



Republic of Namibia
Annotated Statutes

Mines, Works and Minerals Ordinance 20 of 1968

([OG 2897](#))

brought into force on 1 October 1968 by Proc. 61/1968 ([OG 2926](#))

as amended by

Proclamation R.89 of 1969 (RSA) ([RSA GG 2354](#), republished in [OG 3002](#))
came into force on 1 April 1969 (Proc. R.89/1969)

Deed Registries Amendment Act 3 of 1972 (RSA) ([RSA GG 3404](#))
brought into force on 1 June 1972 by RSA Proc. 125/1972 ([RSA GG 3506](#))

**Mines, Works and Minerals in South-West Africa
Amendment Act 47 of 1972 (RSA)** ([RSA GG 3518](#))

came into force on date of publication: 26 May 1972;
subsequently amended by Labour Act 6 of 1992, which deleted section 11

Sea Birds and Seals Protection Act 46 of 1973 (RSA) ([RSA GG 3909](#))
brought into force on 12 October 1973 by RSA Proc. 239/1973 ([RSA GG 4047](#))

General Law Amendment Act 62 of 1973 (RSA) ([RSA GG 3947](#))
came into force on date of publication: 27 June 1973

Mines, Works and Minerals Amendment Act 26 of 1980 ([OG 4354](#))
came into force on date of publication: 24 December 1980

Mines, Works and Minerals Amendment Act 4 of 1981 ([OG 4411](#))
came into force on date of publication: 20 March 1981

Petroleum (Exploration and Production) Act 2 of 1991 ([GG 178](#))
came into force on 30 September 1992, in terms of section 79 as amended by
the Petroleum Matters (Amendment and Validation) Act 27 of 1992 ([GG 489](#))

Minerals (Prospecting and Mining) Act 33 of 1992 ([GG 564](#))
brought into force on 1 April 1994 by GN 41/1994 ([GG 828](#))

Labour Act 6 of 1992 ([GG 388](#))

brought into force with the *exception* of Part XI on health and safety and section 116 insofar as it relates to Part XI, on 1 November 1992 (GN 134/1992, [GG 491](#)); remaining portions brought into force on 31 July 1997 (GN 155/1997, [GG 1614](#))

Proclamation 344 of 1977 (RSA) (RSA GG 5819) repeals the Ordinance in respect of “the port and settlement of Walvis Bay”. However, this appears to be of no current relevance given the reintegration of Walvis Bay into Namibia and the provisions of the Walvis Bay and Off-Shore Islands Act 1 of 1994.

Note that the Minerals (Prospecting and Mining) Act 33 of 1992 repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines, and the safety and health of persons employed in or in connection with mines and works” – with the safety and health provisions having been subsequently repealed by the Labour Act 6 of 1992.

The Labour Act 6 of 1992 repeals (a) section 93 and (b) “the whole, in so far as it relates to the health and safety of workers employed in or in connection with mining and prospecting

operations". There may be some scope for differing interpretations of the effect of these repeals.

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; to amend the Deeds Registry Proclamation, 1939 to provide for the application of its provisions in respect of mining areas also to grant areas and to amend the Land Survey Ordinance, 1963 to provide for the application of its relevant provisions also to beacons required by or constructed under this ordinance and to diagrams of mining areas.

*(Assented to 27th May 1968)
(English text signed by the Administrator)*

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SCHEDULE

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the State President, in so far 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 26 of the South West Africa Constitution Act, 1925 (Act 42 of 1925), of the Parliament of the Republic of South Africa as follows:-

[RSA Proclamation R.89 of 1969 amends the Ordinance throughout to substitute -

- (a) "Minister" for "Administrator", except in the definition of "Rehoboth Gebiet" and in section 92
- (b) "Secretary for Mines of the Republic of South Africa" for "Secretary of the Territory"
- (c) "Chief Inspector" for "Director" and "Director of Mines" in the definition of "mine" in section 1 and in sections 5, 9, 10, 12, 14, 15, 31, 33, 34, 53, 59, 84, 85 and 95, and "mining commissioner" for "Director" and "Director of Mines" elsewhere
- (d) "Registrar of Mining Titles" for "Registrar of Deeds"

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- (e) “Department” for “Administration” in section 68, and “Minister” for “Administration” elsewhere *except* in the definitions of “diagram”, “Native reserve”, “owner” and “private land” in section 1, and in section 90(1)(a)(iv)
- (f) “Department” for “Mines Division” and “Mines Division of the Administration” *except* in the definition of “diagram” in section 1
- (g) “Mining Titles Office” for “Deeds Registry” and “Deeds Registry of the Territory” *except* in the definition of “owner” in section 1
- (h) “Gazette” for “Official Gazette”.]

PRELIMINARY

Interpretation of terms

[Many of the terms defined in section 1 do not appear in the provisions of the Ordinance which appear to remain in force. However, the entire list is retained here in case of differing interpretations about which provisions of the Ordinance have been repealed.]

