

MINERALS AND MINING LAW, 1986

IN pursuance of the Provisional National Defence Council (Establishment) Proclamation 1981, this Law is hereby made :

PART I – Ownership of Minerals and Government Right of Pre-Emption

1. Every mineral in its natural state in, under or upon any land in Ghana, rivers, streams, water-courses throughout Ghana the exclusive economic zone and any area covered by territorial waters or continental shelf is the property of the Republic of Ghana and shall be vested in the Provisional National Defence Council for and on behalf of the people of Ghana.

2. Where any land is required to secure the development or utilisation of a mineral resource the Council may acquire the land or authorise its occupation and use under any applicable enactment for the time being in force.

3. (1) Except as otherwise provided in this Law or any other enactment, no person shall export, sell or otherwise dispose of any mineral unless he holds a licence granted by the Secretary for that purpose.

(2) An application for the licence shall be made in writing to the Secretary in accordance with such regulations as may be prescribed.

(3) The Secretary may issue the licence in such form and on such conditions as he may determine.

(4) A licence issued under subsection (3) of this section shall not be transferable.

4. (1) The Government shall have the right of pre-emption of all minerals raised, won or obtained in Ghana and from any area covered by territorial waters, exclusive economic zone, or the continental shelf and of products derived from the refining or treatment of such minerals.

(2) The Government may, by an Executive Instrument, appoint any statutory corporation to act as its agent for the exercise of the right of pre-emption conferred by subsection (1) of this section.

5. (1) The price to be paid for minerals or products taken in the exercise of the right of pre-emption under section 4 of this Law shall –

- (a) where it has been provided for in a written agreement, be the price specified there in; and
- (b) where it has not been provided for in a written agreement, be the publicly quoted market rate prevailing for the minerals or products as delivered at the mine or plant where the right of pre-emption in respect of the minerals or products was exercised.

(2) Where there is no such agreement or prevailing market rate, the price shall be decided upon by an arbitration appointed under the Arbitration Act, 1961 (Act 38).

6. (1) The right of pre-emption under section 4 of this Law shall extend to all minerals or products sold to other customers by the person against whom such right is exercised, but which have not left the boundaries, territorial waters or air space of Ghana.

(2) The price to be paid for such minerals or products shall be the rate provided for in section 5 of this Law or the actual contract price at which such minerals or products were sold, whichever is less, together with –

- (a)** the actual cost of transportation from the mine or plant to the port, railway station or locality to which the minerals or products were taken in the exercise of the right of pre-emption;
- (b)** any actual penalty or damage which the person against whom the right of pre-emption is exercised may prove that he has suffered by reason of any cancellation or alteration of sea, rail, road or air transportation or of charter of vessels or planes for the transportation of the minerals or products; and
- (c)** any actual cost of insurance of the minerals or products.

(3) Any penalty or cost of damage payable by virtue of paragraph (b) of subsection (2) of this section, shall be paid only in respect of a charter or freight agreement entered into for a particular voyage or dispatch by sea, air, rail or road and not in respect of a general charter or freight agreement for any prospective voyage or dispatch.

7. (1) Any person who obstructs the Government or its agent from exercising its right of pre-emption in respect of any minerals or products under this Law commits an offence and shall on summary conviction be liable to a fine not exceeding ø500,000.00 or to imprisonment for a term not exceeding two years or both.

(2) Where any person is convicted of an offence under subsection (1) of this section, he shall in addition to any other punishment that the Court may impose, be liable to pay an amount equivalent to twice the value of the minerals or products and to the cancellation by the Secretary of any mineral right held by him under this Law.

8. (1) Where a mineral right is for reconnaissance, prospecting of mining of minerals the Government shall acquire a ten per cent interest in the rights and obligations of such mineral operations in respect of which no financial contribution shall be paid by Government.

(2) The Government shall have the option, to acquire on such terms as shall be agreed upon between the, holder of a mining lease and the Government a further twenty per cent interest in the rights and obligations in any mining operations where any mineral is discovered in commercial quantities except that where the operation is for the mining *of* salt, the Government shall have the option to acquire a further forty-five per cent interest in the salt operations.

(3) Where the parties fail to agree on. the terms of the acquisition by Government of any interest in any mineral operations under this section, the matter shall be referred to arbitration in accordance with section 31 of this Law.

(4) The provisions in subsections (1) and (2) of this section shall not exclude the Government from further participation in any mineral operations and. any further participation shall be under such terms as the parties may agree.

PART II – ADMINISTRATION

9. The Secretary shall in consultation with the Minerals Commission appoint an officer to be known as the Chief Inspector of Mines who shall exercise the powers and perform the functions specified in relation to him under this Law, and who shall, under the direction of the Secretary, generally supervise the proper carrying out of the provisions of this Law.

10. (1) The Chief Inspector of Mines or an officer authorised by him may at all reasonable times enter any reconnaissance, prospecting or mining area or any premises in-such area other than dwelling house, for any of the following purposes –

- (a)** to break up the surface of land in such area for the purpose of ascertaining the rocks or minerals in or under the land;
- (b)** to take samples or specimen of rocks, ore or concentrates, tailings or minerals situated in an area under a mineral right for inspection or assay;
- (c)** to inspect the explosives magazine upon any mine and direct in what manner any explosives shall be stored;
- (d)** to inspect the area of mineral operations to ascertain whether any nuisance is created in the area by the mineral operations;
- (e)** to examine documents and records required to be kept under this Law, any regulations made there under; or
- (f)** to enter into or upon any land through which it may be necessary to pass for the purpose of any survey; or
- (g)** to give directions and effect all acts that are incidental or conducive to the attainment of his functions under this Law.

(2) The Chief Inspector of Mines or an officer authorised by him shall have power to hold an inquiry whenever a fire or an occurrence resulting in serious injury happens on any land subject to a mineral right.

11. (1) The holder of a mineral right shall at all times have a responsible manager in charge of his mineral operations.

(2) The holder of a mineral right shall notify the Chief Inspector of Mines in writing of every appointment of a manager and of every change of a manager.

12. Any person who, without reasonable excuse hinders or obstructs the Chief Inspector of Mines or an officer authorised by him from carrying out any of his functions under this Law commits an offence and shall be liable on summary conviction to a fine not exceeding ₦100,000.00 or to imprisonment for a term not exceeding twelve months or to both.

13. The Chief Inspector of Mines or an officer authorised by him shall not be liable for any thing done or omitted to be done in good faith in the exercise of his powers or functions under this Law the terms and conditions of any mineral right and take copies of such documents.

