dit 'n grondeienaar belet om 'n sivielregtelike geding in die gereghowe van die Gebied in te stel teen 'n prospekteerder of myncienaar weens wanprestasie ten opsigte van 'n verpligting wat ingevolge die bepaling van artikels vyf-en-estig en drie-en-sewentig ontstaan nie.

73. (1) As from the first day of the month of commencement of this Ordinance every prospector or mine owner conducting prospecting or mining operations on surveyed land in farming use shall pay to the owner of such land in respect of the residence, whether temporary or otherwise on such land of each employee, employees' dependant and employees' servant of such prospector or mine owner an amount at the rate of two shillings per month per person. Provided that—

- (a) in the case of prospecting and mining operations carried out in any native reserve no such amount shall be payable by the prospector or mine owner in respect of those of his non-European employees who are lawful residents and are ordinarily domiciled in that native reserve;
- (b) in respect of prospecting and mining operations carried out in a native reserve the Administrator may in his discretion reduce the amount payable in terms of this section.

(2) The amount due shall be paid monthly to the owner of the land by the prospector or mine owner on or before the fifteenth of the month following the month for which payment is due. Provided that all payments due in terms of sub-section (1) in respect of prospecting or mining operations carried out in any native reserve shall be made to the Inspector who shall as soon as is practicable pay the amount into the separate Administration or Trust Fund established for that native reserve under the provisions of any law.

(3) In default of payment the Inspector may prohibit the carrying out of any further prospecting or mining operations by the party in default until such default has been made good and the Inspector may pay any amount due under this section to the land owner out of the deposits made with him in terms of sections twenty-one and forty-three of this Ordinance that may be standing to the credit of the defaulter.

74. Nothing in this Chapter contained shall be taken to debar an owner of land from instituting civil proceedings in the courts of the Territory against a prospector or mine owner for the non-fulfillment of any obligation arising out of the provisions of sections sixty-five and seventy-three.

HOOFSTUK VI.

CHAPTER VI.

DIE OPMETING EN REGISTRASIE VAN MYNGEBIEDE.

SURVEY AND REGISTRATION OF MINING AREAS.

A. VERANTWOORDELIKHEDE EN PLIGTE.

A. RESPONSIBILITIES AND DUTIES.

75. Behoudens die bepaling van hierdie Ordonnansie en die regulasies, moet die Landmeter-graenal—

75. The Surveyor-General shall, subject to the provisions of this Ordinance and of the regulations—

- (a) alle myng gebied-opmetingstukke op lias in sy kantoor in bewaring neen en hou;
- (b) alle myng gebiedkaarte ondersoek wat ontwerp is voordat die omsetting in myng gebiede plaasgevind het en sodanige kaarte goedkeur by oortuiging dat die opmeting noukeurig uitgevoer is en dat die kaart-ontwerp en die grensbepaling van die opgemete myng gebied volgens regulasie geskied het;
- (c) op versoek van enige iemand na teen betaling van die voorgeskrewe gelde, as daar is, duplikate van kaarte op lias in sy eie kantoor en in die kantoor van Mynwese opstel, waarmerk en uitreik;
- (d) 'n volgorde like kennommer, onverskillig sy ligging, aan elke myng gebied teken;
- (e) 'n myng gebiedregister hou waarin die nommers wat hy toegekken het aan die myng gebiede ingeskryf word, saam met ander inligting na sy goeddunke.

- (a) take charge of and preserve all records appertaining to surveys of mining areas which may become records of the Surveyor-General's office;
- (b) examine all diagrams of mining areas prepared from survey before conversion of such mining areas is effected, and approve all such diagrams if he is satisfied that such surveys have been carried out in such a manner as to ensure accurate results, and that such diagrams have been prepared and the boundaries of the mining area surveyed have been defined in accordance with the regulations;
- (c) prepare, certify and issue, at the request of any person and on payment by such person of such fees as may be prescribed, copies of diagrams filed in his office and copies of diagrams filed in the Mines office;
- (d) allocate a distinctive number in consecutive order to each mining area irrespective of the situation of such mining area;
- (e) keep a register of mining areas in which shall be entered particulars of the numbers of the mining areas allocated by him and of such other information relative to the survey thereof as he may deem fit.

76. Die Registrateur van Aktes moet, andersluidende wetsbepalings desnieteenstaande—

- (a) alle myntitelaktes wat die Inspekteur by hom inlewer, in bewaring neem en hou;
- (b) elke akte en verbandhoudende kaart wat ooreenkomstig die bepalings van hierdie Ordonnansie en sy regulasies opgestel is, ter registrasie aanvaar;
- (c) 'n register hou van alle myntitelaktes waarin hy die besonderhede van alle myntitelaktes wat die Inspekteur ter registrasie by hom inlewer, in numeriese volgorde moet aanteken, en wat in elke ander opsig gehou moet word soos die register van plase en plaasdele in die Akteskantoor. So 'n register moet ook elke daaropvolgende regshandeling in verband met daaringeskrewe myntitelaktes aantoon. Elke titelakte moet op 'n afsonderlike folioblad aangeteken word.

77. Na die inwerkingtreeding van hierdie Ordonnansie word niemand vir die doeleindes daarvan erken nie, wettig het hy reg om myngebiede op te meet nie, tensy hy nóg in gevolge die „Landmeting Proklamatie 1920” (Proklamatie 7 van 1920) of 'n wysiging daarvan, toegelaat is om as landmeter te praktiseer.

78. (1) 'n Landmeter moet—

- (a) elke opmeting wat hy onderneem, so uitvoer dat hy noukeurige inligting verkry, en sy werk ooreenkomstig die bepalings van hierdie Ordonnansie en die regulasies uitvoer;
- (b) is teenoor die Landmeter-generaal verantwoordelik vir die juistheid van elke opmeting wat deur hom of onder sy toesig uitgevoer is, en van elke kaart wat hy onderteken;
- (c) moet die stukke oor elke opmeting wat hy doen met die oog op, of in verband met, 'n omsettingsakte, en oor elke kaart wat uit so 'n opmeting ontwerp is, en oor elke opmeting wat hy uitvoer ter onderverdeling van 'n myngebied en die vervanging van 'n verlore baken, by die Landmeter-generaal inlewer vir permanente lasserings in sy kantoor; en
- (d) moet, op versoek van die Landmeter-generaal, 'n fout in 'n opmeting wat hy gedoen het, of in 'n verbandhoudende werk, wat die voorgeskrewe foutgrens oorskry, onverwyld verbeter en die nodige stappe doen ter versekering dat elke kaart wat op so 'n foutiewe opmeting berus, gewysig word, en om die ligging van 'n baken wat ooreenkomstig so 'n foutiewe opmeting gestel is, aan te suiwer.

(2) Die Landmeter-generaal moet alle opmetingsstukke soos dié wat paragraaf (1) (c) hiervan noem, ondersoek voordat hy 'n kaart goedkeur wat op sodanige stukke berus.

(3) Nóg die Administrasie van die Gebied, nóg 'n beampte van die Administrasie, is aanspreeklik vir foutiewe opmetings of verbandhoudende werk wat 'n landmeter uitgevoer het nie, selfs al het die Landmeter-generaal 'n kaart goedgekeur wat op sodanige opmeting of werk berus.