1. In this ordinance, unless the context otherwise indicates -

“accessory works” means dams, wells, boreholes, pump stations, pipe-lines, tramlines, roads, gates and dumping sites for tailings and slimes, and shall include plant, structures and buildings required for prospecting and mining purposes or which are incidental to prospecting and mining operations;

[definition of “accessory works” substituted by Act 47 of 1972]

“aerodrome” means an aerodrome as defined in section 1 of the Aerodrome Ordinance, 1963 (Ordinance 12 of 1963);

“attachment” means attachment of any movable assets by any messenger of the magistrate’s court or any sheriff or deputy sheriff of the South West Africa Division of the Supreme Court of South Africa in the execution of any judgment of such court;

“base mineral” means all minerals other than precious minerals;

“block of claims” means a block of not more than four claims, pegged individually on the same day, under the same prospecting licence, with the side of adjacent claims in that block coincident and conterminous and with the block not exceeding 72 hectares;

“Chief Inspector” means the Chief Inspector of Mines appointed under section 4(2);

[definition of “Chief Inspector” inserted by RSA Proc. R.89/1969]

“claim” means an area of land which has in conformity with the provisions of this ordinance or a prior law been lawfully pegged as a claim and in respect of which the right to prospect for and mine minerals has been lawfully obtained;

“Coloured person” means a person who is not a white person or a Native and who is generally accepted as a Coloured person, and includes a Burgher of the Rehoboth Gebiet, but does not include a person. who although a Coloured person by descent, is generally accepted as a native;

“continental shelf” means the continental shelf referred to in section 6 of the Territorial Sea and Exclusive Economic Zone of Namibia Act, 1990 (Act 3 of 1990);

[definition of “continental shelf” amended by Act 2 of 1991]

“conversion” means conversion of claims into mining areas in accordance with the provisions of this ordinance;

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“Department” means the Department of Mines of the Republic of South Africa;

[definition of “Department” inserted by RSA Proc. R.89/1969]

“diagram” means a diagram as defined by the Land Survey Ordinance, 1963 (Ordinance 9 of 1963), and shall include a document which has prior to the commencement of this ordinance been accepted as a diagram in the Mines Division of the Administration;

[definition of “Director” deleted by RSA Proc. R.89/1969]

“exclusive economic zone” means the exclusive economic zone of Namibia referred to in section 4 of the Territorial Sea and Exclusive Economic Zone of Namibia Act, 1990 (Act 3 of 1990);

[definition of “exclusive economic zone” inserted by Act 2 of 1991]

“game park” means any area declared to be a game park in terms of sections 37 and 38 of the Nature Conservation Ordinance, 1967 (Ordinance 31 of 1967);

“grant area” means the defined area in respect of which an exclusive prospecting or mining right has been granted in terms of this ordinance;

“Gazette” means the *Government Gazette* of the Republic of South Africa;

[definition of “Gazette” inserted by RSA Proc. R.89/1969]

“holder of a claim” means the person or company registered as the owner of a claim in the claims register kept in the office of the mining commissioner;

“holder of a grant area” means the person or company holding a deed of grant in respect of an exclusive prospecting or mining right granted in terms of section 60 or 61 of this ordinance or a prior law;

“inspector” means any person appointed as an inspector of mines or machinery in terms of this ordinance and shall include an inspector of explosives appointed in terms of the Explosives Ordinance, 1962 (Ordinance 31 of 1962) or any person legally acting in such capacities;

“land surveyor” means a land surveyor as defined in section 1 of the Land Survey Ordinance, 1963 (Ordinance 9 of 1963);

“lapse” means, in relation to any claim, that the land in respect of which such claim was held, is again open to prospecting and pegging;

“lessee” in relation to land, means a person to whom the land has been allotted under any law relating to land settlement and who has exercised the right to purchase that land;

“local authority” means a municipal council or a village management board;

“machinery” means any engine, boiler or appliance or combination of appliances which is used or intended to be used for generating, developing, receiving, storing, converting, transforming or transmitting any form of power or energy, or for conveying persons, material or minerals, and which is situated at a mine or works and used or intended to be used in connection with operations at, and pertaining to, such mine or works;

“mine” when used as a noun, means any excavation in the earth, whether abandoned or being worked, made for the purpose of searching for or winning any mineral, and any place where any

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mineral deposit is being worked and any quarry, but if two or more such excavations or places are being worked in conjunction with one another, they shall be deemed to constitute one mine, unless the Chief Inspector notifies its owner in writing that such excavations or places shall constitute two or more mines, and any place at or near a mine where any building, construction, dump, dam, machinery or appliance is used or intended to be used by the owner of the mine for any of the following purposes, or for any purpose necessary or incidental thereto, shall form part of such mine:-

- (a) searching for, or winning, a mineral;
- (b) crushing, reducing, dressing, concentrating or smelting a mineral;
- (c) producing a product of commercial value, other than a clay or earthenware product or cement from a mineral; or
- (d) extracting, concentrating or refining any constituent of a mineral;

and, when used as a verb, means any operations with the object of winning minerals from the earth or from water in or under the earth or from the sea or the seabed, and shall include all excavation work whether by underground or open working or otherwise, and any boring and other operations necessary for, or incidental to such winning, and shall include the collecting of sea bird guano;

“mineral” means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth or bed of the sea and having been formed by or subjected to a geological process, but does not include petroleum, as defined in section 1 of the Petroleum (Exploration and Production) Act, 1991 and water, not being water taken from the earth or sea for the extraction therefrom of a mineral: Provided that subject to the provisions of section 16(2), the term “mineral” shall not apply to soil, sand, clay, gravel or stone (other than limestone or marble) if these substances are *bona fide* required for -

- (a) agriculture;
- (b) building;
- (c) fencing;
- (d) Road making;

[The word “road” is erroneously capitalised in the *Official Gazette*, as reproduced above.]

