

MINING AND MINERALS

Sperrgebiet-Delimitation Proclamation 11 of 1920.

Summary: This Proclamation defines the area known as the “Sperrgebiet”.

Amendments: The Proclamation is amended by Proc. 35/1922.

The acquisition of shares in Rössing Uranium Limited and the appointment of a director, AG 31 of 1985.

Summary: This Proclamation authorises the purchase of shares in Rössing Uranium Limited by the government.

Petroleum Products and Energy Act 13 of 1990.

Summary: This Act provides measures for the saving of petroleum products and economy in the cost of distributing such products. It controls pricing and certain information about petroleum products, and regulates certain services in connection with motor vehicles. The Act also establishes a National Energy Fund and a National Energy Council, and provides for levies on fuel.

Amendments: Act 29/1994 amends sections 2, 14, 15 and 21. Act 11/1997 amends sections 1 and 38 and inserts sections 76A and 76B. Act 3/2000, which came into operation on 3 July 2000 (GN 154/2000, GG 2357), amends sections 1, 6, 8 and 21 and inserts section 2A and 4A. Act 16/2003 amends sections 1, 2A, 11,13, 17, 18, 19, and the long title, and inserts sections 11A, 11B, 18A, 18B, 19A and 19B. It was not yet in force as of 31 December 2004.

Regulations: Regulations are contained in-

GN 48/1990 (GG 70)

GN 62/1990 (GG 94)

GN 72/1990 (GG 104)

GN 23/1991 (GG 166)

GN 48/1991 (GG 183)

GN 112/1991 (GG 281)

GN 130/1991 (GG 299)

GN 56/1992 (GG 407)

GN 38/1993 (GG 617)

(which repeals the regulations in RSA GN R.1614/1985)

GN 46/1993 (GG 631)

GN 51/1994 (GG 832)

GN 80/1995 (GG 1080)

GN 77/1996 (GG 1292)

GN 93/1996 (GG 1306)

GN 200/1996 (GG 1372)

GN 7/1997 (GG 1481)

GN 69/1997 (GG 1538)

GN 152/1997 (GG 1606)

GN 200/1997 (GG 1704)

GN 5/1998 (GG 1774)
GN 90/1998 (GG 1845)

GN 171/1998 (GG 1910)
GN 251/1998 (GG 1971)
GN 9/1999 (GG 2029)
GN 80/1999 (GG 2097)
GN 119/1999 (GG 2142)
GN 203/1999 (GG 2203)
GN 1/2000 (GG 2255)
GN 98/2000 (GG 2310)
GN 119/2000 (GG 2332)
GN 149/2000 (GG 2351)
GN 155/2000 (GG 2357)

(which repeals the regulations in RSA GN R.1829 of 28 August 1981, R.1614 of 19 July 1985, R.2298 of 11 October 1985 and R.1100 of 2 June 1986)

GN 221/2000 (GG 2406)
GN 3/2001 (GG 2468)
GN 21/2001 (GG 2476)
GN 60/2001 (GG 2510)
GN 148/2001 (GG 2580)
GN 59/2002 (GG 2725)
GN 185/2002 (GG 2834)
GN 202/2002 (GG 2866)

(which amends regulations 7, 14, 21, 28 and 44; substitutes regulation 30; inserts regulation 31A and amends Annexure A).

GN 93/2003 (GG 2970)
(regulations for arbitration procedures).

GN 148/2003 (GG 3017)
(which revokes GN 8/2003)

GN 218/2003 (GG 3073)
(which revokes GN 148/2003)

GN 3/2004 (GG 3132)
(which revokes GN 218/2003)

GN 74/2004 (GG 3188)

GN 140/2004 (GG 3236)
(which revokes GN 74/2004)

GN 230/2004 (GG 3307)
(regulations on funding of approved agencies)

Specifications and standards pertaining to Regulations 44 and 45 of the Petroleum Products Regulations issued in GN 155/2000 are contained in GN 75/2003 (GG 2946), which replaces GN 21/2002 (GG 2696).

Related international agreements: *SADC Protocol on Energy, 1996* (signature: 24 August 1996; ratification: 17 January 1998) (source: Ministry of Foreign Affairs).

Petroleum (Exploration and Production) Act 2 of 1991.

Summary: This Act provides for the reconnaissance, exploration, production, disposal and control of petroleum. It came into force on 30 September 1992 in terms of Act 27/1992.