79. (1) As 'n landmeter—

- (a) 'n kaart van 'n myngebied onderteken, hoewel hy nie al die opmetings- of veldwerk uitgevoer het of self daarvoor toesig gehou het nie, en ook nie die inskrywings in 'n veldboek ondersoek het nie, en die juistheid daarvan tot die oortuiging getoets het nie, en ook nie die berekenings, werkplanne en ander verbandhoudende stukke wat maandelik deur 'n ander opgestel is, gekontroleer het nie; of
- (b) 'n foutiewe kaart onderteken wanneer hy weet dat dié foutief is; of
- (c) herhaaldelik, weens nalatigheid of onbekwaamheid, foutiewe opmetings of opmetings wat nie behoorlik gekontroleer is nie, doen; of
- (d) 'n inskrywing in 'n veldboek of afskrif van 'n veldboek of ander dokument doen, as sou dit op werklike waarneming of meetwerk ter plase gegrond wees, wanneer dit nie regtig aldus gegrond is nie; of

76. Notwithstanding anything contained in any other law, the Registrar of Deeds shall—

- (a) take charge of and preserve all mining titles lodged with him by the Inspector;
- (b) accept for registration any deed and diagram having reference thereto prepared in accordance with this Ordinance and the regulations;
- (c) keep a register of all mining titles in which shall be entered in numerical sequence particulars of all mining titles lodged with him for registration by the Inspector and which shall in all other respects be similar to the register of farms and portions of farms kept in the Deeds Registry. Such register shall also record any subsequent dealings with mining titles therein recorded. A separate folio shall be assigned to each title.

77. No person shall, after the commencement of this Ordinance be recognised for the purposes thereof or be entitled to survey mining areas, unless he has been lawfully admitted to practise as a land surveyor in the Territory of South West Africa, in terms of the Land Survey Proclamation, 1920 (Proclamation No. 7 of 1920), or any amendment thereof.

78. (1) A land surveyor shall—

- (a) carry out every survey undertaken by him in such manner as will ensure accurate results, and in accordance with the provisions of this Ordinance and the regulations;
- (b) be responsible to the Surveyor-General for the correctness of every survey carried out by him or under his supervision and of every diagram which bears his signature;
- (c) deposit with the Surveyor-General for the purpose of being permanently filed in the Surveyor-General's office the survey records relative to every survey carried out by him for the purpose of, or in connection with any deed of conversion and relative to every diagram prepared as a result of any such survey, and relative to every survey carried out by him for the subdivision of a mining area and the replacement of a lost beacon; and
- (d) when required by the Surveyor-General, without delay correct, in any survey carried out by such surveyor or in any work appertaining thereto, any error which is in excess of the prescribed limits of error, and take such steps as may be necessary to ensure the amendment of any diagram based on such incorrect survey and to adjust the position of any beacon which he has placed in accordance with such incorrect survey.

(2) The Surveyor-General shall examine all such records as are mentioned in paragraph (1) (c) hereof, before approving any diagram to which such records refer.

(3) Neither the Administration of the Territory nor any officer thereof shall be liable for any defective survey or work appertaining thereto, performed by a land surveyor, notwithstanding that a diagram relating to such survey or work has been approved by the Surveyor-General.

79. (1) If a land surveyor—

- (a) signs a diagram of any mining area in respect of which he has not carried out or personally supervised the whole of the survey and field operations, and carefully examined and satisfied himself of the correctness of the entries in any field book, and of the calculations, working plans and other records in connection therewith, which have may been made by any other person; or
- (b) signs a defective diagram knowing it to be defective; or
- (c) repeatedly performs, through negligence or incompetence, defective surveys or surveys to which adequate checks have not been applied; or
- (d) makes any entry in a field book, copy of a field book or other document, which purports to have been derived from actual observation or measurement in the field when it is not in fact so derived; or

- (e) foutiewe inligting oor 'n opmeting aan die Landmeter-generaal verstrekk met die wete dat dit foutief is; of
- (f) hom so onbehoorlik gedra het dat hy, na Administrateursmening, onbevoeg is om myngebiede op te meet,

kan die Administrateur op aanbeveling van die Landmeter-generaal gelas dat so 'n landmeter geskors moet word uit sy praktyk vir 'n tydperk wat die Administrateur regverdig bevind, of dat die naam van so 'n landmeter van die landmetersrol geskrap moet word, of kan die Administrateur 'n ander bevel na goeddunke verstrekk.

(2) In hierdie artikel beteken die uitdrukking „toesig hou” dat die landmeter wat die kaart onderteken het, self die bakens van die myngebied wat opgemet moet word, gestel het, die basismeting, waar so 'n meting nodig is, self onderneem het, die staanplek van 'n beoogde baken op die grond bepaal het; na 'n opmeting die bakens ondersoek het sodat hy kan getuig dat hulle behoorlik, stewig en standvastig en ooreenkomstig die regulasies opgerig is, en dat die landmeter al die betrokke veldboek, hoekstate, berekenings en werkplanne wat hy moontlik aan sy assistent toevertrou het noukeurig ondersoek het en hulle vergelyk het met die kaart wat hy inlewer.

80. Na die uitvaardiging van hierdie Ordonnansie mag niemand buiten 'n landmeter—

- (a) opmetings doen ter ontwerping van 'n kaart wat in die Kantoor van Mynwese bewaar moet word, of wat met 'n omsettingsakte uitgereik moet word, of waarna daar enigsins hoegenaamd verwys word in enige ander dokument wat aldus bewaar of uitgereik moet word nie;
- (b) opmetings doen betreffende die afbakening van die grense of die plasing van bakens van 'n myngebied wat met 'n omsettingsakte uitgereik is of uitgereik moet word nie;
- (c) hom enigsins hoegenaamd as landmeter voordoen nie.

Elkeen wat 'n bepaling van hierdie artikel verontagsaam, is skuldig aan 'n oortreding, en is, by skuldigbevinding, strafbaar met 'n boete van hoogstens eenhonderd pond, of, by wanbetaling, met gevangenis vir 'n tydperk van hoogstens ses maande met of sonder dwangarbeid.

B. OORSPRONKLIKE OPMETINGS, HEROPMETINGS EN VERDELINGSOPMETINGS.

81. (1) As 'n landmeter 'n opmeting van 'n myngebied of 'n onderverdeling daarvan doen, moet hy deur middel van die Inspekteur die onderstaande stukke aan die Landmeter-generaal besorg of deurstuur, ter ondersoeking, goedkeuring en lissering in die Landmeter-generaal se kantoor—

- (a) die kaart van die myngebied of die onderverdeling daarvan; en
- (b) sodanige oorspronklike stukke, of weergawes daarvan wat moontlik betreffende die opmeting voorgeskrif word, en sodanige bewyse van die noukeurigheids van die opmeting soos die Landmeter-generaal vereis, en alle ander inligting wat die landmeter moontlik nuttig of saaklik ag, of wat die Landmeter-generaal moontlik vereis.

(2) Geen kaart van 'n deel van 'n onopgemete myngebied wat in die Akteskantoor of by die Inspekteur geregistreer is, mag deur die Landmeter-generaal goedgekeur word nie, voordat die hele sodanige myngebied opgeneem is en die registrasie van 'n nuwe omsettingsakte en die roeping van die ou akte deur die Inspekteur terselfdertyd geskied op grond van sodanige opmeting, buiten waar die Landmeter-generaal en die Inspekteur dele van groot myngebiede wat by die inwerktrading van hierdie Ordonnansie onder een titel val, uitsluit van die bepalings van hierdie sub-artikel op voorwaardes wat hulle wenslik ag.

(3) As so 'n ou akte onderhevig is aan 'n geregistreerde verband, mag daar geen nuwe akte verly word nie, tensy die verband geroeper is.