PART III – MINERAL RIGHTS AND OTHER LICENCES

14. (1) Notwithstanding any right or title which any person may have to any land in, upon or under which minerals are situated, no person shall conduct reconnaissance of, prospect for or mine any mineral in Ghana unless he has been granted a mineral right by the Secretary in the form of a licence or lease as the case may be.

(2) The Secretary shall on behalf of the Republic have power to negotiate, grant, revoke, suspend or renew any mineral right under this Law subject to a power of disallowance exercisable by the Council within thirty days of such grant, revocation, suspension or renewals. The powers of the Secretary under this subsection shall be exercised on the advice of the Minerals Commission.

15. Except for such persons as may be exempted by the Secretary on the advice of the Minerals Commission or except as otherwise provided in this Law, no person shall qualify for the grant of a mineral right unless it is a body corporate or an unincorporated body of persons registered or established in Ghana under an enactment for the time being in force.

16. (1) Subject to the provisions of this Law, a mineral right shall be granted by the Secretary on such terms and conditions as the Secretary may on the advice of the Minerals Commission determine.

(2) Without prejudice to subsection (1) of this section every mineral right shall specify the shape, orientation and dimension, including- diagram and plan of the area to which it relates and shall have appended thereto a programme of mineral operations approved by the Secretary.

17. (1) All applications for the grant, revocation, suspension or renewal of a mineral right shall be submitted to the Secretary in accordance with such regulations as may be prescribed.

(2) All applications for the grant or renewal of a mineral right shall have appended there to a statement giving –

- (a)** particulars of the financial and technical resources available to the applicant for the mineral operations;
- (b)** an estimate of the amount of money proposed to be spent on the operations;
- (c)** particulars of the programme of proposed mineral operations; and
- (d)** particulars of the applicant's proposals with respect to the employment and training of Ghanaians.

(3) Copies of every application shall at the time of submission of the application to the Secretary be forwarded by the applicant to the Minerals Commission, the Lands Commission, the Forestry Commission in cases where forestry resources are to be affected by the mineral operations envisaged, and the Public Agreements Board.

18. (1) The Secretary shall notify the applicant in writing of his decision on the application, and where the application is approved, the notification of the approval shall include the terms and conditions on which the mineral right is to be granted.

(2) Where an application is approved and the applicant is notified under subsection (1) of this section, he shall within sixty days of the date of the notification or within such further period as the Secretary may allow, notify the Secretary in writing of his acceptance of the grant.

(3) The Secretary shall upon receipt of the notification of acceptance under subsection (2) of this section, grant a mineral right to the applicant.

(4) Where an applicant who has been notified under this section fails to notify the Secretary of his acceptance in accordance with subsection (2) of this section, the application shall lapse.

(5) A mineral right granted by the Secretary under this section shall be deemed a requisite and sufficient authority over the land in respect of which the right is granted.

19. No mineral right or any interest therein shall be transferred, assigned or dealt with in any other manner without the prior approval in writing of the Secretary.

20. (1) The holder of a mineral right shall not remove or destroy any mineral obtained by him in the course of his mineral operations without the permission in writing of the Chief Inspector of Mines.

(2) Any permission granted under subsection (1) of this section shall be on such conditions as the Chief Inspector of Mines may determine.

(3) Notwithstanding the provision in subsection (1) of this section, cores and samples may be retained by a holder for the purpose of assay, identification or analysis of the mineral.

(4) Where any core or sample is retained under subsection (3) of this section, the holder shall maintain in respect of the core or sample such particulars as the Chief Inspector of Mines may, in consultation with the Director of Geological Survey determine sufficient for the identification of the core or sample and the location and geological horizon of its origin.

21. (1) No person shall obtain, divert, impound or convey water from any river, stream or watercourse for mining or other industrial purposes without a licence granted by the Secretary for that purpose.

(2) An application for licence under this section shall be made in writing to the Secretary in accordance with such regulations as may be prescribed.

(3) A licence for the obtaining, diverting, impounding or conveying of water from any river, stream or watercourse for mining or other industrial purposes shall be issued by the Secretary in such form and on such conditions as he may determine.

(4) A licence issued under subsection (3) of this section shall not be transferred without the prior approval in writing of the Secretary.

PART IV – TAXES, INCENTIVES AND BENEFITS

22. (1) A holder of a mining lease shall be liable to pay to the Republic royalty in respect of minerals obtained by him from his mining operations.

(2) The Secretary shall on the advice of the Minerals Commission determine the rate of royalty, payable under this section by the holder of a mining lease provided that the rate of Royalty payable shall not be more than 12 per cent or less than 3 per cent of the total revenue of minerals obtained by the holder from his mining operations.

(3) Notwithstanding the provisions in subsections (1) and (2), the Secretary may in consultation, with the Secretary for Finance and Economic Planning and on the advice of the Minerals Commission defer wholly or in part the royalty payable on any mineral for such period as he may determine where he is satisfied that it is in the national interest and in the interest of the production of such mineral so to do.

(4) Samples of minerals required for assay, analysis or other examination may be exempted from liability for royalties at the discretion of the Secretary.

23. (1) A holder of a mining lease shall pay income tax at the Payment rate of forty-five per cent (45 %).

(2) The holder of a mining lease shall be liable to pay Additional Profit Tax as provided under the Additional Profit Tax Law, 1985 (P.N.D.C.L. 122).

24. There shall be payable by every holder of a mineral right such Rental annual rental charges as may be prescribed by regulations in respect charges. of the area to which his license or lease relates.

25. (1) Royalties, fees, rents or other payments which fall due Recovery in respect of any mineral right or otherwise under the provisions of debts. this Law shall be a debt due to the Republic and recoverable in the court.

(2) The Secretary may, from time to time make such arrangements as appear appropriate to ensure that the holders of mineral rights comply with the provisions of this Law, and, without prejudice to the generality of the foregoing may accept guarantees, whether from shareholders or otherwise, in respect of such compliance.

26. The holder of a mining lease shall where qualified be entitled to the following capital allowances –

- (a)** depreciation or capital allowance of 75 per cent of the capital expenditure incurred in the year of investment and 50 per cent in subsequent years;
- (b)** losses in each financial year not exceeding the value of capital allowances for the year may be carried forward;
- (c)** investment allowance of five per cent;
- (d)** capitalisation of all expenditure on reconnaissance and prospecting approved by the Secretary on the advice of the Minerals Commission where the holder starts development of a commercial find.

