



THE LAWS
OF
LESOTHO

**THE ACTS OF PARLIAMENT AND NOTICES MADE
THEREUNDER DURING THE YEAR 1967**

VOLUME XII

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of 1967**Table of Arrangement**

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SCHEDULE

Mining Rights Act

ACT 43 OF 1967

[Date of Assent: 15th December, 1967]

[Date of Commencement: See section 1]

ACT

To provide for rights to prospect and mine for Minerals in Lesotho.

Enacted by the Parliament of Lesotho

Short title,
commence-
ment and
intepretation
See
GN 11/1968

1. (1) This Act shall be know as the Mining Rights Act, 1967, and shall come into operation upon a date to be fixed by the Prime Minister by proclamation in the Gazette, provided that different provisions of this Act may be so brought into operation on different dates.

(2) In this Act and the regulations, unless inconsistent with the context —

“base minerals” means any substance whether in solid, liquid or gaseous form occurring naturally in or on the earth which has been formed by or subjected to a geological process but does not include —

(a) precious minerals;

(b) precious stones;

(c) water;

(d) soil, not being soil taken from the earth for the extraction therefrom of a substance of commercial value contained therein or for the manufacture therefrom of a product of commercial value.

“Cabinet” means the [Council of Ministers constituted under section 5 of the Lesotho Order 1970 as amended].

“Constitution” means the Constitution of Lesotho.

“existing grant” means any prospecting agreement, mining agreement, diggers concession, claim or other grant lawfully made, before the date of commencement of section 3, to any person, entitling the latter to prospect or mine on any land.

“mine”, when used as a verb, means carry on any operations with the object of winning minerals from the earth, and includes any excavation work, whether by underground or open working or otherwise, and any boring and other operations necessary for or incidental to such winning.

“minerals” means base minerals, precious minerals and precious stones.

Order 1 of
1970,
Vol. XV,
p. 4
see Order
11 of 1971,
sec. 3(1)

- “mineral title” means an existing grant, a prospecting permit, a mining licence, a prospecting lease or a mining lease.
- “mining board” means the Board established under subsection (1) of section 5.
- “mining lease” means a lease such as is referred to in section 15 conveying the rights set out in that section.
- “mining licence” means a licence such as is referred to in section 13 conveying the rights set out in that section.
- “Minister” means the Minister charged with the administration of this Act.
- “precious minerals” means —
- (a) the minerals gold, silver, platinum, iridium and any other minerals of the platinum group or the ores of any such minerals;
 - (b) any other minerals which the King on the recommendation of the Mining Board has declared by proclamation to be precious minerals for the purposes of this Act and the ores of any such minerals.
- “precious stones” means diamonds, rubies and any other substances which the King has with the approval of the Mining Board declared by proclamation to be precious stones for the purposes of this Act.
- “Principal Chief” means a Principal Chief whose office as set out in [the Schedule to the offices of Chief Order 1971 is acknowledged in terms of Section 2 of that Order].
- “proper officer” means a person appointed by the Mining Board in terms of subsection (1) of section 25.
- “prospecting” means intentionally searching for minerals by means which disturb the surface of the earth, 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.
- “prospecting area” means an area, such as is referred to in section 10.
- “prospecting lease” means a lease such as is referred to in section 14 conveying the rights set out in that section.
- “prospecting permit” means a permit such as is referred to in section 9 conveying the rights set out in that section.
- “register”, used as a verb, means to register in the Deeds Registry established under section 3 of the Deeds Registry Act, 1967.
- “registrar” has the meaning assigned to it in the Deeds Registry Act, 1967.
- “regulation” means a regulation framed under the authority of this Act.

Order 26
of 1970,
Vol. XV
p. 366
See Order
11 of 1971
sec. 3(1)

Act 12
of 1967

“sketch plan” means a plan framed in accordance with regulation (or regulation under the Deeds Registry Act, 1967) of any land to which a mineral title relates.

“Ward Chief” means a Ward Chief whose office as set out in [the Schedule to the Offices of Chief Order 1971 as acknowledged in terms of section 2 of that Order].

Order 26
of 1970,
Vol. XV
p. 366
See Order
11 of 1971
sec. 3(1)

Rights to
minerals
vested in the
nation

Preservation
of existing
rights

Act 12
of 1967

Prospecting
and mining
prohibited
except under
proper
authority

Establishment
of the
Mining
Board

2. The rights to minerals in any land are in terms of section 92 of the Constitution vested in the Basotho Nation.

3. Any person who at the date of commencement of this section is lawfully prospecting or mining for any mineral on any land under the authority of an existing grant shall be entitled to continue to do so in terms of the conditions of that grant, but subject to the provisions of subsection (3) of section 41 of the Deeds Registry Act, 1967 and subsection (3) of section 42 of that Act.

4. (1) No person may prospect for minerals except under the authority of an existing grant, a prospecting permit, a mining licence, a prospecting lease or a mining lease.

(2) Subject to the provisions of subsection (1) of section 9 no person may mine for minerals except under the authority of an existing grant, a mining licence or a mining lease.

(3) Any person who prospected or mines in contravention of subsections (1) or (2) shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rands or imprisonment for a period not exceeding two years or to both such fine and imprisonment.

5. (1) A Board (“The Mining Board”) may be established by the Minister consisting of such member or members (not exceeding five), nominated by the Minister, as he may determine with power to the Minister to remove any member and to replace any member who ceases to hold office whether by death, resignation, removal, or any other cause.

(2) The Mining Board shall determine its own procedure relative to the performance of its duties under this Act but subject always to the provisions of this Act and the regulations.

(3) The Mining Board shall be provided with such staff as the Minister may deem requisite subject to the laws governing the Public Service.

(4) The members of the Mining Board shall be remunerated in accordance with the laws governing the Public Service.