- (e) supplies erroneous information to the Surveyor-General in connection with any survey, knowing it to be erroneous; or
- (f) is guilty of such improper conduct as, in the opinion of the Administrator, renders him unfit to survey mining areas,

the Administrator may on the recommendation of the Surveyor-General direct that such land surveyor be suspended from practice for such period as the Administrator may deem just, or that the name of such surveyor be struck off the roll of admitted land surveyors or may make such order as he thinks fit.

(2) In this section the word “supervised” shall mean that the land surveyor who has signed the diagram has personally taken over the beacons of the mining area to be surveyed, has measured the base where such base measurement is necessary, has defined on the land the position in which any beacon is to be erected, has, after the survey, inspected the beacons in order that he may certify that they have been erected properly, substantially and durably and in accordance with regulation, and has carefully examined any field books, angle sheets, calculations and working plans which he may have entrusted to his assistant and has compared them with the furnished diagrams.

80. After the promulgation of this Ordinance no person except a land surveyor shall—

- (a) perform any survey for the purposes of preparing any diagram to be filed in the Mines Office or issued with any deed of conversion or referred to in any manner whatsoever in any other document to be so filed or issued;
- (b) perform any survey affecting the delimitation of the boundaries or the location of the beacons of any mining area issued or to be issued with any deed of conversion; or
- (c) hold himself out in any manner whatsoever as a land surveyor.

Any person who contravenes any provision of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds, or, in default of payment of such fine, to imprisonment with or without hard labour for a period not exceeding six months.

B. ORIGINAL SURVEYS, RE-SURVEYS AND DIVISION SURVEYS.

81. (1) If a land surveyor carries out a survey of any mining area or a subdivision thereof, he shall deliver or transmit through the Inspector to the Surveyor-General for examination, approval and filing of record in the Surveyor-General's office—

- (a) the diagram of the mining area or the subdivision thereof,
- (b) such original records, or copies thereof, as may be prescribed relative to such survey and such proofs of the accuracy of such survey as the Surveyor-General may require and any other information which such land surveyor may deem useful or material or which the Surveyor-General may require.

(2) No diagram of any portion of an unsurveyed mining area registered in the Deeds Registry or with the Inspector shall be approved by the Surveyor-General until a survey has been made of the whole of such mining area and a new deed of conversion has been registered on the basis of such survey, simultaneously with the cancellation of the old deed by the Inspector, except in the case of such portions of large mining areas held under one title at the commencement of this Ordinance as the Surveyor-General and the Inspector may, subject to such conditions as they may deem expedient to impose, exclude from the requirements of this sub-section.

(3) If such old deed is subject to a registered bond no new deed shall be issued unless such bond is cancelled.

(4) As sodanige ou akte onderhewig aan 'n saaklike reg, geregistreerde huurakte, of enige ander geregistreerde akte wat 'n saaklike reg op die myngebied aan 'n ander gee, mag so 'n nuwe omsetsingsakte nie geregistreer word nie, tensy sodanige huurder of reghebbende sy skriftelike toestemming gee, en die nuwe akte in dieselfde mate aan die huur- of ander reg as die ou onderhewig bly.

(5) Elke sodanige omsetsingsakte moet ooreenkom met die nuwe kaart, en die wet op die registrasie van aktes geld met die nodige veranderinge die registrasie van die omsetsingsakte in die Akteskantoor.

82. (1) By 'n heropmeting van 'n myngebied met die oog op ondervelding (in hierdie artikel heet dit heropmeting) waar die verkreepte getalwaardes by die heropmeting verskil van die getalwaardes op die kaart van die myngebied wat in die Akteskantoor of by die Inspekteur geregistreer is, en dit wel in so 'n mate dat—

(a) dit die voorgeskrewe foutgrens oorskry, moet die eienaar by die Landmeter-generaal aansoek doen om intrekking van die bestaande en goedkeuring van 'n nuwe kaart wat op die heropmeting berus: Met dien verstande dat die Landmeter-generaal die nuwe kaart nie goedkeur nie, tensy daar by hom 'n dokument van erkenning (grensprotokol), soos dié waaroor sub-artikel (1) van artikel twee van Proklamasie 78 van 1920 gaan, ingelewer word, wat onderteken is deur of namens alle eienaars van aanliggende myngebiede of kleins.

As 'n eienaar wie se naamtekening op 'n dokument van erkenning nodig is ingelêe hierdie artikel, dit weer, of 'n maand met die ondertekening daarvan versum, geld die bepaling van sub-artikels (3), (4) en (5) van artikel twee van Proklamasie 78 van 1920 („Additionele Landmeting Proklamasie 1920”);

(b) dit binne die voorgeskrewe foutgrens bly, moet die Landmeter-generaal 'n kaart goedkeur van die myngebied of 'n deel daarvan wat getalwaardes uit die heropmeting veergee, mits hy oortuig is dat die heropmeting noukeuriger as die oorspronklike opmeting uitgevoer is.

(2) As die Landmeter-generaal 'n nuwe kaart van die hele myngebied goedkeur, moet hy die Registrateur van Aktes en die Inspekteur van sodanige goedkeuring verwittig, en daarna nag geen oordrag, inskrywing of ander handeling wat die registrasie van so 'n mynkaart raak, geskied voordat die nuwe kaart by die Registrateur en die Inspekteur ingedien is nie. Die Registrateur moet die nodige inskrywings op sovel die eienaar as die Akteskantoor se eksampleer van die akte doen ooreenkomstig die wet op die registrasie van aktes, en moet die Inspekteur van sodanige inskrywing verwittig.

C. OPMETINGSBAKENS.

83. (1) Elke bakem met opgerig word met die oog op 'n opmeting of heropmeting van 'n myngebied, of ten gevolge daarvan, moet stewig en standvastig onder die toetsing van 'n landmeter opgerig word op die plek wat hy aanwys.

(2) Met inagneming van die voorbeloud by sub-artikel (4) van artikel vier-en-tagtig moet die eienaar van die myngebied wat opgemete of onderveld word, die oprigtingskoste van sodanige bakens besty, en het hy aanspraak op eweredige vergoeding van die eienaar of eienaars van aanliggende myngebiede ten opsigte van die oprigtingskoste van 'n gemeenskaplike bakem.

84. (1) Elke eienaar van 'n myngebied moet 'n bakem of merkwat 'n hoek of grenspunt van sodanige myngebied aandui, ooreenkomstig die regulasies in goeie orde hou.

(2) As so 'n bakem of merkwat nie in goeie orde gehou is nie, of verwyder of uitgewis is, kan die Landmeter-generaal die eienaar van elke betrokke myngebied by aangetekende brief kennis gee dat hy sodanige bakem of merkwat voorskryf moet herstel of, na gelang, op dat sodanige herstel of heroprigting deur 'n landmeter uitgevoer moet word.

(4) If such old deed is subject to any real right, registered deed of lease or any other registered deed whereby any real right in the mining area is held by any other person such new deed of conversion shall not be registered unless the written consent of the holder of such lease or right be obtained and the new deed made subject to the same extent to such lease or right as the old deed.

(5) Every such deed of conversion shall be in accordance with the new diagram, and the law relating to the registration of deeds shall apply *mutatis mutandis* to the registration of such conversion in the Deeds Registry.

82. (1) If on the resurvey of a mining area for the purpose of division (in this section referred to as the resurvey) the numerical data derived from the resurvey differ from those numerical data on the diagram of the mining area which has been registered in the Deeds Registry or with the Inspector by an amount which—

(a) exceeds the prescribed limit of error, the owner shall apply to the Surveyor-General for the cancellation of the existing diagram and the approval of a new diagram based upon the resurvey. Provided that the Surveyor-General shall not approve the new diagram unless there has been lodged with him a document of admission, such as is referred to in sub-section (1) of section two of Proclamation 78 of 1920, signed by or on behalf of all owners of contiguous mining areas or prospecting claims. Should any owner whose signature to a document of admission is required under this section refuse, or within one month, fail to sign the same, the provisions of sub-section (3), (4) and (5) of section two of Proclamation 78 of 1920 shall apply;

(b) does not exceed the prescribed limit of error, the Surveyor-General shall approve a diagram of the mining area or of a portion thereof which records numerical data derived from the resurvey, provided that he is satisfied that the resurvey has been more accurately performed than the original survey.