27. The holder of a mineral right shall be granted the following fits as appropriate –

- (a)** exemption from payment of customs import duties in respect of plant, machinery, equipment and accessories imported specifically and exclusively for the commencement of the mineral operations and may after establishment receive additional relief from payment of customs and excise duties as provided in the Mining List;
- (b)** exemption of staff from payment of income tax relating to furnished accommodation at the mine site;
- (c)** immigration quota in respect of the approved number of expatriate personnel;
- (d)** personal remittance quota for expatriate personnel free from any tax imposed by any enactment for the transfer of external currency out of Ghana;
- (e)** exemption from the selective alien employment tax under the Selective Alien Employment Tax Decree, 1973 (N.R.C.D. 201).

28. The Secretary for Finance and Economic Planning in consultation with the Secretary may defer wholly or in part the payment of registration and stamp duties for a period not exceeding five years where the Secretary is satisfied that the circumstances prevailing at the time of the application for the benefit justify such deferment.

29. (1) Where the holder of a mining lease earns foreign exchange from his mining operations he may be permitted by the Bank of Ghana to retain in an external account a portion of his foreign exchange earnings for use in acquiring spare parts and other inputs required for the mining operations which would otherwise not be readily available without the use of such earnings.

(2) Where the net earnings of a holder of a mining lease from his mining operations is in foreign exchange he shall be permitted by the Secretary for Finance and Economic Planning, in consultation with the Secretary acting on the advice of the Minerals Commission, to retain in an external account, not less than 25 per cent of his foreign exchange earnings for acquiring machinery and equipment, spare parts and raw materials as well as for debt servicing, dividend payment and remittance in respect of quotas for expatriate personnel.

(3) An external account operated by virtue of subsection (2) of this section shall be held in trust on behalf of the holder by a trustee appointed by the holder with the consent of the Bank of Ghana.

30. Subject to the provision of this Law a holder of a mining lease shall be guaranteed free transferability through the Bank of Ghana or in the case of a net foreign exchange earning holder through the external account opened with the permission of the Secretary for Finance and Economic Planning in convertible currency of—

- (a)** dividends or net profits attributable to the investments of such convertible currency;
- (b)** payments in respect of loan servicing where a foreign loan has been obtained by the holder for his mining operations;
- (c)** the remittance of foreign capital in the event of sale or liquidation of the mining operations or any interest therein attributable to foreign investment.

31. (1) Where any dispute arises between a holder of a mineral right and the Government in respect of any matter under Part IV of this Law all efforts shall be made through mutual discussion to reach an amicable settlement.

(2) Where any dispute arises between a holder who is a citizen of *Ghana* and the Government in respect of any matter under Part IV of this Law which is not amicably settled as provided in subsection (1) of this Section, the dispute may be submitted to arbitration for settlement in accordance with the provisions of the Arbitration Act, 1961 (Act 38).

(3) Where any dispute arises between a holder who is not a citizen of Ghana and the Government in respect of any matter under Part IV of this Law which is not amicably settled as provided under subsection (1) of this Section the dispute may be submitted to arbitration –

- (a)** in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade; Law; or
- (b)** within the framework of any bilateral or multilateral agreement on investment protection to which the Government and the country of which the holder is a national are parties; or
- (c)** in accordance with any other international machinery for the settlement of investment disputes agreed to by the parties.

(4) The Secretary on the advice of the Minerals Commission may specify the particular mode of arbitration to be resorted to in the case of a dispute relating to any matter under Part IV of this Law and such specification shall constitute the consent of the Government or the Agency thereof and of the holder to submit to that forum.

PART V – RECONNAISSANCE AND PROSPECTING

32. (1) No person shall search for any mineral in Ghana by reconnaissance unless he is granted a mineral right in the form of reconnaissance licence by the Secretary.

(2) The Secretary may on application duly made and subject to the provisions of this Law grant a reconnaissance licence.

(3) A reconnaissance licence may be granted for a period not exceeding twelve months.

(4) A reconnaissance licence may in respect of any mineral to which the licence relates confer on the holder thereof an exclusive right to carry on reconnaissance for a specified mineral in the reconnaissance area.

33. (1) No reconnaissance licence shall be granted in respect of an area in or which constitutes –

- (a)** a prospecting area where another person holds in respect of that area a prospecting licence or a restricted prospecting licence in respect of a mineral to which the reconnaissance licence, if granted, would relate;
- (b)** a mining area where another person holds in respect of that area a mining lease in a mineral to which the respect of reconnaissance licence, if granted, would relate;
- (c)** a restricted mining area where another person holds in respect of that area a mining lease in respect of a mineral to which the reconnaissance licence, if granted, would relate.

(2) Where an area is subject to ‘a reconnaissance licence which confers on the holder thereof an exclusive right to carry on reconnaissance over that area, for a specified mineral, no other reconnaissance licence shall be granted over that area in respect of the mineral to which such exclusive right relates.

(3) Where an area to which a reconnaissance licence relates becomes a *mining* area or part of a mining area the reconnaissance licence shall cease to have effect in relation to such mining area.

34. (1) Subject to this Law, any regulations made thereunder and the conditions that may be stated in the licence, a reconnaissance licence granted under this Law shall confer on the holder of the licence the right to carry on reconnaissance in the reconnaissance area.

(2) For the purposes of exercising the right conferred under subsection (1) of this section, the holder of a reconnaissance licence may enter the reconnaissance area and erect camps or temporary buildings including installations in any waters which form part of the reconnaissance area.

(3) The holder of reconnaissance licence shall not engage in any drilling, excavation or other underground operations, except where such operations are authorized by the licence granted to him.

35. (1) The holder of a reconnaissance licence may, not later than three months before the expiration of the licence, apply for a renewal of the licence in respect of all or part of the reconnaissance area.

(2) An application made under subsection (1) of this section shall be in such form as the Secretary may prescribe.

(3) Where an application for the renewal of a reconnaissance licence is made under this section, the Secretary may, if he is satisfied that it is in the public interest to do so, renew the licence with or without variations of any of the conditions attached to the original licence.

(4) No reconnaissance licence shall be renewed at any one time for a period exceeding twelve months.

36. (1) No person shall prospect for any mineral in Ghana unless he has been granted a prospecting licence by the Secretary.

(2) Subject to the provisions of this Law, the Secretary may on an application duly made grant a prospecting licence.

(3) Subject to subsection (5) of this section no prospecting licence shall be granted for a period exceeding three years.

(4) Except as provided in subsection (5) of this section the size of the area in respect of which a prospecting licence may be granted shall not exceed 150 square kilometers in the aggregate.

(5) The Council may in respect of any particular grant of a prospecting licence where it considers it in the national interest to exceed the limits provided in subsections (3) and (4) of this section, direct that the grant shall exceed the said limits.