(5) Pending the establishment of the Mining Board all its rights and duties under this Act shall be exercised and performed by the Cabinet and, pending such establishment, all references

in this Act (except in subsections (1), (2), (3) and (4) of this section) to the Mining Board shall be deemed to be references to the Cabinet.

6. (1) The King and the Chiefs on his behalf, may in accordance with the terms of a recommendation of the Mining Board, and in the manner prescribed in this Act, but not otherwise, grant mineral titles (other than existing grants) but (subject to subsection (5) of this section) nothing in this section shall be construed as fettering the discretion of the King and the Chiefs on his behalf to refuse any grant recommended by the Mining Board.

Grant of mineral titles by The King recommendation of the Mining Board and applications for such grants
Words omitted under Order 11 of 1971 sec. 3(1)

(2) Any person may apply to the King for the grant of a mineral title (other than an existing grant). The application shall be in writing and shall be made in the first instance to the Minister by whom it shall be referred to the Mining Board in order that the latter may make its recommendation.

(3) The Mining Board shall consider every application so forwarded, and may either decline to make any recommendation thereon, in which event it shall so inform the applicant, or may determine to recommend the grant of a mineral title of the kind applied for in respect of the land and on the conditions stated in the recommendation which may include conditions of the type referred to in subsection (3) of section 8 and subsection (3) of section 14. The recommendation shall be in writing and shall be forwarded to the Principal Chief or Ward Chief within whose jurisdiction the land in question falls accompanied (in the case of a recommendation for the grant of a prospecting lease or mining lease) by a written statement of the Mining Board's reasons for the recommendation, provided that no recommendation for the grant of a prospecting lease or mining lease shall be so forwarded unless the Mining Board shall have received from the applicant written approval of the terms of the lease which the recommendation purposes shall be granted.

- (4) (a) Upon receipt of the application and the recommendation of the Mining Board thereon the Principal Chief or Ward Chief concerned shall consider them and shall consult with all those Chiefs within the area of jurisdiction of each of whom any part of the land in question falls. If upon such consultation it shall appear to the Principal Chief or Ward Chief that a majority of those consulted approve of the grant of the application in terms of the recommendation he shall grant it accordingly; but if it shall appear to him that such majority disapprove the grant he shall then, in his discretion but subject to subsection (5) of this section —
- (i) grant the application in terms of the recommendation; or
 - (ii) refuse the application; or
 - (iii) refer the matter back to the Mining Board for its recommendation upon any alterations which that Chief may propose.

- (b) If the application is granted in terms of item (i) of paragraph (a), the Principal Chief or Ward Chief concerned shall declare accordingly to the Mining Board, which shall inform the applicant and shall forthwith cause the relevant mineral title to be prepared. Upon the provision by the applicant of any guarantees or other instruments which the terms of the mineral title may require, it shall be signed by or on behalf of the King and the applicant in manner prescribed by paragraph (b) of subsection (6) of section 24 and registered as so prescribed.
- (c) If the application is refused in terms of item (ii) of paragraph (a), the Principal Chief or Ward Chief concerned shall declare accordingly to the Mining Board which shall inform the applicant.
- (d) If the matter is referred back in terms of item (iii) of paragraph (a), the Mining Board shall consider the reference and, after consultation with the applicant, either withdraw the recommendation (which shall then lapse) or submit a revised recommendation in respect of which the provisions of subsection (3) and paragraphs (a), (b) and (c) of this subsection excluding subparagraph (iii) of paragraph (a) shall again *mutatis mutandis* apply.
- (5) (a) If any prospecting permit issued in terms of subsection (4) prescribes the conditions upon which its holder shall be entitled to a mining licence, or if any prospecting lease so issued prescribes the conditions upon which its holder shall be entitled to a mining lease, the holder of such prospecting permit or prospecting lease may apply to the Mining Board for a certificate that he has complied with and fulfilled the conditions prescribed in such permit or lease.
- (b) If, upon such application, the Mining Board is satisfied that the prescribed conditions have been complied with and fulfilled and if it is satisfied in the case of a mining lease as to the matters prescribed in subsection (3) of section 17 the Mining Board shall grant such a certificate.
- (c) The holder of such certificate may thereupon apply to the Principal or Ward Chief within whose jurisdiction the land in question falls for the grant of a mining licence or mining lease, as the case may be.
- (d) Upon being satisfied that the prospecting permit or prospecting lease, as the case may be, contained conditions of the type referred to in paragraph (a), and as to the formal validity of the said certificate, the Principal Chief or Ward Chief concerned shall grant the application.
- (e) The provisions of subsections (3) and (4) shall not apply to applications made in terms of this subsection.

7. (1) No appeal shall lie from any refusal of the Mining Board to make a recommendation or to grant a certificate nor from any decisions of the Mining Board upon an application under section 6, except on the ground that the refusal or the decision is *mala fide*.

Appeals from decisions on applications

(2) Any person who has applied for the grant of a mineral title in terms of section 6 and who is aggrieved by the decision of the Principal Chief or Ward Chief may appeal from that decision to the King.

(3) When an appeal is made to the King under subsection (2) he shall consider the appeal without delay and shall then decide whether the decision that is the subject of the appeal shall be upheld, reversed or varied.

(4) In exercising his functions under subsection (3) the King shall act after consultation with an advisory board consisting of —

(a) such Minister as may for the time being be designated in that behalf by the Prime Minister;

(b) a person who is for the time being designated in that behalf by the [Prime Minister] and who possesses such qualifications as, in the opinion of [the Prime Minister] will enable him to make a special contribution to the work of the advisory board;

See Act 14 of 1969 sec. 3 and Order 11 of 1971 sec. 3(1)

(c) one person selected by the King from among the Principal Chiefs and Ward Chiefs:

Provided that the Principal Chief or Ward Chief whose decision is appealed against shall (if he is a member of the advisory board designated under paragraph (b) or selected under paragraph (c)) be substituted for the purposes of the appeal by another person so designated or selected and provided further that if the appeal is against the refusal of the Principal Chief or Ward Chief to grant an application under subsection (5) of section 6, the King shall not be required to consult with the advisory board and shall uphold the appeal upon being satisfied of the matters referred to in paragraph (a) of that subsection.