- (e) the manufacture of bricks and tiles;
- (f) the construction of sports or air fields;
- (g) the construction of bridges, dams, reservoirs, weirs, canals, or other irrigation works;
- (h) railway construction;
- (i) any other purpose so declared by the Minister by notice in the *Gazette*;

[definition of “mineral” amended by Act 46 of 1973 to delete the words “and shall include sea bird guano”, and further amended by Act 2 of 1991]

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“mining area” means an area of land which has been converted into a mining area in accordance with the provisions of this ordinance or a prior law and in respect of which a deed of conversion duly registered in the Mining Titles Office has been issued;

“mining commissioner” means any person appointed as such under this ordinance or any person lawfully acting in that capacity;

“Mining Titles Office” means the Mining Titles Office mentioned in paragraph 1 of the Schedule to the Mining Titles Registration Proclamation, 1969;

[definition of “Mining Titles Office” inserted by RSA Proc. R.89/1969]

“Minister” means the Minister of Mines of the Republic of South Africa;

[definition of “Minister” inserted by RSA Proc. R.89/1969]

“Native” means a person who is a member of an aboriginal race or tribe of Africa, or who is generally accepted as such;

“Native reserve” means any land and area in the Territory mentioned in section 4(i) of the South West Africa Native Affairs Administration Act, 1954 (Act 56 of 1954) of the Republic of South Africa;

[definition of “natural oil” deleted by Act 2 of 1991]

“open land” means land that is open for prospecting;

“owner”, in relation to -

- (a) a claim or mining area or grant area or mine or works or machinery, means any person who is the immediate holder or owner of a claim or mining area or grant area or mine or works or machinery or part thereof, as the case may be, or tributor for the working of a claim or mining area or grant area or mine or works or machinery and shall include the lessee of such claim or mining area or grant area or mine or works or machinery;
- (b) private land means the person in whose name the land is registered in the Deeds Registry and shall include also a lessee of land owned by the Administration but shall not include the holder of a grazing licence;
- (c) the Rehoboth *Gebiet* means the magistrate of Rehoboth in his capacity as *Kaptein* of the Rehoboth Baster Community.
- (d) a Native reserve means the South African Bantu Trust;

and shall include the trustee in any insolvent estate, the liquidator of a company which is an owner and the representative recognised by law of an owner who has died or who is a minor or is of unsound mind or is otherwise under disability, as long as such trustee, liquidator or legal representative is acting within the authority conferred upon him by law, and if the holder or owner or lessee referred to in paragraph (a) above is a company, the term “owner” shall include every director or secretary or representative or agent of the company in the Territory or the Republic of South Africa, or is an unincorporated body of persons the term “owner” shall include every member of that body in the Territory or the Republic of South Africa; (ix)

“owner of a mining area” means the person or company registered in the Mining Titles Office as owner of a mining area;

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“Police Zone” means the line or boundary defined as such in the First Schedule of the Prohibited Areas Proclamation, 1928 (Proclamation 26 of 1928) or any amendment thereof;

“precious minerals” means -

- (a) the precious metals (gold, silver, platinum and irridium, and any other metals of the platinum group and the ores of the said metals) as well as slimes, concentrates, slag, tailings, residues or amalgam containing such metals;

[The word “iridium” is misspelt in the *Official Gazette*, as reproduced above.]

- (b) precious stones (diamonds, rubies, emeralds, and sapphires) as well as ores, concentrates, gravels or conglomerates containing such precious stones;
- (c) any other metals or substances declared by the State President by notice in the *Gazette* to be precious minerals for the purposes of this ordinance;

[paragraph (c) amended by RSA Proc. R.89/1969]

“prescribed” means prescribed by this ordinance;

“private land” means land other than state land and for the purposes of this ordinance the term private land shall include the Rehoboth *Gebiet* and any Native Reserve, and shall further include land leased from the Administration under any law relating to land settlement when the lessee has exercised his option to purchase;

“prospecting” means intentionally searching for minerals in or on the earth or sea or bed of the sea by means which disturb the surface of the earth or bed of the sea, and includes all excavating necessary for the purpose, whether by underground or open working or otherwise, as well as boring and all work necessary for or incidental to such searching, but does not include mining;

[definition of “prospecting” substituted by Act 47 of 1972]

“prospector” means the person or company by whom a prospecting licence is held under this ordinance or any prior law and shall include a holder of a claim or a holder of a grant area in respect of which exclusive prospecting rights are held;

“public road” means 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 defined as the road reserve in the Roads Ordinance, 1962 (Ordinance 28 of 1962);

“Registrar of Mining Titles” means the Registrar of Mining Titles appointed under paragraph 2 of the Schedule to the Mining Titles Registration Proclamation, 1969;

[definition of “Registrar of Mining Titles” inserted by RSA Proc. R.89/1969]

“regulation” means a regulation made or in force under this ordinance;

“Rehoboth *Gebiet*” means 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 28 of 1923) or any amendment thereof;

“source material” means source material as defined in section 1 of the Atomic Energy Act, 1967 (Act 90 of 1967) of the Republic of South Africa;

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“South African Bantu Trust” means the South African Bantu Trust constituted by section 4 of the Bantu Trust and Land Act, 1936 (Act 18 of 1936) of the Republic of South Africa;

“surveyed” means surveyed by a land surveyor;

“territorial waters” means the territorial waters referred to in section 2 of the Territorial Waters Act, 1963 (Act 87 of 1963) of the Republic of South Africa;

“this ordinance” includes the regulations;

“white person” means a person who in appearance obviously is, or who is generally accepted as a white person, but does not include a person who, although in appearance obviously a white person, is generally accepted as a Coloured person;

“works” means any place, not being a mine or part of a mine, where any of the following operations and any operation necessary or incidental thereto are carried out and constitute the main operation at such place -