(6) No prospecting licence shall be granted by the Secretary unless –

- (a) the applicant has adequate financial resources, technical competence and experience to carry on effective prospecting operations;
- (b) the proposed programme of prospecting operations is adequate;
- (c) the applicant's proposal for the employment and training of Ghanaian personnel are adequate;
- (d) the applicant is able and willing to comply with the terms and conditions applicable to the prospecting licence; and
- (e) the applicant is not in default

(7) No prospecting licence shall be granted in respect of land which constitutes a mining area.

(8) Where an area is subject to a prospecting licence, no other prospecting licence shall be granted over land in that area in respect of any mineral to which that prospecting licence relates.

(9) Where an area is subject to a reconnaissance licence which confers on the holder an exclusive right to carry on reconnaissance in that area in respect of a specified mineral, a prospecting licence shall not be granted in respect of the mineral to which such exclusive right relates to any person other than the holder of the reconnaissance licence.

37. (1) The holder of a prospecting licence may, at any time but not later than three months before the expiration of the licence, apply to the Secretary for a renewal of the licence.

(2) An application for renewal of a prospecting licence shall state the period for which the renewal is sought and shall be accompanied by such documents as the Secretary may prescribe.

(3) Upon an application duly made under subsection (1) of this section, the Secretary may subject to the provisions of this Law, grant a renewal of the licence for a period not exceeding two years.

(4) Where the holder has made an application for a renewal of the licence over part of the area covered by the prospecting licence and the licence may expire before the application is granted the Secretary may extend the period of validity of the prospecting licence for such period as he may determine pending his decision on the application.

38. (1) The Secretary may on the expiration of the period of renewal, and upon an application made in that behalf, grant a renewal of the licence for a further period not exceeding two years.

(2) Subject to the provisions of subsection (4) of this section and to any modification of the requirements contained in the prospecting licence, the prospecting area shall, in the event of the renewal of the licence in respect thereof, be reduced in size to eliminate therefrom :

- (a)** at the end of the initial period of the licence, not less than half of the initial area; and
- (b)** at the end of any period of renewal, half of the remaining area.

(3) The holder of a prospecting licence shall prior to the end of each of the periods specified in subsection (2) of this section, indicate the area or areas to be shed off from the prospecting area and, in default the Secretary shall determine the area to be shed off.

(4) Where a person holds two or more prospecting licences for the same mineral or minerals, the Secretary may, for the purposes of subsection (2) of this section consider the area covered by these licences to be one area.

39. (1) Subject to subsections (2) and (3) of this section, the Secretary shall not renew a prospecting licence if,

- (a)** the applicant is in default;
- (b)** the proposed programme of prospecting operations to be carried out during the period of renewal of the licence is inadequate.

(2) No application for the renewal of a prospecting licence shall be rejected on the ground that the applicant is in default unless the Secretary has given the applicant notice to remedy the default and the applicant has failed to do so within such reasonable period as may be specified in the notice.

(3) No application for the renewal of a prospecting licence shall be rejected on the ground that the proposed programme of operations is inadequate unless the applicant has been given an opportunity to make appropriate amendments to the programme and he has, within such reasonable period as the Secretary may permit, failed to do so.

40. (1) Where in the course of exercising his right under a prospecting licence, the holder discovers any mineral not included in his licence, he may apply to the Secretary for an amendment of his prospecting licence to include that mineral.

(2) An application for an amendment of a prospecting licence under subsection (1) of this section shall

- (a)** specify the mineral discovered;
- (b)** state particulars of the situation and the circumstances of the discovery; and
- (c)** have appended thereto a proposed programme of prospecting operations in respect of that mineral.

(3) Subject to the provisions of subsection (4) of this section, the Secretary may permit the amendment of the prospecting licence to include the mineral discovered.

(4) No amendment of a prospecting licence shall be permitted under this section where a person other than the applicant holds a reconnaissance licence in respect of the area with the right to reconnoitre for the mineral discovered.

41. (1) Subject to the provisions of this Law, the holder of a prospecting licence may in the exercise of his rights under the licence, enter upon any land to which the licence relates –

- (a)** to prospect for the mineral to which the licence relates;
- (b)** to make bore holes and such excavations as may be necessary;
- (c)** to erect camps and put up temporary buildings necessary for prospecting operations.

42. (1) The holder of a prospecting licence shall –

- (a)** commence prospecting operations within three months from the date of the issue of the licence, or at such time as the Secretary may specify;
- (b)** demarcate and keep demarcated the prospecting. Area in the prescribed manner;
- (c)** carry on prospecting operations in accordance with the programme of prospecting operations;
- (d)** notify the Secretary through the Chief Inspector of Mines of any ‘discovery of the mineral to which his prospecting licence relates within a period of thirty days from the date of discovery;
- (e)** notify the Secretary through the Chief Inspector of Mines of the discovery of any mineral deposit which is of possible economic value within a period of thirty days from the date of discovery;
- (f)** fill back or otherwise make safe to the satisfaction of the Chief Inspector of Mines any borehole or excavation made during the course of prospecting operations;
- (g)** unless the Chief Inspector of Mines otherwise stipulates, remove, within sixty days from the date of the expiration of the prospecting licence any camp, temporary buildings or machinery erected or installed by him, and repair or otherwise make good any damage to the surface of the ground occasioned by such removal, to the satisfaction of the Chief Inspector of Mines;
- (h)** subject to the conditions of the prospecting licence, expend on prospecting not less than such amount as may be specified in the prospecting licence;
- (i)** submit to such persons at such intervals as may be prescribed, reports or other documents containing such information and supported in such manner as may be prescribed.

(2) Any monies required to be spent under paragraph (h) of subsection (1) of this section and which are not so spent shall be a debt due to the Republic and recoverable from the holder in the Court.

(3) The holder of a prospecting licence shall keep, to the satisfaction of the Secretary, full and accurate records of the prospecting operations showing such particulars as the Secretary may prescribe.

(4) The holder of a prospecting licence shall at least once in every four months furnish the Secretary with copies of the records kept by him under this section.

(5) Records furnished to the Secretary under subsection (4) of this section shall, as long as the holder or his successor-in-title retains the prospecting licence over the area to which the records relate be treated as confidential and shall not be divulged without the consent of the holder.

(6) Nothing in this section shall prohibit the disclosure of any confidential information –

- (a)** where such disclosure is necessary for the purposes of this Law or any other enactment;
- (b)** for the purposes of a prosecution-under this Law;
- (c)** to any person being a consultant to or an officer employed by the Council who is authorised by the Secretary to receive such confidential information.

43. (1) The holder of a prospecting licence shall notify the Secretary of any amendment he wishes to make to his programme of prospecting operations and such amendment, unless rejected by the Secretary within two months, after he has been notified have effect after that period.