(5) (a) If upon any application for a prospecting lease or mining lease the Mining Board shall decline to make any recommendation thereon, or having made a recommendation shall withdraw it upon reference back in terms of sub-paragraph (iii) of paragraph (a) of subsection (4) of section 6, or if upon any application for a certificate under sub-section (5) of section 6 entitling the applicant to a mining lease the Mining Board shall decline to grant the certificate, then the Mining Board shall make a written record of the reasons for the declination or withdrawal and the applicant shall be entitled to a copy of that record.

(b) Every decision given by a Principal Chief or Ward Chief under subsection (4) of section 6 and every decision given by the King under subsection (3) of this section

shall include a statement of the grounds upon which that decision was given, and that statement shall, subject to the provisions of paragraphs (f) and (g) of subsection (7), be conclusive for all purposes and shall not be questioned in any Court. The applicant to whose application the decision relates shall be entitled to a copy of the statement.

(6) An appeal under subsection (1) shall lie to the High Court which may on such appeal —

- (i) quash the declinature or decision appealed against and upon such quashing either refer the matter back to the Mining Board with directions as to reconsideration or impose its own judgment by making a recommendation which shall be deemed to be the Mining Board's; or
- (ii) make such other order as may seem just.

(7) Any decision of the King given under subsection (3) shall be subject to appeal to the High Court on one or other of the following grounds only —

- (a) that the decision was not given after consultation with the Advisory Board referred to in subsection (4);
- (b) that the decision does not include an adequate statement of the grounds upon which it was given;
- (c) that the decision was given without the inclusion in the papers considered by the King and the advisory board of an adequate statement of the grounds upon which the decision of the Principal Chief or Ward Chief appealed from was given;
- (d) that the procedure by which the decision was arrived at was contrary to the principles of natural justice (in so far as those principles are applicable to the case);
- (e) that the substance of the decision was otherwise in contravention of this Act;
- (f) that the decision was given with the intent to defeat or evade or otherwise avoid giving effect to any provision of this Act or was otherwise given in bad faith;
- (g) that in giving the decision the King was misled in that the decision of the Principal Chief or Ward Chief against which the appeal to him was made was given with the intent referred to in paragraph (f) or was otherwise given in bad faith.

(8) The High Court on the hearing of an appeal under subsection (7) may quash the decision appealed from or may make any order which it deems necessary to ensure that the provisions of this Act are complied with, including any order directing the King to grant a mining licence or mining lease in terms of the second proviso to subsection (4).

(9) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred upon it by or under this section.

(10) Any decision of the High Court given under subsection (6) or (8) is hereby prescribed as a decision to which paragraph (c) of subsection (2) or section 122 of the Constitution refers.

See p. 72/1958 sec. 13 Vol. I p. 459 and Order 17/1970 sec. 6 Vol. XV p. 282

8. (1) A Prospecting Permit shall state the minerals in respect of which it is granted.

Prospecting permits

(2) A Prospecting Permit granted in respect of precious stones may not include other minerals and a prospecting permit granted in respect of any other minerals may not include precious stones.

(3) If, in the opinion of the Mining Board, it is desirable that any prospecting permit shall prescribe the conditions upon which its holder shall be entitled to a mining licence under section 12 it may set out any such conditions in its recommendation including (without prejudice to the generality of the foregoing) a condition that the holder shall prove to the satisfaction of the Mining Board that the prospecting area contains minerals, for which he has prospected, in payable quantities. If any prospecting permit is issued upon such recommendation it shall include such conditions as have been recommended by the Mining Board in terms of this subsection.

9. (1) A prospecting permit for precious stones shall entitle the holder during the period for which the permit is issued to peg a prospecting area on the land to which it relates and, subject to completion of the pegging to the satisfaction of the proper officer, to recover and dispose of precious stones from that prospecting area in accordance with and subject to the provisions of this Act, provided that if at any time the Mining Board on advice of the proper officer is satisfied that the discovery of precious stones upon the prospecting area is such as to indicate the existence of precious stones in payable quantities either on that area alone, or on that area together with other adjacent prospecting areas held by the same person under prospecting permits for precious stones, it may order that prospecting thereon shall cease and not be resumed except under a mining licence issued in terms of section 12, or a mining lease issued in terms of section 15, and upon service on him of such order the holder of the permit shall immediately cease prospecting.

Rights under prospecting permits

(2) A Prospecting Permit for minerals other than precious stones shall entitle the holder during the period for which the permit is issued to peg a prospecting area on the land to which it relates and, subject to completion of the pegging to the satisfaction of the Mining Board, to prospect, but not to mine, upon the prospecting area for such minerals (other than precious stones) as may be stated in the permit, and upon the conditions specified therein.

Prospecting
areas and
pegging
thereof

10. (1) A prospecting area shall as far as is possible be rectangular in shape and shall not exceed forty thousand Cape square feet in extent.

(2) A prospecting area shall be pegged by placing pegs on its sides and angular points in accordance with the regulations, and shall not encroach on land held under a mineral title.

(3) If a prospecting area shall be found by the proper officer to encroach on land held under a mineral title he shall direct a correction of the pegging and an amendment of the relevant sketch plan, which shall be performed at the expense of the holder of the permit under which that area was pegged, and in default of such correction within such reasonable period as may be prescribed by the proper officer the prospecting area may be cancelled upon notice given by him to such holder, but such cancellation shall not affect the holder's right to peg another prospecting area.

Limitations
on
prospecting
areas:
abandonment
of permits

11. (1) No person shall be entitled to peg or hold more than 10 (ten) prospecting areas at one and the same time, or more than one prospecting area in respect of each prospecting permit which he holds.