- (a) the crushing, screening, washing, classifying or concentrating of any mineral;
- (b) the treating of any mineral, in the form obtained from a mine, for the production of coke, or for the production of a base mineral in any shape or form, including ingots, billets and rolled sections;
- (c) the working and treating of any mine tailings deposit or mine dump for the recovery of any valuable content thereof;
- (d) the extracting of any precious mineral from any mineral or concentrate;
- (e) the refining of any precious mineral;
- (f) the drying or calcining of any source material;
- (g) the generating of any form of power and transmitting and distributing it to the terminal point of bulk supply to any consumer or, where the supply is not in bulk, to the power supply meter on the consumer’s premises, if more than fifty per cent of the power generated is used in connection with a mine;
- (h) the transmitting and distributing of any form of power from a generating source, other than a generating source contemplated in paragraph (g), to any mine, if any of the power supplied to the mine is used for winding, pumping or ventilating purposes;
- (i) the transmitting and distributing, to any other consumer, of any form of power from a mine by the owner thereof to the terminal point of bulk supply or, where the supply is not in bulk, to the power supply meter on such consumer’s premises;
- (j) the conserving of water in any dam or reservoir, and its distribution, if more than fifty per cent of the water distributed from such dam or reservoir is used in connection with a mine or a place referred to in paragraph (a), (b), (c), (d), (e), (f) or (g), but excluding the conserving and distributing of water by a public utility undertaking or a local authority; or
- (k) the manufacturing of explosives for use in mines;

**[Paragraph (k) should end with a full stop rather than a semicolon;
there are no additional definitions in the list.]**

2.

[Section 2 appears to have been repealed by Act 33 of 1992, which repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...”. This section concerns the initial vesting of the right of prospecting and mining for and disposing of precious and base minerals. Prior to the repeal, section 2 was amended by Act 2 of 1991.]

Repeal of laws

3. (1) Subject to the provisions of subsection (2) the laws mentioned in the Schedule to this ordinance are hereby repealed to the extent set out in the third column of that Schedule.

(2) Any proclamation, regulation, notice, approval, authority licence, permit, certificate or document issued, made, given or granted and any other action taken under any provision of a law repealed by subsection (1), shall be deemed to have been issued, made, given, granted or taken under the corresponding provision of this ordinance.

[Section 3 is retained below on the theory that it a general administrative provision, rather than being related to any specific topic covered by the Ordinance.]

CHAPTER I

ADMINISTRATION

Supervision and control of mining industry and appointment of officers

4. (1) The Department shall, subject to the directions of the Minister, through the Secretary for Mines of the Republic of South Africa supervise and control the mining industry and exercise all the powers and perform all the functions and duties vested in the Department by this ordinance or any other law in regard to minerals, mines, works or machinery in force in the Territory: Provided that nothing in this section contained shall be deemed to fetter or restrict any discretion vested in the Chief Inspector, an inspector or the mining commissioner in terms of this ordinance.

- (2) The Minister shall, subject to the laws governing the Public Service -
- (a) appoint a Chief Inspector of Mines who shall exercise the powers and perform the functions and duties conferred or imposed upon the Chief Inspector by this ordinance or as may be assigned to him by the Minister and who shall exercise general supervision of mines, works and machinery;
 - (b) appoint properly qualified persons as inspectors of mines or of machinery who shall assist the Chief Inspector and exercise the powers and perform the functions and duties conferred or imposed upon such inspectors by this ordinance;
 - (c) appoint a mining commissioner who shall exercise the powers and perform the functions and duties conferred or imposed upon him by this ordinance,

and may, subject to the said laws, designate officers or employees who shall in addition to their other duties exercise the powers and perform the functions and duties which in terms of this

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ordinance or any other law may be exercised or performed by the Chief Inspector, an inspector or the mining commissioner and as may be determined by the Minister.

(3) No action for injury or wrong shall lie in any court against the Chief Inspector, the mining commissioner or any officer acting under the instructions of the Chief Inspector or the mining commissioner for any act done reasonably and in good faith by the Chief Inspector, the mining commissioner or any such officer in the exercise of his powers or the performance of his functions or duties under this ordinance.

[Section 4 is substituted by RSA Proc. R.89/1969. Portions of section 4 appears to have been repealed by Act 33 of 1992, which repeals "the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...". The entire section is reproduced here to provide context for the remaining portions.]

Powers of Chief Inspector or any Inspector to enter upon and inspect mines and works and give instructions regarding safety or health

5. (1) The Chief Inspector or any inspector of mines, machinery or 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 the Chief Inspector or 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 about it as he may deem expedient.

Penalty for obstruction of Department officers

6. Any person who obstructs or hinders any officer of the Department 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 guilty of an offence and liable on conviction to a fine not exceeding four hundred rand or, in default of payment, to imprisonment for a period not exceeding twelve months.

Penalty for breach of provisions of this Ordinance

7. (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 Department 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 four hundred rand, or, in default of payment to imprisonment 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, notwithstanding anything to the contrary in any other law.

Penalty for an act that imperils safety or causes injury or death

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8. If any person be guilty of any act or omission or contravenes any of the provisions of this ordinance, or of the regulations, or of any special rules under section 12, 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 four hundred rand, or, in default of payment, to imprisonment 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 eight hundred rand, or, in default of payment, to imprisonment 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 two thousand rand, or in default of payment, to imprisonment 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 12 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.

Powers of Chief Inspector to try breaches or regulations and special rules and impose penalties

9. (1) The Chief Inspector or every inspector of mines, machinery or explosives acting under his instructions may try any breach of a regulation or of any special rule in force under section 12 unless the death of any person has been directly caused by the breach.

(2) The Chief Inspector or any inspector, when acting under this section may, on finding a person guilty of a breach of a regulation or special rule, impose a fine not exceeding thirty rand and in default by the offender of payment of the fine, the Chief Inspector or inspector 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 concerned for the benefit of the Consolidated Revenue Fund of the Republic of South Africa.