(2) The Secretary may, upon an application made to him by the holder of a prospecting licence, limit or suspend the obligation of the holder to carry on prospecting operations under such terms and conditions as he may on the advice of the Minerals Commission determine.

PART VI – Mining Lease

44. (1) Where a holder of prospecting licence has established that a mineral to which his licence relates exists in commercial quantities within the prospecting area he shall notify the Secretary of this in writing and may apply to the Secretary in writing for a mining lease in respect of the land which constitutes his prospecting area.

(2) An application under subsection (1) of this section shall be made not later than three months from the date of the notice, or within such further period as the Secretary may determine.

(3) Subject to the provisions of this Law, upon an application duly made under subsection (1) of this section the Secretary shall grant the applicant a mining lease on such conditions as he may determine.

45. (1) Where a person other than the holder of a prospecting licence establishes to the satisfaction of the Secretary that mineral in commercial quantities exists in any land, the person may apply for a mining lease over that land, notwithstanding that such person does not hold a prospecting licence over that land.

(2) Upon an application duly made under subsection (1) of this section the Secretary may grant the applicant a mining lease on such conditions as he may on the advice of the Minerals Commission determine.

(3) No mining lease shall be granted under this section in respect of any land which is held by another person –

- (a)** under a mining lease or a restricted mining lease;
- (b)** under a prospecting licence or a restricted prospecting licence;
- (c)** under a reconnaissance licence which gives the holder exclusive rights in respect of a specified mineral and the application for a mining lease has been, made in respect of that mineral.

46. (1) Except as provided in subsection (3) of this section, a mining lease shall be valid for a period not exceeding thirty years.

(2) Except as provided in subsection (3) of this section the size of the area in respect of which a mining lease may be granted shall not exceed 50 square kilometers for any grant or in the aggregate 150 square kilometers.

(3) The Council may in respect of any particular grant of a mining lease where it considers that it is in the national interest to exceed the limits provided in subsections (1) and (2) of this section, direct that, the grant shall exceed the said limits.

(4) A mining lease shall not be granted to an applicant unless –

- (a)** the proposed programme of mining operations submitted by him ensures the most efficient, beneficial and timely use of the mineral resources concerned;
- (b)** the proposed programme of mining operations submitted by him takes proper account of environmental safety factors;
- (c)** the area of land over which the mining lease is sought is not in excess of the area reasonably required to carry out the proposed programme of mining operations;
- (d)** the applicant is not in default.

(5) The Secretary shall not reject an application for a mining lease made under this Law –

- (a)** on the grounds specified in paragraphs (a), (b), (c) of subsection (4) of this section unless the applicant has been given an opportunity to make appropriate amendments to his application or to his proposed programme of mining operations and has within such reasonable time as the Secretary permit, failed to do so; or
- (b)** on the grounds that the applicant is in default unless he has given the applicant notice of the default and the applicant has failed within such reasonable time as may be specified in the notice to remedy the default.

47. Where any land is subject to more than one prospecting licence no mining lease shall be granted over that land to any applicant for a mining lease unless –

- (a)** the Secretary is satisfied that :
 - (i)** the rights of any other holder of a prospecting licence over that land would not be substantially prejudiced by the grant of the mining lease; or
 - (ii)** it is in the public interest that the mining lease be granted; or
- (b)** any other holder of a prospecting licence over that land consents in writing to the grant of the mining lease.

48. (1) The holder of a mining lease may apply to the Secretary for the renewal of his lease at any time not later than one year before the expiration of such lease.

(2) The Secretary may grant the renewal of a mining lease for a period not exceeding thirty years and on such conditions as he may determine.

(3) Where the holder of a mining lease has made an application for the renewal of the lease and the lease may expire before the application is granted the Secretary may extend the period of validity of the mining lease for such period as he may determine pending his decision on the application.

(4) Upon the renewal of a mining lease, the Secretary shall amend the lease accordingly and append there to the programme of mining operations to be carried out during the period of renewal.

49. The holder of a mining lease shall notify the Secretary of any amendments he intends to make to his programme of mining operations and such amendments shall, unless the Secretary rejects them within three months after being so notified, have effect after that period.

50. Subject to the provisions of this Law, any other enactment and any conditions in the mining lease, the holder of a mining lease may enter upon the land to which his mining lease relates for the following purposes –

- (a)** to take all reasonable measures or under the surface to mine the mineral to which his mining lease relates;
- (b)** to erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing, treating, smelting or refining the mineral recovered by him during the mining operations;
- (c)** to prospect within his mining area;
- (d)** to stack or dump any mineral or waste product in a manner approved by the Chief Inspector of Mines.

51. (1) Where in the course of exercising his rights under this Law the holder of a mining lease discovers any further deposits of the mineral in respect of which he holds the mining lease or any other mineral not included in the mining lease, he shall within thirty days of such discovery, notify the Secretary in writing of the discovery.

(2) The notification given to the, Secretary under subsection (1) of this section shall –

- (a)** contain particulars of the mineral discovered; and
- (b)** the site and circumstances of the discovery.

(3) The holder of a mining lease may on notifying the Secretary of the discovery of further mineral deposits or other mineral apply to the Secretary for the inclusion of the area of the further deposits or the mineral discovered in his mining lease.

(4) An application made under subsection (3) of this section shall have appended thereto the proposed programme of mining operations in respect of the further deposits or the mineral discovered.

(5) Where the Secretary is satisfied with the proposed programme of mining operations, he may approve the application on such terms and conditions as he thinks fit and shall accordingly amend the mining lease.

52. The holder of a mining lease may apply to the Secretary for the enlargement of the mining area to which the lease relates and the Secretary may, subject to the provisions of this Law, approve the application if he is satisfied that such approval is in the national interest.

53. (1) Subject to the provisions of this Law, the holder of a mining lease shall –

- (a)** commence commercial production on or before the date specified in the programme of mining operations;
- (b)** subject to subsection (2) of this section, develop and mine the mineral covered by the lease in accordance with the programme; of mining operations;
- (c)** demarcate and keep demarcated the mining area in Such manner as may be prescribed;
- (d)** submit to the Secretary through the Chief Inspector of Mines, within three months from the date specified in the programme of mining operations, a diagram of the mining area;

- (e) keep and maintain in Ghana an address which shall be registered with the Secretary, and to which all communications and notices may be addressed;
- (f) notify the Secretary as soon as he starts commercial production.