(2) If the Surveyor-General approves a new diagram of the whole mining area, he shall notify the Registrar of Deeds and the Inspector of such approval and thereafter no transfer, endorsement or any other act affecting the registration of such mining title shall be effected until the new diagram has been lodged with the Registrar and the Inspector. The Registrar shall make the necessary endorsements on the owner's and Deeds Office copies of the deeds in accordance with the law relating to the registration of deeds and shall advise the Inspector of such endorsement.

C. SURVEY BEACONS.

83. (1) All beacons erected for the purpose or in consequence of any survey or resurvey of a mining area shall be substantially and durably constructed under the supervision of, and in the position determined by, a land surveyor.

(2) Subject to the proviso to sub-section (4) of section eighty-four the cost of erecting such beacons shall be borne by the owner of the mining area being surveyed or subdivided, and he shall be entitled to recover from the owner or owners of contiguous mining areas a proportionate share of the cost of erecting any joint beacon.

84. (1) Every owner of a mining area shall maintain in proper order and repair in accordance with regulation, any beacon or mark defining a corner or line point of such mining area.

(2) If any such beacon or mark has not been maintained in proper order or has been removed or obliterated, the Surveyor-General may by delivery through registered post serve upon the owner of every mining area affected a notice in writing calling upon him to restore such beacon or mark to the prescribed condition or to re-erect it in the prescribed manner as the case may be. Provided that such restoration or re-erection shall be carried out by a land surveyor.

(3) As sodanige bakens of merke ses weke na die afleweringdatum van sodanige kennisgewing nog nie herstel of heropgerig is nie, kan die Landmeter-generaal sodanige bakens of merke deur 'n landmeter laat herstel of heroprig. Die Landmeter-generaal kan die tydperk van ses weke op versoek van die eienaar verleng.

(4) Die eienaars van alle betrokke myngreëde is aanspreeklik vir die koste in ewerdige dele van die herstel, vervanging of heroprigting van so 'n bakens of merke, en die Landmeter-generaal kan van elke sodanige eienaar sy deel van die koste verhaal wat die Landmeter-generaal ingevolge sub-artikel (3) hiervan aangegaan het. Met dien verstande dat as so 'n eienaar of sy bediende of agent so 'n bakens of merke beskadig, verwyder of uitgewis het, die eienaar die volle koste van die herstel, vervanging of heroprigting van so 'n bakens of merke moet dra.

85. (1) Elkeen wat sonder wettige verskoning (waarvan die bewyslas op hom rus)—

- (a) 'n bakens, hoogtemerk, versekeringsmerk, lig- of driehoekspeilbakens wat na die bedoeling permanent is, en vir, of in verband met, 'n opmeting opgerig is, verander, verskuif, verstoer of opsigtlik vernietig;
- (b) 'n bakens oprig sonder die toetsing van 'n landmeter onverskillig of dit sy bedoeling is om die grens van 'n myngreëde te verander of bedrog in verband met die grens te pleeg of nie,

is skuldig aan 'n oortreding, en is, by skuldigebevinding, strafbaar met 'n boete van hoogstens tweehonderd pond, of, by wanbetaling, met gewangenis vir 'n tydperk van hoogstens twaalf maande met of sonder dwangarbeid.

(2) Met die oop van die toekenning van vergoeding vir skade weens so 'n oortreding ingevolge die wet op strafregtelike prosedure, word elke bakens in verband waarmee so 'n oortreding gepleeg is, beskou as die eiendom van diegene aan wie 'n myngreëde wat deur so 'n bakens betref word, behoort, en elke hoogtemerk, versekeringsmerk of driehoekspeilbakens in verband waarmee so 'n oortreding gepleeg is, word beskou as die eiendom van die Landmeter-generaal.

86. Elkeen wat ter uitvoering van werk wat hy wettig kan verrig, 'n bakens, merk of driehoekspeilbakens wat in verband met 'n opmeting opgerig is, wil verwyder of verstoer, moet by die Landmeter-generaal aansoek doen om inagting daartoe, en daarop kan die Landmeter-generaal op koste van die aansoeker 'n landmeter opdrag gee om persoonlik die verwydering of versteuring en die daaropvolgende herstelling van sodanige bakens, merk of driehoekspeilbakens of die oprigting of plasing van 'n ander merk ter aanwysing van die plek van die verwyderde bakens, merk of driehoekspeilbakens te weeg te bring, of om daarvoor toetsing te hou, soos die Landmeter-generaal gelus.

D. OPMETINGSKAARTE.

87. Geen kaart van 'n myngreëde, wat voorgesel gaan van 'n myntitel vir registrasiedoeleindes, mag in die Akteskantoor of by die Inspekteur geregistreer word nie, tensy dit onder toetsing van 'n landmeter ontwerp is, en deur die Landmeter-generaal goedgekeur is: Met dien verstande dat die Landmeter-generaal 'n kaart kan onderteken en goedgekeur wat op sy lasgewing opgestel is van 'n ander kaart wat in sy kantoor of in die Kantoor van Mynwese bewaar word, en wat nie die aanuitering van die landmeter of sodanige ander persoon wat die oorspronklike kaart onderteken het, dra nie, as daardie landmeter of ander persoon nie beskikbaar is nie.

88. Elke kaart van 'n myngreëde of -gebiede wat ter goedkeuring aan die Landmeter-generaal voorgelê word, moet ooreenkomstig die regulasies ontwerp word, en die getalwaardes wat daarop aangegee word, moet konsekwent wees: Met dien verstande dat die Landmeter-generaal 'n kaart kan goedgekeur wat voor die uitvaardiging van hierdie Ordonnansie ooreenkomstig 'n ander wet of regulasie wat ten tye van die opstelling daarvan gegeld het, ontwerp is.

(3) If such beacon or mark is not so restored or re-erected within six weeks of date of delivery of such notice, the Surveyor-General may cause such beacon or mark to be restored or re-erected by a land surveyor. The Surveyor-General may at the request of the owner extend the period of six weeks.

(4) The owners of all affected mining areas shall be liable in equal shares for the cost of the repair, restoration or re-erection of any such beacon or mark and the Surveyor-General may recover from every such owner his share of all costs incurred by the Surveyor-General under sub-section (3): Provided that if any such owner or his servant or agent has damaged, removed or obliterated any such beacon or mark, the entire cost of the repair, restoration or re-erection of such beacon or mark shall be borne by such owner.

85. (1) Any person who without lawful excuse (the burden of proof whereof shall be upon him)—

- (a) alters, moves, disturbs or willfully damages or destroys any beacon, bench mark, reference mark, signal or trigonometrical station intended to be permanent and erected for the purpose or in connection with any survey;
- (b) erects any beacon except under the supervision of a land surveyor, whether his intention is to alter the boundary of any mining area or to cause deception as to that boundary or not,

shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months.

(2) For the purpose of awarding compensation under the law relating to criminal procedure in respect of any damage caused by such offence, any beacon, in connection with which such offence was committed, shall be deemed to be the property of the person or persons owning a mining area affected by such beacon and any bench mark, reference mark or trigonometrical station in connection with which any such offence was committed shall be deemed to be the property of the Surveyor-General.