[subsection (2) amended by RSA Proc. R.89/1969]

(3) At every such trial the Chief Inspector or every such inspector 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 it to the magistrate of the district concerned 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 Chief Inspector. The decision of the magistrate on any such appeal shall be final.

Powers and duties of Chief Inspector and Inspectors in holding inquiries

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

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

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(3) The evidence at every inquiry held in terms of subsection (1) shall be taken down in writing by the Chief Inspector or inspector concerned and in the case of such an inquiry being held by such an inspector, such inspector shall submit such evidence with his report to the Chief 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 the evidence taken at any such inquiry, any report thereon and his remarks thereon, to the Attorney-General.

(4) The evidence at every inquiry held in terms of subsection (2) shall be taken down in writing by the Chief Inspector, inspector or other officer concerned and in the case of such an inquiry being held by such inspector or other officer, such inspector or other officer shall submit such evidence with his report to the Chief Inspector who shall transmit the evidence taken at any such inquiry, any report thereon, and his remarks thereon, to the Minister and to the Attorney-General. Upon consideration of such evidence, report and remarks, the Minister may in his discretion order a further inquiry to be held by another inspector of mines, machinery or explosives or other person.

(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 required by this section, such inquest or other inquiry as required by other laws of the Territory.

Procedure at trial or inquiry

11. (1) For the purpose of any trial mentioned in section 9 or inquiry mentioned in section 10 the person who conducts such trial or inquiry 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 person conducting such inquiry 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 thirty rand or, in default of payment, to imprisonment 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 person conducting such trial or inquiry or who at such trial or inquiry wilfully insults such person conducting such trial or inquiry or wilfully interrupts the proceedings, shall be guilty of an offence and liable on conviction to the penalties mentioned in subsection (3).

(5) At any such trial the person conducting such trial shall, and at any such inquiry the person conducting such inquiry, 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 7.

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(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.

Mine Manager's power to make special rules

12. (1) The manager of a mine may make special rules, not inconsistent with this ordinance or any regulation, for the maintenance of order and discipline, and the prevention of accidents in or on any such mine. The rules, when made, shall be submitted through the Chief Inspector to the Minister for approval, and when so 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 Minister, if he considers any such rule unreasonable, unnecessary or otherwise undesirable may disallow it, amend it or at any time require it to be altered.

(3) Any objection to such rules may be lodged at the office of the Chief Inspector and shall be forwarded by him with his remarks thereon to the Minister, 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 thirty rand, or in default of payment, to imprisonment for a period not exceeding one month.

13.

[Section 13 appears to have been repealed by Act 33 of 1992, which repeals "the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...". This section concerns the registration of agents for title holders who reside elsewhere. It makes no mention of the Chief Inspector or an inspector.]

Service of process

14. (1) Save as is otherwise provided in this Ordinance any notice or other document required by this ordinance to be served upon any person shall be deemed to be duly served if delivered to such person personally or sent by registered post to his last known postal or business address or ordinary residence or if he is absent from the Territory or the Republic of South Africa by such service as aforesaid on any duly registered accredited agent of such person in the Territory or the Republic of South Africa.

(2) Save as is otherwise provided in this ordinance, all public notices issued by the Chief Inspector, an inspector or the mining commissioner, shall be posted on the official notice board of his office and remain posted thereon for one month and published in the *Gazette*.

[subsection (2) substituted by RSA Proc. R.89/1969]

(3) Any application, objection, or notification made to the Chief Inspector, an inspector or the mining commissioner, in terms of this ordinance shall be made in writing.

Appeal against decision given by the Chief Inspector, an Inspector or the Mining Commissioner

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15. (1) If any person is dissatisfied with any act done or decision given by the Chief Inspector, an inspector or the mining commissioner in the course of the exercise of his powers and the performance of his duties, such person may within twenty-one days from the date of the doing of such act or the giving of such decision, appeal to the Minister and such appeal shall be heard by a special commission whose decision shall be final.

(2) The appellant shall set out the grounds of his appeal in writing and deposit a sum of R200 with the Minister.

(3) The special commission shall be constituted by the Minister and shall consist of the following five members:-

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

(4) 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 Minister may be forfeited in whole or in part for these purposes.

[The word "commission" in the phrase "special commission" is misspelt in the *Official Gazette*, as reproduced above.]

(5) If the decision of the special commission is in favour of the appellant the sum deposited by him shall be returned forthwith.

(6) The members of such commission, who are not public servants, shall each receive such remuneration and such reasonable travelling allowances, while actually engaged in the work of the commission, as the Minister may determine.

CHAPTER II

PROSPECTING

[Sections 16-30 appear to have been repealed by Act 33 of 1992, which repeals "the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...". These sections concern prospecting, pegging, licences for these activities, registration of claims, and claims fees. Prior to the repeal, section 17 was amended by Act 47 of 1972 and by Act 26 of 1980; section 18 was amended by Act 4 of 1981; and section 28 was substituted by Act 47 of 1972.]

Maintenance of claim beacons

31. (1) Every holder of a claim shall maintain the beacons defining his claim in proper repair and in accordance with the regulations and if any beacons are found to be out of repair the mining commissioner shall serve written notice upon the holder concerned calling upon him to put the beacons in proper repair within a period to be stated in the notice.

(2) A holder of a claim or his representative shall point out free of charge the middle and corner beacons of his claim on being requested to do so by the Chief Inspector, an inspector, the mining commissioner, a claim inspector, a member of the South African Police, the owner or occupier of the land on which such claim is situated or by any prospector who may desire to peg

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an adjoining claim: Provided that where it is found that the sketch plan of the claim concerned, filed in the office of the mining commissioner or the copy thereof sent to the owner of the land concerned under section 26(5), is sufficiently accurate to enable the position of such claim to be located therefrom and that the beacons defining such claim are properly erected on such land, any such prospector or owner or occupier who has required such beacons to be pointed out to him in terms of the provisions of this subsection, shall be liable to the holder of such claim for any expenses incurred thereby.