(2) The Secretary may, on an application made to him by the holder of a mining lease, limit or suspend the programme of mining operations referred to in paragraph (b) of subsection (1), of this section for such period and on such terms and conditions as he may on the advice of the Minerals Commission determine if he is satisfied that in the circumstances it is fair and reasonable to do so.

54. (1) In pursuance of a localisation policy every holder of a mining lease shall submit for the approval of the Minerals Commission a detailed programme for the recruitment and training of the Ghanaian personnel.

(2) For the purposes of subsection (1) of this section “localisation” means a training programme designed towards the eventual replacement of expatriate personnel by Ghanaian personnel.

55. The holder of a mining lease shall maintain at the address kept in accordance with paragraph (e) of subsection (1) of section 53 such documents and records as may be prescribed and shall permit an authorised officer at any reasonable time to inspect such documents and records.

56. (1) Where the Secretary considers that the holder of a mining lease is using wasteful mining or treatment practices he may notify such holder accordingly and require him to show cause, within such period as the Secretary shall specify, why he should not cease to use such practices.

(2) If, within the period specified in a. notice issued under subsection (1) of this section the holder of the mining lease fails to satisfy the Secretary that he is not using wasteful mining or treatment practices, or that the use of such practices is justified, the Secretary may order the holder to cease using such practices within such period as he may specify.

(3) Where the holder of a mining lease, after being ordered to cease using wasteful mining or treatment practices, fails to do so, the Secretary may cancel or suspend the mining lease for such period as he thinks fit.

57. (1) Where the Secretary, after taking account of the public, interest and the interests of the holders of mining leases covering neighbouring or contiguous mining areas, considers that the efficient and economic exploitation of the minerals concerned require the merger of all or part of the mining operations of such holders, he may direct the holders to effect such merger within such time and on such terms as he may specify.

(2) Before giving any directions under subsection (1) of this section, the Secretary shall afford the holders of the mining leases concerned reasonable opportunity to make representations to him in writing.

58. (1) The holder of a mining lease shall notify the Secretary -

- (a) one year in advance where he proposes to cease production from his mine;
- (b) six months in advance where he proposes to suspend production from his mine;
- (c) Three months in advance where he proposes to curtail such production; and shall, in all cases, give reasons for such cessation, suspension or curtailment.

(2) Where, for reasons beyond his control, the holder of a mining lease ceases, suspends or curtails production from a mine, he shall, within fourteen days of such cessation, suspension or curtailment, notify the Secretary of this.

(3) Upon receiving the notification under subsection (1) or (2) of this section or if he otherwise becomes aware of any cessation, suspension or curtailment of production, the Secretary shall cause the matter to be investigated and shall subject to any relevant requirement contained in the mining lease, –

- (a) give his approval for such cessation, suspension or curtailment; or
- (b) direct the holder of the mining lease to resume full production at the mine by such date as he may specify.

(4) Approval of cessation, suspension or curtailment may be given subject to such conditions as the Secretary may on the advice of the Minerals Commission determine.

59. (1) No person shall carry on in a mining area any business for which a permit or other authorisation is required under any enactment for the time being in force unless that person has obtained the consent of the Secretary to carry on such business.

(2) Subject to subsection (1) of this section no person shall erect in a mining area building or other structure for the purpose of carrying on any such business without the consent of the holder of the mining lease.

60. (1) A company which is the holder of a mining lease shall not without the prior consent in writing of the Secretary –

- (a) register the transfer of any equity share or shares in the company to *any* particular person or a nominee of such person; or
- (b) enter into an agreement, arrangement, or understanding, (whether enforceable as a legal right or not) with any particular person, if the effect of doing so would be to give to that particular person or any other person, control of the company.

(2) Upon an application duly made to him under subsection (1) of this section the Secretary shall give his consent if he considers that the public interest would not be prejudiced by the change of control of the company, otherwise he shall refuse to give his consent; and for the purpose of considering any such application the Secretary may request such information as he considers necessary to enable him determine the application.

(3) For the purposes of this section –

- (a) a person is deemed to have control of a company –
 - (i) if that person or his nominee holds or that person and his nominee hold a total of twenty per cent or more of the issued equity shares in the company;
 - (ii) if that person is entitled to appoint or prevent the appointment of half or more than half of the directors of the company; or
 - (iii) if that person, is entitled to exercise or control the exercise of the right to cast votes in respect of not less than two-fifths of the total number of votes in respect of the issued equity shares in the company;
- (b) “Equity share” or “preference share” has the meaning assigned to it under section 48 of the Companies Code, 1963 (Act 179);
- (c) the reference in paragraph (a) (iii) of subsection (3) of this section to the entitlement to control the exercise of the right to cast votes shall be read as including an entitlement to control the exercise of that right directly and includes control that is exercisable as a result of or by means of trust.

PART VII - RADIO-ACTIVE MINERALS

61. (1) The provisions of this Law relating to reconnaissance, prospecting and mining of minerals in Ghana shall, subject to the provisions contained in this Part apply to radio-active minerals with such modifications as may be necessary.

(2) Where any radio-active mineral is discovered in the course of exercising any right under this law or under any other enactment, the holder of the mineral right or such other authority shall immediately notify the Secretary, the Chief Inspector of Mines and the Director of Geological Survey of the discovery.

(3) Where any radio-active mineral is discovered on any land other than land subject to a mineral right, the owner of the land shall immediately notify the Secretary, the Chief Inspector of Mines and the Director of Geological Survey of the discovery.

An application for compensation under subsection (1) of this section shall be copied to the Secretary and the Land Valuation Board.

(3) The amount of compensation payable under subsection (1) of this section shall, subject to the approval of the Land Valuation Board, be determined by agreement between the parties concerned and if the parties are unable to reach an agreement as to the amount of compensation, the matter be referred to the Secretary who shall in consultation with the Land Valuation Board determine the compensation payable.

(...)

72. The holder of a mineral right shall in the exercise of his rights under the licence or lease have due regard to the effect of the. mineral operations on the environment and shall take such steps as may be necessary to prevent pollution of the environment as a result of such mineral operations.

**PART X –
BUILDING AND INDUSTRIAL MINERALS AND SMALL-SCALE MINERAL OPERATIONS**

73. (1) No person shall –

- (a)** search for any building or industrial mineral by reconnaissance;
- (b)** prospect for any building or industrial mineral; or
- (c)** mine any building or industrial mineral without a restricted reconnaissance licence, prospecting licence or restricted mining lease respectively granted by the Secretary.

(2) Except as provided in this Part and subject to any specific provision made in this Law in respect of building and industrial minerals, the provisions of this Law relating to mineral rights shall apply to building and industrial minerals subject to such exemptions and modifications as the Secretary may on the advice of the Minerals Commission by regulations prescribe.