(2) A prospector may at any time abandon any prospecting area held by him and shall notify the proper officer in writing of such abandonment, and thereupon the prospecting permit under the authority of which such area was held shall be deemed to have lapsed with effect from the date of such notification.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rands or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.

Application
for mining
licence

12. (1) If a prospecting permit prescribes any condition upon which its holder shall be entitled to a mining licence under this section, the holder may apply to the Mining Board for the issue of a certificate to him in terms of subsection (5) of section 6, and the provisions of that subsection shall then apply: provided that in respect of any condition that the holder shall prove to the satisfaction of the Mining Board that the prospecting area contains minerals, for which he has prospected, in payable quantities, the Mining Board may grant its certificate under the said subsection upon proof to its satisfaction that that area together with other adjacent prospecting areas held by him under prospecting permits contains such minerals in payable quantities.

(2) In any other case if the holder of a prospecting permit proves to the satisfaction of the Mining Board that any minerals for which he has prospected on the prospecting area to which the permit relates exist in payable quantities either on that area alone or on that area together with other adjacent prospecting areas held by him under prospecting permits the Mining Board may in terms of subsection (3) of section 6 recommend the grant of a mining licence and the provisions of subsections (3) and (4) of section 6 shall then apply.

13. A mining licence shall entitle the holder during the period for which it is granted to prospect and mine upon the prospecting area to which it relates for such minerals as may be specified in the licence, and upon the conditions stated therein.

Rights
under
mining
licence

14. (1) A prospecting lease may be granted to any person over any land described in a sketch plan annexed to the lease in respect of such minerals as may be specified therein, but such land shall not incorporate any land already held under a [mineral title in respect of minerals of the same kind.]

Prospecting
leases

Subst. by
Order
24/1970
sec. 84

(2) The holder of a prospecting lease shall be entitled during its currency to prospect, but not to mine, for the minerals and upon the land to which it relates, provided that if the prospecting lease relates to precious stones, the holder of the lease may recover and dispose of precious stones found in the course of prospecting in accordance with and subject to the provisions of the lease and of this Act.

(3) A prospecting lease may, in accordance with the provisions of subsection (5) of section 17, prescribe the conditions on which its holder shall be entitled to a mining lease under section 17.

15. (1) A mining lease may be granted to any person over any land described in a sketch plan annexed to the lease in respect of such minerals as may be specified therein but such land shall not incorporate [any land already held under a mineral title in respect of minerals of the same kind, and] other than a mineral title held by that person which is cancelled simultaneously with the grant of the mining lease.

Mining
leases

Subst. by
Order 24 of
1970 sec. 84

(2) The holder of a mining lease shall be entitled during its currency to prospect and mine for the minerals and upon the land to which it relates.

16. (1) The Mining Board may prescribe general conditions upon which it recommends that prospecting permits or mining licences may be issued, and, if it does so prescribe, any recommendation for the grant of any such permit or licence shall be deemed to be on those conditions unless in any particular instance the Mining Board (as it shall be entitled to do) shall depart from those conditions, provided that the conditions of issue shall include conditions relating to —

General
conditions
applicable to
prospecting
permits and
mining
licences

- (a) the person of the grantee including his character and reputation;
- (b) the period the grant and the rights of the grantee to renewal from time to time;
- (c) the fees payable in respect of the grant and in the case of precious stones permits and mining licences the licence monies rentals or royalties payable to the State.
- (d) satisfactory prospecting or mining by the grantee;
- (e) the reporting of prospecting areas with particulars of the sketch plans and the contents thereof which shall accompany the report, provided that such plans shall conform with any law (including this Act) relating to sketch plans;
- (f) the sanctions (which may include forfeiture of the permit or licence) on non-compliance by the grantee

with the terms of the permit or licence, but subject to subsection (2) of section 18.

(2) Any general conditions prescribed under subsection (1) may be amended or substituted by another recommendation by the Mining Board, and any such permit or licence issued thereafter shall be in accordance with the amended or substituted recommendation.

(3) Any general conditions prescribed under subsection (1) may be different in respect of different kinds of minerals.

Recom-
mendations
respecting
prospecting
leases and
mining
leases

17. (1) In recommending the grant to any person of any prospecting lease or mining lease the Mining Board shall cause a draft of the lease to be framed containing the proposed conditions thereof and a plan of the land to which it relates shall be annexed to the draft. The recommendation of the Mining Board shall be a recommendation that the lease be granted in terms of the draft.

(2) Before recommending the grant of a prospecting lease the Mining Board shall be satisfied that the intended lessee has financial resources adequate for proper prospecting under the lease or that the arrangements by which he proposes to obtain capital for the purpose are satisfactory.

(3) Before recommending the grant of a mining lease the Mining Board shall be satisfied that the scheme according to which the intended lessee proposes to exploit the minerals in question is satisfactory and either that his financial resources are adequate for proper exploitation of those minerals or that the arrangements by which he proposes to obtain capital for the purpose are satisfactory.