86. Any person who, for the purpose of carrying out any work which he may lawfully perform, desires to remove or disturb any beacon, bench mark, reference mark or trigonometrical station erected in connection with any survey shall apply to the Surveyor-General for authority to do so and the Surveyor-General may thereupon, at the expense of such applicant, employ a land surveyor to effect personally or supervise the removal or disturbance and subsequent replacement of such beacon, mark or trigonometrical station or the erection or placing of any other mark to indicate the position of such removed beacon, mark or trigonometrical station in such manner as the Surveyor-General may direct.

D. SURVEY DIAGRAMS.

87. No diagram of a mining area shall accompany a mining title to be registered in the Deeds Registry or shall be registered with the Inspector unless it be prepared under the direction of and signed by a land surveyor and approved by the Surveyor-General. Provided that the Surveyor-General may sign and approve a diagram framed by his direction from a diagram filed of record in his office or in the Mines office without the signature thereon of the land surveyor or such other person who signed the original diagram, if he is not available.

88. Every diagram of a mining area or areas submitted for the approval of the Surveyor-General shall be prepared in accordance with regulation and the numerical data recorded thereon shall be consistent. Provided that the Surveyor-General may approve a diagram prepared before the promulgation of this Ordinance in accordance with any law or regulation in force at the time of such preparation.

89. Die Landmeter-generaal kan 'n fout in die getalwaardes, tekening of bewoording van 'n kaart wat aan 'n geregistreerde myntitel geheg is of daarin genoem word, verbeter, en hy moet die Inspekteur daarvan verwittig, wat daarop dienooreenkomstige verbeterings op die betrokke omsetsingssakke moet aanbring en die Registrateur van Aktes skriftelik kennis gee van sodanige verbetering. Die Registrateur moet daarop al die nodige inskrywings op die betrokke titels en registers aanbring.

HOOFSTUK VII.

ALGEMEEN EN ALLERLEI.

90. Waar die reg op 'n myngebied of kleim oorgedra word, gaan al die regte en verpligtinge wat by die geregistreerde eienaar of houër, na gelang, tuishoort, oor na die ontvanger: Met dien verstande dat waar so 'n myngebied onder verband staan, geen oordrag van so 'n myngebied in die Akteskantoor geregistreer mag word nie, tensy die verband projeser word.

91. Elkeen wat—

- (a) opsetlik of deur gebrek aan behoorlike voorsorg die grense van sy kleim of myngebied in die loop van prospektering of ontginning oorskry, of toelaat dat sy werknemers dit doen; of
- (b) 'n driehoekspeilbaken, 'n bakken of grausmerke van 'n kleim of myngebied verwyder, vernietig, skend of verskuif, buiten ingevolge die bepalings van artikel vyf-en-dertig, is skuldig aan 'n oortreding.

92. Elkeen wat opsetlik en kwaadwillig 'n myn, masjinerie, pyplyn, of ander myncindom beskadig of probeer beskadig, is skuldig aan 'n oortreding, en is by skuldigebevestiging strafbaar met 'n boete van hoogstens driehonderd pond, of met gevangenis vir 'n tydperk van hoogstens drie jaar, of met beide sodanige boete en sodanige gevangenis.

93. (1) Elkeen wat 'n verklaring doen of amptelike staat inlewer of amptelike inligting of 'n amptelike opgaaf verstrek wat ingevolge hierdie Ordonnansie van hom vereis word, met die wete dat dit in eene wesenlike deel daarvan onwaar is, is skuldig aan 'n oortreding.

Bowendien verbou so iemand, as die hof dit beveel, sy regte op die myn of kleim waarvan hy die eienaar of houër is, en kan die Administrateur die uitreiking van 'n prospekterlisensie aan hom verbied.

(2) Elkeen wat 'n opgaaf oor edele of onedele minerale verstrek met die wete dat die edele of onedele minerale wat hy aangegee het as deur hom gevind of gedelf, nie oorspronklik geleë was op die plek of in die grond waar hy hulle volgens sy verklaring gevind of ontdek het nie; of met die vaste wete dat die bedoelde edele of onedele minerale nie op of naby die plek gevind of ontdek is waar hulle volgens sy verklaring gevind of ontdek is nie, is skuldig aan 'n oortreding, en is, by skuldigebevestiging, onderhewig aan al die strawwe wat wetlik opgelê kan word aan elkeen wat die misdad bedrog pleeg.

94. (1) Elkeen wat opsetlik 'n edele of onedele mineraal op 'n plek plaas of neersit, of medeplytig is by so 'n opsetlike plasing van 'n edele of onedele mineraal op so 'n plek met die bedoeling om die Inspekteur of ongetuigend anders to mislei of die wissmoontlikhede van die plek, is skuldig aan 'n oortreding, en is, by skuldigebevestiging, onderhewig aan al die wetlike strawwe wat opgelê kan word aan iemand wat die misdad bedrog pleeg.

(2) As daar in 'n geding weens verontagsaming van hierdie artikel bewys word dat die beskuldigde edele of onedele minerale geplaas of neersit het of medeplytig was by so 'n plasing van edele of onedele minerale op 'n plek waar die ontdekking daarvan heelwaarskynlik die Inspekteur of iemand anders sal mislei, word daar vermoed dat hy sodanige edele of onedele minerale aldus geplaas of neersit het in oortreding van die bepalings van hierdie artikel totdat die teenoorgestelde bewys word.

89. The Surveyor-General may correct any error in the numerical data, figure or wording of a diagram annexed or referred to in a registered mining title and shall advise the Inspector accordingly, who shall thereupon make corresponding corrections in the relative deed of conversion and shall notify the Registrar of Deeds in writing of such correction. The Registrar shall then make all the necessary endorsements on the relative titles and registers.

CHAPTER VII.

GENERAL AND MISCELLANEOUS.

90. Where the right to a mining area or claim is transferred all the rights and obligations accruing to the registered owner or holder, as the case may be, shall accrue to the transferee, provided that where such mining area is bonded no transfer of such mining area shall be registered in the Deeds Registry unless such bond is cancelled.

91. Any person who—

- (a) knowingly or through neglect of proper precautions transgresses the boundaries of his claim or mining area while conducting prospecting or mining operations, or permits his employees to do so; or
- (b) removes, destroys, disfigures or displaces any trigonometrical station, a beacon or boundary mark of any prospecting claim or mining area, except as provided in section thirty-five, shall be guilty of an offence.

92. Any person who wilfully and maliciously damages any mine, machinery, pipe line or other mining property or attempts so to do, shall be guilty of an offence and liable on conviction to a fine not exceeding three hundred pounds, or to imprisonment for a period not exceeding three years, or to both such fine and such imprisonment.

93. (1) Any person who shall make any declaration or official statement, or supply any official information or render any official return required to be made under this Ordinance, knowing the same to be untrue, shall be guilty of an offence.

In addition, should the Court so order, such person shall forfeit his rights in any mine or claim if he be the owner or holder thereof, and it shall be lawful for the Administrator to prohibit the issue of a prospecting licence to him.

(2) Any person who shall render any return of precious or base minerals knowing that such precious or base minerals declared to have been found or recovered by him, were not naturally situated in or on the spot or in the soil where they were declared to have been found or discovered, or well knowing that the said precious or base minerals were not found or discovered on or near the place where they were declared to have been found or discovered, shall be guilty of an offence and liable upon conviction to all the penalties which may by law be inflicted upon any person who commits the crime of fraud.