Amendments: The Act is amended by Act 27/1992 (section 72), Act 33/1992 (sections 4, 16 and 78), Act 2/1993 (section 14) and Act 24/1998 (which came into force on 1 April 1999 – GN 44/1999, GG 2075) (sections 30, 38, 41, 46, 62, 67 and insertion of a new Part XA).

Regulations: A petroleum field is declared in terms of section 42(1) in GN 158/1997 (GG 1622). Regulations relating to the health, safety and welfare of employees and the protection of other persons' property, the environment and natural resources are contained in GN 190/1999 (GG 2188).

Minerals (Prospecting and Mining) Act 33 of 1992.

Summary: This Act provides for the reconnaissance, prospecting, mining, disposal and control of minerals in Namibia. It came into force on 1 April 1994 (GN 41/1994, GG 828).

Regulations: Fees are determined in GN 42/1994 (GG 828).

Land is reserved from prospecting and mining operations in GN 86/1994 (GG 863), GN 215/1994 (GG 971), GN 53/1996 (GG 1270), GN 307/1996 (GG 1454), GN 225/1997 (GG 1730), GN 152/1998 (GG 1901), GN 92/1999 (GG 2109), GN 107/1999 (GG 2128), GN 252/2000 (GG 2426) and GN 156/2003 (GG 3019). A reservation of land previously enacted under the Mines, Works and Minerals Ordinance 20 of 1968 is cancelled by GN 284/1996 (GG 1435). The abandonment and forfeiture of mining areas under the Mines, Works and Minerals Ordinance 20 of 1968 is addressed in GN 138/1991 (GG 320), GN 139/1991 (GG 320), GN 161/1992 (GG 527) and GN 144/1993 (GG 750).

Certain semi-precious stones are declared to be high value minerals in terms of section 1(3)(b) of the Act by GN 34/1999 (GG 2054). Royalties in respect of these stones are set by GN 35/1999 (GG 2054) which is replaced by GN 248/2004 (GG 3322). Royalties in respect of certain groups of minerals are set by GN 248/2004 (GG 3322).

Cases: *Hoffman v Maier* 1994 NR 61 (HC) (previous Mines, Works and Minerals Ordinance 20 of 1968); *S v McDonald & Others* 2000 NR 174 (HC); *Namibia Grape Growers and Exporters Association and Others v The Minister of Mines & Energy and Others* 2002 NR 328 (HC).

Minerals Development Fund of Namibia Act 19 of 1996.

Summary: This Act provides for the establishment and control of a Minerals Development Fund. It also sets up a Minerals Development Fund Control Board.

Diamond Act 13 of 1999.

Summary: This Act regulates a wide range of matters connected with diamonds. It also establishes the Diamond Board of Namibia, the Diamond Board Fund and the Diamond Valuation Fund. This Act, which came into force on 1 April 2000 (GN 83/2000, GG 2300), replaces the Diamond Industry Protection Proclamation 17 of

1939.

Regulations: Regulations are contained in GN 84/2000 (GG 2300), as amended by GN 104/2003 (GG 2984). Restricted diamond areas are declared in GN 97/2000 (GG 2306).

Cases: The following cases were decided under the previous Diamond Industry Protection Proclamation 17 of 1939:

S v Mbali 1990 NR 1 (HC)

S v Kramer & Others 1990 NR 49 (HC)

S v Strauss 1990 NR 71 (HC) (appropriate sentence for common law crime of theft of diamonds)

S v Koekemoer & Another 1990 NR 116 (HC)

S v Eiseb & Another 1990 NR 142 (HC)

S v Da Costa & Another 1990 NR 149 (HC)

S v Campbell & Others 1990 NR 310 (HC)

S v Small 1990 NR 358 (HC)

S v De Beer 1990 NR 379 (HC)

S v Du Plessis & Another 1992 NR 74 (HC) (bail in a case where accused charged with theft of diamonds and contravention of section 28(a) of the Act)

S v Nassar 1994 NR 233 (HC)

S v Nangombe 1993 NR 178 (HC); 1994 NR 276 (SC)

S v van den Berg 1995 NR 23 (HC) (sections 28(b) and 35A)

S v de Bruyn 1999 NR 1 (HC) (lawful use of “entrapment” to gather evidence for offences in terms of section 28)

INTERNATIONAL LAW

SADC Protocol on Mining, 1997

signature: 8 September 1997

ratification: 22 December 1998 (source: Ministry of Foreign Affairs)

See also Petroleum (Taxation) Act 3 of 1991 (**REVENUE**).

See also **LABOUR**.