(4) The conditions incorporated in the recommended lease shall be such as the Mining Board may in its discretion decide provided that they shall include provisions —

(a) in respect of both prospecting leases and mining leases—

(i) for the payment by the lessee to any person entitled to the use of the surface of the land included in the lease area who suffers any damage to any crops, timber, or improvements on the land caused by the exercise by the lessee of his rights under the lease, or by any act or omission incidental thereto, of compensation for such damage, and provision for the manner in which such compensation is to be determined;

(ii) that the lease shall not be registered until a sketch plan of the lease area has been framed and approved in accordance with regulation and endorsed by the Mining Board as being the area to which the lease relates, and that such sketch plan shall be furnished in proper form within such period as the provision may prescribe or such extended period as the Mining Board may allow, and that such sketch plan when so endorsed shall be annexed to the lease;

(b) in respect of prospecting leases —

(i) for the adequate prospecting of the lease area to the

satisfaction of the Mining Board or the proper officer and the making of reports respecting prospecting operations and discoveries;

- (ii) for the payment of a prescribed rental to the State;
 - (iii) for forfeiture or other sanctions on non-compliance with the terms of the lease after notice, but subject to subsection (2) of section 18;
- (c) in respect of mining leases —
- (i) for the adequate working of the lease area to the satisfaction of the Mining Board or the proper officer and the making of reports respecting prospecting and mining operations and discoveries;
 - (ii) for the keeping of all such books, plans and records as may appear to the Mining Board or the proper officer to be necessary and the inspection or examination by the proper officer or any person authorised by him of such books, plans and records and the area leased;
 - (iii) for the payment by the lessee to the State, in addition to taxation, of a share (defined in the lease) of the profits derived from the working of the lease area;
 - (iv) for the payment by the lessee of a rental (stipulated in the lease).

(5) If in the opinion of the Mining Board it is desirable that any prospecting lease shall state the terms and conditions upon which a mining lease over that area shall be granted to the lessee under that prospecting lease, it may set out those conditions in the draft of that prospecting lease which accompanies the recommendation under subsection (1). Without prejudice to the generality of the foregoing the said prospecting lease may prescribe the condition that the holder shall prove to the satisfaction of the Mining Board that minerals exist in payable quantities in the lease area.

(6) If a prospecting lease in terms of subsection (5) prescribes any condition upon which its holder shall be entitled to a [mining] lease, the holder may apply to the Mining Board for the issue of a certificate in terms of subsection (5) of section 6 and the provisions of that subsection shall then apply, provided that before issuing a certificate in terms of that subsection the Mining Board shall be satisfied as to the matters prescribed in subsection (3) of this section.

Subst. by
Act 15 of
1968 sec. 2(a)

18. (1) The holder of any mineral title together with any person to whom he proposes to transfer it may apply for consent to such transfer and the preceding provisions of this Act relating to applications for original grants of mineral titles shall, so far as they are capable of application, *mutatis muntandis* apply to any application for such transfer provided that —

Transfer of
mineral
titles and
revocation
of mineral
titles

- (i) the Mining Board shall not decline to recommend any transfer of a prospecting lease or mining lease if it is satisfied in respect of the proposed transferee

of the matters referred to in subsection (2) or subsection (3), as the case may be, of section 17 unless upon other grounds it is of opinion that the proposed transferee is not a fit and proper person to hold the lease;

- (ii) in the case of a prospecting permit or mining licence, the transfer shall be permitted if the proposed transferee meets the conditions as to persons imposed in terms of section 16, but so that no transfer of such a permit or licence shall be allowable to more than one person.

(2) (a) The conditions of a mineral title (other than an existing grant) may not prescribe that it shall be forfeited at the instance of the State during the currency of its period otherwise than upon non-compliance with its terms but may provide for such forfeiture —

- (i) without notice upon non-compliance with certain terms; and
- (ii) after notice upon non-compliance with other terms if there is continued default after expiration of the notice to remedy the default,

and may provide that any notice under (ii) may be given by the Minister or by the proper officer;

(b) If the Minister or the proper officer shall certify to the Principal Chief or Ward Chief within whose area of jurisdiction the land forming the subject of the title falls that there has been a non-compliance with the conditions of a mineral title, that it is desirable in the Minister's opinion that the title be forfeited and that the Minister requests its revocation accordingly and (in any case where notice as aforesaid is necessary) that there has been notice and continued default upon its expiration, the Chief in question shall revoke the title and issue an instrument declaring it forfeited causing that instrument to be served on the holder of the title at his address as appearing therein and forwarding a copy thereof to the proper officer and the title shall be forfeited immediately upon such service. In the absence of the title holder the instrument may be served upon any other person at such address or in the absence of any person be served by leaving it on the site at that address.

Surface
rights,
water rights
and
compensation
on
termination
of operations

19. (1) Every holder of a prospecting permit or mining licence shall be entitled, while working the land to which his permit or licence relates, to the use and occupation, without extra payment, for the purpose of residence for himself, his dependants and employees, of a portion of that land applied for and appropriated to him *mutatis mutandis* in terms of section 6 and so that any application under this section may be made at the same time as the relevant application under section 6 for such permit or licence.

Inserted by
Act 15 of
1968 sec. 2(b)

[(1A) Every lessee under a prospecting lease or a mining lease shall be entitled to use the surface of the area to which the lease relates for all or any purposes incidental to or in any way

connected with prospecting (in the case of a prospecting lease) or prospecting and mining (in the case of a mining lease) subject to any limitations which may be contained in the conditions of the lease and shall furthermore, to the extent that such conditions so prescribe, be entitled to use such surface in any other manner for the purpose of treating or preparing minerals for disposal and for purposes incidental to or connected therewith including the provision of amenities and facilities for persons employed in or in connection with the prospecting, mining, treating or preparing, as the case may be.]

(2) Every mineral title shall include the right to the use of water upon or derived from the land to which it relates for purposes incidental to the exercise of the rights under that title or grant, provided that the quantity of water which may so be taken and the conditions of its taking may be prescribed by regulation, which prescription in respect to any areas in Lesotho shall have regard to the availability of water and the needs of persons other than the holder of the mineral title.

(3) The provisions of subsection (2) shall not apply to the holder of a prospecting lease or mining lease if the conditions of the lease prescribe (as they shall be entitled to do) the manner and extent of the use of water.

(4) Any holder of a mineral title who uses or occupies or permits the use or occupation of the surface of any land in contravention of subsection (1) or who uses or permits the use of water in contravention of subsection (2) or contrary to the conditions of his title, if the latter is a prospecting lease or mining lease which contains a prescription such as is mentioned in subsection (3), shall be guilty of an offence and liable upon conviction to a fine not exceeding five hundred rands or in default of payment thereof to imprisonment for a period not exceeding six months.