[Section 31 appears to remain in force, at least in part, because it concerns to some extent the duties of the Chief Inspector of Mines and an inspector. It is reproduced in full to provide context for the portions that appear to remain operational.]

32.

[Section 32 appears to have been repealed by Act 33 of 1992, which repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...”. This section allows a Director to order the holder of a claim to carry out certain prospecting operations. Note that the substitution of “Chief Inspector” for “Director” by RSA Proc. R.89/1969 does not apply to this section, where “mining commissioner” is substituted for Director instead.]

Procedure to be followed in respect of failure to comply with provisions as to beacons and prospecting

33. (1) If the holder of a claim fails to comply with any requirement of the Chief Inspector or mining commissioner, under section 31(1) or 32 acceptance of further payment of claim fees may be refused by the mining commissioner until such requirement has been complied with.

(2) Any claim which lapses as a result of the refusal to accept further payment of claim fees in terms of subsection (1) may not be pegged or registered in the name of the same prospector within a period of twelve months from the date of lapsing of such claim: Provided that the Minister may on good cause shown, grant special permission to such prospector to repeg and register the said claim in his name.

[Section 33 appears to remain in force, at least in part, because it concerns to some extent the duties of the Chief Inspector of Mines. It is reproduced in full to provide context for the portions that appear to remain operational.]

Preservation of the surface of land

34. (1) Every prospector shall, to the satisfaction of the Chief Inspector, maintain his workings in a safe condition and shall repair or make safe to the satisfaction of the Chief Inspector the surface of any land which has been rendered unsafe by prospecting or mining operations for which such prospector is responsible or has become responsible in terms of section 79.

(2) If any prospector fails to repair or make safe the surface of any land as aforesaid, he shall be guilty of an offence.

(3) In any criminal proceedings instituted under the provisions of subsection (2) 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 such proceedings shall be instituted as aforesaid except on the written authority of the Attorney-General.

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[Section 34 appears to remain in force, at least in part, because it concerns to some extent the duties of the Chief Inspector of Mines. It is reproduced in full to provide context for the portions that appear to remain operational.]

[Sections 35-39 appear to have been repealed by Act 33 of 1992, which repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...”. These sections concern transfer and abandonment of claims, removal of beacons when claims lapse, removal or disposal of minerals recovered through prospecting, and information to be provided regarding boreholes. Note that the substitution of “Chief Inspector” for “Director” by RSA Proc. R.89/1969 does not apply to these sections.]

CHAPTER III

MINING

[Sections 40-52 appear to have been repealed by Act 33 of 1992, which repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...”. These sections concern mining areas, mining titles, commencement of mining operations, conversion procedures, construction of accessory works, mining on the same land by two mine owners and disputes between mine owners over water rights. Prior to the repeal, section 43 was substituted by Act 47 of 1972. Note that the substitution of “Chief Inspector” for “Director” by RSA Proc. R.89/1969 does not apply to these sections.]

Keeping in safe condition of surface of land and working place by mine owner

53. (1) Every mine owner shall -
- (a) maintain in a safe condition any working place or the surface of any land during prospecting or mining operations;
 - (b) where necessary, immediately restore to a safe condition any working place or the surface of any land rendered dangerous or unsafe during prospecting or mining operations; and
 - (c) not abandon or cease working on any mine unless he has complied with the provisions of paragraphs (a) and (b) to the satisfaction of the Chief Inspector.
- (2) If a mine owner contravenes any provision of subsection (1) he shall be guilty of an offence.
- (3) Nothing in this section contained shall be deemed to deprive any owner of land of the right to claim compensation from any mine owner for damage done to his land.

[Section 53 appears to remain in force, at least in part, because it concerns to some extent the duties of the Chief Inspector of Mines. This section is reproduced in full to provide context for the portions that may remain operational.]

[Sections 54-58 appear to have been repealed by Act 33 of 1992, which repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...”. These sections concern subdivision, abandonment, forfeiture and transfer of mining areas. Note that the substitution of “Chief Inspector” for “Director” by RSA Proc. R.89/1969 does not apply to these sections.]

Protection of underground workings on forfeiture or abandonment of mining rights

59. (1) When a mining area, claim or grant area has been abandoned or is forfeited, the Chief Inspector may in his discretion decide whether and to what extent the underground

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timbering, masonry work, safety pillars, ladderways, or anything provided for the protection of the underground workings or the surface of such mining area, claim or grant area may be removed.

(2) Any person removing the fixtures or materials referred to in subsection (1) contrary to the decision of the Chief Inspector or before such decision has been given shall be guilty of an offence.

[Section 59 appears to remain in force because it concerns certain duties of the Chief Inspector of Mines.]

CHAPTER IV

SPECIAL GRANTS OF PROSPECTING AND MINING RIGHTS, PERMITS TO PROSPECT OR MINE BEYOND THE POLICE ZONE, IN GAME PARKS, THE REHOBOTH GEBIET AND ON LAND RESERVED OR SET APART UNDER ANY LAW FOR THE SOLE USE AND OCCUPATION BY COLOURED PERSONS

[Sections 60-64 appear to have been repealed by Act 33 of 1992, which repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...”. These sections concern the special grants described in the title of the Chapter as well as mining below the high water mark. Note that the substitution of “Chief Inspector” for “Director” by RSA Proc. R.89/1969 does not apply to these sections.]