74. (1) A restricted reconnaissance licence, a restricted prospecting licence and a restricted mining lease shall not be amended to include therein any mineral other than the building or industrial mineral in respect of which the licence or lease was granted.

(2) Subject to subsection (3) of section 46 a restricted mining lease shall be valid for a period not exceeding fifteen years as the secretary may on the advice of the Minerals Commission determine and may on an application made to the Secretary be renewed for further periods not exceeding fifteen years at any one time.

(3) No restricted mining lease shall be granted to any applicant unless such applicant holds a restricted prospecting licence in respect of the building or industrial mineral applied for.

75. (1) No restricted reconnaissance licence, restricted prospecting licence or restricted mining lease shall be granted to any person who is not a citizen of Ghana.

(2) The Secretary may on the advice of the Minerals Commission exempt any person from the provision of subsection (1) of this section where he is satisfied that –

- (a)** it is in the public interest that a restricted reconnaissance, a restricted prospecting licence or a restricted mining lease be granted to such person; or
- (b)** (i) the restricted reconnaissance licence, the restricted prospecting licence or restricted mining lease applied for is in respect of building or industrial minerals required for specific works; and
(ii) the applicant has given an undertaking that the minerals concerned will not be sold or otherwise disposed of for profit.

(3) The Secretary may cancel a mineral right granted under this Part where he is satisfied that the holder has entered into an arrangement with a person who is not a citizen of Ghana which arrangement has the effect of transferring to that person the benefit of such mineral right.

76. Nothing in this Law shall prevent –

- (a)** a local authority on land owned by it;
- (b)** the owner of lawful occupier of any land owned or occupied by him; or
- (c)** the holder of any mineral right on land to which the right relates, from prospecting for and mining any building or industrial minerals to be used by such owner, occupier or holder

solely for building, road making or agricultural purposes on such land, so long as the exercise of such right is not inconsistent with or detrimental to the right of any other person holding a mineral right in respect of such land.

77. (1) Where the Secretary after consultation with the Minerals Commission considers that it is in the public interest to encourage prospecting and mining of minerals in any area of land by methods not involving substantial expenditure or the use of specialised technology, he may by notice in the Gazette, designate that area for small-scale mineral operation and prescribe the mineral to be mined.

(2) Where an area has been designated for small-scale mineral operation under subsection (1) of this section the Secretary may on the advice of the Minerals Commission in respect of that area and in relation to any mineral prescribed exclude or modify by regulation any of the provisions of this Law which would otherwise apply to prospecting or mining operations in that area and for the minerals prescribed.

(3) Nothing in subsection (2) of this section shall be read or construed as authorising anything to be done –

- (a)** which has the effect of modifying or extinguishing the rights of any person holding a mineral right over a designated area or any part thereof; or
- (b)** which affects the rights of any other person except to the extent that those rights might have been affected if no exclusion or modification had been made under subsection (2) of this section.

(4) The provision in section 75 of this Law which relates to the qualification of applicants for building and industrial minerals shall apply to applicants for small-scale mineral operation.

PART XI – MISCELLANEOUS PROVISIONS

78. (1) The holder of a mineral right shall in the conduct of his mineral operations, and in the purchase, construction and installation of facilities, give preference to –

- (a)** materials and products made in Ghana;
- (b)** service agencies located in Ghana and owned by :
 - (i)** Ghanaians;
 - (ii)** companies or partnership registered under the Companies Code 1963 (Act 179) or the Incorporated Private Partnerships Act, 1962 (Act 152);
 - (iii)** public corporation, to the maximum extent possible and consistent with safety, efficiency and economy.

(2) The holder of a mineral right shall, in all phases of his operations, give preference in employment to citizens of Ghana to the maximum extent possible and consistent with safety, efficiency and economy.

79. (1) The Secretary shall maintain records of all mineral rights granted under this Law and, subject to such conditions as the Secretary may prescribe, such records shall be open to inspection by members of the public during normal official working hours and members of the public may on payment of such fees as may be prescribed be permitted to take copies of such records.

(2) The Secretary may, for the purposes of this law, in writing request any person to furnish him within the period specified in the request, such information and documents as may be specified in the request.

80. (1) Any person who –

- (a)** conducts reconnaissance, prospects for or mines minerals otherwise than in accordance with the provisions of this Law;
- (b)** in making ‘application for mineral right or renewal thereof, knowingly makes any statement which is false or misleading in any material particular;
- (c)** in any report, return or affidavit submitted in pursuance of the provisions of this Law, knowingly includes any information which is false or misleading in any material particular;
- (d)** removes or disposes of any mineral contrary to the provisions of this Law;
- (e)** carries on business in contravention of subsection (1) of section 9 or erects any building or other structure in contravention of the provisions of subsection (2) of section 59;
- (f)** pollutes the environment contrary to section 72;
- (g)** removes any building, fixed machinery or other movable property contrary to section 68;
- (h)** places or deposits, or causes to be placed or deposited any mineral in any place with the intention to mislead any other person as to the mineral possibilities of such place;
- (i)** mingles or causes to be mingled with samples or ore any substances which will enhance the value or in any way change! the nature of such ore with the intention to cheat, deceive or defraud;

- (j) being engaged in the business of milling, leaching, sampling, concentrating, reducing, assaying, transporting or dealing in ores, metals or minerals, keeps or uses any false or fraudulent scales or weights for weighing such ores, metals or minerals, or uses any false or fraudulent assay scales or weights or enriched fluxes used for ascertaining the assay value of minerals, knowing them to be false or fraudulent;
- (k) fails, neglects or refuses to comply with any direction lawfully given under this Law;
- (l) fails neglects or refuses to allow or provide all reasonable facilities and assistance to any officer exercising any power under this Law.