(5) (a) The provisions of paragraphs (b), (c) and (d) shall apply —

(i) to the holder of a mineral title who is prospecting, but not mining thereunder, and who ceases to prospect and does not mine on the land affected by his title, either under such title, or under a substituted mineral title, entitling him so to mine;

(ii) to the holder of mineral title who is mining under that title, and who ceases to mine or prospect under that title;

(b) Upon cessation of prospecting as contemplated by sub-paragraph (i) of paragraph (a), or cessation of mining as contemplated by sub-paragraph (ii) of paragraph (a), the holder of the mineral title shall pay compensation for any damage caused to the surface of the land by his prospecting or mining activities;

(c) The compensation shall be payable to the Consolidated Fund;

(d) The compensation shall be determined by agreement between the holder of the mineral title and the Mining Board, or,

failing such agreement, by a single arbiter agreed upon between them, or in the absence of agreement, appointed by the Chief Justice. The arbiter shall determine his own procedure.

Reservation
of land for
certain
purposes

20. Despite any other provision of this Act the Minister may in his discretion reserve from prospecting and mining such land not already held under Mineral Title as after consultation with the Mining Board he deems necessary to set aside for public buildings, schools, places of worship, hospitals, police barracks, government offices, aerodromes and landing strips, trading sites, sanitary sites, burial grounds or any other purpose whatsoever connected with prospecting and mining operations, provided that any prospecting or mining lease may nevertheless be granted respecting land so set aside if the operations can be undertaken (by underground access from adjoining land) without endangering the surface of the land or the structures thereon.

Possession of
and dealing
in ...
unwrought
precious
minerals
Subst. by
Order 24 of
1970 sec. 84
after amd.
by Act 15 of
1968 sec. 2(c)
See also Act
16 of 1968
sec. 7

21. (1) In this section and in sections 22 and 23 —

[(a) "Producer" means the holder of an existing grant, mining licence, or mining lease (which grant, licence or lease permits mining for precious minerals), who has registered himself with the police in terms of subsection (2) as producer of precious minerals.]

(b) "unwrought precious minerals" means any unmanufactured precious mineral in the form of bars, ingots, buttons, wire, plate, granules or in solution or in any other form whatsoever, or any article or substance containing such precious mineral or any article consisting of or containing precious mineral which although manufactured is not as such an article of commerce or a work of art or an article of archaeological interest.

(c) "Licensed dealer" means a person licensed in accordance with subsection (5) to deal in unwrought precious minerals.....

(d) "to deal in" means to acquire or to dispose of in any manner whatsoever, and the receipt of giving of any pledge, is deemed to be an acquisition or disposal.

Del. by
Act 24
of 1970
sec. 84

(2) (a) Before embarking upon any prospecting or mining for precious minerals..... the holder of a mineral title (other than existing grant) shall register himself with the police in such manner as may be prescribed by the Commissioner of Police. Such registration shall not extend beyond the ambit of the holder's title.

Del. by
Act 24
of 1970
sec. 84

(3) (a) No person shall be in possession of any unwrought precious minerals unless he is —

(i) a producer of precious minerals; or

(ii) a licensed dealer in precious minerals; or

(iii) a Commercial Bank in Lesotho; or

(iv) the holder of a recovery works license issued under the authority of the Minister; or

- (v) an employee of a person mentioned in (i), (ii), (iii), or (iv) who holds the unwrought precious minerals on that person's behalf.

(b) No person other than a person mentioned in subparagraphs (i), (ii), (iii) or (iv) of paragraph (a) shall deal in any unwrought precious minerals, and no such person being a producer of precious minerals shall dispose of any unwrought precious minerals otherwise than to a person mentioned in subparagraph (ii), (iii) or (iv) of paragraph (a) [,

Added by
Act 15 of
1968 sec. 2(d)

Provided that a producer of precious minerals shall not be entitled to deal in unwrought precious minerals or to dispose (otherwise than for purposes of assay) of any unwrought precious minerals unless he is the holder of a mineral title which permits mining for precious minerals.]

Del. by
Order 24
of 1970
sec. 84

(c)

(d)

(4) Any person who contravenes any of the provisions of subsections (2) and (3) shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rands or to imprisonment for a period not exceeding five years or to both such fine and imprisonment, and if that person is a producer the Court convicting him may, in addition to imposing any other penalty, cancel his mineral title respecting precious minerals , provided that it shall be a defence to any charge under this section if the accused satisfies the Court that he did not know that the objects or substances in question were precious minerals or was otherwise innocent of any intention to do any act which contravenes any of the said provisions.

Del. by
Order 24 of
1970 sec. 84

Del. by
Order 24
of 1970
sec. 84

(5) (a) The Minister may on the application of any natural person issue a licence authorising the applicant, during the currency of the licence, to deal in precious minerals as a buyer, seller, importer or exporter upon such terms and conditions and upon payment of such licence fees as shall be prescribed by regulation.

Del. by
Order 24 of
1970 sec. 84

(b) The Minister may refuse to issue a licence under paragraph (a) if in his opinion —

- (i) the applicant is not a fit and proper person to hold the licence applied for;
- (ii) the applicant's knowledge of precious minerals is not sufficient to enable him to carry on the business of a dealer in precious minerals in a satisfactory manner;
- (iii) there are a sufficient number of persons carrying on such business;
- (iv) for any other reason the issue to the applicant of the licence applied for is not warranted or is undesirable.