CHAPTER V

RESPECTIVE RIGHTS OF PROSPECTOR AND HOLDER OR OWNER OF A CLAIM OR MINING AREA OR GRANT AREA AND OWNER OF PRIVATE LAND

[Sections 65-72 appear to have been repealed by Act 33 of 1992, which repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...”. These sections concern prospecting and mining on private land, including the manner of addressing disputes, provisions about dogs, compulsory purchase of farm land by mine owners, payment to private land owners out of mining fees, and private landowner’s right of recourse to the courts. Prior to the repeal, section 71 was amended by Act 26 of 1980. Note that the substitution of “Chief Inspector” for “Director” by RSA Proc. R.89/1969 does not apply to these sections.]

CHAPTER VI

SURVEY AND REGISTRATION OF MINING AREAS

[Sections 73-78 appear to have been repealed by Act 33 of 1992, which repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...”. These sections concern surveying of mining areas, beacons, deeds of conversion in respect of unsurveyed mining areas and duties of the Registrar of Mining Titles. Prior to the repeal, section 77 was amended by RSA Proc. R.89/1969. Note that the substitution of “Chief Inspector” for “Director” by RSA Proc. R.89/1969 does not apply to these sections.]

CHAPTER VII

GENERAL AND MISCELLANEOUS

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[Sections 79-81 appear to have been repealed by Act 33 of 1992, which repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...”. These sections concern the transfer of mining rights and obligations, offences relating to boundaries and beacons and penalties for damage to mining property. They make no mention of the Chief Inspector of Mines or inspectors of mines.]

Penalties for false reports and returns

82. (1) (a) Any person who makes any declaration or official statement, or supplies any official information or renders any official return required to be made under this ordinance, knowing it to be untrue, shall be guilty of an offence.

(b) In addition, the court trying such person may upon his conviction order the rights of such person to any mine or claim to be forfeited if he be the owner or holder thereof, as the case may be and the Minister may prohibit the issue of a prospecting licence to such person for such period as the Minister may deem fit.

(2) Any person who in terms of this ordinance renders 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 nor on the spot or in the soil where they were declared to have been found or recovered, or well knowing that the said precious or base minerals were not found or recovered on or near the place where they were declared to have been found or recovered, shall be guilty of an offence and liable on conviction to all the penalties which may by law be inflicted upon any person who commits the crime of fraud.

[Section 82 appears to remain in force at least in part, because false statements could be made to the Chief Inspector of Mines or an inspector of mines in relation to the carrying out of their duties.]

83.

[Section 83 appears to have been repealed by Act 33 of 1992, which repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...”. This section makes salting of a claim an offence.]

Establishment of identity

84. 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 Chief Inspector, an inspector, the mining commissioner, claim inspector or any member of the South African Police, or an owner of private land or a lessee of such land in connection with prospecting or mining operations on such land and every person who fails to produce such licence, permit, certificate or document within twenty-four hours after having been requested to do so, shall be guilty of an offence.

[Section 84 appears to remain in force, at least in part, because it concern to some extent the duties of the Chief Inspector of Mines and an inspector. It is reproduced in full to provide context for the portions that appear to remain operational.]

Powers of entry on land

85. (1) The Chief Inspector, the Assistant Director of Geological Survey, the mining commissioner and every inspector of mines or claim inspector or any officer of the Department or Geological Survey Branch or any employee of such Department or Branch, duly authorised in

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writing by any of such officers or by the Minister, may enter upon any land for the purpose of carrying out any powers or duties conferred upon him by this ordinance or any other law.

(2) Any person entering upon any land under this section shall be entitled to take with him thereon such persons, vehicles, appliances, instruments and materials as may be necessary for the purpose of carrying out his powers and duties, and shall further be entitled to the use on the land so entered of such water and dead wood as may be necessary for himself and the persons with him.

(3) Any person who prevents any entry authorised by this section or wilfully obstructs or hinders any person so authorised in the exercise of his powers or the performance of his duties under this ordinance or any other law, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rand.

[Section 85 appears to remain in force, at least in part, because it concern to some extent the duties of the Chief Inspector of Mines and an inspector. It is reproduced in full to provide context for the portions that appear to remain operational.]

[Sections 86-92 appear to have been repealed by Act 33 of 1992, which repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...”. These section relate to expropriation, the sale of precious metals, the export of minerals, debts to the Department, the payment of contract wages, sequestration and similar proceedings, and exemption from fees during military service. Prior to this repeal, section 90 was amended by RSA Proc. R.89/1969. Note that the substitution of “Chief Inspector” for “Director” by RSA Proc. R.89/1969 does not apply to these sections.]

93.

[Section 93 is explicitly repealed by Act 6 of 1992, which also repeals the prior amendment to section 93 made by Act 47 of 1972.]

[Section 94 appears to have been repealed by Act 33 of 1992, which repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines...”. It concerns situation where the Ordinance provides for the settlement of disputes by arbitration, but arbitration is not referred to in connection with disputes involving the Chief Inspector of Mines or an inspector of mines.]

Minister’s power to make regulations

95. (1) The State President may make regulations not inconsistent with this ordinance in regard to all or any of the following matters, namely -

[introductory phrase of subsection (1) amended by RSA Proc. R.89/1969]

- (a) the pegging of claims;
- (b) the size and shape of beacons of mining areas, the manner of marking of such beacons for identification, and the manner of their erection and any matter appertaining to such beacons;
- (c) the form of any application, authority, certificate, consent, licence, notice, order, process, register, summons or subpoena to be made, given, issued or kept under this ordinance and any other form required in carrying out the provisions of this ordinance and any regulations made thereunder;

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- (d) prospecting and mining in Native reserves after consultation with the Minister of Bantu Administration and Development of the Republic of South Africa;

[The global substitution of “Minister” for “Administration” directed by RSA Proc. R.89/1969 applies to section 95 generally, but would produce a nonsensical result if applied here.]