“mineral” means any substance; in solid or liquid form occurring naturally in or on the earth, or on or under the seabed, formed by or subject to geological process including building and industrial minerals but does not include petroleum (as defined in the Petroleum (Exploration and Production) Law, 1984 (P.N.D.C.L.84) or water;

“mineral operations” means reconnaissance, prospecting or mining of minerals;

“mineral right” means a right to reconnoitre, prospect for or mine minerals given by the Secretary, in the form of reconnaissance licence, a prospecting licence, a mining lease, a restricted reconnaissance licence, a restricted prospecting licence or a restricted mining lease;

“mining area” meant the land designated as a mining area in a mining lease;

“Mining lease” means the area which is subject to a right to mine under section 44 or 4,5 of this Law;

“mining operations” means the mining of minerals under a mining lease;

“prescribed” means prescribed by Regulations;

“a programme of mining operations” means such a programme approved on the granting of a mining lease and includes any amendment there to made in pursuance of the provisions of this Law;

“programme of prospecting operations” means such a programme approved on the granting of a prospecting licence and includes any; amendment thereto made in pursuance of the provisions of this Law;

“programme of reconnaissance operations” means such approved on the granting or renewal of a reconnaissance programme licence and includes any amendment thereto made in pursuance of this Law;

“prospect” means intentionally to search for minerals and includes operations to determine the extent economic value of any *deposit*;

“prospecting area” means the land subject to a prospecting licence;

“prospecting licence” means a right to prospect acquired under section 36;

“provided” means provided under this Law, a mining lease, or licence granted under this Law;

“radio-active minerals” means a mineral which contains by weight at least one-twentieth of one per cent (0,05 %) of uranium or thorium or any combination there of, including but not limited to the follow –

- (a) monazite sand and other ores containing thorium;
- (b) carnotite, pitchblende and other ores containing uranium;

“reconnaissance” means the search for minerals by geophysical, geochemical and photo-geological surveys or other remote sensing techniques and surface geology in connection therewith but does not, unless a licence granted under section 32 so provides, include drilling, excavation or other subsurface techniques;

“licence” means a right to conduct reconnaissance acquired under section 32;

“reconnaissance area” means the land subject to a reconnaissance licence;

“regulations” means Regulations made under section 83 of this law;

“Republic” means the Republic of Ghana;

“restricted mining area” means the land subject to a restricted mining lease;

“restricted prospecting area” means the land subject to a restricted prospecting licence;

“restricted mining lease” means a lease to mine building or industrial mineral;

“restricted prospecting licence” means a licence to prospect for budding or industrial mineral;

“restricted reconnaissance licence” means a licence to search for building or industrial mineral by reconnaissance;

“Secretary” means the Provisional National Defence Council Secretary for Lands and Natural Resources;

“State” means the Government of the Republic of Ghana;

“termination” means the lapse of a mineral right by expiry of time, surrender or cancellation.

(...)

85. (1) The following enactments are hereby repealed –

- (i) The Minerals Ordinance, 1936 (Cap. 155);
- (ii) The Radio-Active Minerals Ordinance, 1946 (Cap. 151);
- (iii) Minerals Act, 1962 (Act 126);
- (iv) The Mines and Minerals (Conservation and Development) Act, 1965 (Act 278);
- (v) Mining Rights Regulations, 1905 (Cap. 153); and
- (vi) Section 1 of the Minerals Act and Regulations (Amendment) Decree, 1968 (N.L.C.D. 308).

(2) The provisions of the Administration of Lands (Amendment) Decree, 1979 (A.F.R.C.D. 61) shall to the extent that they apply to mining rights cease to be operative on the coming into force of this Law and accordingly all references in that Decree to mining rights are, hereby repealed.

(3) Notwithstanding the repeal in subsections (1) and (2) of this section, any regulations made under the repealed enactments shall so far as they are consistent with the provisions of this Law, continue in force as if they were regulations made under section 83 of this Law.

86. Notwithstanding the repeal of the enactments referred to in subsection 85 of this Law, any licence, lease or permit granted under any of those enactments and subsisting immediately before the commencement of this Law shall continue in force subject to such conditions as the Secretary may determine.

87. The following enactments –

- (a) the Administration of Lands Act, 1962 (Act 123);
- (b) the Concessions Ordinance, 1939 (Cap. 136);
- (c) the Concessions Act, 1962 (Act 124);
- (d) the Aliens Act, 1963 (Act 160);
- (e) the Selective Aliens Employment Decree, 1973 (N.R.C.D. 201);
- (f) the Exchange Control Act, 1961 (Act 71);
- (g) the income Tax Decree, 1975 (S.M.C.D. 5);
- (h) the Minerals Regulations, 1962 (L.I. 31) and any enactment relating to minerals as defined under section 84 of this Law shall apply with such modifications as may be necessary to give full effect to the provisions of this Law.

Made this 4th day of July, 1986.

FLT. LT JERRY JOHN RAWLINGS

Chairman of the Provisional National Defence Council

Date of Gazette notification: 18th July, 1986.

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MERCURY LAW, 1989

IN pursuance of the Provisional National Defence Council (Establishment) Proclamation, 1981 this Law is hereby made:

- 1.** Any Person who –
 - (a)** imports any quantity of mercury into the country; or
 - (b)** has in his possession or buys, sells or transfers any mercury, except under a licence issued under this Law shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ₦2,000,000.00 or to a term of imprisonment not exceeding two years or to both.

- 2.**
 - (1)** The Secretary for Trade may issue a licence to any person authorising him to, import into the country, possess, buy, sell or deal in mercury, subject to such conditions as may be specified in the licence.
 - (2)** The Secretary for Trade may, at anytime cancel any licence issued by him under this Law if he is satisfied that –
 - (a)** the licensee is in breach of any of the terms and conditions of the licence or this Law; or
 - (b)** it is in the national interest to do so.

- 3.** Any person who –
 - (a)** buys or receives any mercury from a person not authorised to sell or deal in mercury; or
 - (b)** sells or transfers any mercury to a person not authorised to buy or have possession of mercury, shall be guilty of an offence and shall on conviction be liable to a, fine not exceeding ₦2,000,000,00 or to imprisonment for a term not exceeding two years or to both.

- 4.**
 - (1)** Notwithstanding anything contained in any enactment to the contrary licensed small-scale gold miners may purchase from licensed mercury dealers such reasonable quantities of mercury as top, maybe shown to be necessary for the purpose of their mining operations.
 - (2)** Small-scale gold miners shall observe good mining practices in the use of mercury for carrying out mining operations.

- 5.** Any small-scale miner who –
 - (a)** sells or deals in mercury;
 - (b)** is found to be in possession of more mercury than he reasonably requires for his mining operations; or
 - (c)** does not observe good mining practices in the use of mercury for his mining operations, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ₦2,000,000,00 or to imprisonment for a term. not exceeding two years or to both.

- 6.**
 - (1)** The court before which any person who holds a mercury licence is convicted of an offence under this Law may order such licence to be cancelled.

(2) Any quantity of mercury with respect to which an offence has been committed under this Law shall by order of the court be forfeited to the State.

7. In any proceedings under this Law, the burden shall be on the person charged for dealing in or possessing mercury to prove that he holds a valid licence to possess or deal in such mercury.

Made this 19th day of April, 1989.

FLT.-LT. JERRY JOHN RAWLINGS

Chairman of the Provisional National Defence Council

Date of Gazette notification: 19th May, 1989.

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