Del. by
Order 24 of
1970 sec. 84

Del. by
Order 24 of
1970 sec. 84

(6) Any member of the police force in charge of any investigation in connection with suspected unlawful possession or dealing in unwrought precious minerals may —

Del. by
Order 24 of
1970 sec. 84

- (a) at all times enter upon and examine and search any

Del. by
Order 24 of
1970 sec. 84

place or premises and may at any time stop and search and examine any vehicle (or any part thereof) conveying or suspected to be conveying unwrought precious minerals;

(b) force access to or open any place, premises, vehicle, package or container which is locked, if the keys thereof are not produced on his demand;

Del. by
Order 24 of
1970 sec. 84

(c) search or cause to be searched any person whom he has reason to believe has unwrought precious minerals secreted about his person or in his possession; provided that a female shall not be searched by any person other than a female;

(d) stop or cause to be stopped either during transit or otherwise any parcel or package which is being or has been transmitted through the post and in respect of which there is good cause to believe that it contains rough or uncut precious stones or unwrought precious minerals.

Repealed by
Order 24 of
1970 sec. 84

22.

23.

Execution
and
registration
provisions
Act 12
of 1967

24. (1) A prospecting permit is a "prospecting grant" within the meaning of subsection (1) of section 2 of the Deeds Registry Act of 1967, and for the purposes of that Act.

(2) A mining licence is a "mining grant" within the said meaning and for the said purpose.

(3) A prospecting lease is a "prospecting grant" within the said meaning and for the said purposes.

(4) A mining lease is a "mining grant" within the said meaning and for the said purposes.

Act 12
of 1967

(5) Depending upon its nature, which the Registrar shall decide upon production of the relevant existing grant for registration in terms of subsection (3) of section 41 or subsection (3) of section 42 of the Deeds Registry Act, 1967, the Registrar shall place an existing grant in either the category of a "Prospecting Grant" or the category of a "Mining Grant" within the meaning of subsection (1) of section 2 of the said Act and for the purposes of that Act shall register it accordingly.

(6) (a) An existing grant shall be registered by the Registrar upon the mere production of the title to that grant subject to such definition of the land affected and the identity of the holder of the grant as the Registrar may require.

(b) Prospecting permits, mining licences, prospecting leases and mining leases shall, as far as possible, be in the respective forms set out in the schedule to this Act and shall (unless the King sign personally, or the Principal Chief or Ward Chief who made the grant sign personally on his behalf) be signed on his behalf by a signing officer designated in writing by the Minister but subject to paragraph (d) and shall be countersigned by the grantee or lessee whose signature (or mark) shall be witnessed

by two witnesses, and shall be registered by the Registrar. The forms in the schedule may from time to time be amended or substituted by regulation.

(c) Transfers of prospecting permits and mining licences and cessions of prospecting leases and mining leases shall be effected by deeds of transfer or cession prepared in the forms prescribed by law or by regulation under the Deeds Registry Act, 1967 or (in the absence of such prescription) prescribed by the Registrar and the provisions of subsection (1) of section 17 of that Act shall *mutatis mutandis* apply to their execution and attestation. Act 12
of 1967

(d) The signing officer referred to in paragraph (b) shall not sign any such document as is therein referred to unless he has satisfied himself from written evidence that the grant was made by the Principal Chief or Ward Chief concerned or, on appeal, by the King or the Court.

25. (1) The Mining Board shall appoint a person in the public service as an officer to carry out such duties as in this Act devolve upon the proper officer. Miscellaneous
provisions

(2) Whenever in this Act provision is made for the definition of any area of land upon a sketch plan a diagram, approved under any law now in force or hereafter to come into force relating to the trigonometrical survey of land, defining that area may be provided in lieu of a sketch plan and wherever such an area to which a mineral title relates is defined on a sketch plan a diagram as aforesaid defining that area may be substituted for that sketch plan and upon such substitution the Registrar shall endorse the mineral title to the effect that the land to which it relates is now defined on that diagram.

(3) No person shall hold any mineral title or any interest therein on behalf of or as nominee for any other person, provided that nothing in this subsection shall preclude any person who is entitled to peg a prospecting area from employing any other person to effect the pegging.

(4) Any person who contravenes any of the provisions of subsection (3) shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rands or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.

26. (1) The Minister may make regulations not inconsistent with this Act in regard to any matter in respect of which it is specifically provided in this Act that they are to be dealt with or prescribed by regulation and generally in regard to any matter which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved, [and may in particular but without prejudice to the generality of the foregoing, provide] for methods of prospecting and mining designed to ensure efficiency and safety, the safety and health of persons engaged in prospecting and mining, the storing, handling, transport and use of explosives and other dangerous substances, the maintenance and inspection of machinery and buildings, the speci- Regulations

Subst. by
Act 15 of
1968 sec. 2(e)

fications (in the interests of safety and health) of machinery, plant, vehicles, buildings and underground workings, the disposal of effluents the housing, feeding and medical care of employees, of persons engaged in prospecting or mining and the conditions of work (including hours of work and holidays and rates of pay) of employees of persons engaged in prospecting or mining.

(2) Different regulations may be made for different mining districts or areas.

(3) Any regulation made under this section may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of [one thousand rands or imprisonment for a period not exceeding five years or both such fine and imprisonment] in respect of each such contravention.

Subst. by
Act 15 of
1968 sec. 2(f)

Repeals

27. (1) From the date of coming into operation of this subsection, sections 95, 96, 97, 98, 99, 100 and 101 of the Constitution shall cease to apply to the grant of any rights to prospect or mine for any minerals on any land and the grant (as contemplated by section 19 of this Act) [of surface] and water rights incidental to or in any way connected with prospecting or mining for minerals.

Subst. by
Act 15 of
1968 sec. 2(g)

(2) No grant or allocation of land or any right in land hereafter made in accordance with the sections of the Constitution referred to in subsection (1) of this section* shall include the grant of any right to prospect or mine for any minerals, and any grant or allocation of land or any right in land heretofore made whether under the aforesaid sections or prior to the coming into effect of the Constitution shall (unless it is an existing grant as defined in section 1 of this Act) be deemed to exclude any right to prospect or mine for minerals.