- (e) the form of any sketch plan required to be submitted under this ordinance;
- (f) 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 land, and the conditions under which any such buildings, roads, railways, structures and enclosures may be undermined;
- (g) the making and keeping of mine plans and the depositing of copies with the Department;
- (h) the making of statistical and other reports relating to mines, works and machinery;
- (i) the duties and responsibilities of owners, managers, overseers, and other persons engaged in or about mines, works and machinery;
- (j) the storage, receipt, distribution, transport and use of explosives in mines;
- (k) 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 manner of securing the attendance of witnesses thereat;
- (l) the provision of ambulances and medical aid in case of accident;
- (m) the conditions upon which machinery may be erected or used;
- (n) the fees which shall be payable for any inspection under this ordinance;
- (o) the 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;
- (p) the safety and health of persons employed in or about mines and works, and generally of persons, property and public traffic;
- (pA) the prevention and combating of pollution of the air, land or sea which arises or may possibly arise in the course of the operations involved in prospecting or mining for any mineral or after such operations have ceased;

[paragraph (pA) inserted by Act 62 of 1973]

- (pB) the making safe of undermined ground and of dangerous slimes dams, waste dumps, ash dumps, shafts, holes, trenches or excavations of whatever nature made in the course of prospecting or mining operations, the imposition of monetary and other obligations in connection with such safe-making on persons who are or were responsible for the undermining of such ground or the making of such slimes dams, waste dumps, ash dumps, shafts, holes, trenches or excavations or for the dangerous condition thereof, or who will benefit from such safe-making, and the assumption by the State of responsibility or co-responsibility for such safe-making in particular cases;

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[paragraph (pB) inserted by Act 62 of 1973]

- (q) the procedure to be followed in connection with trials by the Chief Inspector or an inspector under this ordinance;
- (r) the grant, cancellation and suspension of certificates of competency to -
 - (i) mine managers;
 - (ii) mine overseers;
 - (iii) mine surveyors;
 - (iv) mechanical engineers;
 - (v) engine drivers;
 - (vi) miners entitled to blast;
 - (vii) such other classes of persons employed in, at or about mines, works and machinery as the Minister may from time to time deem it expedient to require to hold certificates of competency;
- (s) the fees to be payable by persons applying for any of the certificates mentioned in paragraph (r) or on their admission to an examination for any such certificate;
- (t) the limiting of the days and hours of work upon any mine or works;
- (u) 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;
- (v) in relation to any specific mineral or any specific category of a mineral -
 - (i) the prohibiting or regulating or restricting of its export from the Territory; or
 - (ii) the prohibiting of its disposal or use for any defined purpose or in any defined manner, or its disposal or use for any other purpose or in any other manner than may be defined; or
 - (iii) in general the restricting or regulating of its disposal or use; and
- (w) generally for ensuring the proper working and management of all mines, works and machinery and as to all matters which he considers it necessary or expedient to prescribe for the better carrying out of 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 7; 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 7.

[Section 95 may be affected in part by Act 33 of 1992, which repeals “the whole, except in so far as it relates to the appointment and powers, duties and functions of the Chief Inspector of Mines and an inspector of mines, and the safety and health of persons employed in or in connection with mines and works”, and in part by the Labour Act 6 of 1992 which repeals “the whole, in so far as it relates to the health and safety of workers employed in or in connection with mining and

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prospecting operations”. However, because any of the regulations issued in terms of this section *could* involve powers, duties and functions of the Chief Inspector of Mines or an inspector of mines, the section is retained here in its entirety.]

[Sections 96-100 are explicitly repealed by Act 3 of 1972.]

Amendment of sections 40 and 41 of Ordinance 9 of 1963

101. The Land Survey Ordinance, 1963 (Ordinance 9 of 1963) is hereby amended by -

- (a) the deletion of paragraphs (a) and (e) of section 40; and
- (b) the deletion of the words “save as is otherwise provided in paragraph (e) of section forty” in section 41.

[Section 101 is retained on the theory that it is part of the general administrative provisions of the Ordinance, rather than being related to any specific topic covered by the Ordinance.]

Short title and commencement

102. This ordinance shall be called the Mines, Works and Minerals Ordinance, 1968, and shall come into operation on a date to be fixed by the Minister by proclamation in the *Gazette*.

[Section 102 is retained on the theory that it is part of the general administrative provisions of the Ordinance, rather than being related to any specific topic covered by the Ordinance. Note that the global substitution of “Minister” for “Administrator” and “Gazette” for “Official Gazette” which applied to this section by virtue of RSA Proc. R.89/1969 took place *after* the Ordinance had already been brought into force. Note also that RSA Proc. R.89/1969 contained the following transitional provisions in item 9 of Schedule 1:

“(1) Any proclamation, regulation, notice, approval, authority, licence, permit, certificate or document issued, made, given or granted under the ordinance, and any other action taken thereunder, prior to the commencement of this Schedule, or which in terms of section 3 of the ordinance is deemed to have been so issued, made, given, granted or taken, shall be deemed to have been issued, made, given, granted or taken under the ordinance as hereby amended.

(2) Any appointment under this ordinance or designation of an officer or employee thereunder made prior to the commencement of this Schedule, shall be deemed to have been made under the ordinance as hereby amended.

(3) The person who immediately prior to the commencement of this Schedule holds the office of Director of Mines under the ordinance shall be deemed to have been appointed as Chief Inspector of Mines under the ordinance as hereby amended.”]