94. (1) Any person who shall wilfully place or deposit or be an accessory to the wilful placing or depositing of any precious or base minerals in any spot or place with intent to mislead the Inspector or any other person as to the payable nature of such spot or place, shall be guilty of an offence and liable upon conviction to all the penalties which may by law be inflicted on a person who commits the crime of fraud.

(2) If in any proceedings taken for the contravention of this section, the accused person shall be proved to have placed or deposited, or to have been an accessory to the placing and depositing of any precious or base minerals in any place where the discovery thereof would be likely to mislead the Inspector or any other person, he shall be presumed to have so placed or deposited such precious or base minerals in contravention of the provisions of this section until the contrary is proved.

95. Elkeen wat ingevolgt hierdie Ordonnansie enige soort lisensie, permit, sertifikaat of ander dokument moet hys, moet sodanige lisensie, permit, sertifikaat of dokument op versoek van die Inspekteur of sy verteenwoordiger, of 'n blanke lid van die Suid-Afrikaanse Polisiemaatskap of van 'n cinnaar of huurder van 'n plaas in verband met prospekter- of ontginningsbedrywighede op so 'n plaas toon. Elkeen wat versuim om sodanige dokument te toon binne vier-en-twintig uur nadat hy daartoe versoek is, is skuldig aan 'n oortreding.

96. Elke beaampte wat die Inspekteur behoorlik daartoe gemagtig het, en elke behoorlik gekwalifiseerde landmeter by sy beroepsuitoefening ten opsigte van sake waaroor die bepalings van hierdie Ordonnansie gaan, kan private grond of grond onderhewig aan prospekter- of ontginningsregte betree, en elkeen wat so 'n beaampte of landmeter in sy pligsvervulling soos voormeld teengaan, is skuldig aan 'n oortreding.

97. Wanneer dit in die openbare belang nodig is om regte wat hierdie Ordonnansie of die wet wat hierby herroep word, teken, om openbare doeleindes geheel of deels te ontien, het die Administrateur die reg daartoe teen betaling van vergoeding wat by gebrek aan onderlinge ooreenkomste deur arbitrasie vasgestel word: Met dien verstande dat in die geval van regte uit hoofde van 'n akte wat by die Akteskantoor van die Gebied geregistreer is, die Administrateur aan elkeen wat blykens die akte belange in die reg het, kennis gee van die ontiening.

98. (1) 'n Producent van edele metaal moet sodanige edele metaal deur middel van 'n handelsbank van die Gebied verkoop en hy moet binne veertien dae nadat die metaal deur of namens hom verkoop is, aan die Inspekteur 'n essaai-sertifikaat inlewer waarop hy die prys en hoeveelheid van sodanige edele metaal aantoon, en daarby die duplikaat-kredittbrief van die bank.

(2) Elkeen wat hierdie artikel verontsaam, is skuldig aan 'n oortreding, en is, by skuldbevinding, strafbaar met 'n boete van hoogstens tweehonderd pond, of, by wanbetaling, met gevangenis vir 'n tydperk van hoogstens twaalf maande met of sonder dwangarbeid.

99. (1) Niemand mag edele of onedele mineraal uit die Gebied uitvoer nie, buiten met magtiging van 'n uitvoerpermit wat die Inspekteur uitreik. Sodanige permit moet by uitvoer per spoer, of per spoer en skip, getoon word aan die stasiemeester by die versendingsplek; by uitvoer oor die see aan die Ontvanger van Doane by die hawe waar sodanige minerale verskep word; en by uitvoer per pos, aan die betrokke posmeester, en sodanige stasiemeester, ontvanger van doane of posmeester moet 'n afskrif van sodanige permit hou.

(2) Waar edele of onedele minerale per skip uitgevoer word, moet die uitvoerder, self of deur middel van sy agent, 'n kwitansie onderskryf deur die skip se eerste-offisier of 'n ander bevoegde offisier op 'n duplikaat van die inklaringsbrief, wat aantoon dat die minerale aan boord skip ontvang is. Die bedoelde kwitansie moet daarop aan die ontvanger van doane by die verskepingshawe besorg word, wat dit dan aan die Inspekteur moet deurstuur.

(3) Waar sodanige minerale per spoer uitgevoer word, moet die uitvoerder 'n soortgelyke kwitansie verkry van die kondukteur, van die trein waarop die minerale vervoer word, of van 'n ander bevoegde spoorwegbeaampte. Sodanige sertifikaat moet aan die stasiemeester by die versendingsplek, ingelewer word, wat dit dan aan die Inspekteur moet deurstuur.

(4) Elkeen wat die bepalings van hierdie artikel verontsaam, is skuldig aan 'n oortreding.

100. (1) Skuldbedrae wat die Administrasie ingevolgt hierdie Ordonnansie toekom, hetsy prospektergeelde, myngelde, of enige skuldverpligting wat die prospekterder, kleimhouer of myncinnaar, na gelang, ingevolgt artikels twee-entertig en een-en-veertig opgedoen het, het by die insolvensie van die betrokke kleimhouer of myncinnaar, of by die likwi-

95. Every person who is required by this Ordinance to hold any kind of licence, permit, certificate or other document, shall produce such licence, permit, certificate or document on the request of the Inspector or his representative, of any European member of the South African Police, or of any farm owner or lessee of a farm in connection with prospecting or mining operations on such farm. Every person who fails to produce such document within twenty-four hours after having been called upon so to do shall be guilty of an offence.

96. Any official duly authorised thereto by the Inspector, and any duly qualified land surveyor in the exercise of his profession in regard to any matters covered by the provisions of this Ordinance, may enter upon private land or any land held under prospecting or mining title, and any person who obstructs any such official or land surveyor in the exercise of his duties as aforesaid shall be guilty of an offence.

97. Whenever it is necessary in the public interest for public purposes to expropriate wholly or in part rights granted under this Ordinance or the laws hereby repealed, the Administrator shall have the right to do so, on payment of compensation to be determined, in the absence of mutual agreement, by arbitration, provided that in the case of any rights held under a deed registered in the Deeds Registry of the Territory the Administrator shall give notice of such expropriation to every person who on the face of such deed has any interest in such rights.

98. (1) A producer of precious metal shall sell such precious metal through a commercial bank of the Territory and within fourteen days after the sale by him, or on his behalf, he shall render to the Inspector an assay certificate showing the price and quantity of such precious metal together with the duplicate credit note of the bank.

(2) Any person who contravenes this section shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding twelve months.

99. (1) No person shall export from the Territory any precious or base minerals except under the authority of an export permit issued by the Inspector. Such permit shall be produced in the case of export by rail or by rail and sea, to the Station Master at the place of consignment and in the case of export by sea, to the Collector of Customs at the port where such minerals are shipped, and in the case of export by post, to the Post Master concerned, and a copy of such permit shall be retained by such Station Master, Collector of Customs or Post Master.

(2) On export of precious or base minerals by sea the exporter shall, personally or through his agent, obtain a receipt endorsed by the ship's first officer or some other competent officer, on a duplicate of the bill of entry, showing that the minerals have been received on board. The said receipt shall thereupon be handed to the Collector of Customs at the port of shipment, who shall thereupon forward it to the Inspector.

(3) On export of such minerals by rail the exporter shall obtain a similar receipt from the guard of the train on which the minerals are carried, or from some other competent railway official, which certificate shall be handed to the station master at the station of consignment or the railway official in charge of the section who shall thereupon forward it to the Inspector.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence.