(3) Subject to the provisions of subsection (4) —

See Vol. I
p. 5

(a) the Precious Stones and Minerals Mining Act (No. 19 of 1883) of the Cape of Good Hope is withdrawn from operation in Lesotho.

Inserted by
Act 15 of
1968 sec. 2(h)
then del. by
Order 24 of
1970 sec. 84

(aA)

(b) the Precious Stones Order No. 40 of 1961 is repealed.

(c) Government Notices No. 41 of 1961 (Declaration of Diamond Digging — Letsa-la-Drai), No. 57 of 1962 (Declaration of Diamond Digging Hololo), No. 58 of 1962 (Declaration of Diamond Digging Kolo), and No. 59 of 1962 (Declaration of Diamond Digging Nqechane) are withdrawn from operation).

Vol. I p. 432

(d) the Concessions Veto Proclamation No. 65 of 1922 is repealed in so far only as it relates to the grant of any rights to prospect or mine for minerals.

* This cross-reference has not been dealt with in the course of law revision under Order 11 of 1971, sec. 3(1), since the provisions referred to had not been replaced at the time of revision.

(4) Subject to the provisions of subsection (2) of this section and section 3 all existing grants held by virtue of anything lawfully done under the sections of the Constitution referred to in subsection (1) of this section or under the Act, Order, Government Notices or Proclamation referred to in subsection (3) of this section shall be uneffected by the repeals and withdrawals effected by subsections (1) and (3) of this section.

(5) Notwithstanding the provisions of the Government Reserves Proclamation No. 32/28 and the Regulations contained in the High Commissioner's Notice No. 41 of 1941 any mineral title may be granted under this Act in relation to any land affected by that Proclamation or those Regulations in manner as if they were not in force.

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pp. 300,
342,
343

SCHEDULE

(under paragraph (b) of subsection (6) of section 24)

FORM 1

Prospecting Permit No.

PERMISSION is hereby granted under the provisions of the Mining Rights Act, 1967 (Act No. 43 of 1967) to

(Name in full)

(Address)

to search and prospect for the following minerals
(here describe the minerals)

for a period of _____ months ending on the _____ day of _____
on the prospecting area described in the Sketch
Plan/Diagram annexed marked "A"; upon the underwritten conditions.

Fee of _____ paid.

.....
Signature of SIGNING OFFICER UNDER THE SAID ACT

As Witnesses to the
Grantee's Signature:

- 1.
- 2.

.....
Signature of GRANTEE

CONDITIONS:

(Here set out the conditions on which the permit is granted)

FORM 2

MINING LICENCE NO.

PERMISSION is hereby granted under the provisions of the Mining Rights Act, 1967 (Act No. 43 of 1967) to

(Name in full)

(Address)

to search, prospect and mine for the following minerals
(here describe the minerals)

for a period of _____ months ending on the _____ day of _____
on the mining area described in the Sketch
Plan/Diagram annexed marked "A"; upon the underwritten conditions.

Fee of _____ paid

.....
Signature of SIGNING OFFICER UNDER THE SAID ACT

As Witnesses to the
Grantee's signature:

- 1.
- 2.

.....
Signature of GRANTEE

CONDITIONS:

(Here set out the conditions on which the permit is granted).

FORM 3

PROSPECTING LEASE

[Entered into in terms of the provisions of sections Six and Fourteen of the Mining Rights Act, 1967 (Act No. 43 of 1967)]

BETWEEN:

THE BASOTHO NATION

(hereinafter referred to as "the STATE"); and

(hereinafter referred to as "the LESSEE").

IT IS HEREBY AGREED:

That the STATE grants the LESSEE which accepts the sole and exclusive right to prospect for (here describe the minerals) in the area (here describe the prospecting area), as defined on the plan attached, for a period of _____ beginning on the _____ and ending on the _____ upon the following terms and conditions:—

(here set out the conditions on which the lease is granted).

This lease shall not be registered until a sketch plan of the said area has been framed and approved in accordance with regulations and endorsed by the Mining Board as being the area to which this lease relates: Such sketch plan shall be furnished by the Lessee in proper form within _____ days from the date hereof or within such extended period as the Mining Board may allow.

SIGNED: _____ On behalf of the STATE

.....
SIGNING OFFICER UNDER THE SAID ACT

SIGNED:

As Witnesses to the
Lessee's signature:

1.

2.

.....
LESSEE

REGISTERED in the Deeds Registry at MASERU on the _____ day
of _____ in the Register of Prospecting Leases under No. _____

FORM 4

MINING LEASE

[Entered into under the provisions of Sections Six and Fifteen of the Mining Rights Act, 1967 (Act No. 43 of 1967)].

BETWEEN:

THE BASOTHO NATION

(hereinafter referred to as "the STATE"); and
hereinafter referred to as "the LESSEE").

IT IS HEREBY AGREED:

That the STATE hereby grants the LESSEE which accepts the sole and exclusive right to prospect and mine for (describe minerals) in the area (describe area) as defined on the plan attached, for a period beginning on _____ and continuing —

Marginal
Note:
Delete
whichever
of (a) or
(b) is
inapplicable

(a) until the _____ day of _____

(b) Until the said minerals which may profitably be won therefrom have become exhausted,

upon the following terms and conditions:—

(Here set out the conditions on which the lease is granted).
This lease shall not be registered until a sketch plan of the area has been framed and approved in accordance with regulations and endorsed by the Mining Board as being the area to which this lease relates: Such sketch plan shall be furnished by the Lessee in proper form within _____ days from the date hereof or within such extended period as the Mining Board may allow.

SIGNED:

On behalf of the STATE

.....
SIGNING OFFICER UNDER THE SAID ACT

SIGNED:

As Witnesses to the
Lessee's signature:

1.

2.

LESSEE

REGISTERED In the Deeds Registry at MASERU on the day of _____
in the Register of Mining Leases under No. _____