100. (1) Any debt due to the Administration in terms of this Ordinance, whether in respect of prospecting fees, mining fees, or in respect of any obligation placed upon the prospector, claim holder or mine owner, as the case may be, in terms of sections thirty-two and fifty-one, shall be a first charge upon any buildings, pumping plant, pipe-

dering van sy bates, of by die beslaglegging op sy bates, roerend of vas, is 'n preferente vordering teen alle geboue, pompinrigtings, pyplyne, masjinerie of ander bates, roerend of vas, geleë by 'n myn, in 'n myngebied, of op 'n klein em dit geniet voorrang bo elke geregistreerde verband of verbande op sodanige myn, myngebied of klein.

Bovendien kan die Inspekteur—

- (a) in 'n regsbevoegde hof 'n eis instel om so 'n skuld;
- (b) waar so 'n skuld op die bepaalde dag nog nie betaal is nie, eis dat geen bate, soos voormeld, van die klein of myn of myngebied, na gelang, verwyder, verhandel of andersins verveem mag word voordat die voormelde skuld vereffen is nie.

(2) Elke bedrag wat verhaal word uit 'n verpligting wat ingevolge artikel twee-en-dertig en artikel een-en-veertig ontstaan, moet aangewend word vir die doeleindes van die gemelde artikels voorskryf, en enige oorskot na bestryding van alle terloopse koste moet aan die betrokke prospek-teerder, kleimhouer of mynciennaar terugbetaal word.

(3) Elkeen wat enige van die voormelde bates in weerwil van die bepalings van hierdie artikel verwyder, verhandel of andersins verveem, is skuldig aan 'n oortreding, en is, by skuldigebevinding, strafbaar met 'n boete van hoogstens eenhonderd pond, of, by wanbetaling, met gevangenis vir 'n tydperk van hoogstens twaalf maande, of met beide sodanige boete en sodanige gevangenis.

101. Behoudens die bepalings van die „Extra-Territorial en Noordelike Inboorlinge Kontrole Proklamasie 1935“ (Proklamasie 29 van 1935), soos gewysig, en die daaruitvloeiende regulasies, is elkeen wat die mynbedryf uitoefen, of wat 'n direkteur of ampsdraer is van 'n maatskappy of sindikaat wat die mynbedryf uitoefen, of wat 'n werkgewer is namens 'n persoon, maatskappy of sindikaat wat die mynbedryf uitoefen—

- (1) wat, buiten ingevolge 'n bevel van 'n regsbevoegde hof, enige deel van die besoldiging, salaris, loon of verdienste wat volgens kontrak aan 'n werknemer by 'n myn toekom, betaal anders as—
 - (a) met gangbare munt, en
 - (b) regstreeks aan sodanige werknemer of as hy siek is, sy behoorlik gemagtigde agent, of
 - (c) aan 'n siekthulpvereniging wat gestig is ten opsigte van die myn waar sodanige werknemer in diens is, of
 - (d) aan 'n verskeringsmaatskappy wat so 'n werknemer versker het, of
 - (e) aan die Administrasie van die Gebied ten opsigte van belasting deur sodanige werknemer verskuldig, of
 - (f) aan die Direkteur van Pos- en Telegraafwese by wyse van storting, namens sodanige werknemer, in 'n spaarbank gestig op gesag van die Direkteur van Pos- en Telegraafwese, of
 - (g) aan 'n handelsbank ter storting ten behoeve van sodanige blanke werknemer, of
 - (h) aan 'n opvoedkundige inrigting ter vereffening van gelde vir opvoedkundige klasse wat so 'n werknemer bywoon, of
 - (i) aan 'n voorsienings- of pensioenfonds, of
 - (j) ingevolge 'n stelsel van uitgestelde betaling wat die Hoofnaturellekommissaris goedgekeur het, of
- (2) wat borgstaan vir 'n kleurling-werknemer by 'n myn of klein ten opsigte van sy skuld aan die eienaar van 'n handelsonderneming by die myn of klein, of sodanige skuld betaal of die betaling daarvan bewerkstellig, skuldig aan 'n oortreding.
- (3) Geen afstand van besoldiging, salaris of loon of verdienste volgens kontrak, of deel daarvan, deur 'n mynwerker is wettig nie, tensy dit gevee word vir een van die doeleindes waaroor hierdie artikel gaan.

102. Myngebiede of kleins wat aan 'n afgestorwe boedel behoort, of aan 'n boedel onder sekwestrasie, of aan 'n maatskappy in likwidisie, raak nie verbeurd, of vervel nie, tensy die eksekuteur, beederraar, trustee of likwidateur, na gelang, dertig dae na sy aanstelling nog steeds die bepalings van hierdie Ordonnansie oor die betaling van gelde bly verontagsaam.

lines, machinery or other assets, movable or immovable, situate upon any mine, mining area or prospecting claim, and shall enjoy priority over any registered mortgage bond or bonds registered against such mining area in the event of the insolvency or liquidation of the claim holder or mine owner concerned, or in the event of attachment of any assets, movable or immovable, of the claim holder or mine owner concerned.

The Inspector shall furthermore be entitled—

- (a) to sue for such debt as aforesaid in any court of competent jurisdiction;
- (b) to demand that, on non-payment of any debt as aforesaid on due date no asset as aforesaid shall be removed from the claim or mine (as the case may be), disposed of or alienated, until such debt as aforesaid has been paid.

(2) Any amount recovered as and for an obligation imposed in terms of section thirty-two and section fifty-one shall be utilised for the purpose prescribed in the aforesaid sections, and any surplus remaining over after all incidental expenses have been met, shall be refunded to the prospector, claim holder or mine owner concerned.

(3) Any person who removes, disposes of or alienates any assets as aforesaid contrary to the provisions of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.

101. Subject to the provisions of the Extra-Territorial and Northern Natives Control Proclamation, 1935 (Proclamation 29 of 1935), as amended, and any regulations framed thereunder, any person who carries on the business of mining or is a director or official of such company or syndicate which carries on mining or is an employer of labour on behalf of a person who, or company or syndicate which carries on mining, who—

- (1) except under order of a competent court pays any portion of the remuneration, salary or wages or any earnings under contract payable to a person employed on a mine otherwise than—
 - (a) in current coin, and
 - (b) to such employee direct or his duly authorised agent in the case of such employee's sickness, or
 - (c) to any sick benefit society established in respect of the mine on which such employee is employed, or
 - (d) to any insurance company in which such employee is insured, or
 - (e) to the Administration of the Territory in respect of any tax due by such employee, or
 - (f) to the Director of Posts and Telegraphs for the purpose of deposit on behalf of such employee in any savings bank established under the authority of the Director of Posts and Telegraphs, or
 - (g) to any commercial bank for the purpose of deposit on behalf of such European employee, or
 - (h) to any educational institution for the payment of fees in respect of any educational classes attended by such employee, or
 - (i) to any provident or pension fund, or
 - (j) under any system of deferred payment approved by the Chief Native Commissioner, or
- (2) becomes surety for or pays or procures the payment of the debt of a coloured person employed on a mine due to the keeper of a business on such mine or claim, shall be guilty of an offence.
- (3) No cession of his remuneration, salary or wages, or of his earnings under contract or any part thereof by any person employed on a mine shall be of legal force and effect save only when given for any of the purposes referred to in this section.

102. Mining areas or prospecting claims belonging to the estate of a deceased person, or to an estate placed under sequestration or to a company placed in liquidation, shall not be forfeited or lapse unless and until the executor, trustee or liquidator (as the case may be) shall have failed to comply with the provisions of this Ordinance relating to the payment of fees for a period of thirty days after his appointment.

103. Andersluidende bepalings in hierdie Ordonnansie desnieteenstaande, is elkeen wat—

- (a) tot aktiewe militêre diens opgeroep is ingevolge 'n Gebiedswet; of
- (b) op versoek van die Goewerneur-generaal van die Unie van Suid-Afrika, of van die Administrateur van die Gebied, of vrywillig ter verdediging van die Gebied, die wapen opgeneem het,

geregtig op vrystelling van betaling van prospekter- of kleingelde ten opsigte van sy dienstermy, en dertig dae daarna, mits hy die Inspekteur binne dertig dae kennis gegee het van die aanvangs- of afloopdatum van sodanige diens.

104. Niemand mag by 'n myn 'n seun blykbaar jonger as sesien jaar, of 'n vrouspersoon, ondergrond in diens neem nie.

105. Die Administrateur kan regulasies afkondig wat bestaanbaar is met hierdie Ordonnansie oor een of elk van die volgende sake—

- (a) kleimafstekings;
- (b) die opmeting van myngebiede en alle aangeleenthede in verband met die opmeting, kaartering en registrasie van myngebiede;
- (c) prospektering en ontginning in natuurelreservate;
- (d) die beskerming en bewaring van die oppervlakte van myne of werke en van geboue, paais, spoorwêre en ander bouwerke en omheinings op of bokant die grondvlak, en die voorwaardes waarop sodanige geboue, paais, spoorwêre, bouwerke en omheinings ondergrawe kan word;
- (e) die ontwerp en bewaring van mynplanne, en die inlewering van eksemplare daarvan by die Afdeling Mynwese;
- (f) die opstelling van statistiese en ander verslae oor myne, werke en masjinerie;
- (g) die pligte en verantwoordelikhede van eienare, bestuurders, opsigters en andere wat by of met myne, werke en masjinerie werk;
- (h) die bewaring, ontvangs, uitdeling, vervoer en gebruik van springstowwe by myne;
- (i) die werkwyses by ondersoek by, of in verband met, 'n myn of mynwerk, die prosedure wat by so 'n ondersoek gevolg moet word, en die wyse waarop getuies tot bywoning geroep kan word;
- (j) die verskaffing van hospitaalwaens en geneeskundige hulp by ongelukke;
- (k) die voorwaardes waarop masjinerie opgerig en gebruik kan word;
- (l) die gelde wat betaal moet word vir 'n inspeksie ingevolge die bepalings van hierdie Ordonnansie;
- (m) verbodings of beperkings op die aanleg of gebruik van paais of spoorwêre of ander verkeerswêre oor gebiede wat ondergrawe is, of die oprigting of gebruik van geboue of ander voorwerpe daarop;
- (n) die veiligheid en gesondheid van werkuemers by of in die nabyheid van myne, werke, en oor die algemeen van persone, eiendom en die openbare verkeer;
- (o) die prosedure wat gevolg moet word wanneer 'n inspekteur ingevolge hierdie Ordonnansie 'n verhoor waarnem;
- (p) die toekenning, intrekking en opskorting van bevoegdheidsertifikate aan—
 - (1) mynbestuurders,
 - (2) mynopsigters,
 - (3) myn-opmeters,
 - (4) masjienboukundiges,
 - (5) masjinieste,
 - (6) mynwerkers wat springstowwe kan gebruik,
 - (7) sodanige ander klasse persone wat in, by of naby myne, werke en masjinerie diens doen, wat na die Administrateur van tyd tot tyd neem, in besit behoort te wees van bevoegdheidsertifikate;

103. Notwithstanding anything in this Ordinance contained any person who—

- (a) has been called out on active military service under a law in force in the Territory; or
- (b) has served under arms at the request of the Governor-General of the Union of South Africa, or the Administrator of the Territory, or voluntarily in defence of the Territory,

shall be entitled to exemption from payment of prospecting and claim fees in respect of the period of such service, and for thirty days after the cessation of such service, provided that notice in writing shall have been given to the Inspector within thirty days of commencement or cessation of such service.

104. No person shall employ underground on any mine a boy under the age of sixteen or any female.

105. The Administrator may make regulations not inconsistent with this Ordinance in respect of or in connection with all or any of the following matters or things, namely—

- (a) the pegging of claims;
- (b) the survey of mining areas and any matter appertaining to the surveying, charting and registration of mining areas;
- (c) prospecting and mining in native reserves;
- (d) the protection and preservation of the surface of mines or works and of buildings, roads, railways, and other structures and enclosures on or above the surface of the ground, and the conditions under which any such buildings, roads, railways, structures and enclosures may be undermined;
- (e) the making and keeping of mine plans and the depositing of copies with the Mines Division;
- (f) the making of statistical and other reports relating to mines, works and machinery;
- (g) the duties and responsibilities of owners, managers, overseers, and other persons engaged in or about mines, works and machinery;
- (h) the storage, receipt, distribution, transport and use of explosives in mines;
- (i) the manner of holding inquiries at or in connection with any mine or works, the procedure to be followed at any such inquiry and the mode of securing the attendance of witnesses thereat;
- (j) the provision of ambulances and medical aid in case of accident;
- (k) the conditions upon which machinery may be erected or used;
- (l) the fees which shall be payable for any inspection under this Ordinance;
- (m) prohibition or restrictions in relation to the making or use of roads or railways or other travelling ways over, or the erection or use of buildings or other objects on areas which have been undermined;
- (n) the safety and health of persons employed in or about mines and works, and generally of persons, property and public traffic;
- (o) the procedure to be followed in connection with trials by an inspector under this Ordinance;
- (p) the grant, cancellation and suspension of certificates of competency to—
 - (1) mine managers,
 - (2) mine overseers,
 - (3) mine surveyors,
 - (4) mechanical engineers,
 - (5) engine drivers,
 - (6) miners entitled to blast,
 - (7) such other classes of persons employed in, at or about mines, works and machinery as the Administrator may from time to time deem it expedient to require to be in possession of certificates of competency;

- (q) die gelde wat betaal moet word deur aansoekers om die sertifikate vermeld by paragraaf (p), of wat betaalbaar is by hul toelating om die ooreenkomstige sertifikaat-eksamens af te lê;
- (r) die beperking van werksdae en werkure by myne of werke;
- (s) die voorwaardes waarop die eienaars van myne of werke hul werknemers of klasse werknemers loondraende verlof moet toestaan;
- (t) en algemeen ter verskoring van die behoorlike bedryf en bestuur van alle myne, werke en masjinerie, en ter doeltreffende uitvoering van die oogmerke van hierdie Ordonnansie.

(2) Die regulasies kan strafbepalings inhou, wat die strawwe genoem in artikel *agt* nie oorskry nie, ten opsigte van verontagsaming, by daad of versuim, van die ander bepalinge van sodanige regulasies; en daaglikse strawwe kan opgelê word vir voortdurende verontagsaming, en strawwe kan verhoog word by 'n tweede of daaropvolgende verontagsaming by daad of versuim, maar altyd binne die perke wat artikel *agt* stel.

106. Hierdie Ordonnansie heet die Ordonnansie op Myne, Werke en Minerale 1954.

- (q) the fees to be payable by persons applying for any of the certificates mentioned in paragraph (p) or on their admission to an examination for any such certificate;
- (r) the limiting of the days and hours of work upon any mine or works;
- (s) the conditions governing the grant of paid leave of absence by owners of mines or works to their employees or to various categories of their employees;
- (t) and generally for ensuring the proper working and management of all mines, works and machinery, and for better carrying out the objects and purposes of this Ordinance.

(2) The regulations may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding the penalties mentioned in section *eight*; and daily penalties may be prescribed for a continuing contravention or non-compliance, or increased penalties may be prescribed for a second or subsequent contravention or non-compliance, subject to the limitations mentioned in section *eight*.

106. This Ordinance shall be called the Mines, Works and Minerals Ordinance, 1954.